

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.

IN THE SENATE

FEBRUARY 10, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
FEBRUARY 24, 1987	COMMITTEE RECOMMEND BILL BE 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.
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1 House BILL NO. 238
 2 INTRODUCED BY Bradley
 3 BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS
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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LAW RELATING TO DISASTER AND EMERGENCY SERVICES;
 7 AND AMENDING SECTIONS 10-3-101, 10-3-103, 10-3-311, AND
 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
 19 adequate to deal with such disasters or emergencies, and
 20 generally to provide for the common defense and to protect
 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 or
 25 interjurisdictional organizations for disaster and emergency

1 services in the political subdivisions of this state;
 2 (2) reduce vulnerability of people and communities of
 3 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 search, rescue,~~
 6 ~~recovery, care, and treatment of persons lost, entrapped,~~
 7 ~~victimized, or threatened by emergencies or disasters;~~

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
 16 disaster prevention, preparedness, response, and recovery;

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

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



1 ~~(9)~~(8) assist in prevention of disasters caused or
2 aggravated by inadequate planning for public and private
3 facilities and land use; and

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.

17 (3) "Disaster" means the occurrence or imminent threat
18 of widespread or severe damage, injury, or loss of life or
19 property resulting from any natural or man-made cause,
20 including tornadoes, windstorms, snowstorms, wind-driven
21 water, high water, floods, wave action, earthquakes,
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,

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

3 (4) "Disaster and emergency services" means the
4 ~~prevention--of--the~~ preparation for, 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 mitigate, 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,~~

1 ~~stranded, entrapped, or injured persons:~~

2 ~~{10}(9)~~ "Temporary housing" means unoccupied habitable
3 dwellings, suitable rental housing, mobile homes, or other
4 readily fabricated dwellings."

5 Section 3. Section 10-3-311, MCA, is amended to read:

6 "10-3-311. Emergency or disaster expenditures --
7 restrictions. (1) The governor may authorize the incurring
8 of liabilities and expenses to be paid as other claims
9 against the state from the general fund, in the amount
10 necessary, when an emergency or disaster justifies the
11 expenditure and is declared by the governor, to meet
12 contingencies and needs arising from an emergency or
13 disaster, as defined in 10-3-103, which results in damage to
14 the works, buildings, or property of the state or any
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,
18 upon demonstration by the political jurisdiction that:

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

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

25 (c) federal funds available for such emergency or

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}(3)~~ The governor is charged with the implementation
12 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
- 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
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- 9 area."

10 NEW SECTION. Section 5. Authority of principle
11 executive officer. The principle executive officer shall:

12 (1) direct and compel the evacuation of all or part of
13 the population from an emergency or disaster area within
14 that political subdivision when necessary for the
15 preservation of life or other disaster mitigation, response,
16 or recovery; and

17 (2) control the ingress and egress to and from an
18 emergency or disaster area, the movement of persons within
19 the area, and the occupancy of premises therein.

20 NEW SECTION. 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 NEW SECTION. Section 7. Codification instruction.
25 Section 5 is intended to be codified as an integral part of

1 Title 10, chapter 3, part 4, and the provisions of Title 10,
2 chapter 3, part 4, apply to section 5.

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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 resulting from natural or man-made disasters;

~~(3) prepare for prompt and efficient search, rescue, recovery, care, and treatment of persons lost, entrapped, victimized, or threatened by emergencies or disasters;~~

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

~~(5)~~(4) clarify and strengthen the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to, and recovery from emergencies and disasters;

~~(6)~~(5) authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;

~~(7)~~(6) authorize and provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of this state and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;

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



1 ~~(9)~~(8) assist in prevention of disasters caused or
 2 aggravated by inadequate planning for public and private
 3 facilities and land use; and

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.

17 (3) "Disaster" means the occurrence or imminent threat
 18 of widespread or severe damage, injury, or loss of life or
 19 property resulting from any natural or man-made cause,
 20 including tornadoes, windstorms, snowstorms, wind-driven
 21 water, high water, floods, wave action, earthquakes,
 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,

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

3 (4) "Disaster and emergency services" means the
 4 ~~prevention--of--the~~ preparation for, 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 mitigate, 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,~~

1 ~~stranded, entrapped, or injured persons:~~

2 ~~{10}(9)~~ "Temporary housing" means unoccupied habitable
3 dwellings, suitable rental housing, mobile homes, or other
4 readily fabricated dwellings."

5 Section 3. Section 10-3-311, MCA, is amended to read:

6 "10-3-311. Emergency or disaster expenditures --
7 restrictions. (1) The governor may authorize the incurring
8 of liabilities and expenses to be paid as other claims
9 against the state from the general fund, in the amount
10 necessary, when an emergency or disaster justifies the
11 expenditure and is declared by the governor, to meet
12 contingencies and needs arising from an emergency or
13 disaster, as defined in 10-3-103, which results in damage to
14 the works, buildings, or property of the state or any
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,
18 upon demonstration by the political jurisdiction that:

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

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

25 (c) federal funds available for such emergency or

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}(3)~~ The governor is charged with the implementation
12 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
- 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
 16 preservation of life or other disaster mitigation, response,
 17 or recovery; and

18 (2) control the ingress and egress to and from an
 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
 22 existing authority of the department of military affairs to
 23 make rules on the subject of the provisions of this act is
 24 extended to the provisions of this act.

25 NEW SECTION. Section 7. Codification instruction.

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-