

## 1 HOUSE BILL NO. 316

2 INTRODUCED BY B. MERCER

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING EMERGENCY AND DISASTER LAWS;  
5 PROVIDING FOR A LEGISLATIVE POLLING PROCESS BY THE SECRETARY OF STATE TO TERMINATE  
6 A GOVERNOR'S DECLARATION OF STATE OF EMERGENCY OR DISASTER; REVISING THE AUTHORITY  
7 OF THE GOVERNOR DURING A DECLARATION OF EMERGENCY OR DISASTER; AUTHORIZING A  
8 DIRECTIVE, MANDATE, OR ORDER ISSUED BY A LOCAL BOARD OF HEALTH OR LOCAL HEALTH  
9 OFFICER TO BE APPROVED BY A LOCAL GOVERNING BODY; PROVIDING FOR OVERSIGHT OF A  
10 LOCAL HEALTH OFFICER; PROVIDING FOR APPEAL OF A DIRECTIVE, MANDATE, OR ORDER TO THE  
11 LOCAL GOVERNING BODY; AMENDING SECTIONS 10-3-102, 10-3-103, 10-3-104, 10-3-114, 10-3-302, 10-  
12 3-303, 50-1-101, 50-2-116, AND 50-2-118, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15  
16 **NEW SECTION. Section 1. Legislative poll -- termination of state of emergency or disaster. (1)**

17 When the legislature is not in session, any member of the legislature may, in writing, request the secretary of  
18 state to poll the members of the legislature to determine if a majority of the house of representatives and a  
19 majority of the senate are in favor of a legislative declaration to terminate a state of emergency under 10-3-302  
20 or a state of disaster under 10-3-303.

21 (2) The request must:

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

23 (b) contain a legislative declaration to terminate a state of emergency or disaster.

24 (3) Within 2 business 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 names of the legislators making the request;

27 (b) the legislative declaration subject to the vote; and

28 (c) the date by which legislators shall return the ballot, which may not be more than 4 business days

1 after the date the ballots were sent.

2 (4) A legislator may cast and return a vote by delivering the ballot in person, by mailing, or by sending  
3 the ballot by facsimile transmission or electronic mail to the office of the secretary of state. A legislator may not  
4 change the legislator's vote after the ballot is received by the secretary of state. The secretary of state shall tally  
5 the votes within 1 business day after the date for return of the votes. If a majority of the members voting in each  
6 house vote to approve a termination, then the state of emergency or disaster terminates based on the  
7 declaration that was sent with the ballot. For the vote count to be valid, the secretary of state must receive the  
8 number of ballots equal to at least a quorum of the members of each house to ensure that a majority of the  
9 members of each house participated in the vote.

10 (5) Nothing in this section limits:

11 (a) the governor's authority over or command of the national guard; or

12 (b) the authority of legislators to convene a special session by a poll of the legislature pursuant to 5-3-  
13 105 to address emergencies and disasters, the laws applicable to them, and the state's response to  
14 emergencies and disasters.

15

16 **Section 2.** Section 10-3-102, MCA, is amended to read:

17 **"10-3-102. Limitations.** Parts 1 through 4 of this chapter may not be construed to give any state,  
18 local, or interjurisdictional agency or public official authority to:

19 (1) ~~interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by~~  
20 ~~parts 1 through 4 of this chapter or other laws may be taken when necessary to forestall or mitigate imminent or~~  
21 ~~existing danger to public health or safety;~~

22 (2) ~~interfere with dissemination of news or comment on public affairs. However, any communications~~  
23 ~~facility or organization, including but not limited to radio and television stations, wire services, and newspapers,~~  
24 ~~may be required to transmit or print public service messages furnishing information or instructions in connection~~  
25 ~~with an emergency or disaster.~~

26 (2) interfere with or otherwise limit, modify, or abridge a person's physical attendance at or operation  
27 of a religious facility, church, synagogue, or other place of worship, or infringe on the right to religious beliefs  
28 and practices guaranteed to all citizens under the free exercise clause of the first amendment of the United

