

SENATE BILL NO. 4

INTRODUCED BY G. ROUSH

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT RESTRUCTURING STATE VETERANS' AFFAIRS FUNCTIONS; CHANGING THE NAME OF THE DEPARTMENT OF MILITARY AFFAIRS TO THE DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS; MAKING THE DEPARTMENT THE LEAD AGENCY FOR VETERANS' AFFAIRS AND PROVIDING IT WITH RULEMAKING AUTHORITY; CONVERTING THE BOARD OF VETERANS' AFFAIRS INTO A VETERANS' AFFAIRS INTERAGENCY COORDINATING COUNCIL; ESTABLISHING A VETERANS' ASSISTANCE ACCOUNT AND SPECIFYING ITS USES; AUTHORIZING THE DEPARTMENT TO SPONSOR PATRIOTIC LICENSE PLATES AND TO ACCEPT DONATIONS TO BE DEPOSITED TO THE ACCOUNT; PROVIDING AN INCOME TAX DEDUCTION FOR DONATIONS FOR VETERANS' SERVICES; AUTHORIZING COUNTIES TO PROVIDE FOR VETERAN SERVICE OFFICERS; AUTHORIZING THE ESTABLISHMENT OF ADDITIONAL STATE VETERANS' CEMETERIES AS FUNDING ALLOWS; REQUIRING A STUDY; REPEALING THE SUNSET ON THE GENERIC SPECIALTY LICENSE PLATE PROGRAM; AMENDING SECTIONS 2-15-104, 2-15-225, 2-15-1201, 2-15-1204, 2-15-1205, 2-15-3308, 5-5-228, 10-1-101, 10-1-109, 10-1-803, 10-2-101, 10-2-102, 10-2-106, 10-2-601, 10-2-602, 10-2-603, 10-3-103, 10-3-107, 10-3-208, 10-3-502, 10-3-1002, 10-3-1203, 18-2-102, 18-2-103, 19-13-104, 19-13-210, 90-14-103, 90-14-104, AND 90-14-105, MCA; AND REPEALING SECTION 21, CHAPTER 402, LAWS OF 2001."

WHEREAS, the 57th Legislature requested a study of veterans' issues, and the State Administration and Veterans' Affairs Interim Committee (SAIC) conducted numerous hearings, received expert testimony, and examined research during a 14-month period; and

WHEREAS, the SAIC finds that, using 2000 data, Montana's population of nearly 107,000 veterans and an estimated 170,000 family members of veterans not only ranks Montana second in the nation in the number of veterans per capita (11.9%) but also means that veterans and their family members constitute more than 25% of Montana's total population; and

WHEREAS, the SAIC finds that more than 80,000 Montana veterans are combat-era veterans (more than 36,000 are Vietnam-era, more than 16,000 are Persian Gulf-era, more than 16,000 are World War II-era, and about 14,000 are Korean-era veterans) and that the largest group of veterans is now between 50 and 65 years of age; and

WHEREAS, the U.S. Department of Veterans Affairs (VA) estimates that more than 50% of combat theater veterans suffer from clinically serious and disabling posttraumatic stress disorder; that twice as many veterans as nonveterans experience homelessness; that many veterans have overlapping and complex needs encompassing medical and nursing home care, mental health and chemical dependency counseling, housing, transportation, education and training, job services, and family support services; and that the children and families of veterans who do not get the help that they need are themselves at risk; and

WHEREAS, these complex needs and a maze of federal, state, local, public, and private services demand a high level of interagency coordination and cooperation for effective service delivery to ensure that veterans and their families do not fall through the cracks and to avoid unnecessary cost-shifting from federal to state and local public assistance programs; and

WHEREAS, the SAIC finds that current statutory language establishing the Board of Veterans' Affairs as the lead agency for veterans' affairs dates back to 1919 and that although the Board's duties and responsibilities have consistently evolved, statutory language has not kept pace; and

WHEREAS, the Board hires and supervises its own classified employees, who make up the Montana Veterans' Affairs Division (MVAD), but the Board does not have rulemaking authority to implement programs; and

WHEREAS, the Board is administratively attached to the Department of Military Affairs, which has greatly assisted veterans and supported the Board but has no statutory authority over veterans' affairs; and

WHEREAS, a legislative performance audit requested by the SAIC revealed that although the MVAD is to be commended for doing a great job with limited resources and limited statutory guidance, it also revealed that new management tools and updated information management systems are needed to provide more consistency, track and manage staff workload, and evaluate agency performance, which are tasks best accomplished by a department rather than a part-time board; and

WHEREAS, the VA spent about \$175 million in Montana during fiscal year 2000, which ranked Montana 37th in VA expenditures per capita veteran population; and

WHEREAS, the SAIC finds that a statutory restructuring of powers, duties, and responsibilities for state veterans' affairs programs is essential, not only to address inadvertent statutory shortfalls and elevate the profile of state veterans' affairs, but also to better integrate benefit claims with human services programs so that eligible veterans and family members receive the federal compensation, benefits, and care that they have earned in self-sacrificing service in the armed forces of the United States of America.

