

1 HOUSE BILL NO. 388

2 INTRODUCED BY E. STAFMAN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO HEALTH CRISIS
5 PREPAREDNESS; PROVIDING FOR HEALTH CRISIS PREPAREDNESS; ESTABLISHING A HEALTH
6 CRISIS PREPAREDNESS WORK GROUP; REQUIRING THE ACQUISITION AND STORAGE OF
7 PERSONAL PROTECTIVE EQUIPMENT AND OTHER SUPPLIES; CREATING A SPECIAL REVENUE
8 ACCOUNT; PROVIDING FOR THE TRANSFER OF FUNDS; PROVIDING A STATUTORY APPROPRIATION;
9 AMENDING SECTIONS 10-3-101, 10-3-105, 10-3-301, 10-3-312, AND 17-7-502, MCA; AND PROVIDING AN
10 IMMEDIATE-EFFECTIVE DATE."

11

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

13

14 NEW SECTION. **Section 1. Health crisis preparedness work group -- selection of members --**

15 **duties -- priorities.** (1) There is a health crisis preparedness work group within the division to plan for a
16 statewide or regional emergency that may affect the health of individual Montanans or the health of a
17 community or region because of the outbreak of disease or the occurrence of a natural or artificial disaster that
18 creates a threat to community health.

19 (2) (a) The division shall select work group members from among the members of the state
20 emergency response commission provided for in 10-3-1204. The members must represent the division, the
21 department of public health and human services, the department of justice, the national guard, Montana
22 hospitals, a law enforcement association, a public health-related association, the Montana association of
23 counties, and any federal agency considered appropriate by the division.

24 (b) The work group shall consult the following individuals and organizations when carrying out its
25 duties and developing its recommendations:

26 (i) the state medical officer;

27 (ii) a medical ethicist,

28

- 1 (iii) a representative of the Indian Health Service;
- 2 (iv) a member of the Montana medical association who is selected by the association and who is
- 3 board-certified in infectious disease;
- 4 (v) a representative of the Montana nurses association who is selected by the association;
- 5 (vi) a representative of the Montana hospital association who is selected by the association;
- 6 (vii) a representative of the Montana primary care association who is selected by the association; and
- 7 (viii) representatives of organizations familiar with the effects that fires, flooding, and earthquakes can
- 8 have on public infrastructure systems that protect community health.

9 (3) The work group shall coordinate its activities to the greatest extent possible with any existing

10 state, regional, local, and tribal programs or entities that work on matters related to public health emergency

11 preparedness, including any public health emergency preparedness program in the Montana department of

12 public health and human services. The work group may request that representatives of the programs or entities

13 participate in work group meetings.

14 (4) The work group shall plan, in the following priority order, for potential health care emergencies

15 arising from:

- 16 (a) contagious diseases and pandemics;
- 17 (b) catastrophic flooding;
- 18 (c) fire in urban areas;
- 19 (d) earthquakes; and
- 20 (e) any other potential health care emergency.

21 (5) The work group shall regularly review the following items to ensure preparedness for a statewide

22 or regional health crisis:

- 23 (a) the status and adequacy of existing stockpiles of the materials most necessary to respond to
- 24 emergencies affecting the health of Montanans and Montana communities;
- 25 (b) the status and adequacy of facilities needed to store the materials;
- 26 (c) the degree to which existing supplies and storage facilities may be inadequate; and
- 27 (d) best practices for managing and maintaining stockpiles to ensure the availability of materials in the
- 28 event of a health emergency.

1 (6) (a) The work group shall make recommendations to the division for the creation and maintenance
2 of a rotating supply stockpile of materials that would be purchased regularly and, if unused, sold on an annual
3 basis to ensure that the materials are not kept beyond the expiration date for their use.

4 (b) The recommendations must give priority to establishing a supply of personal protective equipment
5 sufficient to meet the needs of the state's hospitals for a 90-day period. The recommendations may identify the
6 type and amount of other materials to be stockpiled and the priority order in which they should be acquired after
7 a 90-day supply of personal protective equipment is stockpiled.

