

CHAPTER [34-48A](#)
EMERGENCY MANAGEMENT

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34-48A-1. Definitions.

Terms used in this chapter mean:

- (1) "Secretary," the secretary of the Department of Public Safety;
- (2) "Disaster," any natural, nuclear, man-made, war- related, or other catastrophe producing phenomena in any part of the state which, in the determination of the Governor, causes damage of sufficient severity and magnitude to warrant all state assistance that is reasonably available, above and beyond emergency resource commitments;
- (3) "Emergency," any natural, nuclear, man-made, war- related, or other catastrophe producing phenomena in any part of the state which in the determination of the Governor requires the commitment of less than all available state resources to supplement local efforts of political subdivisions of the state to save lives and to protect property, public health, and safety or to avert or lessen the threat of a disaster;
- (4) "Emergency management," the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, repair injury and damage resulting from disasters caused by enemy attack, sabotage, or other hostile action, fire, flood, snowstorm, windstorm, tornado, cyclone, drought, earthquake, or other natural causes and provide for the relief of distressed humans and livestock in areas where such conditions prevail whether affecting all or only a portion of the state. These functions include, without limitation, fire fighting services, police services, medical and health services, hazardous materials, search and rescue, engineering, warning, communications, radiological, chemical, and other special weapons of defense, evacuation of persons or livestock, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian or livestock protection, together with other activities necessary or incidental to the preparation for any carrying out of the foregoing functions including cooperation with the federal government, county and tribal governments, national relief organizations, public or private organizations, and persons;
- (5) "Emergency management worker," any full or part- time paid, volunteer or auxiliary employee of this state, or other state, territory, possession, or the District of Columbia, of the federal government, or any neighboring county, or of any political subdivision thereof, or of any agency or organization, performing services at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any political subdivision thereof;
- (6) "Hazardous material," any material, including but not limited to, explosives, flammable liquids, flammable compressed gas, flammable solids, oxidizing materials, poisons, corrosive materials, and radiological materials, the loss of control or mishandling of which could cause personal injury or death to humans or damage to property or the environment;
- (7) "Local effort," the expenditure for emergency or disaster purposes within the twelve-month period preceding the date of the request, of an amount equal to two mills of the assessed valuation, exclusive of capital asset purchases, in each county for the assessment date preceding the date of the request under an emergency or disaster declaration by the Governor;
- (8) "Local organization for emergency management," an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions;
- (9) "Political subdivision," counties, townships, Indian tribes, and municipalities; and
- (10) "Search and rescue," the preparation and carrying out of search for and rescue of persons.

Source: SL 1949, ch 236, § 3; SL 1951, ch 285, § 3; SL 1955, ch 236, § 2; SDC Supp 1960, § 41.01C03; SL 1972, ch 188; SL 1977, ch 271, § 1; SL 1985, ch 15, § 41; SL 1989, ch 30, § 59; SL 1992, ch 236, § 1; SL 2004, ch 17, § 185; SDCL § [33-15-1](#).

34-48A-2. Policy and purpose.

In order to ensure that preparation of this state will be adequate to deal with an emergency or disaster, and to provide for the common defense and to protect the public peace, health, and safety and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

- (1) To create a Division of Emergency Management, and to authorize the creation of local organizations for emergency management in the political subdivisions of the state;
- (2) To confer upon the Governor, the secretary and upon the executive heads or governing bodies of the political subdivision of the state the emergency powers provided by this chapter;
- (3) To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government for the carrying out of emergency management functions; and
- (4) To cooperate with each association, authority, board, commission, committee, council, department, division, office officer, task force, or other agent of the state vested with the authority to exercise any portion of the state's sovereignty. This subdivision does not include the legislative or judicial branch of the state, of its units of local government, or of Indian tribes.

Source: SL 1949, ch 236, § 2; SL 1951, ch 285, § 2; SL 1953, ch 288, § 2; SL 1955, ch 236, § 1; SDC Supp 1960, § 41.01C02 (1); SL 1977, ch 271, § 2; SL 1992, ch 236, § 2; SL 2004, ch 17, § 186; SDCL § [33-15-2](#).

34-48A-3. Coordination with federal government--Cooperation with other agencies.

It is further declared to be the purpose of this chapter and the policy of the state that all emergency management of this state shall be coordinated to the maximum extent and shall cooperate with the federal government including its various departments and agencies, with other states and localities, and with private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

Source: SL 1949, ch 236, § 2; SL 1951, ch 285, § 2; SDC Supp 1960, § 41.01C02 (2); SL 1977, ch 271, § 3; SL 1993, ch 242, § 2; SDCL § [33-15-3](#).