1 States constitution and under Article II, section 4, of the Montana constitution;

2 (3) affect the jurisdiction or responsibilities of police forces, firefighting forces, units of the armed  
3 forces of the United States, or any personnel of those entities when on active duty, but state, local, and  
4 interjurisdictional disaster and emergency plans must place reliance upon the forces available for performance  
5 of functions related to emergencies and disasters; ~~or~~

6 (4) limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other  
7 powers vested in the governor under the constitution, statutes, or common law of this state independent of or in  
8 conjunction with any provisions of parts 1 through 4 of this chapter;

9 (5) authorize the confiscation of a firearm lawfully owned, possessed, or carried by a law-abiding  
10 citizen; or

11 (6) except in an imminent life-threatening situation, restrict any uniformed employee of a licensed  
12 private security company, acting within the scope of employment, from entering and remaining in an area where  
13 an emergency or disaster has been declared."

14

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

16 **"10-3-103. Definitions.** As used in parts 1 through 4 of this chapter, the following definitions apply:

17 (1) "All-hazard incident management assistance team" means a team that includes any combination  
18 of personnel representing local, state, or tribal entities that has been established by the state emergency  
19 response commission provided for in 10-3-1204 for the purpose of local incident management intended to  
20 mitigate the impacts of an incident prior to a disaster or emergency declaration.

21 (2) "Area" or "area threatened" means an area within the exterior boundaries of the state, including  
22 the exterior boundaries of a federally recognized Indian tribe with consent from the tribal government, which  
23 could include the state in its entirety.

24 ~~(2)(3)~~ "Civil defense" means the nuclear preparedness functions and responsibilities of disaster and  
25 emergency services.

26 ~~(3)(4)~~ "Department" means the department of military affairs.

27 ~~(4)(5)~~ "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, ~~or~~  
28 loss of life or property, or shortage of food, water, or fuel resulting from any natural or artificial cause, including

1 tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes,  
 2 landslides, mudslides, volcanic action, avalanche, snowstorm, prolonged extreme cold, fires, explosions, air or  
 3 water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots,  
 4 sabotage, hostile military or paramilitary action, disruption of state services, accidents involving radiation  
 5 byproducts or other hazardous materials, outbreak of disease, epidemic, bioterrorism, ~~or~~ incidents involving  
 6 weapons of mass destruction, a technological failure or malfunction, an industrial accident, a hazardous  
 7 materials accident, a public health condition, or a civil disturbance.

8 ~~(5)(6)~~ "Disaster and emergency services" means the preparation for and the carrying out of disaster  
 9 and emergency functions and responsibilities, other than those for which military forces or other state or federal  
 10 agencies are primarily responsible, to mitigate, prepare for, respond to, and recover from injury and damage  
 11 resulting from emergencies or disasters.

12 ~~(6)(7)~~ "Disaster medicine" means the provision of patient care by a health care provider during a  
 13 disaster or emergency when the number of patients exceeds the capacity of normal medical resources,  
 14 facilities, and personnel. Disaster medicine may include implementing patient care guidelines that depart from  
 15 recognized nondisaster triage and standard treatment patient care guidelines determining the order of  
 16 evacuation and treatment of persons needing care.

17 ~~(7)(8)~~ "Division" means the division of disaster and emergency services of the department.

18 ~~(8)(9)~~ "Emergency" means the imminent threat of a disaster causing immediate peril to life or property  
 19 that timely action can avert or minimize.

20 ~~(9)(10)~~— (a) "Incident" means an event or occurrence, caused by either an individual or by natural  
 21 phenomena, requiring action by disaster and emergency services personnel to prevent or minimize loss of life  
 22 or damage to property or natural resources. The term includes the imminent threat of an emergency.

23 (b) The term does not include a state of emergency or disaster declared by the governor pursuant to  
 24 10-3-302 or 10-3-303.

25 (11) "Outbreak of disease" means a credible threat of an imminent outbreak of disease that the  
 26 director of the department of public health and human services provided for in 2-15-2201 or the director's  
 27 designee certifies to the governor has a high probability of occurring soon. The certification must be based on  
 28 specific information received from a local, state, federal, or international agency, or another source that the

1 director or the designee determines is reliable.

