HOUSE BILL NO. 238

INTRODUCED BY BRADLEY

BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

IN THE HOUSE

- JANUARY 16, 1987 INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
- FEBRUARY 3, 1987 COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
- FEBRUARY 4, 1987 PRINTING REPORT.
- FEBRUARY 5, 1987 SECOND READING, DO PASS.
- FEBRUARY 6, 1987 ENGROSSING REPORT.

THIRD READING, PASSED.

TRANSMITTED TO SENATE.

ON STATE ADMINISTRATION.

COMMITTEE RECOMMEND BILL BE

INTRODUCED AND REFERRED TO COMMITTEE

- IN THE SENATE
- FEBRUARY 10, 1987
- FEBRUARY 24, 1987
 - CONCURRED IN. REPORT ADOPTED.
- MARCH 3, 1987 SECOND READING, CONCURRED IN.
- MARCH 5, 1987 THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 6, 1987 RECEIVED FROM SENATE.

SENT TO ENROLLING.

House BILL NO. 238 1 INTRODUCED BY Gradley 2 BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS 3 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 6 CLARIFY THE LAW RELATING TO DISASTER AND EMERGENCY SERVICES: AND AMENDING SECTIONS 10-3-101, 10-3-103, 10-3-311, AND 7 8 10-3-401, MCA." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 10-3-101, MCA, is amended to read: 12 "10-3-101. Declaration of policy. Because of the 13 existing and increasing possibility of the occurrence of 14 disasters or emergencies of unprecedented size and 15 destructiveness resulting from enemy attack, sabotage, or 16 other hostile action and natural disasters and in order to 17 provide for prompt and timely reaction to an emergency or 18 disaster, to insure that preparation of this state will be adequate to deal with such disasters or emergencies, and 19 generally to provide for the common defense and to protect 20 21 the public peace, health, and safety and to preserve the 22 lives and property of the people of this state, it is hereby 23 found and declared to be necessary to:

24 (1) authorize the creation of local or25 interjurisdictional organizations for disaster and emergency



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services in the political subdivisions of this state;
 (2) reduce vulnerability of people and communities of
 this state to damage, injury, and loss of life and property

4 resulting from natural or man-made disasters;

5 (3)--prepare--for--prompt-and-efficient-search7-rescue7
6 recovery7-care7-and-treatment-of--persons--lost7--entrapped7
7 victimized7-or-threatened-by-emergencies-or-disasters7

8 (4)(3) provide a setting conducive to the rapid and
9 orderly start of restoration and rehabilitation of persons
10 and property affected by disasters;

11 (5)(4) clarify and strengthen the roles of the 12 governor, state agencies, and local governments in 13 prevention of, preparation for, response to, and recovery 14 from emergencies and disasters:

15 (6)(5) authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery; 16 17 (7)(6) authorize and provide for coordination of activities relating to disaster prevention, preparedness, 18 response, and recovery by agencies and officers of this 19 20 state and similar state-local, interstate, federal-state, 21 and foreign activities in which the state and its political 22 subdivisions may participate:

t0)(7) provide an emergency and disaster management
 system embodying all aspects of emergency or disaster
 prevention, preparedness, response, and recovery;



(9)(8) assist in prevention of disasters caused or
 aggravated by inadequate planning for public and private
 facilities and land use; and

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4 (10)(9) supplement, without in any way limiting, 5 authority conferred by previous statutes of this state and 6 increase the capability of the state, local, and 7 interjurisdictional disaster and emergency services agencies 8 to perform disaster and emergency services."

9 Section 2. Section 10-3-103, MCA, is amended to read:
10 "10-3-103. Definitions. As used in parts 1 through 4
11 of this chapter, the following definitions apply:

12 (1) "Civil defense" means the nuclear preparedness
13 functions and responsibilities of disaster and emergency
14 services.

15 (2) "Department" means the department of military 16 affairs.

(3) "Disaster" means the occurrence or imminent threat 17 of widespread or severe damage, injury, or loss of life or 18 property resulting from any natural or man-made cause, 19 20 including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, 21 landslides, mudslides, volcanic action, fires, explosions, 22 or air or water contamination requiring emergency action to 23 avert danger or damage, blight, droughts, infestations, 24 riots, sabotage, hostile military or paramilitary action, 25

disruption of state services, or accidents involving
 radiation byproducts or other hazardous materials.

3 (4) "Disaster and emergency services" means the 4 prevention--of7-the preparation for7 and the carrying out of 5 disaster and emergency functions and responsibilities, other 6 than those for which military forces or other state or 7 federal agencies are primarily responsible, to prevent 8 <u>mitigate</u>, prepare for, respond to, and recover from injury 9 and damage resulting from emergencies or disasters.

10 (5) "Division" means the division of disaster and11 emergency services of the department of military affairs.

12 (6) "Emergency" means the imminent threat of a
13 disaster causing immediate peril to life or property which
14 timely action can avert or minimize.

15 (7) "Political subdivision" means any county, city,
16 town, or other legally constituted unit of local government
17 in this state.