34-48A-4. Employment of personnel--Expenditures.

The secretary of public safety may employ technical, clerical, stenographic, and other personnel pursuant to chapter [3-6D](#). The secretary may make expenditures from the funds made available to the secretary for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

Source: SL 1949, ch 236, § 4; SL 1951, ch 285, § 4; SDC Supp 1960, § 41.01C04 (2); SL 1977, ch 271, § 10; SL 2003, ch 272 (Ex. Ord. 03-1), § 109; SDCL § [33-15-5](#); SL 2018, ch 12, § 14.

34-48A-5. [Effective until July 1, 2021] Authority of Governor in time of disaster, terrorist attack, or emergency--Limitations. .

In the event of disaster, war, act of terrorism as defined in state law, or emergency that is beyond local government capability, the Governor:

- (1) May assume direct operational control over all or any part of the emergency management functions within the state which may affect all or any portion of the state;
- (2) May declare an emergency or disaster to exist in the stricken area and employ emergency management to assist local authorities to affect relief, evacuation, and restoration as deemed necessary to preserve life or other disaster or emergency mitigation, response, or recovery;
- (3) May call upon and use any facilities, equipment, other nonmedical supplies, and resources available from any source, other than personal or private funds, in order to carry out the purposes of this chapter by contributing to the expense incurred in providing relief in such amounts as the Governor shall determine, provided that nothing in this section may be construed to authorize the taking of firearms, as defined in § [22-1-2](#), without the consent of the owner;
- (4) May suspend any rule of a state agency, or the enforcement by a state agency of any statute that regulates, or that prescribes the promulgation of a rule to regulate, the procedures for the conduct of state business or the business of a local subdivision, if strict compliance with the provisions of the rule or statute would in any way prevent, hinder, or delay necessary action in managing a disaster, war, act of terrorism, or emergency, including fire, flood, earthquake, severe high and low temperatures, tornado storm, wave action, oil spill, or other water or air contamination, epidemic, blight, drought,

- pandemic, infestation, explosion, riot, or hostile military or paramilitary action, which is determined by the Governor to require state or state and federal assistance or actions to supplement the recovery efforts of local governments in alleviating the damage, loss, hardship, or suffering caused thereby;
- (5) May control the ingress and egress in a designated disaster or emergency area, the movement of vehicles upon highways within the area, the movement of persons within the area, and the occupancy of premises within the area;
 - (6) May procure, acquire, store, distribute, and dispense any pharmaceutical agents or medical supplies located within the state as may be reasonable and necessary to respond to the disaster, emergency, or act of terrorism;
 - (7) May appoint and prescribe the duties of such out-of-state health care providers as may be reasonable and necessary to respond to the disaster, emergency, or act of terrorism;
 - (8) May provide for the examination and safe disposal of any dead body as may be reasonable and necessary to respond to the disaster, emergency, or act of terrorism;
 - (9) May provide for the protection, construction or reconstruction, repair, and maintenance of public or private transportation facilities; and
 - (10) May, by executive order, suspend the provisions of any statute prescribing procedures for the conducting of local subdivision business, if strict compliance with the provisions of any statute would in any way prevent, hinder, or delay necessary action in coping with the emergency.

Nothing in this section may be construed to authorize the suspension of § [34-48A-5.1](#) or to authorize any activity prohibited under § [34-48A-5.1](#).

The powers granted to the Governor under this section shall remain in effect for a period of six months and may be restored for one or more successive six-month periods by declaration of the Governor that the conditions permitting such powers persist.

Source: SL 1949, ch 236, § 6; SL 1951, ch 285, § 6; SL 1955, ch 236, § 3; SDC Supp 1960, § 41.01C05 (1); SL 1977, ch 271, § 4; SL 1989, ch 283, § 1; SL 2002, ch 162, §§ 1, 2; SL 2004, ch 223, § 1; SDCL § 33-15-8; SL 2020, ch 149, § 1, eff. Mar. 31, 2020.

Effective July 1, 2021

[34-48A-5](#). [Effective July 1, 2021] Authority of Governor in time of disaster, terrorist attack, or emergency.