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

Section 1. Section 2-15-104, MCA, is amended to read:

"2-15-104. Structure of executive branch. (1) In accordance with the constitution, all executive and administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state government and their respective functions are allocated by this chapter among and within the following departments or entities:

- (a) department of administration;
 - (b) department of military and veterans' affairs;
 - (c) department of revenue;
 - (d) state board of education;
 - (e) department of labor and industry;
 - (f) department of commerce;
 - (g) department of justice;
 - (h) department of public health and human services;
 - (i) department of corrections;
 - (j) department of transportation;
 - (k) department of public service regulation;
 - (l) department of agriculture;
 - (m) department of livestock;
 - (n) department of natural resources and conservation;
 - (o) department of fish, wildlife, and parks;
 - (p) department of environmental quality.
- (2) For its internal structure, each department shall adhere to the following standard terms:
- (a) The principal unit of a department is a division. Each division is headed by an administrator.
 - (b) The principal unit of a division is a bureau. Each bureau is headed by a chief.
 - (c) The principal unit of a bureau is a section. Each section is headed by a supervisor."

Section 2. Section 2-15-225, MCA, is amended to read:

"2-15-225. Interagency coordinating council for state prevention programs. (1) There is an interagency coordinating council for state prevention programs consisting of the following members:

- (a) the attorney general provided for in 2-15-501;
- (b) the director of the department of public health and human services provided for in 2-15-2201;

- (c) the superintendent of public instruction provided for in 2-15-701;
- (d) the presiding officer of the Montana children's trust fund board;
- (e) two persons appointed by the governor who have experiences related to the private or nonprofit provision of prevention programs and services;
- (f) the administrator of the board of crime control provided for in 2-15-2006;
- (g) the commissioner of labor and industry provided for in 2-15-1701;
- (h) the director of the department of corrections provided for in 2-15-2301;
- (i) the state coordinator of Indian affairs provided for in 2-15-217;
- (j) the adjutant general of the department of military and veterans' affairs provided for in 2-15-1202;
- (k) the director of the department of transportation provided for in 2-15-2501;
- (l) the commissioner of higher education provided for in 2-15-1506; and
- (m) the designated representative of a state agency desiring to participate who is accepted as a member by a majority of the current coordinating council members.

(2) The coordinating council shall perform the following duties:

- (a) develop, through interagency planning efforts, a comprehensive and coordinated prevention program delivery system that will strengthen the healthy development, well-being, and safety of children, families, individuals, and communities;
- (b) develop appropriate interagency prevention programs and services that address the problems of at-risk children and families and that can be provided in a flexible manner to meet the needs of those children and families;
- (c) study various financing options for prevention programs and services;
- (d) ensure that a balanced and comprehensive range of prevention services is available to children and families with specific or multiagency needs;
- (e) assist in development of cooperative partnerships among state agencies and community-based public and private providers of prevention programs;
- (f) prepare and present to the legislature and to the appropriate standing and interim legislative committees a unified budget for state prevention programs, which must be published in the governor's executive budget; and
- (g) develop, maintain, and implement benchmarks for state prevention programs. As used in this subsection, "benchmark" means a specified reference point in the future that is used to measure the state of affairs at that point in time and to determine progress toward or the attainment of an ultimate goal, which is an

outcome reflecting the desired state of affairs.

(3) The coordinating council shall cooperate with and report to any standing or interim legislative committee that is assigned to study the policies and funding for prevention programs or other state programs and policies related to children and families.

(4) The coordinating council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.

(5) The coordinating council is attached for administrative purposes only to the governor's office, which may assist the council by providing staff and budgetary, administrative, and clerical services that the council or its presiding officer requests.

(6) Staffing and other resources may be provided to the coordinating council only from state and nonstate resources donated to the council and from direct appropriations by each legislature."

Section 3. Section 2-15-1201, MCA, is amended to read:

"2-15-1201. Department of military and veterans' affairs -- head. There is a department of military and veterans' affairs. The department head is the adjutant general of the state, who ~~shall~~ must be appointed and shall serve in the same manner as are directors in 2-15-111. In addition, the adjutant general ~~shall~~ must have the qualifications ~~as~~ prescribed in 2-15-1202."

Section 4. Section 2-15-1204, MCA, is amended to read:

"2-15-1204. Division of disaster and emergency services. A division of disaster and emergency services is established in the department of military and veterans' affairs."

Section 5. Section 2-15-1205, MCA, is amended to read:

"2-15-1205. ~~Board of veterans'~~ Veterans' affairs interagency coordinating council. (1) There is a ~~board of veterans'~~ veterans' affairs interagency coordinating council.

(2) The ~~board~~ council consists of the following voting members:

(a) the administrator of the veterans' affairs program under the department of military and veterans' affairs, who shall serve as the presiding officer;

(b) the following five members appointed by the governor with the consent of the senate. Not more than one member shall be appointed from a single county. However, a change of residence within the state after appointment does not alter a member's status. All members shall be residents of this state and shall have been

honorably discharged from service in the military forces of the United States in any of its wars;

(i) a representative of homeless veterans or veterans at risk of homelessness;

(ii) a veteran consumer of state and federal benefit claims services and federal health care services provided by the U.S. department of veterans affairs;

(iii) a veteran consumer of community-based mental health or chemical dependency services;

(iv) a consumer of state veterans' nursing home services; and

(v) a representative of veterans and spouses concerned about state veterans' cemetery services;

(c) one member appointed by each of the following veterans' service organizations:

(i) the American legion;

(ii) the veterans of foreign wars;

(iii) the disabled American veterans; and

(iv) the Vietnam veterans of America;

(d) two members appointed by the director of the department of public health and human services, one representing the intergovernmental human services program and one representing the state veterans' nursing homes; and

(e) one tribal veterans' representative from each tribal government in Montana that has such a representative.