2 ~~(10)~~(12) "Political subdivision" means any county, city, town, or other legally constituted unit of local  
3 government in this state.

4 ~~(11)~~(13) "Principal executive officer" means the mayor, presiding officer of the county commissioners,  
5 or other chief executive officer of a political subdivision.

6 ~~(12)~~(14) "Temporary housing" means unoccupied habitable dwellings, suitable rental housing, mobile  
7 homes, or other readily fabricated dwellings.

8 ~~(13)~~(15) "Tribal government" means the government of a federally recognized Indian tribe within the  
9 state of Montana.

10 ~~(14)~~(16) "Volunteer professional" means an individual with an active, unrestricted license to practice a  
11 profession under the provisions of Title 37, Title 50, or the laws of another state."  
12

13 **Section 4.** Section 10-3-104, MCA, is amended to read:

14 **"10-3-104. General authority of governor.** (1) The legislature finds that the governor has broad  
15 authority to proclaim a state of emergency or disaster in the state and to exercise emergency powers during the  
16 emergency. The legislature intends to allow the governor to immediately respond during a proclaimed state of  
17 emergency or disaster, including through the issuance of executive orders, proclamations, and orders  
18 necessary to carry out the purpose of this chapter, and the ability to amend or rescind them. These executive  
19 orders, proclamations, and regulations have the force of law. The governor is responsible for carrying out parts  
20 1 through 4 of this chapter.

21 (2) In addition to any other powers conferred upon the governor by law, during the timeframe of a  
22 state of emergency or disaster the governor may:

23 (a) temporarily waive or suspend the provisions of any regulatory statute prescribing the procedures  
24 for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of  
25 any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the  
26 emergency or disaster;

27 (b) direct and compel the evacuation of all or part of the population from an emergency or disaster  
28 area within the state if the governor considers this action necessary for the preservation of life or other disaster

1 mitigation, response, or recovery;

2 (c) control ingress and egress to and from an incident or emergency or disaster area, the movement  
3 of persons within the area, and the occupancy of premises within the area;

4 (d) issue an executive order prohibiting a person from being on the public streets, in the public parks,  
5 or at any other public place during the hours declared by the governor to be a period of curfew;

6 (e) issue an executive order prohibiting any number of persons, as designated by the governor, from  
7 assembling or gathering on the public streets, in the public parks, or at any other open areas of this state, either  
8 public or private;

9 (f) issue an executive order suspending or limiting the dispensing of alcoholic beverages;

10 (g) issue an executive order suspending or limiting the sale, purchase, or dispensing of other  
11 commodities or goods, with the exception of firearms or ammunition, as the governor reasonably believes must  
12 be prohibited to help preserve and maintain life, health, property, or the public peace;

13 (h) issue an executive order prohibiting the use of certain streets, highways, or public ways by the  
14 public;

15 (i) issue an executive order prohibiting activities the governor believes must be prohibited to help  
16 preserve and maintain life, health, property, or the public peace;

17 (j) use all available resources of state government and each political subdivision of the state as  
18 reasonably necessary to cope with the emergency or disaster;

19 (k) transfer personnel or alter the functions of departments and agencies or units of them for the  
20 purpose of coping with the emergency or disaster;

21 (l) issue an executive order to compel the use or disclosure of protected health information; and

22 (m) make provisions for the availability and use of temporary emergency housing.

23 (3) Under this section, the governor may issue executive orders, proclamations, and regulations and  
24 amend and rescind them during the timeframe of the state of emergency or disaster. All executive orders or  
25 proclamations declaring or terminating a state of emergency or disaster must indicate the nature of the  
26 emergency or disaster, the area threatened, and the conditions that have brought about the declaration or that  
27 make possible termination of the state of emergency or disaster.

28 (4) A person who violates an executive order, proclamation, or regulation issued by the governor

1 during a state of emergency or disaster is guilty of a misdemeanor."

