

1 HOUSE BILL NO. 107
 2 INTRODUCED BY B. BARKER
 3 BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO EMERGENCY PREPAREDNESS
 6 AND RESPONSE; ALIGNING THE RESPONSIBILITIES OF THE STATE EMERGENCY RESPONSE
 7 COMMISSION WITH FEDERAL LAW; ASSIGNING CERTAIN RESPONSIBILITIES TO THE DIVISION OF
 8 DISASTER AND EMERGENCY SERVICES OF THE DEPARTMENT OF MILITARY AFFAIRS; REVISING THE
 9 FUNDING PRIORITIES OF THE STATE EMERGENCY RESPONSE COMMISSION; REVISING THE
 10 REQUIREMENTS OF THE STATE DISASTER AND EMERGENCY PLAN; AMENDING REFERENCES TO
 11 HAZARDOUS MATERIAL INCIDENT RESPONSE TEAMS; REVISING DEFINITIONS; EXTENDING
 12 RULEMAKING AUTHORITY; AND AMENDING SECTIONS 10-3-103, 10-3-105, 10-3-301, 10-3-310, 10-3-401,
 13 10-3-904, 10-3-1202, 10-3-1203, 10-3-1204, 10-3-1207, 10-3-1208, 10-3-1209, 10-3-1210, 10-3-1214, 10-3-
 14 1216, AND 10-3-1217, MCA."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 10-3-103, MCA, is amended to read:

19 **"10-3-103. Definitions.** As used in parts 1 through 4 of this chapter, the following definitions apply:

- 20 (1) "All-hazard incident management assistance team" means a team that includes any
 21 combination of personnel representing local, state, or tribal entities that has been established by the ~~state~~
 22 ~~emergency response commission provided for in 10-3-1204~~ division for the purpose of local incident
 23 management intended to mitigate the impacts of an incident prior to a disaster or emergency declaration.
- 24 (2) "Civil defense" means the nuclear preparedness functions and responsibilities of disaster and
 25 emergency services.
- 26 (3) "Department" means the department of military affairs.
- 27 (4) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or
 28 loss of life or property resulting from any natural or artificial cause, including tornadoes, windstorms,

- 1 (o) establish all-hazard incident management assistance teams; and
- 2 (p) appoint the members of the Montana intrastate mutual aid committee provided for in 10-3-904."

3

4 **Section 3.** Section 10-3-301, MCA, is amended to read:

5 **"10-3-301. State disaster and emergency plan.** (1) The state disaster and emergency plan and
6 program may provide for:

- 7 (a) prevention and minimization of injury and damage caused by disaster;
- 8 (b) prompt and efficient response to an incident, emergency, or disaster;
- 9 (c) emergency relief;
- 10 (d) identification of areas particularly vulnerable to disasters;
- 11 (e) recommendations for preventive and preparedness measures designed to eliminate or reduce
12 disasters or their impact;
- 13 (f) organization of personnel and chains of command;
- 14 (g) coordination of federal, state, and local disaster and emergency activities; and
- 15 (h) other necessary matters.

16 ~~(2) The state disaster and emergency plan and program may not:~~

17 ~~(a) compel a private business to deny a customer of the private business access to the premises or
18 access to goods or services; or~~

19 ~~(b) deny a customer of a private business the ability to access goods or services provided by the
20 private business.~~

21 ~~(3) The prohibition provided for in subsection (2)(b) does not apply to persons confirmed to have a
22 communicable disease and who are currently under a public quarantine order.~~

23 (2) The state disaster and emergency plan and program may not:

24 (a) compel a private business to deny a customer of the private business access to the premises
25 or access to goods or services; or

26 (b) deny a customer of a private business the ability to access goods or services provided by the
27 private business.

28 (3) The prohibition provided for in subsection (2)(b) does not apply to persons confirmed to have a

1 communicable disease and who are currently under a public quarantine order.