18 (8) "Principal executive officer" means the mayor,
19 chairman of the county commissioners, or other chief
20 executive officer of a political subdivision.

21 (9)--"Search--and---rescue"---means---the---employment;
22 coordination;--and--utilization--of--available-resources-and
23 personnel-in-locating;--relieving--distress--of;--preserving
24 life--of;--or--removing-survivors-from-the-site-of-a-hazard;
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2 (10)(9) "Temporary housing" means unoccupied habitable
3 dwellings, suitable rental housing, mobile homes, or other
4 readily fabricated dwellings."

Section 3. Section 10-3-311, MCA, is amended to read: 5 "10-3-311. Emergency or disaster expenditures --6 restrictions. (1) The governor may authorize the incurring 7 of liabilities and expenses to be paid as other claims 8 against the state from the general fund, in the amount 9 necessary, when an emergency or disaster justifies the 10 expenditure and is declared by the governor, to meet 11 contingencies and needs arising from an emergency or 12 disaster, as defined in 10-3-103, which results in damage to 13 the works, buildings, or property of the state or any 14 political subdivision thereof or which menaces the health, 15 welfare, safety, lives, or property of any considerable 16 number of persons in any county or community of the state, 17 upon demonstration by the political jurisdiction that: 18

19 (a) such political jurisdiction has exhausted all
 20 available emergency levies;

(b) the emergency is beyond the financial capability of the political jurisdiction to respond and for which no appropriation in the affected fund is available in sufficient amount to meet the emergency or disaster; or (c) federal funds available for such emergency or LC 0727/01

1	disaster require either matching state funds or specific
2	expenditures prior to eligibility for assistance under
3	federal laws.
4	(2) No expenditures for flood-related damages may be
5	made to assist a political subdivision that is sanctioned
6	because it has flood hazard areas identified under the
7	national flood insurance program, parts 59 through 77 of 44
8	C.F.R., and does not have in effect adequate regulations for
9	such areas or has failed to enforce such regulations as
10	required by the national flood insurance program.
11	(2) The governor is charged with the implementation
1 2	of the program.
13	(3)(4) The administration and development of rules for
14	implementation of this section must be promulgated by the
15	department."
16	Section 4. Section 10-3-401, MCA, is amended to read:
17	"10-3-401. Local and interjurisdictional disaster and
18	emergency plan distribution. (1) Each political
19	subdivision eligible to receive funds under this chapter
20	shall prepare a local or interjurisdictional disaster and
21	emergency plan and program covering the area for which that
22	political subdivision is responsible. This plan shall be in
23	accordance with and in support of the state disaster and
24	emergency plan and program.

25 (2) The political subdivision shall prepare and

1 distribute on behalf of the principal executive officers, in 2 written form, a clear and complete statement of: 3 (a) the emergency responsibilities of all local 4 agencies, if any, and officials; and S (b) the disaster and emergency chain of command; (c) local evacuation authority and responsibility; and 6 7 (d) local authority and responsibility for control of 8 ingress and egress to and from an emergency or disaster area." 9 NEW SECTION. Section 5. Authority 10 of principle executive officer. The principle executive officer shall: 11 (1) direct and compel the evacuation of all or part of 12 the population from an emergency or disaster area within 13 that political subdivision when necessary for the 14 preservation of life or other disaster mitigation, response, 15 16 or recovery; and 17 (2) control the ingress and egress to and from an

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18 emergency or disaster area, the movement of persons within
19 the area, and the occupancy of premises therein.

20 <u>NEW SECTION.</u> Section 6. Extension of authority. Any 21 existing authority of the department of military affairs to 22 make rules on the subject of the provisions of this act is 23 extended to the provisions of this act.

24 <u>NEW SECTION.</u> Section 7. Codification instruction.
 25 Section 5 is intended to be codified as an integral part of

-7-

1 Title 10, chapter 3, part 4, and the provisions of Title 10,

2 chapter 3, part 4, apply to section 5.

-End-

-8-

APPROVED BY COMMITTEE ON STATE ADMINISTRATION

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7	AND AMENDING SECTIONS 10-3-101, 10-3-103, 10-3-311, AND
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18	disaster, to insure that preparation of this state will be
19	adequate to deal with such disasters or emergencies, and
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10 and property affected by disasters;

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23 (8)(7) provide an emergency and disaster management.
24 system embodying all aspects of emergency or disaster
25 prevention, preparedness, response, and recovery;

-2- SECOND READING HB·238

(9)(8) assist in prevention of disasters caused or
 aggravated by inadequate planning for public and private
 facilities and land use; and

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23 accordance with and in support of the state disaster and

24 emergency plan and program.

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HB 0238/03

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Montana Legislative Council

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CORRECTED HB 238 REFERENCE BILL SECOND PRINTING

HB 0238/03

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14 services.

15 (2) "Department" means the department of military 16 affairs.