In the event of disaster, war, act of terrorism as defined in state law, or emergency that is beyond local government capability, the Governor:

- (1) May assume direct operational control over all or any part of the emergency management functions within the state which may affect all or any portion of the state;
- (2) May declare an emergency or disaster to exist in the stricken area and employ emergency management to assist local authorities to affect relief and restoration;
- (3) May call upon and use any facilities, equipment, other nonmedical supplies, and resources available from any source, other than personal or private funds, in order to carry out the purposes of this chapter by contributing to the expense incurred in providing relief in such amounts as the Governor shall determine. However, nothing in this subdivision may be construed to authorize the taking of firearms, as defined in subdivision [22-1-2\(16\)](#), without the consent of the owner;
- (4) May suspend the provisions of any rules of any state agency, if strict compliance with the provisions of the rule would in any way prevent, hinder, or delay necessary action in managing a disaster, war, act of terrorism, or emergency, including fire, flood, earthquake, severe high and low temperatures, tornado storm, wave action, oil spill, or other water or air contamination, epidemic, blight, drought, infestation, explosion, riot, or hostile military or paramilitary action, which is determined by the Governor to require state or state and federal assistance or actions to supplement the recovery efforts of local governments in alleviating the damage, loss, hardship, or suffering caused thereby;
- (5) May control the ingress and egress in a designated disaster or emergency area, the movement of vehicles upon highways within the area, the movement of persons within the area, and the occupancy of premises within the area;
- (6) May procure, acquire, store, distribute, and dispense any pharmaceutical agents or medical supplies located within the state as may be reasonable and necessary to respond to the disaster, emergency, or act of terrorism;

- (7) May appoint and prescribe the duties of such out-of-state health care providers as may be reasonable and necessary to respond to the disaster, emergency, or act of terrorism;
- (8) May provide for the examination and safe disposal of any dead body as may be reasonable and necessary to respond to the disaster, emergency, or act of terrorism; and
- (9) May provide for the protection, construction or reconstruction, repair, and maintenance of public or private transportation facilities.

The powers granted to the Governor under this section shall remain in effect for a period of six months and may be restored for one or more successive six-month periods by declaration of the Governor that the conditions permitting such powers persist.

Source: SL 1949, ch 236, § 6; SL 1951, ch 285, § 6; SL 1955, ch 236, § 3; SDC Supp 1960, § 41.01C05 (1); SL 1977, ch 271, § 4; SL 1989, ch 283, § 1; SL 2002, ch 162, §§ 1, 2; SL 2004, ch 223, § 1; SDCL § 33-15-8; SL 2020, ch 149, § 1, eff. Jul. 1, 2021.

34-48A-5.1. [Effective until July 1, 2021] Governmental authority--Disaster--Terrorist attack--Emergencies--Limitations related to firearms and weapons.

No state agency, political subdivision, or any elected or appointed official or employee of this state or of a political subdivision may, under any governmental authority or color of law, including any other statutorily authorized responses to disaster, war, acts of terrorism, or emergencies of whatever kind or nature:

- (1) Prohibit, regulate, or curtail the otherwise lawful possession, carrying, sale, transportation, transfer, defensive use, or other lawful use of any:
 - (a) Firearm, including any component or accessory;
 - (b) Ammunition, including any component or accessory;
 - (c) Ammunition-reloading equipment and supplies; or
 - (d) Personal weapons other than firearms;
- (2) Seize, commandeer, or confiscate in any manner, any:
 - (a) Firearm, including any component or accessory;
 - (b) Ammunition, including any component or accessory;
 - (c) Ammunition-reloading equipment and supplies; or
 - (d) Personal weapons other than firearms;
- (3) Suspend or revoke a permit to carry a concealed pistol issued pursuant to chapter [23-7](#), except as expressly authorized in that chapter;
- (4) Refuse to accept an application for a permit to carry a concealed pistol, provided the application has been properly completed in accordance with chapter [23-7](#);
- (5) Close or limit the operating hours of any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory, ammunition, including any component or accessory, ammunition-reloading equipment and supplies, or personal weapons other than firearms, unless the closing or limitation of hours applies equally to all forms of commerce within the jurisdiction;
- (6) Close or limit the operating hours of any indoor or outdoor shooting range; or
- (7) Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any:
 - (a) Firearm, including any component or accessory;
 - (b) Ammunition, including any component or accessory;
 - (c) Ammunition-reloading equipment and supplies; or
 - (d) Personal weapons other than firearms.

Any person aggrieved by a violation of this section may file an action for damages, injunctive relief, or other appropriate redress in the circuit court having jurisdiction over the county in which the aggrieved person resides or in which the violation occurred.

