

**Unofficial Draft Copy**

As of: August 7, 2008 (11:13am)

LCS5-5

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the Children, Families, Health, and Human Services

Interim Committee

A Bill for an Act entitled: "An Act creating a grant program for emergency medical service providers; establishing eligibility requirements and review criteria; creating a grant review committee; authorizing the department of public health and human services to adopt rules; transferring money from the highway nonrestricted account; providing a statutory appropriation; amending section 17-7-502, MCA; repealing sections 50-6-202, 50-6-302, 50-6-401, and 50-6-501, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Legislative findings -- purpose.**

The Legislature finds that the provision of prehospital emergency medical service is a critical component of Montana's health care system because these prehospital services ensure the safety of motorists on Montana roads and can improve the medical outcomes for people suffering medical emergencies. The legislature further finds that emergency medical service providers in many of Montana's rural areas have difficulty in continuing their operations because of demographic and economic circumstances. It is the purpose of [sections 1 through 10] to establish a grant

program that will support emergency medical service providers by creating a source of funds to cover the costs of buying and maintaining the equipment that an emergency medical service needs in order to be ready to respond to calls.

NEW SECTION. **Section 2. Definitions.** As used in this part, the following definitions apply: (NOTE: ONLY TWO DEFINITIONS ARE ACTUALLY NEW HERE-- SUBSECTIONS (8) AND (18)).

(1) "Aircraft" has the same meaning given in 67-1-101. The term includes any fixed-wing airplane or helicopter.

(2) (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.

(b) The term does not include:

(i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or

(ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician.

(3) "Automated external defibrillator" or "AED" means a medical device that:

(a) has received approval for marketing from the U.S. food and drug administration;

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and of

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determining, without intervention by an operator, whether defibrillation should be performed;

(c) upon determining that defibrillation should be performed, automatically charges and indicates that it is ready to deliver an electrical impulse to an individual's heart; and

(d) may be used by an operator of the device to deliver an electrical impulse to an individual's heart.

(4) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(5) "Department" means the department of public health and human services provided for in 2-15-2201.

(6) "Emergency medical service" means a prehospital or interhospital emergency medical transportation or treatment service provided by an ambulance or nontransporting medical unit.

(7) "Emergency medical technician" means a person who has been specially trained in emergency care in a training program approved by the board and certified by the board as having demonstrated a level of competence suitable to treat victims of injury or other emergent condition.

\* (8) (a) "Emergency response vehicle" means a vehicle used for the dedicated purpose of responding to emergency medical calls.

(b) The term does not include a vehicle used for an individual's personal purposes.

(9) "Entity" means a public agency, department, office, board, or commission or other governmental organization or a private corporation, partnership, group, or business or other

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private organization.

(10) "Physician" means an individual licensed to practice medicine pursuant to Title 37, chapter 3, part 3.

(11) "Public safety answering point" means a communications facility operated on a 24-hour basis that first receives 9-1-1 calls from persons in a 9-1-1 service area and that may, as appropriate, directly dispatch public or private safety services or transfer or relay 9-1-1 calls to appropriate public safety agencies.

(12) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department rule but may not transport patients.

(13) "Offline medical director" means a physician who is responsible and accountable for the overall medical direction and medical supervision of an emergency medical service and who is responsible for the proper application of patient care techniques and the quality of care provided by the emergency medical services personnel. The term includes only a physician who volunteers the physician's services as an offline medical director or whose total reimbursement for those services in any 12-month period does not exceed \$5,000.

(14) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(b) The term does not include an individual who is

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nonambulatory and who needs transportation assistance solely because that individual is confined to a wheelchair as the individual's usual means of mobility.

(15) "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States.

(16) "Physician" means an individual licensed to practice medicine pursuant to Title 37, chapter 3, part 3.

(17) "Public safety answering point" means a communications facility operated on a 24-hour basis that first receives 9-1-1 calls from persons in a 9-1-1 service area and that may, as appropriate, directly dispatch public or private safety services or transfer or relay 9-1-1 calls to appropriate public safety agencies.