8 (c) The recommendations must identify:

9 (i) a price at which supplies should be purchased;

10 (ii) how soon before their expiration date unused supplies should be sold;

11 (iii) health care entities, businesses, or organizations to which unused supplies could be sold; and

12 (iv) the federal, state, local, and private sources from which materials or funding could be acquired to
13 create and maintain the stockpile and how to use those resources to the greatest extent possible.

14 (7) In determining the amount of personal protective equipment needed to establish a 90-day supply,
15 the work group shall take into consideration any personal protective equipment already acquired, stored, and
16 available under any other public health emergency preparedness effort.

17 (8) The division shall establish the frequency of work group meetings.

18

19 **NEW SECTION. Section 2. Health crisis preparedness -- rotating supply stockpile.** (1) The
20 division shall adopt and carry out a plan to ensure that an adequate supply of materials exists to allow the state
21 and its communities to respond to a statewide or regional emergency that may affect individual or community
22 health.

23 (2) The division shall:

24 (a) consider recommendations from the health crisis preparedness work group in developing the plan;
25 and

26 (b) give priority to the purchase of a 90-day supply of personal protective equipment for the state's
27 hospitals before purchasing other materials.

28 (3) The division shall purchase stockpile materials using:

1 (a) money from the health crisis preparedness special revenue account provided for in [section 3];

2 and

3 (b) other available federal, state, local, or private funds, including gifts or grants.

4 (4) The division may delegate responsibilities under this section to the state emergency response
5 commission.

6

7 **NEW SECTION. Section 3. Health crisis preparedness special revenue account -- statutory**

8 **appropriation.** (1) There is a health crisis preparedness account in the state special revenue fund to the credit
9 of the department.

10 (2) The account consists of:

11 (A) FEDERAL SPECIAL REVENUE RECEIVED DURING A NATIONAL OR STATE PUBLIC HEALTH EMERGENCY AND

12 TRANSFERRED TO THE ACCOUNT AS DIRECTED BY THE GOVERNOR OR LEGISLATURE;

13 ~~(a)~~(B) money transferred pursuant to 10-3-312;

14 ~~(b)~~(C) money from the sale of materials in the rotating supply stockpile provided for in [section 2];

15 ~~(c)~~(D) gifts, grants, or donations from other public or private sources that are available to the
16 department or transferred into the account from other public health emergency preparedness programs; and

17 ~~(d)~~(E) interest income earned on the account.

18 (3) Money in the account must be used to support the activities of the health crisis preparedness work
19 group and for establishing and maintaining the rotating supply stockpile in the following priority order:

20 (a) purchasing personal protective equipment for the rotating supply stockpile provided for in [section
21 2];

22 (b) ensuring that the items in the stockpile are rotated on a regular basis so they are not kept beyond
23 the expiration date for their use; and

24 (c) subject to available funding:

25 (i) purchasing additional materials for the rotating supply stockpile; and

26 (ii) building, leasing, or otherwise securing appropriate storage for the stockpiled materials.

27 (4) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the
28 purposes described in subsection (3).

1 (5) Any money in the account that is unencumbered and unexpended at the end of a fiscal year
2 remains in the account.

3

4 **Section 4.** Section 10-3-101, MCA, is amended to read:

5 **"10-3-101. Declaration of policy.** Because of the existing and increasing possibility of the occurrence
6 of disasters or emergencies of unprecedented size and destructiveness resulting from enemy attack, sabotage,
7 or other hostile action, ~~and natural disasters,~~ and contagious diseases or pandemics and in order to provide for
8 prompt and timely reaction to an emergency or disaster, to ensure that preparation of this state will be adequate
9 to deal with disasters or emergencies, and generally to provide for the common defense and to protect the
10 public peace, health, and safety and to preserve the lives and property of the people of this state to the fullest
11 extent practicable, it is declared to be necessary to:

12 (1) authorize the creation of local or interjurisdictional organizations for disaster and emergency
13 services in the political subdivisions of this state;

14 (2) reduce vulnerability of people and communities of this state to damage, injury, and loss of life and
15 property resulting from natural or human-caused disasters;

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

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

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

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

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

28 (8) establish a rotating supply stockpile for health crisis preparedness;

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

3 ~~(9)~~(10) supplement, without in any way limiting, authority conferred by previous statutes of this state
4 and increase the capability of the state, local, and interjurisdictional disaster and emergency services agencies
5 to perform disaster and emergency services; and

6 ~~(10)~~(11) authorize the payment of extraordinary costs and the temporary hiring, with statutorily
7 appropriated funds under 10-3-312, of professional and technical personnel to meet the state's responsibilities
8 in providing assistance in the response to, recovery from, and mitigation of disasters in state, tribal government,
9 or federal emergency or disaster declarations."