2 ~~(4)(2)(4)~~ In preparing and maintaining the state disaster and emergency plan and program, the
3 division ~~may shall~~ seek the advice and assistance of local government, business, labor, industry, agriculture,
4 civic and volunteer organizations, and community leaders. In advising local and interjurisdictional agencies, the
5 division may encourage them to seek advice from these sources.

6 ~~(5) As used in this section, "private business" means an individual or entity that is not principally a part~~
7 ~~of or associated with a government unit. The term includes but is not limited to a nonprofit or for-profit entity, a~~
8 ~~corporation, a sole proprietorship, or a limited liability company.~~

9 (5) As used in this section, "private business" means an individual or entity that is not principally a
10 part of or associated with a government unit. The term includes but is not limited to a nonprofit or for-profit
11 entity, a corporation, a sole proprietorship, or a limited liability company."

12

13 **Section 4.** Section 10-3-310, MCA, is amended to read:

14 **"10-3-310. Incident response -- authority -- appropriation -- expenditures -- recovery -- rules. (1)**

15 The governor may by executive order upon request of the local governing body, its authorized agent, or a tribal
16 government activate that part of the state disaster and emergency plan pertaining to incident response. The
17 order may be issued for any year, for any part of a year, or upon occurrence of an incident.

18 (2) Upon approval of an executive order pursuant to this section:

19 (a) that part of the state disaster and emergency plan pertaining to incidents becomes effective;

20 (b) the division may use any of the resources usable by the division during a state of emergency or
21 disaster to respond to the incident; and

22 (c) there is statutorily appropriated, as provided in 17-7-502, to the office of the governor and the
23 governor is authorized to expend from the general fund an amount not to exceed \$10,000 per incident and not
24 to exceed \$100,000 for incidents in a biennium.

25 (3) The governor may authorize the incurring of liabilities and expenses to be paid as other claims
26 against the state from the general fund, in the amount necessary, upon activation of the incident response
27 portion of the state disaster and emergency plan. Money appropriated by this section may be used only for
28 incident response costs of the state and incident response costs incurred by an all-hazard incident

1 include ~~members of the commission and local and state government responders.~~

2 (14)(13) "Threat of release" or "threatened release" means an indication of the possibility of the release
3 of a hazardous material into the environment."
4

5 **Section 9.** Section 10-3-1204, MCA, is amended to read:

6 **"10-3-1204. State emergency response commission -- members -- duties -- establishment of**
7 **hazardous material incident response and hazardous material incident management teams.** (1) There is

8 a state emergency response commission that is attached to the department for administrative purposes. The
9 commission consists of ~~29~~ 57 members appointed by the governor. The commission must include
10 representatives of ~~the national guard, the air force, the department of environmental quality, the division, the~~
11 ~~department of transportation, the department of justice, the department of natural resources and conservation,~~
12 ~~the department of public health and human services, a fire service association, the fire services training school,~~
13 ~~the emergency medical services and trauma systems section of the public health and safety division in the~~
14 ~~department of public health and human services, the department of fish, wildlife, and parks, the department of~~
15 ~~agriculture, Montana hospitals, an emergency medical services association, a law enforcement association, an~~
16 ~~emergency management association, a public health related association, a trucking association, a utility~~
17 ~~company doing business in Montana, a railroad company doing business in Montana, Montana's petroleum~~
18 ~~industry, Montana's insurance industry, the university system, a tribal emergency response commission, the~~
19 ~~national weather service, the Montana association of counties, the Montana league of cities and towns, and the~~
20 ~~office of the governor. At least one representative must be a member of a local emergency planning committee~~

21 and a person three people with local or tribal hazardous material emergency planning experience, one of whom
22 must have tribal hazardous material emergency planning experience. Members of the commission serve terms

23 of 4 years and may be reappointed. The members shall serve without compensation. The governor shall
24 appoint ~~two presiding officers from the appointees, who shall act as copresiding officers~~ the presiding officer.