2

3 **Section 5.** Section 10-3-114, MCA, is amended to read:

4 **"10-3-114. Confiscation of firearm by government prohibited -- private right of action -- costs**  
5 **and expenses.** (1) Following a declaration of an emergency or disaster pursuant to this chapter, the governor,  
6 a peace officer, or other person acting or purporting to act on behalf of the state or a political subdivision of the  
7 state may not take a confiscation action or impose restrictions on the lawful possession, transfer, sale,  
8 transport, storage, display, or use of firearms or ammunition.

9 (2) After a violation of subsection (1) has occurred, the party injured by a confiscation action may  
10 bring an action for damages in a court having jurisdiction.

11 (3) A party awarded damages pursuant to this section must also be awarded the party's costs and  
12 expenses in bringing the action, including reasonable attorney fees.

13 (4) (a) As used in this section, "confiscation action" means the intentional deprivation by a person in  
14 Montana of a privately owned firearm.

15 (b) The term does not include the taking of a firearm from a person:

16 (i) in self-defense;

17 (ii) possessing a firearm while the person is committing a felony or misdemeanor; or

18 (iii) who may not lawfully possess the firearm because of a prior criminal conviction."

19

20 **Section 6.** Section 10-3-302, MCA, is amended to read:

21 **"10-3-302. Declaration of emergency -- effect and termination.** (1) A state of emergency may be  
22 declared by the governor when the governor determines that an emergency as defined in 10-3-103 exists.

23 (2) An executive order or proclamation of a state of emergency activates the emergency response  
24 and disaster preparation aspects of the state disaster and emergency plan and program applicable to the  
25 political subdivision or area and is authority for the deployment and use of any forces to which the plans apply  
26 and for the distribution and use of any supplies, equipment, and materials and facilities assembled, stockpiled,  
27 or arranged to be made available pursuant to parts 1 through 4 of this chapter or any other provision of law  
28 pertaining to disasters and disaster-related emergencies. An executive order or proclamation may authorize the

1 practice of disaster medicine. The provisions of 10-3-110 do not apply to the state of emergency unless the  
2 order or proclamation includes a provision authorizing the practice of disaster medicine.

3 (3) A state of emergency may not continue for longer than 30 days unless continuing conditions of the  
4 state of emergency exist, ~~which must be determined by~~ At any point after the initial 30-day period of a  
5 ~~declaration~~ state of an emergency by, the ~~president~~ legislature may terminate a state of the United States or  
6 emergency by a declaration of the legislature by joint resolution ~~of continuing conditions~~ or by a poll of the  
7 members of the legislature as provided in [section 1]. The governor may not issue a new state of emergency  
8 based on the same or substantially similar facts and circumstances if the legislature terminates the declaration."

9

10 **Section 7.** Section 10-3-303, MCA, is amended to read:

11 **"10-3-303. Declaration of disaster -- effect and termination.** (1) A state of disaster may be  
12 declared by the governor when the governor determines that a disaster has occurred, without regard to whether  
13 a state of emergency was previously declared.

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

22 (3) A state of disaster ~~may not continue for longer than 45~~ terminates after 30 days unless continuing  
23 conditions of the state of disaster exist, ~~which must be determined by a declaration of a major disaster by the~~  
24 ~~president of the United States or by~~. At any point after the initial 30-day period of a state of disaster, the  
25 legislature may terminate a state of disaster by the declaration of the legislature by joint resolution or by a poll  
26 of the members of the legislature as provided in [section 1] of continuing conditions of the state of disaster. The  
27 governor may not issue a new state of disaster based on the same or substantially similar facts and  
28 circumstances if the legislature terminates the declaration.



- 1 (4) The governor shall terminate a state of emergency or disaster when:
- 2 (a) the emergency or disaster has passed;
- 3 (b) the emergency or disaster has been dealt with to the extent that emergency or disaster conditions
- 4 no longer exist; or
- 5 (c) at any time the legislature terminates the state of emergency or disaster by joint resolution or
- 6 through the polling process provided for in [section 1]. However, after termination of the state of emergency or
- 7 disaster, disaster and emergency services required as a result of the emergency or disaster may continue."
- 8

9 **Section 8.** Section 50-1-101, MCA, is amended to read:

10 **"50-1-101. Definitions.** Unless the context indicates otherwise, in chapter 2 and this chapter, the

11 following definitions apply:

12 (1) "Communicable disease" means an illness because of a specific infectious agent or its toxic

13 products that arises through transmission of that agent or its products from an infected person, animal, or

14 inanimate reservoir to a susceptible host. The transmission may occur either directly or indirectly through an

15 intermediate plant or animal host, a transmitting entity, or the inanimate environment.