10

11 **Section 5.** Section 10-3-105, MCA, is amended to read:

12 "**10-3-105. Division of disaster and emergency services -- duties.** (1) A division of disaster and
13 emergency services is established in the department. The division must have an administrator and other
14 professional, technical, secretarial, and clerical employees as necessary for the performance of its functions.

15 (2) The department through the division of disaster and emergency services is responsible to the
16 governor for carrying out the planning and program for disaster and emergency services of this state.

17 (3) The division shall prepare and maintain a comprehensive plan and program for disaster and
18 emergency services of this state. The plan and program must be coordinated with the disaster and emergency
19 plans and programs of the federal government, other states, political subdivisions, tribal governments, and
20 Canada to the fullest extent possible.

21 (4) The division shall:

22 (a) coordinate the preparation of the plan and program for disaster and emergency services with the
23 political subdivisions of this state;

24 (b) coordinate disaster and emergency prevention and preparation activities of all departments,
25 agencies, and organizations within the state;

26 (c) advise and assist the political subdivisions of this state in executing their disaster and emergency
27 services responsibilities;

28 (d) make recommendations on the formation of interjurisdictional disaster and emergency services

1 areas when individual political subdivisions are unable to fully and adequately mount an effective local program
2 because of limitations of funding, personnel, or other reasons;

3 (e) make surveys of industries, resources, and facilities within the state, both public and private, as
4 are necessary to carry out the purposes of parts 1 through 4 of this chapter;

5 (f) periodically review local and interjurisdictional plans and programs for disaster and emergency
6 services;

7 (g) develop or assist in the development of mutual aid plans and agreements between the federal
8 government, other states, tribal governments, and Canada and among the political subdivisions of this state;

9 (h) plan and make arrangements for:

10 (i) the rotating supply stockpile provided for in [section 2]; and

11 (ii) the availability and use of any private facilities, services, and property and, if necessary and if in
12 fact used, provide for payment for use under terms and conditions agreed upon;

13 (i) institute training and public information programs and take all other preparatory steps, including the
14 partial or full mobilization of disaster and emergency services organizations in advance of an actual incident,
15 emergency, or disaster, to ensure the availability of adequately trained and equipped personnel in time of an
16 incident, emergency, or disaster;

17 (j) direct emergency response and disaster preparation activities as authorized by the governor and
18 this chapter;

19 (k) direct disaster response and recovery activities as authorized by the governor;

20 (l) prepare, for issuance by the governor, executive orders or proclamations as necessary or
21 appropriate in coping with incidents, emergencies, and disasters;

22 (m) maintain liaison with and cooperate with disaster and emergency services agencies and
23 organizations of the federal government, other states, and Canada in achieving any purpose of parts 1 through
24 4 of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery;

25 and

26 (n) assume any additional authority, duties, and responsibilities authorized by parts 1 through 4 of this
27 chapter as may be prescribed by the governor."

28

1 **Section 6.** Section 10-3-301, MCA, is amended to read:

2 **"10-3-301. State disaster and emergency plan.** (1) The state disaster and emergency plan and
3 program may provide for:

4 (a) prevention and minimization of injury and damage caused by disaster;

5 (b) prompt and efficient response to an incident, emergency, or disaster;

6 (c) emergency relief;

7 (d) identification of areas particularly vulnerable to disasters;

8 (e) recommendations for preventive and preparedness measures designed to eliminate or reduce
9 disasters or their impact;

10 (f) organization of personnel and chains of command;

11 (g) coordination of federal, state, and local disaster and emergency activities; and

12 (h) other necessary matters.