(3) The following members, or their designees, must be invited to participate on the council as voting members:

(a) the state director of the federal veterans employment and training program;

(b) the director of the veterans' education and training program at Montana state university-northern;

(c) the director of the U.S. department of veterans affairs medical and regional office center at Fort Harrison;

(d) the homeless coordinator for the U.S. department of veterans affairs at Fort Harrison;

(e) the director of one of the U.S. department of veterans affairs readjustment counseling service centers in Montana; and

(f) representatives of Montana's congressional delegation.

(4) (a) A vacancy occurring on the ~~board shall~~ council must be filled by the governor in the same manner as the original appointment, subject to the conditions of this ~~subsection~~ section.

(b) A majority of voting members appointed under subsection (2) constitutes a quorum. Action by the council must be by a majority vote of the voting members present.

~~(3) Each member shall receive compensation and travel expenses as provided for in 37-1-133.~~

(c) The provisions of 2-15-122 do not apply to the council, except that members appointed by the governor under subsection (2)(b) are entitled to compensation and reimbursement for travel and per diem as provided in 2-15-122(5).

~~(4)(5) Each member appointed pursuant to subsection (2)(b) shall serve for a term of 5 3 years, with terms staggered.~~

~~(5)(6) The board council is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply."~~

Section 6. Section 2-15-3308, MCA, is amended to read:

"2-15-3308. Drought advisory committee. (1) There is a drought advisory committee in the department of natural resources and conservation.

(2) The drought advisory committee is chaired by a representative of the governor and consists of representatives of the departments of natural resources and conservation; agriculture; commerce; fish, wildlife, and parks; military and veterans' affairs; environmental quality; and livestock. The governor's representative must be appointed by the governor, and the representative of each department must be appointed by the head of that department. Additional, nonvoting members who represent drought-affected federal and local government agencies and public and private interests may also be appointed by the governor.

(3) The drought advisory committee shall:

- (a) with the approval of the governor, develop and implement a state drought plan;
- (b) review and report drought monitoring information to the public;
- (c) coordinate timely drought impact assessments;
- (d) identify areas of the state with a high probability of drought and target reporting and assistance efforts to those areas;
- (e) upon request, assist in organizing local drought advisory committees for the areas identified under subsection (3)(d);
- (f) request state agency staff to provide technical assistance to local drought advisory committees; and
- (g) promote ideas and activities for groups and individuals to consider that may reduce drought vulnerability.

(4) The drought advisory committee shall meet, at a minimum, on or around October 15 and March 15 of each year to assess moisture conditions and, as appropriate, begin preparations for drought mitigation.

(5) By April 15 of each year, the drought advisory committee shall submit a report to the governor describing the potential for drought in the coming year. If the potential for drought merits additional activity by the drought advisory committee, the report must also describe:

(a) activities to be taken by the drought advisory committee for informing the public about the potential for drought;

(b) a schedule for completing activities;

(c) geographic areas for which the creation of local drought advisory committees will be suggested to local governments and citizens; and

(d) requests for the use of any available state resources that may be necessary to prevent or minimize drought impacts.

(6) Nothing in this section is intended to remove or interfere with the duties and responsibilities of the governor or the division of disaster and emergency services for disaster coordination and emergency response, as provided in Title 10, chapter 3, part 1. The duties and responsibilities of the drought advisory committee supplement and are consistent with those of the division of disaster and emergency services for drought planning, preparation, coordination, and mitigation."

Section 7. Section 5-5-228, MCA, is amended to read:

"5-5-228. State administration and veterans' affairs interim committee. The state administration and veterans' affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and the entities attached to the agencies for administrative purposes:

(1) department of administration;

(2) department of military and veterans' affairs; and

(3) office of the secretary of state."

Section 8. Section 10-1-101, MCA, is amended to read:

"10-1-101. Definitions. Unless the context requires otherwise, in this title, the following definitions apply:

(1) "Department" means the department of military and veterans' affairs.

(2) "Militia" means all the military forces of this state, whether organized or active or inactive.

(3) "National guard" means the army national guard and the air national guard.

(4) "Officer" means commissioned or warrant officer."

Section 9. Section 10-1-109, MCA, is amended to read:

"10-1-109. Lease of real property for military facilities. The department of military affairs may lease real property for armories or other military facilities."

Section 10. Section 10-1-803, MCA, is amended to read:

"10-1-803. Definitions. As used in this part, the following definitions apply:

- (1) "Bonus" means the extension or reenlistment incentive bonus provided by this part.
- (2) "Extension" means the continuation of active national guard service with the Montana national guard.
- (3) "Member" means any enlisted member of the Montana army or air national guard.
- (4) "Reenlistment" means a second or subsequent voluntary enrollment in the Montana national guard.
- (5) "Secretary" means a designee of the department of military affairs."

Section 11. Section 10-2-101, MCA, is amended to read:

"10-2-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) ~~"Board"~~ **"Council"** means the ~~board of veterans'~~ **veterans' affairs interagency coordinating council** provided for in 2-15-1205.

(2) "Veteran" means an honorably discharged individual who served on active duty, other than for training, with the United States armed forces, including an individual who served with the United States coast guard. The term includes individuals who served with the first special service force and the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945."

Section 12. Section 10-2-102, MCA, is amended to read:

"10-2-102. ~~Duty~~ Duties of board department ~~--employee qualifications.~~ (1) The ~~board~~ department is the lead agency for veterans' affairs and shall establish a statewide service for discharged veterans and their families; as provided in this section.

