

1 House BILL NO. 510

2 INTRODUCED BY Brainard

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA HOME GUARD LAWS; PROVIDING
5 FOR THE ORGANIZATION, TRAINING, AND ASSIGNMENT OF HOME GUARD MEMBERS AND UNITS; AND
6 AMENDING SECTIONS 10-1-103, 10-1-701, 10-1-702, 10-1-703, AND 10-1-704, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 10-1-103, MCA, is amended to read:

11 **"10-1-103. Classes of militia.** The classes of the militia are:

12 (1) the organized militia, which consists of:

13 (a) the national guard; and

14 (b) the Montana home guard, which is an all-volunteer organization;

15 (2) the unorganized militia, which consists of the members of the militia who are not members of
16 the organized militia."

17
18 **Section 2.** Section 10-1-701, MCA, is amended to read:

19 **"10-1-701. Home guard -- organization and composition -- chain of command.** (1) The home guard
20 may is a community-based emergency volunteer network. The home guard must be organized, maintained,
21 and disbanded at the discretion of the governor, in accordance with federal law and regulation, when
22 additional defense forces are needed in this state to provide additional emergency or defense forces when
23 needed in the state. The home guard shall must be composed of officers assigned to it commissioned by
24 the governor and any able-bodied able citizen of this state who volunteers to serve in it. If additional
25 persons are needed in the home guard, members of the unorganized militia shall serve if enrolled by draft
26 or otherwise as provided by law and regulation.

27 (2) The basic unit of the home guard is the company, which may be composed of up to four
28 platoons. Each platoon may be composed of four squads.

29 (3) Each company must be commanded by a company captain. The captain is responsible to the
30 governor, either directly or indirectly, through a chain of command established by the governor."

1 **Section 3.** Section 10-1-702, MCA, is amended to read:

2 "**10-1-702. Gubernatorial rules for guard.** The home guard ~~shall~~ must be organized, ~~armed,~~
3 equipped, ~~maintained, disciplined, governed, administered,~~ and trained under rules prescribed by the
4 governor. ~~These rules shall conform to federal law and regulations."~~

5

6 **Section 4.** Section 10-1-703, MCA, is amended to read:

7 "**10-1-703. Use of armories and equipment.** (1) The governor may make available to the home
8 guard the facilities of state armories and their equipment and any other state land and property as may be
9 available.

10 (2) The governor may requisition from the federal government, for the use of the home guard,
11 arms, ammunition, clothing, equipment, and other items in accordance with federal law and regulations.

12 (3) The governing body of a county, municipality, fire district, or school district may make available
13 to the home guard any premises, facilities, equipment, or other property belonging to or under the control
14 of the county, municipality, fire district, or school district."

15

16 **Section 5.** Section 10-1-704, MCA, is amended to read:

17 "**10-1-704. ~~Pay and allowances~~ Uncompensated volunteers -- claims for certain losses.** An officer
18 or member of the home guard, whether on active duty ~~in the service of this state shall receive the same~~
19 ~~pay and allowances as prescribed for officers and enlisted members of the militia under 10-1-502 or~~
20 otherwise, serves strictly as an unpaid volunteer. However, the governor may accept and pay claims from
21 home guard members for personal equipment lost, consumed, damaged, or destroyed as part of actual
22 service."

23

24 **NEW SECTION. Section 6. Oath of allegiance -- recruitment information.** (1) As a condition of
25 acceptance into a home guard company, each officer and member of the home guard shall take an oath of
26 allegiance to uphold the constitutions of the United States and the state of Montana. The oath must be
27 in substantially the same form as provided for under 10-1-202.

28 (2) Each home guard member must be informed, upon recruitment, that the member serves at the
29 member's own risk and without compensation.

30

1 **NEW SECTION. Section 7. Company formation -- duties of company captain.** (1) The company
2 captain is responsible for the recruitment, training, and equipping of company volunteers.

3 (2) With the advice of the captain's company officers, the captain shall prepare and execute a
4 company charter to specify, pursuant to rules established by the governor, the mission, policy, and
5 procedures of the company.

6 (3) Company discipline may include dismissal, demotion, or lesser actions.

7

8 **NEW SECTION. Section 8. Home guard unit mission.** (1) To provide efficient and structured
9 emergency volunteers to assist the state, home guard companies may be established to serve in the
10 following capacities:

- 11 (a) medical service;
- 12 (b) transportation;
- 13 (c) heavy equipment operation;
- 14 (d) engineering;
- 15 (e) communication;
- 16 (f) supply;
- 17 (g) environmental salvage;
- 18 (h) forestry and wild fire suppression;
- 19 (i) security; and
- 20 (j) reconnaissance and surveillance.

21 (2) A mixed company may be formed of specialized platoons or squads of the types listed under
22 subsection (1).

23 (3) Additional types of companies may be formed at the governor's request.

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25 **NEW SECTION. Section 9. Home guard training.** It is the responsibility of the home guard captain
26 to ensure that personnel of the company are trained sufficiently to fulfill the company's mission. The
27 Montana national guard may provide training for units and personnel of the home guard to the extent that
28 the Montana national guard's resources permit.

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30 **NEW SECTION. Section 10. Home guard activation -- assignment.** (1) Home guard units may be

1 activated and assigned to duty by the governor or by the county sheriff with the consent of the governor.
2 If a home guard member fails to respond to a call for activation, the company captain may dismiss the
3 member from the company.

4 (2) Home guard units and members may not be assigned to duties outside the state. Home guard
5 units may be assigned to serve under federal agencies operating within the state.

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7 **NEW SECTION. Section 11. Codification instruction.** [Sections 6 through 10] are intended to be
8 codified as an integral part of Title 10, chapter 1, part 7, and the provisions of Title 10, chapter 1, part 7,
9 apply to [sections 6 through 10].

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