\*(18) "Volunteer emergency medical technician" means an individual who is licensed pursuant to 50-6-202 and provides emergency medical care:

(a) on the days and the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company, unless the care is provided without compensation and outside of the individual's regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical care as part of

the individual's job duties.

\* - denotes definitions new to Title 50, chapter 6.

NEW SECTION. **Section 3. Emergency medical services grant program -- eligibility -- matching funds.** (1) The department shall provide competitive grants to emergency medical service providers for acquiring or leasing ambulances or emergency response vehicles or purchasing equipment for any of the following purposes:

- (a) training;
- (b) communications; or
- (c) equipment, other than routine supplies, necessary to provide medical care to a patient.

(2) A licensed emergency medical service may apply for a grant if:

- (a) it has been in operation at least 12 months;
- (b) it bills for services at a level that is at least equivalent to the Medicare billing level; and

- (c) a majority of its active emergency medical technicians are volunteer emergency medical technicians, as defined in [section 2].

(3) An emergency medical service is ineligible for grant funding if it is:

- (a) a private ambulance company; or
- (b) a private business or a public agency, as defined in 7-1-4121, that employs emergency medical technicians on a regular basis with a regular, hourly wage.

(4) An eligible emergency medical service applying for a grant under this section shall provide a 10% match for any grant funds received.

(5) The department, using the review process provided for in [sections 4 and 5], shall award grants on an annual basis.

NEW SECTION. **Section 4. Grant review committee --**

**reimbursement.** (1)(a) The department shall establish a grant review committee to evaluate applications and make grant award recommendations to the department.

(2) The grant review committee shall consist of the following members, selected in a manner that achieves the geographic and demographic representation of all regions of the state, including urban, rural, and tribal areas:

(a) one member of the department's EMS system task force;

(b) a representative of an emergency medical service from each of the six emergency medical service regions established by the department; and

(c) one member appointed by the board of medical examiners established in 2-15-1731.

(3) The grant review committee's recommendations are not binding on the department, but when a recommendation is not followed by the department, the department shall provide the reasons to the grant review committee and to the emergency medical service that did not receive a recommended grant award.

(4) Members are entitled to reimbursement for expenses, as provided in 2-18-501 through 2-18-503, while engaged in committee

business. The department shall pay the expenses from the emergency medical services grant account established in [section 8].

NEW SECTION. **Section 5. Grant review criteria.** (1) When evaluating grant applications and recommendations, the grant review committee and the department shall consider the following factors:

- (a) demonstrated need;
- (b) size of the geographic area covered by the emergency medical service;
- (c) distance from other emergency medical service providers in the geographic region;
- (d) distance from the closest hospital;
- (e) number of calls in the previous calendar year; and
- (f) number of volunteer emergency medical technicians on the active call roster.

NEW SECTION. **Section 6. Grant awards -- appeals.** (1) If the department fails to award a grant recommended by the grant review committee, the emergency medical service provider that was recommended for the award may appeal the decision in writing to the director of the department.

(2) After considering the emergency medical service provider's appeal and the rules in place for reviewing and awarding grants, the director shall affirm or deny the appeal in writing.



(3) There is no further appeal if the director denies the appeal.

NEW SECTION. **Section 7. Rulemaking authority.** (1) The department shall adopt rules necessary for the administration of [sections 1 through 10].

(2) The rules must include but are not limited to:

(a) the selection process for the grant review committee;

(b) the weighting of the criteria listed in [section 5] for scoring purposes;

(c) allowable reasons for not awarding a grant as recommended by the grant review committee;

(d) the appeal process for an emergency medical service provider that does not receive a grant as recommended by the grant review committee; and

(e) reporting requirements for grant recipients.

NEW SECTION. **Section 8. Emergency medical services grant account.** (1) There is an emergency medical services grant account in the state special revenue fund to the credit of the department to provide grants to emergency medical service providers pursuant to [sections 1 through 10].

(2) Money appropriated by the legislature for the grant account must be deposited into the account.

(3) (a) Five percent of the annual appropriation must be held in reserve each year to be distributed for emergency purposes only, as provided in [section 9].