(2) With the advice and assistance of the council, the department shall:

(a) actively cooperate with local, state, and federal agencies having to do with whose services encompass the affairs of veterans and their families; and;

(b) promote the general welfare of all veterans and their families;

(c) assist veterans and their families who are residents of this state in filing claims for the benefits to

which they are entitled. In carrying out this duty, the department and its qualified employees shall, upon the request of an eligible claimant, act as an agent for the claimant in developing and presenting claims for benefits provided under Title 38 of the United States Code. The department shall seek to secure speedy and just action for each claimant. Department employees officially acting as an agent on behalf of a claimant must be properly accredited and recognized pursuant to 38 CFR 14.628 and 14.629.

(d) officially advocate for the fair treatment of Montana's veterans and their families by the U.S. department of veterans affairs with respect to claims processing, health care services, and other veteran-related programs and inform veterans and their family members of all available grievance procedures;

(e) develop and implement an information and communication program to keep veterans and their family members informed about available federal, state, and community-based services and benefits. The program may include but is not limited to:

(i) development and distribution of a services and benefits directory;

(ii) regular public service announcements through various media;

(iii) an internet website with information and links relevant to veterans and their families and including information about council meetings and department activities related to veterans' affairs; and

(iv) a quarterly newsletter, which may be printed or electronically distributed by e-mail or by posting it to an appropriate website.

(f) provide administrative support to the council pursuant to 2-15-1205(6) and facilitate its efforts to provide for interagency coordination and cooperation;

(g) seek grants to help fund veteran programs established pursuant to this section;

(h) develop a memorandum of understanding with the federal veterans employment and training program and with other appropriate entities to facilitate interagency cooperation, such as resource sharing, cross-training, data and information sharing, and service delivery coordination;

(i) establish management tools, including but not limited to needs assessments, policy statements, program goals and objectives, performance measures, and program evaluation criteria;

(j) prepare a biennial report to the governor, the council, the appropriate legislative interim committees, and veterans' service organizations. The report must include but is not limited to the latest information about the demographics of Montana's veteran population, a needs assessment, and review of the veterans' affairs budget; and

(k) request legislation responsive to identified needs.

~~(2) Employees of the board must be residents of this state. Whenever possible, all employees of the~~

~~board must have served in the military forces of the United States during World War I, World War II, the Korean war, or the Vietnam conflict and must have been honorably discharged. Preference for employment must be given to disabled veterans."~~

NEW SECTION. Section 13. Duties of council. (1) The council shall perform the following duties:

- (a) advise the department in carrying out its duties under 10-2-102;
 - (b) assist in developing cooperative partnerships among federal, state, and community-based public and private providers of services to veterans and their family members;
 - (c) review information and develop recommendations on:
 - (i) how available resources can be coordinated to provide integrated services;
 - (ii) how to keep veterans and their family members informed;
 - (iii) how agencies can cooperate in collecting and sharing data for assessing needs, targeting resources, and developing and evaluating programs;
 - (iv) how to capture grant money and maximize the use of existing financial resources; and
 - (v) what needs should be presented to and considered by appropriate authorities when fiscal and program priorities for the U.S. department of veterans affairs are being set; and
 - (d) request periodic informational briefings from appropriate U.S. department of veterans affairs officials on topics relevant to the council's duties under this section.
- (2) The council shall meet at least once each quarter. All meetings must comply with the open meeting provisions of Title 2, chapter 3, part 2. At each meeting, time must be set aside for structured public comment on matters relevant to the council's duties under this section.
- (3) The council shall provide a biennial report to the department and the appropriate legislative interim committee about council activities, findings, and recommendations.

Section 14. Section 10-2-106, MCA, is amended to read:

"10-2-106. Acceptance of donations and federal funds. (1) ~~The board~~ department may apply for and accept from the federal government or any of its agencies thereof any funds or grants made available to carry out purposes within the scope of the activities and purposes of the board and accept such funds as the board directs its duties under 10-2-102.

(2) The department may also accept donations to the veterans' assistance account established in [section 15]."

NEW SECTION. Section 15. Veterans' assistance account -- designated uses. (1) There is a veterans' assistance account in the state special revenue fund to the credit of the department.

(2) The surcharge collected pursuant to [section 16(2)] and any donations received pursuant to 10-2-106(2) must be allocated to the veterans' assistance account.

(3) As appropriated by the legislature, money in the account may be used only for services and activities pursuant to 10-2-102(2)(a) through (2)(f) and may not be used to pay the expenses of any other program or service administered in whole or in part by the department.

NEW SECTION. Section 16. Patriotic license plates -- surcharge -- disposition. (1) Subject to 61-3-472 through 61-3-481 and this section, the department may sponsor a generic specialty license plate designed as a patriotic salute to Montana's military veterans.

(2) All Montana residents eligible under 61-3-481 may purchase the patriotic plates for a \$15 surcharge to be paid for each original set of plates and each renewal. The surcharge is in addition to the one-time administrative fee charged pursuant to 61-3-480(1).

(3) The surcharge collected pursuant to this section must be remitted as provided in 61-3-480 and deposited to the veterans' assistance account established in [section 15].

NEW SECTION. Section 17. County veteran service officers. A county may, with the advice of the department, provide for a county veteran service officer to assist veterans and their families in filing benefit claims. If a county provides for a veteran service officer under this section, the officer must be trained, accredited, and supervised in accordance with the applicable provisions of 38 CFR 14.629. A county may fund the position as provided for in 15-10-425 or through other means provided by law.