Source: SL 2020, ch 149, § 2, eff. Mar. 31, 2020.

Effective July 1, 2021

34-48A-5.1. Repealed.

Source: SL 2020, ch 149, § 2, eff. Jul. 1, 2021.

34-48A-6. Emergency co-ordination of resources by Governor.

Whenever the Governor in pursuance to § [34-48A-5](#) shall declare an emergency or disaster to exist within the state, he may authorize and direct the resources of any political subdivision of the state or of any department, commission, or agency of the state to assist another political subdivision with such resources.

Source: SDC Supp 1960, ch 41.01C as added by SL 1969, ch 169, § 1; SL 1977, ch 271, § 5; SDCL § [33-15-8.1](#).

34-48A-7. Powers and duties of workers from sending political subdivision.

Any emergency management worker on duty in a receiving political subdivision has the same powers, duties, rights, privileges, and immunities as if the worker was performing like services in the sending political subdivision and is considered to be acting within the scope and in the course of the worker's regular employment, as an employee of the sending political subdivision.

Source: SDC Supp 1960, ch 41.01C as added by SL 1969, ch 169, § 1; SL 1977, ch 271, § 36; SL 1992, ch 236, § 3; SDCL § [33-15-8.2](#).

34-48A-8. Reimbursement between political subdivisions co-operating.

The receiving political subdivision shall reimburse the sending political subdivision for all supplies used, the expenses of all equipment used, and the compensation paid to all officers and members of such forces so furnished during such time as the rendition of such aid prevents them from performing their duties in the sending political subdivision, for the actual traveling and maintenance expenses of such officers and members while rendering such aid, and the costs of all insurance covering such officers and members while so engaged, and any damage or loss to equipment or supplies furnished while so engaged. Any claim for such reimbursement, loss, damage, or expense in the use of equipment or supplies or for additional expenses incurred in the operation or maintenance thereof shall not be allowed unless within ninety days after the same is sustained or incurred an itemized notice of such claim, verified by an officer or employee of the sending political subdivision, having knowledge of the facts, is filed with the clerk or auditor of the receiving political subdivision.

Source: SDC Supp 1960, ch 41.01C as added by SL 1969, ch 169, § 1; SDCL § [33-15-8.3](#).

34-48A-9. Power to make orders.

In performing his duties under this chapter, and to effect its policy and purpose, the Governor is further authorized and empowered to make, amend, and rescind the necessary orders to carry out the provisions of this chapter within the limits of the authority conferred upon him herein, with due consideration of the plans of the federal government.

Source: SL 1949, ch 236, § 6; SL 1951, ch 285, § 6; SDC Supp 1960, § 41.01C05 (2) (a); SL 1977, ch 272, § 1; SL 1986, ch 272, § 15; SDCL § [33-15-9](#).

34-48A-10. Special permits for emergency movement of persons and property in lieu of other permits.

The Governor may, by executive order, provide for the issuance of special permits for the movement of persons, commodities, and equipment in the event of disaster or impending disaster from any cause to the extent that the civilian or livestock population, or any part thereof, will be deprived of necessary, and essential food, fuel, supplies, and equipment. The special permits herein provided shall be issued without fee and shall be in lieu of compensation for the unusual use of the highways and in lieu of those permits required by §§ 10-47A-65 and [32-22-38](#).

Source: SDCL § [33-15-9](#) as enacted by SL 1977, ch 272, § 1; SL 1989, ch 117, §§ 65, 76; SDCL § [33-15-9.1](#).

34-48A-11. Preparation of comprehensive plan--Coordination with federal plan.

The secretary is directed to prepare a comprehensive plan and program for the emergency management of this state. The plan and program shall be integrated into and coordinated with the emergency management plans of the federal government and of other states to the fullest possible extent, and shall coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state, which shall be integrated into and coordinated with the emergency management plan and program of this state to the fullest possible extent.

Source: SL 1949, ch 236, § 6; SL 1951, ch 285, § 6; SDC Supp 1960, § 41.01C05 (2) (b); SL 1977, ch 271, § 11; SL 2004, ch 17, § 187; SDCL § [33-15-10](#).

34-48A-12. Contents of plan--Supplies and equipment--Cooperation with federal government--Agreements with other states--Distribution and allocation--Training and information programs.