13 (2) The state disaster and emergency plan and program shall include the plan developed by the state
14 emergency response commission for the advance purchase and storage of materials determined to be
15 necessary to respond to a statewide or regional health crisis, in accordance with [section 2].

16 ~~(2)~~(3) In preparing and maintaining the state disaster and emergency plan and program, the division
17 may seek the advice and assistance of local government, business, labor, industry, agriculture, civic and
18 volunteer organizations, and community leaders. In advising local and interjurisdictional agencies, the division
19 may encourage them to seek advice from these sources."

20

21 **Section 7.** Section 10-3-312, MCA, is amended to read:

22 **"10-3-312. Maximum expenditure by governor -- appropriation.** (1) Whenever a disaster or an
23 emergency, including an energy emergency as defined in 90-4-302 or an invasive species emergency declared
24 under 80-7-1013, is declared by the governor, there is statutorily appropriated to the office of the governor, as
25 provided in 17-7-502, and, subject to subsection (2), the governor is authorized to expend from the general fund
26 an amount not to exceed \$16 million in any biennium, minus any amount appropriated pursuant to 10-3-310 in
27 the same biennium. The statutory appropriation in this subsection may be used by any state agency designated
28 by the governor.

1 (2) In the event of the recovery of money expended under this section, the spending authority must be
2 reinstated to a level reflecting the recovery.

3 (3) If a disaster is declared by the president of the United States, there is statutorily appropriated to
4 the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general
5 fund an amount not to exceed \$500,000 during the biennium to meet the state's share of the individuals and
6 households grant programs as provided in 42 U.S.C. 5174. The statutory appropriation in this subsection may
7 be used by any state agency designated by the governor.

8 (4) At the end of each biennium, ~~an amount equal to~~ the unexpended and unencumbered balance of
9 the \$16 million statutory appropriation in subsection (1), minus any amount appropriated pursuant to 10-3-310
10 in the same biennium, must be transferred by the state treasurer from the state general fund as follows:

11 (a) \$5 million \$400,000 to the health crisis preparedness special revenue account provided for in
12 [section 3]; and

13 (b) the remainder to the fire suppression account provided for in 76-13-150."
14

15 **Section 8.** Section 17-7-502, MCA, is amended to read:

16 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
17 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
18 the need for a biennial legislative appropriation or budget amendment.

19 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with
20 both of the following provisions:

21 (a) The law containing the statutory authority must be listed in subsection (3).

22 (b) The law or portion of the law making a statutory appropriation must specifically state that a
23 statutory appropriation is made as provided in this section.

24 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-
25 407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; [section 3];
26 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005;
27 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-
28 509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404;

1 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-
2 203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-
3 1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-
4 113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-
5 113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-
6 1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-
7 2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-
8 526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

9 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
10 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
11 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
12 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
13 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
14 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
15 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
16 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
17 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
18 benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion
19 of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115
20 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
21 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
22 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates
23 December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023;
24 pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to
25 sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L.
26 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the
27 inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017,
28 the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-

1 103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates
2 September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029;
3 pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027;
4 pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5,
5 Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

6
7 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 3] are intended to be
8 codified as an integral part of Title 10, chapter 3, part 3, and the provisions of Title 10, chapter 3, part 3, apply
9 to [sections 1 through 3].

10
11 **COORDINATION SECTION. SECTION 10. COORDINATION INSTRUCTION -- TRANSFER OF FUNDS. IF BOTH**
12 **HOUSE BILL NO. 3 AND [THIS ACT] ARE PASSED AND APPROVED, THEN \$10 MILLION OF THE FEDERAL SPECIAL REVENUE**
13 **APPROPRIATED TO THE OFFICE OF BUDGET AND PROGRAM PLANNING AND ALLOCATED TO THE DEPARTMENT OF PUBLIC**
14 **HEALTH AND HUMAN SERVICES FOR TESTING, TRACING, AND MITIGATION MUST BE TRANSFERRED ON JULY 1, 2021, TO**
15 **THE SPECIAL REVENUE FUND PROVIDED FOR IN [SECTION 3].**

16
17 **NEW SECTION. Section 11. Effective date.** [This act] is effective ~~on passage and approval~~ JULY 1,
18 2021.

19 - END -