NEW SECTION. Section 18. Rulemaking authority for veterans' affairs. The department shall adopt rules in accordance with the Montana Administrative Procedure Act, Title 2, chapter 4, to implement the provisions of this part.

Section 19. Section 10-2-601, MCA, is amended to read:

"10-2-601. State veterans' cemeteries. The department of military affairs shall establish state veterans' cemeteries. A cemetery must be located at Fort William Henry Harrison, Lewis and Clark County, Montana, and at Miles City. The department may establish additional state veterans' cemeteries as funding appropriated

pursuant to 10-2-603 allows."

Section 20. Section 10-2-602, MCA, is amended to read:

"10-2-602. Rulemaking authority. The department of military affairs shall adopt rules to administer the state veterans' cemetery program and that provide criteria for determining which veterans who may be buried in a state veterans' cemetery. The criteria must include but are not limited to discharge status and length of service. The rules must be adopted in accordance with the Montana Administrative Procedure Act, Title 2, chapter 4."

Section 21. Section 10-2-603, MCA, is amended to read:

"10-2-603. Special revenue account -- use of funds -- solicitation. (1) There is an account in the special revenue fund to the credit of the department of military affairs for the state veterans' cemeteries.

(2) The department may accept donations for the state veterans' cemetery program established pursuant to this part.

(3) Plot allowances and donations, and fund transfers made pursuant to 15-1-122(3)(d) must be deposited into the account.

~~(3)~~(4) As appropriated by the legislature, money in the account may be used only for the construction, maintenance, operation, and administration of the state veterans' cemeteries.

~~(4)~~(5) The department of military affairs ~~may~~ shall solicit veterans' license plate sales and donations on behalf of the state veterans' cemeteries."

NEW SECTION. **Section 22. Income-tax deduction for contributions to veterans' programs.** (1) A taxpayer filing an individual income tax return may, in computing net income, claim a deduction for donations to the veterans' assistance account pursuant to 10-2-106(2), for a surcharge paid pursuant to [section 16(2)], and for donations to the state veterans' cemetery program pursuant to 10-2-603(2).

(2) If the taxpayer encloses a check or other order as a donation to the veterans' assistance account or the state veterans' cemetery program with the timely filing of a tax return, in accordance with 15-30-144, the taxpayer may deduct that amount for the tax year for which the taxpayer is filing the return.

(3) All money received pursuant to subsection (2) must be immediately forwarded by the department for deposit either to the veterans' assistance account established in [section 15] or to the special revenue account established in 10-2-603, as indicated by the taxpayer. The department may not make deductions for administrative expenses in handling these donations.

Section 23. Section 10-3-103, MCA, is amended to read:

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

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

(2) "Department" means the department of military and veterans' affairs.

(3) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural ~~or man-made~~ cause or changes caused by human activity, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption of state services, or accidents involving radiation byproducts or other hazardous materials.

(4) "Disaster and emergency services" means the preparation for and the carrying out of disaster and emergency functions and responsibilities, other than those for which military forces or other state or federal agencies are primarily responsible, to mitigate, prepare for, respond to, and recover from injury and damage resulting from emergencies or disasters.

(5) "Division" means the division of disaster and emergency services of the department.

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

(7) (a) "Incident" means an event or occurrence, caused either by ~~either~~ an individual or by natural phenomena, requiring action by disaster and emergency services personnel to prevent or minimize loss of life or damage to property or natural resources. The term includes the imminent threat of an emergency_;

(b) ~~but the~~ The term does not include a state of emergency or disaster declared by the governor pursuant to 10-3-302 or 10-3-303.

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

(9) "Principal executive officer" means the mayor, presiding officer of the county commissioners, or other chief executive officer of a political subdivision.

(10) "Temporary housing" means unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings."

Section 24. Section 10-3-107, MCA, is amended to read:

"10-3-107. National defense highway plans. The department of ~~military affairs~~ shall:

(1) cooperate with the agencies of this and other states and of the federal government ~~which~~ that are connected with national defense in the formulation and execution of plans for the rapid and safe movement over the highways of troops, vehicles of a military nature, and materials affecting the national defense;

(2) coordinate the activities of the department of transportation and the department of justice in a manner ~~which~~ that will best serve to carry out any ~~such~~ plan for the rapid and safe movement of troops, vehicles, and materials;

(3) solicit the cooperation of officials of the various political subdivisions of the state in the proper execution of these plans."

Section 25. Section 10-3-208, MCA, is amended to read:

"10-3-208. Rulemaking authority. The department of ~~military affairs~~ may adopt rules necessary to implement the interstate mutual aid compact."

Section 26. Section 10-3-502, MCA, is amended to read:

"10-3-502. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Emergency resources management plan" means that plan prepared by the department of ~~military affairs~~, approved by the federal office of emergency planning, and adopted by the governor, which sets forth the organization, administration, and functions for the emergency management by the state government of essential resources and economic stabilization within the state.

(2) "Enemy attack" means an actual attack by a foreign nation by hostile air raids or other forms of warfare upon this state or any other state or territory of the United States.

(3) "Political subdivision" means any county, city, town, or township of the state."

Section 27. Section 10-3-1002, MCA, is amended to read:

"10-3-1002. Compact administrator. The administrator of the division of disaster and emergency services ~~division of~~ in the department of ~~military affairs~~ is the administrator of the compact provided for in 10-3-1001."

Section 28. Section 10-3-1203, MCA, is amended to read:

"10-3-1203. Definitions. As used in this part, the following definitions apply:

(1) "Commission" means the state emergency response commission.