(b) Any unexpended funds held in reserve for emergency grant appropriations shall revert to the emergency medical services account at the end of each fiscal year.

(4) The remainder of the fund must be allocated from the account in accordance with the procedures outlined in [Sections 1 through 10].

NEW SECTION. **Section 9. Emergency grant appropriations.**

(1) In a documented situation that the department considers to be an emergency for which an eligible emergency medical service provider cannot pay, the department may provide funding for a vehicle or equipment that has been damaged or destroyed.

(2) Emergency funding may be provided only for vehicles or equipment eligible for grant funding, as provided in [section 3].

(3) Normal replacement of an ambulance or equipment may not be considered an emergency.

NEW SECTION. **Section 10. Transfer of funds -- statutory appropriation.** (1) Except as provided in subsection (2), there is transferred \$1 million annually from the highway nonrestricted account provided for in 15-70-125 to the emergency medical services grant account established in [section 8].

(2) (a) If at the beginning of any fiscal year the unobligated cash balance in the emergency medical services grant account exceeds \$1 million, the transfer may not be made.

(b) If the emergency medical services grant account has an unobligated account balance of less than \$1 million at the end of

any fiscal year, the amount of the transfer for the next fiscal year must be reduced by the amount of the unobligated cash balance.

(3) Money in the emergency medical services grant account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of [sections 1 through 10].

**Section 11.** Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212;

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17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319;  
19-6-404; 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; 19-21-203; 20-8-107;  
20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202;  
23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612;  
23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011;  
42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; [section 10];  
53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415;  
69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150;  
77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518;  
82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June

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30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

{*Internal References to 17-7-502:*

2-17-105	5-11-120	5-11-407	5-13-403
7-4-2502	10-1-1202	10-1-1303	10-2-603
10-3-203	10-3-310	10-3-312	10-3-312
10-3-314	10-4-301	15-1-121	15-1-218
15-23-706	15-31-906	15-35-108	15-36-332
15-37-117	15-39-110	15-65-121	15-70-101
15-70-369	15-70-601	16-11-509	17-1-508
17-3-106	17-3-212	17-3-222	17-3-241
17-6-101	17-7-304	17-7-501	18-11-112
19-3-319	19-6-404	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	19-21-203
20-8-107	20-9-534	20-9-622	20-26-1503
20-26-1503	22-3-1004	23-4-105	23-4-202
23-4-204	23-4-302	23-4-302	23-4-304
23-5-306	23-5-409	23-5-612	23-7-301
23-7-402	37-43-204	37-51-501	39-71-503
41-5-2011	42-2-105	44-1-504	44-12-206
44-13-102	50-4-623	53-1-109	53-6-703
53-24-108	53-24-108	53-24-206	60-11-115
61-3-415	69-3-870	75-1-1101	75-1-1101
75-5-1108	75-6-214	75-10-622	75-11-313
76-13-150	77-1-108	77-2-362	80-2-222
80-4-416	80-5-510	80-11-518	82-11-161
87-1-513	90-1-115	90-1-115	90-1-205
90-3-1003	90-9-306 }		

NEW SECTION. **Section 12. {standard} Repealer.** Sections 50-6-202, 50-6-302, 50-6-401, and 50-6-501, MCA, are repealed.

{*Internal References to 50-6-202: None.*

*Internal References to 50-6-302: 50-6-401a 50-6-501a*

*Internal References to 50-6-401: None.*

*Internal References to 50-6-501: None.}*

NEW SECTION. **Section 13. {standard} Codification**

**instruction.** (1) [Section 1 and sections 3 through 10] are intended to be codified as an integral part of Title 50, chapter 6, and the provisions of Title 50, chapter 6, apply to [section 1 and sections 3 through 9].

(2) [Section 2] is intended to be codified as an integral part of Title 50, chapter 6, part 1, and the provisions of Title 50, chapter 6, apply to [section 2].

NEW SECTION. **Section 14. 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 Chippewa tribe.

NEW SECTION. **Section 15. {standard} Effective date.** [This

act] is effective July 1, 2009.

- END -

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