

Fifty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2049

Introduced by

Legislative Council

(North Dakota/South Dakota Commission)

1 A BILL for an Act to create and enact section 37-17.1-14.5 of the North Dakota Century Code,
2 relating to the interstate mutual aid agreement or compact; to amend and reenact sections
3 37-17.1-14.2 and 37-17.1-14.3 of the North Dakota Century Code, relating to interstate mutual
4 aid agreements; and to repeal section 37-17.1-14.4 of the North Dakota Century Code, relating
5 to the mutual aid agreement or compact.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 37-17.1-14.2 of the 1995 Supplement to the
8 North Dakota Century Code is amended and reenacted as follows:

9 **37-17.1-14.2. Interstate mutual aid agreements.**

- 10 1. This state may enter into an interstate mutual aid agreement or compact with any
11 state that has enacted or shall enact the compact substantially in the form
12 contained in section ~~37-17.1-14.4~~ 37-17.1-14.5.
- 13 2. The governor may enter into an interstate agreement with any state if the governor
14 finds that joint action with that state is desirable in meeting common
15 intergovernmental problems of emergency or disaster preparedness, mitigation,
16 response, and recovery.
- 17 3. The governor may deny the request of a requesting state as the governor
18 determines necessary.
- 19 4. All interstate mutual aid compacts and other interstate agreements to which this
20 state is a party dealing with disaster or emergency preparedness, response,
21 recovery, or mitigation must be reviewed and made current every four years.
- 22 5. If a person holds a license, certificate, or other permit issued by any state or
23 political subdivision evidencing the meeting of qualifications for professional,
24 mechanical, or other skills, the person may render aid involving that skill in this

state to meet an emergency or disaster, and this state shall give due recognition to the license, certificate, or other permit.

6. When considered of mutual benefit, the governor may, subject to the limitations of law, enter into intergovernmental arrangements with neighboring provinces of Canada for the purpose of exchanging disaster or emergency resources.

SECTION 2. AMENDMENT. Section 37-17.1-14.3 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

37-17.1-14.3. Authority to join interstate mutual aid agreements - Interstate compacts.

1. The governor, in the name of the state, may join with other states in the interstate mutual aid agreement or compact.
2. The governor may negotiate and execute such supplemental agreements as may be necessary and proper to fully carry out the terms and provisions of the interstate mutual aid agreement or compact as set forth in section ~~37-17.1-14.4~~ 37-17.1-14.5.

SECTION 3. Section 37-17.1-14.5 of the North Dakota Century Code is created and enacted as follows:

37-17.1-14.5. Text of the mutual aid agreement or compact. The interstate mutual aid agreement or compact referred to in sections 37-17.1-14.2 and 37-17.1-14.3 reads as follows:

INTERSTATE MUTUAL AID AGREEMENT OR COMPACT

Article I - Purpose and Authorities

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, manmade disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

1 This compact shall also provide for mutual cooperation in emergency-related exercises,
2 testing, or other training activities using equipment and personnel simulating performance of
3 any aspect of the giving and receiving of aid by party states or subdivisions of party states
4 during emergencies, such actions occurring outside actual declared emergency periods.
5 Mutual assistance in this compact may include the use of the states' national guard forces,
6 either in accordance with the National Guard Mutual Assistance Compact or by mutual
7 agreement between states.

8 Article II - General Implementation

9 Each party state entering into this compact recognizes many emergencies transcend
10 political jurisdictional boundaries and that intergovernmental coordination is essential in
11 managing these and other emergencies under this compact. Each state further recognizes that
12 there will be emergencies which require immediate access and present procedures to apply
13 outside resources to make a prompt and effective response to such an emergency. This is
14 because few, if any, individual states have all the resources they may need in all types of
15 emergencies or the capability of delivering resources to areas where emergencies exist.

16 The prompt, full, and effective utilization of resources of the participating states,
17 including any resources on hand or available from the federal government or any other source,
18 that are essential to the safety, care, and welfare of the people in the event of any emergency
19 or disaster declared by a party state, shall be the underlying principle on which all articles of this
20 compact shall be understood.

21 On behalf of the governor of each state participating in the compact, the legally
22 designated state official who is assigned responsibility for emergency management will be
23 responsible for formulation of the appropriate interstate mutual aid plans and procedures
24 necessary to implement this compact.

25 Article III - Party State Responsibilities

26 1. It shall be the responsibility of each party state to formulate procedural plans and
27 programs for interstate cooperation in the performance of the responsibilities listed
28 in this article. In formulating such plans, and in carrying them out, the party states,
29 insofar as practical, shall:

30 a. Review individual state hazards analyses and, to the extent reasonably
31 possible, determine all those potential emergencies the party states might

1 jointly suffer, whether due to natural disaster, technological hazard, manmade
2 disaster, emergency aspects of resource shortages, civil disorders,
3 insurgency, or enemy attack.

4 b. Review party states' individual emergency plans and develop a plan which will
5 determine the mechanism for the interstate management and provision of
6 assistance concerning any potential emergency.

7 c. Develop interstate procedures to fill any identified gaps and to resolve any
8 identified inconsistencies or overlaps in existing or developed plans.

9 d. Assist in warning communities adjacent to or crossing the state boundaries.

10 e. Protect and assure uninterrupted delivery of services, medicines, water, food,
11 energy and fuel, search and rescue, and critical lifeline equipment, services,
12 and resources, both human and material.