(2) "Division" means the division of disaster and emergency services in the department of military affairs.

(3) "Duration of response" means a period of time beginning when an emergency responder is requested by the appropriate authority to respond to an incident and ending when the responder is released from the incident by the incident commander and returned to the emergency responder's place of residence by the most direct route and includes the time required to replace and return all materials used for the incident to the same or similar condition and state of readiness as before the response.

(4) "Hazardous material" means a hazardous substance, a hazardous or deleterious substance as defined in 75-10-701, radioactive material, or a combination of a hazardous substance, a hazardous or deleterious substance, and radioactive material.

(5) "Hazardous material incident response team" means an organized group of trained response personnel, operating under an emergency response plan and appropriate standard operating procedures, that is expected to perform work to control an actual release or threatened release of hazardous material requiring close approach to the material, to respond to releases or threatened releases of hazardous material for the purpose of control or stabilization of the incident, and to provide technical assistance to local jurisdictions.

(6) (a) "Hazardous substance" means flammable solids, semisolids, liquids, or gases; poisons; explosives; corrosives; compressed gases; reactive or toxic chemicals; irritants; or biological agents.

(b) The term does not include radioactive material.

(7) "Incident" means an event involving the release or threat of release involving hazardous material that may cause injury to persons, the environment, or property.

(8) "Incident commander" means the person who is designated in the local emergency operations plan.

(9) "Local emergency operations plan" means the local and interjurisdictional disaster and emergency plan developed pursuant to 10-3-401.

(10) "Local emergency response authority" means the agency designated by the city, county, or commission to be responsible for the management of an incident at the local level.

(11) "Orphaned hazardous material" means hazardous material of which the owner cannot be identified.

(12) "Plan" means the Montana incident management and hazardous material response support plan.

(13) (a) "Radioactive material" means any material or combination of material that spontaneously emits ionizing radiation.

(b) The term does not include material in which the specific activity is not greater than 0.002 microcuries per gram of material unless the material is determined to be radioactive by the U.S. environmental protection

agency or the U.S. occupational safety and health administration.

(14) "State hazardous material incident response team" means persons who are designated as state employees by the commission while they are engaged in activities, as provided for in 10-3-1204, and may include members of the commission and local and state government responders.

(15) "Threat of release" or "threatened release" means an indication of the possibility of the release of a hazardous material into the environment."

Section 29. Section 18-2-102, MCA, is amended to read:

"18-2-102. Authority to construct buildings. (1) Except as provided in subsection (2), a building costing more than \$150,000 may not be constructed without the consent of the legislature. Legislative approval of repair and maintenance costs as part of an agency's operating budget constitutes the legislature's consent. When a building costing more than \$150,000 is to be financed in a manner that does not require legislative appropriation of money, the consent may be in the form of a joint resolution.

(2) (a) The governor may authorize the emergency repair or alteration of a building and is authorized to transfer funds and authority as necessary to accomplish the project. Transfers may not be made from the funds for an uncompleted capital project unless the project is under the supervision of the same agency.

(b) The regents of the Montana university system may authorize the construction of revenue-producing facilities referred to in 20-25-302 if they are to be financed wholly from the revenue from the facility.

(c) The regents of the Montana university system, with the consent of the governor, may authorize the construction of a building that is financed wholly with federal or private money if the construction of the building will not result in any new programs.

(d) The department of military and veterans' affairs, with the consent of the governor, may authorize the construction of a building that is financed wholly with federal or private money on federal land for the use or benefit of the state."

Section 30. Section 18-2-103, MCA, is amended to read:

"18-2-103. Supervision of construction of buildings. (1) For the construction of a building costing more than \$150,000, the department shall:

(a) review and accept all plans, specifications, and cost estimates prepared by architects or consulting engineers;

(b) approve all bond issues or other financial arrangements and supervise and approve the expenditure

of all money;

(c) solicit, accept, and reject bids and award all contracts to the lowest qualified bidder considering conformity with specifications and terms and reasonableness of the bid amount;

(d) review and approve all change orders; and

(e) accept the building when completed according to accepted plans and specifications.

(2) The department may delegate on a project-by-project basis any powers and duties under subsection (1) to other state agencies, including units of the Montana university system, upon terms and conditions specified by the department.

(3) Before a contract under subsection (1) is awarded, two formal bids must have been received, if reasonably available.

(4) The department need not require the provisions of Montana law relating to advertising, bidding, or supervision when proposed construction costs are \$75,000 or less. However, with respect to a project having a proposed cost of \$75,000 or less but more than \$25,000, the agency awarding the contract shall procure at least three informal bids from contractors registered in Montana, if reasonably available.

(5) For the construction of buildings owned or to be owned by a school district, the department shall, upon request, provide inspection to ensure compliance with the plans and specifications for the construction of the buildings. "Construction" includes construction, repair, alteration, equipping, and furnishing during construction, repair, or alteration. These services must be provided at a cost to be contracted for between the department and the school district, with the receipts to be deposited in the department's construction regulation account in a state special revenue fund.

(6) It is the intent of the legislature that student housing and other facilities constructed under the authority of the regents of the university system are subject to the provisions of subsections (1) through (3).

(7) The department of military and veterans' affairs may act as the contracting agency for buildings constructed under the authority of 18-2-102(2)(d). However, the department of administration may agree to act as the contracting agency on behalf of the department of military and veterans' affairs. Montana law applies to any controversy involving a contract."