25 (2) The commission shall implement the provisions of this part. The commission may ~~create and~~
26 ~~implement a state~~ approve regional hazardous material incident response ~~team~~ teams to respond to hazardous
27 material incidents. The members of the team must be certified in accordance with the plan.

28 (3) The commission may enter into written agreements with each entity or person providing

1 equipment or services to the state hazardous material incident response ~~team~~ teams.

2 (4) The commission or its designee may direct that ~~the state~~ hazardous material incident response
3 ~~team~~ teams be available and respond, when requested by a local emergency response authority, to hazardous
4 material incidents according to the plan.

5 (5) The commission may contract with persons to meet state emergency response needs for the
6 ~~state~~ hazardous material incident response ~~team~~ teams.

7 (6) The commission may advise, consult, cooperate, and enter into agreements with agencies of
8 the state and federal government, other states and their state agencies, cities, counties, tribal governments,
9 and other persons concerned with emergency response and matters relating to and arising out of incidents.

10 (7) The commission may encourage, participate in, or conduct studies, investigations, training,
11 research, and demonstrations for and with the ~~state~~ hazardous material incident response ~~team~~ teams, local
12 emergency responders, and other interested persons.

13 (8) The commission may collect and disseminate information relating to emergency response to
14 incidents.

15 (9) The commission may accept and administer grants, gifts, or other funds, conditional or
16 otherwise, made to the state for emergency response activities provided for in this part.

17 (10) The commission may prepare, coordinate, implement, and update a plan that coordinates state
18 and local emergency response authorities to respond to hazardous material incidents within the state. The plan
19 must be consistent with this part. All state emergency response responsibilities relating to an a hazardous
20 material incident must be defined by the plan. The plan must be in accordance with and in support of the state
21 disaster and emergency plan and program as provided in 10-3-301.

22 (11) Except that the division shall designate local emergency planning districts and shall oversee
23 the creation, annual local review, and exercise and revision of the local emergency operations plan as provided
24 by state law. ~~The~~ the commission has the powers and duties of a state emergency response commission under
25 the federal Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001, et seq.,
26 including:

27 (a) establishing procedures for receiving and processing public requests for information collected
28 under the federal act;

1 (b) appointing local emergency planning committees for each district; and

2 (c) supervising the activities of the local emergency planning committees

3 ~~except that the division shall oversee the creation, annual local review, and exercise and revision of the~~
4 ~~local emergency operations plan as provided by state law.~~

5 (12) The commission shall promulgate rules and procedures limited to cost recovery procedures,
6 certification of ~~state hazardous material incident response team members and all-hazard incident management~~
7 ~~assistance team members, and deployment of the state hazardous material incident response team teams and~~
8 ~~all-hazard incident management assistance teams, which must be a part of the plan.~~

9 ~~(13) The commission shall act as an all-hazard advisory board to the division by:~~

10 ~~(a) assisting the division in carrying out its responsibilities by providing the division with~~
11 ~~recommendations on issues pertaining to all-hazard emergency management;~~

12 ~~(b) authorizing the establishment of subcommittees to develop and provide the recommendations~~
13 ~~called for in subsection (13)(a); and~~

14 ~~(c) establishing all-hazard incident management assistance teams.~~

15 ~~(14) The commission shall appoint the members of the Montana intrastate mutual aid committee~~
16 ~~provided for in 10-3-904.~~

17 ~~(15)~~(13) All state agencies and institutions shall cooperate with the commission in the commission's
18 efforts to carry out its duties under this part."

19

20 **Section 10.** Section 10-3-1207, MCA, is amended to read:

21 **"10-3-1207. Commission budget and expenditures.** (1) The commission shall submit its budget to
22 the division.

23 (2) The commission shall expend any funds appropriated to it in the following priority:

24 (a) reimbursement for the nonfederal cost share for approved projects for local emergency
25 planning committee development, local hazardous material emergency response plan development, local
26 hazardous material incident response teams, and regional hazardous material incident response teams under
27 eligible federal grants~~payment of workers' compensation premiums for coverage of state hazardous material~~
28 ~~incident response team members;~~