13 f. Inventory and set procedures for the interstate loan and delivery of human
14 and material resources, together with procedures for reimbursement or
15 forgiveness.

16 g. Provide, to the extent authorized by law, for temporary suspension of any
17 statutes or ordinances that restrict the implementation of the above
18 responsibilities.

19 2. The authorized representative of a party state may request assistance of another
20 party state by contacting the authorized representative of that state. The
21 provisions of this agreement shall only apply to requests for assistance made by
22 and to authorized representatives. Requests may be verbal or in writing. If verbal,
23 the request shall be confirmed in writing within thirty days of the verbal request.
24 Requests shall provide the following information:

25 a. A description of the emergency service function for which assistance is
26 needed, such as, but not limited to, fire services, law enforcement, emergency
27 medical, transportation, communications, public works and engineering,
28 building inspection, planning and information assistance, mass care, resource
29 support, health and medical services, and search and rescue.

30 b. The amount and type of personnel, equipment, materials and supplies
31 needed, and a reasonable estimate of the length of time they will be needed.

c. The specific place and time for staging of the assisting party's response and a point of contact at that location.

3. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

Article IV - Limitations

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services.

Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

Article V - Licenses and Permits

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations

1 and conditions as the governor of the requesting state may prescribe by executive order or
2 otherwise.

3 Article VI - Liability

4 Officers or employees of a party state rendering aid in another state pursuant to this
5 compact shall be considered agents of the requesting state for tort liability and immunity
6 purposes; and no party state or its officers or employees rendering aid in another state pursuant
7 to this compact shall be liable on account of any act or omission in good faith on the part of
8 such forces while so engaged or on account of the maintenance or use of any equipment or
9 supplies in connection therewith. Good faith in this article shall not include willful misconduct,
10 gross negligence, or recklessness.

11 Article VII - Supplementary Agreements

12 Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid
13 among two or more states may differ from that among the states that are party hereto, this
14 instrument contains elements of a broad base common to all states, and nothing herein
15 contained shall preclude any state from entering into supplementary agreements with another
16 state or affect any other agreements already in force between states. Supplementary
17 agreements may comprehend, but shall not be limited to, provisions for evacuation and
18 reception of injured and other persons and the exchange of medical, fire, police, public utility,
19 reconnaissance, welfare, transportation and communications personnel, and equipment and
20 supplies.

21 Article VIII - Compensation

22 Each party state shall provide for the payment of compensation and death benefits to
23 injured members of the emergency forces of that state and representatives of deceased
24 members of such forces in case such members sustain injuries or are killed while rendering aid
25 pursuant to this compact, in the same manner and on the same terms as if the injury or death
26 were sustained within their own state.

27 Article IX - Reimbursement

28 Any party state rendering aid in another state pursuant to this compact shall be
29 reimbursed by the party state receiving such aid for any loss or damage to or expenses
30 incurred in the operation of any equipment and the provision of any service in answering a
31 request for aid and for the costs incurred in connection with such requests; provided that any

1 aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or
2 may loan such equipment or donate such services to the receiving party state without charge or
3 cost; and provided further that any two or more party states may enter into supplementary
4 agreements establishing a different allocation of costs among those states. Article VIII
5 expenses shall not be reimbursable under this provision.

6 Article X - Evacuation

7 Plans for the orderly evacuation and interstate reception of portions of the civilian
8 population as the result of any emergency or disaster of sufficient proportions to so warrant,
9 shall be worked out and maintained between the party states and the emergency
10 management/services directors of the various jurisdictions where any type of incident requiring
11 evacuations might occur. Such plans shall be put into effect by request of the state from which
12 evacuees come and shall include the manner of transporting such evacuees, the number of
13 evacuees to be received in different areas, the manner in which food, clothing, housing, and
14 medical care will be provided, the registration of the evacuees, the providing of facilities for the
15 notification of additional materials, supplies, and all other relevant factors. Such plans shall
16 provide that the party state receiving evacuees and the party state from which the evacuees
17 come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving
18 and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and
19 medical care, and like items. Such expenditures shall be reimbursed as agreed by the party
20 state from which the evacuees come. After the termination of the emergency or disaster, the
21 party state from which the evacuees come shall assume the responsibility for the ultimate
22 support of repatriation of such evacuees.

23 Article XI - Implementation

- 24 1. This compact shall become operative immediately upon its enactment into law by
25 any two states; thereafter, this compact shall become effective as to any other
26 state upon its enactment by such state.
27 2. Any party state may withdraw from this compact by enacting a statute repealing the
28 same, but no such withdrawal shall take effect until thirty days after the governor of
29 the withdrawing state has given notice in writing of such withdrawal to the
30 governors of all other party states. Such action shall not relieve the withdrawing
31 state from obligations assumed hereunder prior to the effective date of withdrawal.

3. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the United States government.

Article XII - Validity

This Act shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

Article XIII - Additional Provisions

Nothing in this compact shall authorize or permit the use of military force by the national guard of a state at any place outside that state in any emergency for which the president is authorized by law to call into federal service the militia, or for any purpose for which the use of the army or the air force would in the absence of express statutory authorization be prohibited under section 1385 of title 18, United States Code.

SECTION 4. REPEAL. Section 37-17.1-14.4 of the 1995 Supplement to the North Dakota Century Code is repealed.