Section 31. Section 19-13-104, MCA, is amended to read:

"19-13-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a

county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban firefighting services, or the entire county included in the county-municipal consolidation.

(2) "Compensation" means:

(a) for a full-paid firefighter, the regular remuneration, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid for the firefighter's service as a firefighter out of funds controlled by an employer before any pretax deductions allowed under the Internal Revenue Code have been made;

(b) for a part-paid firefighter employed by a city of the second class:

(i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

(ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the second class.

(3) "Dependent child" means a child of a deceased member who is:

(a) unmarried and under 18 years of age; or

(b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(4) "Employer" means any city that is of the first or second class or that elects to join this retirement system under 19-13-211 or, with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the department of military and veterans' affairs established in 2-15-1201.

(5) "Final average compensation" means the monthly compensation of a member averaged over the last 36 months of the member's active service or, if the member has not been a member that long, over the period of the member's service. Lump-sum payments for annual leave paid to the member upon termination of service may be used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of final average compensation.

(6) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

(7) "Full-paid firefighter" means a person appointed as a firefighter under 7-33-4106.

(8) "Minimum retirement date" means the first day of the month coinciding with or immediately following, if none coincides, the date on which a member becomes both age 50 or older and completes 5 or more years

of membership service.

(9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives compensation in excess of \$300 a year for service as a firefighter.

(10) "Prior plan" means the fire department relief association plan of a city that elects to join the retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second class.

(11) "Retirement date" means the date on which the first payment of benefits is payable.

(12) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

(13) "Surviving spouse" means the spouse married to a member at the time of the member's death."

Section 32. Section 19-13-210, MCA, is amended to read:

"19-13-210. Participation in retirement system. (1) Cities of the first and second class that employ full-paid firefighters shall participate in the retirement system. If a city of the first or second class is reduced to a city of the third class or a town under 7-1-4118, it shall continue to participate in the retirement system as long as it has retired firefighters or survivors eligible to receive retirement benefits.

(2) Firefighters hired by the Montana air national guard on or after October 1, 2001, or on or after the date of the execution of an agreement between the department of military and veterans' affairs and the board, whichever is later, shall participate in the retirement system."

Section 33. Section 90-14-103, MCA, is amended to read:

"90-14-103. Office of community service. (1) There is an office of community service, which is headed by a director and established in the office of the governor.

(2) The purpose of this office is to:

(a) renew the ethic of civic responsibility in the state;

(b) encourage the citizens of the state, regardless of age or income, to engage in full-time or part-time service to the state;

(c) call young people to serve in projects that will benefit the state and improve their life chances through the acquisition of literacy, job skills, and interpersonal skills;

(d) build on the existing organizational framework of state and local governmental entities to expand full-time and part-time service opportunities in a wide variety of programs for all citizens, particularly youth and older Montanans;

(e) involve participants in activities that would not otherwise be performed by employed workers; and
(f) establish programs to accomplish labor-intensive improvements to public or low-income properties or to provide services for the benefit of the state, its communities, and its people through service contracts that specify the work to be performed.

(3) The director must be appointed by the governor, after consultation with the commission. The director serves at the pleasure of the governor.

(4) The director shall, with the advice of the commission, assist the governor in the planning, coordination, operation, and evaluation of programs within state government or under grants, donations, bequests, or other resources received by and administered through state government for Montana community services.

(5) The director is responsible for the submission of applications for federal grants and for funding from any other sources for the creation or operation of volunteer projects. The director shall ensure accountability for all resources received.

(6) The director, together with the commission, shall integrate and develop state plans for all services provided under this part, including but not limited to the office of public instruction's service learning program, the Montana university system innovative projects, the Montana conservation corps established in 23-1-301, the department of military and veterans' affairs' service involvement, and other community and volunteer service programs."

Section 34. Section 90-14-104, MCA, is amended to read:

"90-14-104. Commission on community service. (1) The governor shall appoint a commission on community service composed of up to 15 members.

(2) Members must include a representative from a tribal government and from at least four state agencies in the following functional areas:

- (a) natural resources;
- (b) human services;
- (c) labor;
- (d) K-12 education;
- (e) higher education; and
- (f) military and veterans' affairs.

(3) Members may include representatives from local government, not-for-profit agencies, federal

agencies, business, labor unions, volunteer groups, and private citizens.

(4) To the extent possible, membership of the commission must be balanced according to race, ethnicity, age, gender, and disabilities.

(5) The commission shall assist in the development and coordination of state community service programs, integration of services, dissemination of information, recruitment of volunteers, recruitment and training of volunteer crewleaders, development of materials, and evaluation of and accountability for the services provided.

(6) Commission members are entitled to payment and reimbursement as provided in 2-15-122(5)."

Section 35. Section 90-14-105, MCA, is amended to read:

"90-14-105. Duties and powers of state agencies. (1) The following state agencies are responsible for developing and implementing community service opportunities consistent with the mission and functions of each agency:

(a) The office of public instruction implements volunteer projects in elementary and secondary public, private, and home schools in Montana, including activities sponsored by schools or community-based agencies, to involve school-age youth, including dropouts and out-of-school youth, in service to the community, as well as for programs that involve adult volunteers in the schools. A school district is expected to be the first agency that informs students about the many opportunities to participate in broader community service under this part through federal service learning grants and any other revenue received for purposes consistent with this part.

(b) The Montana university system assists institutions of higher education in Montana, explores new ways to integrate service into the curriculum, supports model community service programs on campus, develops teacher and volunteer training programs, and involves students in community service. The community service may complement a student's course of study through the federal higher education innovative projects grants and any other revenue received for purposes consistent with this part.