16 (2) "Condition of public health importance" means a disease, injury, or other condition that is

17 identifiable on an individual or community level and that can reasonably be expected to lead to adverse health

18 effects in the community.

19 (3) "Department" means the department of public health and human services provided for in 2-15-

20 2201.

21 (4) "Inanimate reservoir" means soil, a substance, or a combination of soil and a substance:

- 22 (a) in which an infectious agent normally lives and multiplies;
- 23 (b) on which an infectious agent depends primarily for survival; and
- 24 (c) where an infectious agent reproduces in a manner that allows the infectious agent to be
- 25 transmitted to a susceptible host.

26 (5) "Institutional controls" means legal or regulatory mechanisms designed to protect public health

27 and safety that:

- 28 (a) limit access to or limit or condition the use of environmentally contaminated property or media;

- 1 (b) provide for the protection or preservation of environmental cleanup measures; or  
2 (c) inform the public that property or media is or may be environmentally contaminated.

3 (6) "Isolation" means the physical separation and confinement of an individual or groups of individuals  
4 who are infected or reasonably believed to be infected with a communicable disease or possibly communicable  
5 disease from nonisolated individuals to prevent or limit the transmission of the communicable disease to  
6 nonisolated individuals.

7 (7) "Local board of health" or "local board" means a county, city, city-county, or district board of health  
8 as described in 50-2-104, 50-2-105, 50-2-106, or 50-2-107.

9 (8) "Local governing body" or "governing body" means:

10 (a) the board of county commissioners that oversees a county local board of health;

11 (b) the elected governing body of a city that oversees a city local board of health; or

12 (c) the entity identified as the governing body as established in the bylaws, interlocal agreement, or  
13 memorandum of understanding creating a city-county local board of health or a local district board of health.

14 ~~(8)~~(9) "Local health officer" means a county, city, city-county, or district health officer appointed by a  
15 local board of health. With regard to the exercise of the duties and authorities of a local health officer, the term  
16 may include an authorized representative of the local health officer.

17 ~~(9)~~(10) "Local public health agency" means an organization operated by a local government in the  
18 state, including local boards of health or local health officers, that principally acts to protect or preserve the  
19 public health.

20 ~~(10)~~(11) "Physician" has the meaning provided in 37-3-102.

21 ~~(11)~~(12) "Public health services and functions" means those services and functions necessary to  
22 promote the conditions in which the population can be healthy and safe, including:

23 (a) population-based or individual efforts primarily aimed at the prevention of injury, disease, or  
24 premature mortality; or

25 (b) the promotion of health in the community, such as assessing the health needs and status of the  
26 community through public health surveillance and epidemiological research, developing public health policy,  
27 and responding to public health needs and emergencies.

28 ~~(12)~~(13) "Public health system" means state and local public health agencies and their public and

1 private sector partners.

2 ~~(13)~~(14) "Quarantine" means the physical separation and confinement of an individual or groups of  
3 individuals who are or may have been exposed to a communicable disease or possibly communicable disease  
4 and who do not show signs or symptoms of a communicable disease from nonquarantined individuals to  
5 prevent or limit the transmission of the communicable disease to nonquarantined individuals.

6 ~~(14)~~(15) "Screening" means diagnostic or investigative analysis or medical procedures that determine  
7 the presence or absence of or exposure to a condition of public health importance or the condition's precursor  
8 in an individual.

