

1 SENATE BILL NO. 173

2 INTRODUCED BY D. HOWARD, K. BOGNER, D. KARY, K. REGIER, J. SMALL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING EMERGENCY AND DISASTER
5 SERVICES LAWS; ELIMINATING A CONTINUING EMERGENCY OR DISASTER WITHOUT LEGISLATIVE
6 INVOLVEMENT; PROVIDING FOR A LEGISLATIVE POLLING PROCESS BY THE SECRETARY OF STATE
7 TO EXTEND A GOVERNOR'S DECLARATION OF EMERGENCY OR DISASTER; AMENDING SECTIONS
8 10-3-302 AND 10-3-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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12 NEW SECTION. **Section 1. Legislative poll -- continuation of state of emergency or disaster. (1)**

13 (a) When the legislature is not in session, the governor may, in writing, request the secretary of state to poll the
14 members of the legislature to determine if a majority of the members of the house of representatives and a
15 majority of the members of the senate are in favor of a legislative declaration to extend a state of emergency
16 under 10-3-302 or a state of disaster under 10-3-303.

17 (b) The legislature may extend a state of emergency or disaster for up to an additional 60 days by
18 using the polling provisions of this section. The governor may make additional requests to extend a state of
19 emergency or disaster, and the legislature may extend a state of emergency or disaster for up to an additional
20 60 days per request.

21 (2) The request must:

22 (a) state the conditions warranting the poll; and

23 (b) contain a legislative declaration to extend the governor's power.

24 (3) Within 3 calendar days after receiving a request, the secretary of state shall send a ballot to all
25 legislators by using any reasonable and reliable means, including electronic delivery, that contains:

26 (a) the legislative declaration subject to the vote; and

27 (b) the date by which legislators shall return the ballot, which may not be more than 7 calendar days
28 after the date the ballots were sent.

1 (4) A legislator may cast and return a vote by delivering the ballot in person, by mailing, or by sending
 2 the ballot by facsimile transmission or electronic mail to the office of the secretary of state. A legislator may not
 3 change the legislator's vote after the ballot is received by the secretary of state. The secretary of state shall tally
 4 the votes within 1 working day after the date for return of the votes. If a majority of the members of each house
 5 vote to approve an extension of a state of emergency or disaster, the state of emergency or disaster continues
 6 based on the declaration that was sent with the ballot.

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8 **Section 2.** Section 10-3-302, MCA, is amended to read:

9 **"10-3-302. Declaration of emergency -- effect and termination.** (1) A state of emergency may be
 10 declared by the governor when the governor determines that an emergency as defined in 10-3-103 exists.

11 (2) An executive order or proclamation of a state of emergency activates the emergency response
 12 and disaster preparation aspects of the state disaster and emergency plan and program applicable to the
 13 political subdivision or area and is authority for the deployment and use of any forces to which the plans apply
 14 and for the distribution and use of any supplies, equipment, and materials and facilities assembled, stockpiled,
 15 or arranged to be made available pursuant to parts 1 through 4 of this chapter or any other provision of law
 16 pertaining to disasters and disaster-related emergencies. An executive order or proclamation may authorize the
 17 practice of disaster medicine. The provisions of 10-3-110 do not apply to the state of emergency unless the
 18 order or proclamation includes a provision authorizing the practice of disaster medicine.

19 (3) A state of emergency may not continue for longer than ~~30~~60 days unless continuing conditions of
 20 the state of emergency exist, which must be determined ~~by a declaration of an emergency by the president of~~
 21 ~~the United States or by a declaration of the legislature by joint resolution or by a poll of the members of the~~
 22 legislature as provided in [section 1] of continuing conditions of the state of emergency."

23

24 **Section 3.** Section 10-3-303, MCA, is amended to read:

25 **"10-3-303. Declaration of disaster -- effect and termination.** (1) A state of disaster may be
 26 declared by the governor when the governor determines that a disaster has occurred.

27 (2) An executive order or proclamation of a state of disaster activates the disaster response and
 28 recovery aspects of the state disaster and emergency plan and program applicable to the political subdivision

1 or area and is authority for the deployment and use of any forces to which the plans apply and for the
 2 distribution and use of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged
 3 to be made available pursuant to parts 1 through 4 of this chapter or any other provision of law pertaining to
 4 disaster and disaster-related emergencies. The executive order or proclamation may authorize the practice of
 5 disaster medicine. The provisions of 10-3-110 do not apply to the state of disaster unless the order or
 6 proclamation includes a provision authorizing the practice of disaster medicine.

7 (3) A state of disaster may not continue for longer than ~~45~~ 60 days unless continuing conditions of the
 8 state of disaster exist, which must be determined by a ~~declaration of a major disaster by the president of the~~
 9 ~~United States or by the~~ declaration of the legislature by joint resolution or by a poll of the members of the
 10 legislature as provided in [section 1] of continuing conditions of the state of disaster.

11 (4) The governor shall terminate a state of emergency or disaster when:

12 (a) the emergency or disaster has passed;

13 (b) the emergency or disaster has been dealt with to the extent that emergency or disaster conditions
 14 no longer exist; or

15 (c) at any time the legislature terminates the state of emergency or disaster by joint resolution. If the
 16 legislature terminates either declaration, the governor may not declare another state of emergency or disaster
 17 based on the same or substantially similar facts and circumstances. However, after termination of the state of
 18 emergency or disaster, disaster and emergency services required as a result of the emergency or disaster may
 19 continue."

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 21 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an
 22 integral part of Title 10, chapter 3, part 3, and the provisions of Title 10, chapter 3, part 3, apply to [section 1].

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24 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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