17 (3) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or 18 19 property resulting from any natural or man-made cause, 20 including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, 21 22 landslides, mudslides, volcanic action, fires, explosions, 23 or air or water contamination requiring emergency action to 24 avert danger or damage, blight, droughts, infestations, 25 riots, sabotage, hostile military or paramilitary action,

disruption of state services, or accidents involving
 radiation byproducts or other hazardous materials.

3 (4) "Disaster and emergency services" means the
4 prevention--of7-the preparation for7 and the carrying out of
5 disaster and emergency functions and responsibilities, other
6 than those for which military forces or other state or
7 federal agencies are primarily responsible, to prevent
8 <u>mitigate</u>, prepare for, respond to, and recover from injury
9 and damage resulting from emergencies or disasters.

10 (5) "Division" means the division of disaster and
11 emergency services of the department of military affairs.

12 (6) "Emergency" means the imminent threat of a
13 disaster causing immediate peril to life or property which
14 timely action can avert or minimize.

15 (7) "Political subdivision" means any county, city,
16 town, or other legally constituted unit of local government
17 in this state.

18 (8) "Principal executive officer" means the mayor,
19 chairman of the county commissioners, or other chief
20 executive officer of a political subdivision.

21 (9)--"Search--and---rescue"---means---the---employment;
22 coordination;--and--utilization--of--available-resources-and
23 personnel-in-locating;--relieving--distress--of;--preserving
24 life--of;--or--removing-survivors-from-the-site-of-a-hazard;
25 emergency;-or-disaster-to-a-place-of-safety-in-case-of-lost;

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1 stranded;-entrapped;-or-injured-persons;

2 (i0;(9) "Temporary housing" means unoccupied habitable 3 dwellings, suitable rental housing, mobile homes, or other 4 readily fabricated dwellings."

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Section 3. Section 10-3-311, MCA, is amended to read: 5 6 "10-3-311. Emergency or disaster expenditures -restrictions. (1) The governor may authorize the incurring 7 8 of liabilities and expenses to be paid as other claims against the state from the general fund, in the amount 9 10 necessary, when an emergency or disaster justifies the expenditure and is declared by the governor, to meet 11 12 contingencies and needs arising from an emergency or 13 disaster, as defined in 10-3-103, which results in damage to the works, buildings, or property of the state or any 14 15 political subdivision thereof or which menaces the health, 16 welfare, safety, lives, or property of any considerable 17 number of persons in any county or community of the state, upon demonstration by the political jurisdiction that: 18

19 (a) such political jurisdiction has exhausted all20 available emergency levies;

(b) the emergency is beyond the financial capability of the political jurisdiction to respond and for which no appropriation in the affected fund is available in sufficient amount to meet the emergency or disaster; or

25 (c) federal funds available for such emergency or

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disaster require either matching state funds or specific
 expenditures prior to eligibility for assistance under
 federal laws.

(2) No expenditures for flood-related damages may be 4 made to assist a political subdivision that is sanctioned 5 because it has flood hazard areas identified under the б 7 national flood insurance program, parts 59 through 77 of 44 C.F.R., and does not have in effect adequate regulations for 8 such areas or has failed to enforce such regulations as 9 10 required by the national flood insurance program. (2)(3) The governor is charged with the implementation 11 12 of the program. (3)(4) The administration and development of rules for 13 implementation of this section must be promulgated by the 14 15 department." Section 4. Section 10-3-401, MCA, is amended to read: 16 *10-3-401. Local and interjurisdictional disaster and 17 emergency plan -- distribution. (1) Each political 18 subdivision eligible to receive funds under this chapter 19 shall prepare a local or interjurisdictional disaster and 20 emergency plan and program covering the area for which that 21

22 political subdivision is responsible. This plan shall be in 23 accordance with and in support of the state disaster and 24 emergency plan and program.

25 (2) The political subdivision shall prepare and

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distribute on behalf of the principal executive officers, in 1 2 written form, a clear and complete statement of: 3 (a) the emergency responsibilities of all local 4 agencies, if any, and officials; and 5 (b) the disaster and emergency chain of command; 6 (c) local evacuation authority and responsibility; and 7 (d) local authority and responsibility for control of 8 ingress and egress to and from an emergency or disaster 9 area." 10 NEW SECTION. Section 5. Authority of principle 11 PRINCIPAL executive officer. The principle PRINCIPAL 12 executive officer shall: 13 (1) direct and compel the evacuation of all or part of 14 the population from an emergency or disaster area within 15 that political subdivision when necessary for the preservation of life or other disaster mitigation, response, 16 17 or recovery; and (2) control the ingress and egress to and from an 18 19 emergency or disaster area, the movement of persons within 20 the area, and the occupancy of premises therein. 21 NEW SECTION. Section 6. Extension of authority. Any

existing authority of the department of military affairs to make rules on the subject of the provisions of this act is extended to the provisions of this act.

25 NEW SECTION. Section 7. Codification instruction.

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1 Section 5 is intended to be codified as an integral part of

2 Title 10, chapter 3, part 4, and the provisions of Title 10,

3 chapter 3, part 4, apply to section 5.

-End-

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