9 ~~(15)~~(16) "Testing" has the same meaning as screening."  
10

10

11 **Section 9.** Section 50-2-116, MCA, is amended to read:

12 **"50-2-116. Powers and duties of local boards of health.** (1) In order to carry out the purposes of  
13 the public health system, in collaboration with federal, state, and local partners, each local board of health shall:

14 (a) appoint and fix the salary of a local health officer who is:

15 (i) a physician;

16 (ii) a person with a master's degree in public health; or

17 (iii) a person with equivalent education and experience, as determined by the department;

18 (b) elect a presiding officer and other necessary officers;

19 (c) employ qualified staff;

20 (d) adopt bylaws to govern meetings;

21 (e) hold regular meetings at least quarterly and hold special meetings as necessary;

22 (f) identify, assess, prevent, and ameliorate conditions of public health importance through:

23 (i) epidemiological tracking and investigation;

24 (ii) screening and testing;

25 (iii) isolation and quarantine measures;

26 (iv) diagnosis, treatment, and case management;

27 (v) abatement of public health nuisances;

28 (vi) inspections;

- 1 (vii) collecting and maintaining health information;
- 2 (viii) education and training of health professionals; or
- 3 (ix) other public health measures as allowed by law;
- 4 (g) protect the public from the introduction and spread of communicable disease or other conditions of
- 5 public health importance, including through actions to ensure the removal of filth or other contaminants that
- 6 might cause disease or adversely affect public health;
- 7 (h) supervise or make inspections for conditions of public health importance and issue written orders
- 8 for compliance or for correction, destruction, or removal of the conditions;
- 9 (i) bring and pursue actions and issue orders necessary to abate, restrain, or prosecute the violation
- 10 of public health laws, rules, and local regulations;
- 11 (j) identify to the department an administrative liaison for public health. The liaison must be the local
- 12 health officer in jurisdictions that employ a full-time local health officer. In jurisdictions that do not employ a full-
- 13 time local health officer, the liaison must be the highest ranking public health professional employed by the
- 14 jurisdiction.
- 15 (k) subject to the provisions of 50-2-130, adopt necessary regulations that are not less stringent than
- 16 state standards for the control and disposal of sewage from private and public buildings and facilities that are
- 17 not regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must describe standards for granting
- 18 variances from the minimum requirements that are identical to standards promulgated by the board of
- 19 environmental review and must provide for appeal of variance decisions to the department as required by 75-5-
- 20 305. If the local board of health regulates or permits water well drilling, the regulations must prohibit the drilling
- 21 of a well if the well isolation zone, as defined in 76-4-102, encroaches onto adjacent private property without the
- 22 authorization of the private property owner.
- 23 (2) Local boards of health may:
- 24 (a) accept and spend funds received from a federal agency, the state, a school district, or other
- 25 persons or entities;
- 26 (b) adopt necessary fees to administer regulations for the control and disposal of sewage from private
- 27 and public buildings and facilities;
- 28 (c) adopt regulations that do not conflict with 50-50-126 or rules adopted by the department:

- 1 (i) for the control of communicable diseases;
- 2 (ii) for the removal of filth that might cause disease or adversely affect public health;
- 3 (iii) subject to the provisions of 50-2-130, for sanitation in public and private buildings and facilities that
- 4 affects public health and for the maintenance of sewage treatment systems that do not discharge effluent
- 5 directly into state water and that are not required to have an operating permit as required by rules adopted
- 6 under 75-5-401;
- 7 (iv) subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing
- 8 establishments and that are not less stringent than state standards for tattooing and body-piercing
- 9 establishments;
- 10 (v) for the establishment of institutional controls that have been selected or approved by the:
- 11 (A) United States environmental protection agency as part of a remedy for a facility under the federal
- 12 Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or
- 13 (B) department of environmental quality as part of a remedy for a facility under the Montana
- 14 Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7; and
- 15 (vi) to implement the public health laws; and
- 16 (d) promote cooperation and formal collaborative agreements between the local board of health and
- 17 tribes, tribal organizations, and the Indian health service regarding public health planning, priority setting,
- 18 information and data sharing, reporting, resource allocation, service delivery, jurisdiction, and other matters
- 19 addressed in this title.
- 20 (3) A local board of health may provide, implement, facilitate, or encourage other public health
- 21 services and functions as considered reasonable and necessary.
- 22 (4) (a) Subject to subsection (4)(b), a directive, mandate, or order issued by a local board of health:
- 23 (i) pursuant to subsection (1)(f)(iii), 1(f)(ix), or (1)(i) if issued to address a public health emergency,
- 24 remains in effect for 30 days; or
- 25 (ii) in response to a declaration of emergency or disaster by the governor as provided in 10-3-302 and
- 26 10-3-303 or by the principal executive officer of a political subdivision as provided in 10-3-402 and 10-3-403
- 27 remains in effect for 30 days.
- 28 (b) The majority of the governing body may amend, rescind, or otherwise change the directive,