(c) The departments of environmental quality, natural resources and conservation, transportation, and fish, wildlife, and parks are the agencies for community and volunteer projects in conservation and natural resource settings that are designed to support and enhance state parks, wildlife, watchable wildlife, productivity of state lands, streams and lakes, county and city parks, tribal parks, scenic beauty and access, trails and signs, visitor information centers and rest areas, fairgrounds, and any other projects related to conservation or the environment that involve teenagers, young adults, or special community service members, such as adults or senior citizens who provide special skills for a project. Other projects may include bicycle paths and pedestrian

trails, landscaping and scenic enhancements, historical and cultural preservation, roadside and stream restoration and enhancement, erosion control, disability enhancement, and experimental and research projects.

(d) The department of military and veterans' affairs may support community and volunteer projects that are designed to involve the national guard in leadership or support roles for service through the provision of organizational and leadership skills, equipment, volunteer crewleaders, and other support, as well as the command and coordination of activities that may be mobilized for emergency projects, such as fire suppression or search and rescue.

(e) The governor may designate other agencies, after consultation with the director and the commission, for community service projects that focus on improving the quality of life for all Montanans, particularly low-income persons, senior citizens, homebound persons, disabled persons, or institutionalized persons, through preparing and delivering meals, assisting with shopping or other tasks, repairing and painting or otherwise modifying homes of qualifying persons, providing transportation to and from health care and other appointments, providing respite care, cataloging library books, assisting rural health care providers, providing recreational aides, arranging for tutoring and literacy training, restoring historical photographs, and offering other human service support and community services.

(2) Each agency designated by the governor shall ensure that service opportunities that result in a public value are developed for everyone, regardless of race, creed, national origin, or geographical location, by providing leadership through its own network and by forming partnerships with other public or private, nonprofit entities.

(3) Each agency involved in community service shall coordinate and integrate its plans with and through the office of community service.

(4) Projects developed or approved under this part and funded by an agency must be limited to service projects that provide community service, conservation service, educational service, or other public service and that provide documented public value or benefit.

(5) The state agencies engaged in community service may:

(a) designate an agency volunteer coordinator to implement its responsibilities under this part;

(b) develop and approve work experience and volunteer projects that meet the requirements of this part;

(c) execute contracts or cooperative agreements that contain the terms and conditions necessary and desirable for the employment of volunteer crewleaders and other volunteers in approved work experience projects with federal, state, or local agencies, persons, firms, partnerships, associations, or corporations;

(d) execute contracts or cooperative agreements with federal, state, or local agencies, persons, firms, partnerships, associations, or corporations for the purpose of administering the requirements of this part;

- (e) under the supervision of the office of community service, apply for and accept grants or contributions of services, funds, or lands from any public or private donors, including appropriations;
- (f) develop procedures for participants to achieve incentive vouchers, education, credit toward education, skill training, scholarships, housing benefits, or other benefits upon completion of their term of service;
- (g) purchase, rent, acquire, or obtain personal property, supplies, instruments, tools, or equipment necessary to complete work experience or volunteer projects;
- (h) authorize use of volunteers for emergency projects, including but not limited to natural disasters, fire prevention and suppression, and rescue of lost or injured persons, and provide adequate training to volunteers prior to participation in an emergency project; and
- (i) adopt rules and guidelines necessary to implement the provisions of this part and to effectively administer the program."

NEW SECTION. Section 36. Repealer. Section 21, Chapter 402, Laws of 2001, is repealed.

NEW SECTION. Section 37. Implementation -- transition of board of veterans' affairs to veterans' affairs interagency coordinating council. (1) A member of the board of veterans' affairs, established in 2-15-1205, who is a member on the day before [the effective date of this act] may continue to serve the remainder of the member's term under the provisions of 2-15-1205 as it was in effect on the day prior to the [the effective date of this act].

(2) Appointments by the governor to the veterans' affairs interagency coordinating council pursuant to 2-15-1205(2)(b) are applicable only as a vacancy occurs on the council on or after [the effective date of this act].

NEW SECTION. Section 38. Study of emergency subsistence grant program. The department of military and veterans' affairs, in conjunction with the veterans' affairs interagency coordinating council, shall study the feasibility of, potential funding mechanisms for, and possible structure and components of an emergency subsistence grant program for veterans and dependent family members. The program should be considered in the context of providing temporary, short-term, emergency financial aid when there is a significant loss of income because of illness, disability, or death, while an initial compensation benefit claim is still being processed either by state benefit claims officers or by the U.S. department of veterans affairs with no determination on the claim having yet been made. The department and the veterans' affairs interagency coordinating council shall present its findings and recommendations to the appropriate legislative interim committee by September 1, 2004.

NEW SECTION. Section 39. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. Section 40. Name change -- directions to code commissioner. Unless inconsistent with the provisions of [this act], any reference in legislation enacted by the 2003 legislature to the "department of military affairs" or to (department of) "military affairs" is changed to "department of military and veterans' affairs" or to (department of) "military and veterans' affairs", as appropriate. The code commissioner shall conform internal references and grammar to these changes.

NEW SECTION. Section 41. Codification instruction. (1) [Sections 13 and 15 through 18] are intended to be codified as an integral part of Title 10, chapter 2, part 1, and the provisions of Title 10, chapter 2, part 1, apply to [sections 13 and 15 through 18].

(2) [Section 22] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 22].

NEW SECTION. Section 42. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

- END -