1 mandate, or order before an appeal may be filed pursuant to subsection (4)(c) or in the absence of an appeal  
 2 under subsection (4)(c).

3 (c) At any point after the initial 30-day period following issuance of a directive, mandate, or order  
 4 made pursuant to subsection (4)(a), a person or entity impacted by a directive, mandate, or order under  
 5 subsection (4)(a) may appeal the decision to the local governing body on a form promulgated by the governing  
 6 body. The governing body shall hear the appeal and render a written decision within 7 business days of the  
 7 appeal."

8

9 **Section 10.** Section 50-2-118, MCA, is amended to read:

10 **"50-2-118. Powers and duties of local health officers.** (1) In order to carry out the purpose of the  
 11 public health system, in collaboration with federal, state, and local partners, local health officers or their  
 12 authorized representatives shall:

13 (1)(a) make inspections for conditions of public health importance and issue written orders for  
 14 compliance or for correction, destruction, or removal of the condition;

15 (2)(b) take steps to limit contact between people in order to protect the public health from imminent  
 16 threats, including but not limited to ordering the closure of buildings or facilities where people congregate and  
 17 canceling events;

18 (3)(c) report communicable diseases to the department as required by rule;

19 (4)(d) establish and maintain quarantine and isolation measures as adopted by the local board of  
 20 health; and

21 (5)(e) pursue action with the appropriate court if this chapter or rules adopted by the local board or  
 22 department under this chapter are violated.

23 (2) (a) Subject to subsection (2)(b), a directive, mandate, or order issued by a local health officer:

24 (i) pursuant to subsections (1)(b), (1)(d), or (1)(e), remains in effect for 30 days; or

25 (ii) in response to a declaration of emergency or disaster by the governor as allowed in 10-3-302 and  
 26 10-3-303 or by the principal executive officer of a political subdivision as allowed in 10-3-402 and 10-3-403  
 27 remains in effect for 30 days.

28 (b) In order to remain in effect for longer than 30 days, the local board that hired or oversees the

1 officer that issued the directive, mandate, or order shall adopt the directive, mandate, or order within 30 days of  
2 issuance. Notwithstanding actions of the board to adopt the the directive, mandate, or order, the majority of the  
3 governing body may amend, rescind, or otherwise change the directive, mandate, or order before an appeal  
4 may be filed pursuant to subsection (2)(c) or in the absence of an appeal under subsection (2)(c).

5 (c) At any point after the initial 30-day period following issuance of a directive, mandate, or order  
6 made pursuant to subsection (2)(a), a person or entity impacted by a directive, mandate, or order issued under  
7 subsection (2)(a) may appeal the decision to the local governing body on a form promulgated by the governing  
8 body. The governing body shall hear the appeal and render a written decision within 7 business days of the  
9 appeal."

10  
11 NEW SECTION. Section 11. Notification to tribal governments. The secretary of state shall send a  
12 copy of [this act] to each federally recognized tribal government in Montana.

13  
14 NEW SECTION. Section 12. Codification instruction. [Section 1] is intended to be codified as an  
15 integral part of Title 10, chapter 3, part 3, and the provisions of Title 10, chapter 3, part 3, apply to [section 1].

16  
17 NEW SECTION. Section 13. Severability. If a part of [this act] is invalid, all valid parts that are  
18 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
19 the part remains in effect in all valid applications that are severable from the invalid applications.

20  
21 NEW SECTION. Section 14. Effective date. [This act] is effective on passage and approval.

22 - END -