The secretary may with the approval of the Governor and in accordance with the plan and program for emergency management of this state:

- (1) Procure supplies and equipment;
- (2) Cooperate with the federal government, or any agency thereof, and to enter into agreements with any state of the United States or subdivision thereof or with any private agency therein for the procurement of food, fuel, supplies, and equipment necessary for civilian use;
- (3) Provide for the distribution and allocation thereof to the inhabitants of this state in a manner consistent with the needs and requirements of the civil population thereof; and
- (4) Institute training programs and public information programs, and take all other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual disaster, to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

Source: SL 1949, ch 236, § 6; SL 1951, ch 285, § 6; SDC Supp 1960, § 41.01C05 (2) (c); SL 1977, ch 271, § 12; SL 2004, ch 17, § 188; SDCL § [33-15-11](#).

34-48A-13. Municipalities to provide contact list of public officials to Division of Emergency Management--Contents.

No later than July first of each year, each municipal governing body as defined by subdivision 9-1-1(4), shall provide to the Department of Public Safety, Division of Emergency Management, information that will enable emergency agencies to reach the members of the municipal governing board and the mayor at any time, day or night. The information necessary shall include home, business, and other personal telephone numbers including any facsimile transmission machines and cellular or mobile telephone numbers; home, business, and other personal addresses; employer's name and telephone number; and home, business, and other personal email or internet addresses.

Source: SL 2002, ch 163, § 1; SL 2004, ch 17, § 189; SDCL § [33-15-11.1](#).

34-48A-14. Municipalities to provide contact list of certain public employees to Division of Emergency Management.

In addition to the information required in § [34-48A-13](#), each municipal governing body shall provide to the Department of Public Safety, Division of Emergency Management contact information for the municipal employees responsible for the following functions if the municipality employs a person in such a capacity:

- (1) City administrator or city manager;
- (2) Building inspection;
- (3) Engineering;
- (4) Electrical;
- (5) Fire;
- (6) Police and law enforcement;
- (7) Public works;
- (8) Streets and highways;
- (9) Sewer and waste water;
- (10) Water;
- (11) Telephone;
- (12) Utilities;
- (13) Emergency services or civil defense;
- (14) Coroner; and
- (15) 911 coordinator.

Source: SL 2002, ch 163, § 2; SL 2004, ch 17, § 190; SDCL § [33-15-11.2](#).

34-48A-15. County commission to provide contact list of public officers and employees to Division of Emergency Management--Contents.

No later than January thirty-first of each year, each county commission shall provide to the Department of Public Safety, Division of Emergency Management, information that will enable emergency agencies to reach the members of the county commission, the county auditor, the county sheriff, the county coroner, and the state's attorney at any time, day or night. The information necessary shall include home, business, and other personal telephone numbers including any facsimile transmission machines and cellular or mobile telephone numbers; home, business, and other personal addresses; employer's name and telephone number; and home, business, and other personal email or internet addresses.

The county commission shall also provide information on any employee of the county responsible for any of the functions listed in § [34-48A-14](#).

Source: SL 2002, ch 163, § 3; SL 2004, ch 17, § 191; SDCL § [33-15-11.3](#).

34-48A-16. Boards of supervisors to provide contact list of public officers and employees to Division of Emergency Management--Contents.

No later than March thirty-first of each year, each township board of supervisors shall provide to the Department of Public Safety, Division of Emergency Management, information that will enable emergency agencies to reach each member of the board of supervisors, the township constable, and the township clerk at any time, day or night. The information necessary shall include home, business, and other personal telephone numbers including any facsimile transmission machines and cellular or mobile telephone numbers; and home, business, and other personal addresses; employer's name and telephone number; home, business, and other personal email or internet addresses.

The board of township supervisors shall also provide information on any employee of the township responsible for any of the functions listed in § [34-48A-14](#).

Any township with fewer than ten registered voters in the township is exempted from the provisions of §§ [34-48A-13](#) to [34-48A-18](#), inclusive.

Source: SL 2002, ch 163, § 4; SL 2004, ch 17, § 192; SDCL § [33-15-11.4](#).

34-48A-17. Department of Public Safety to promulgate rules for emergency reporting procedures.

The Department of Public Safety shall promulgate rules, pursuant to chapter [1-26](#), to establish reporting procedures pursuant to §§ [34-48A-13](#) to [34-48A-18](#), inclusive, and to require any other information that is reasonably expected to provide the ability for any emergency agency in this state to contact local officials in the event of an emergency.

Source: SL 2002, ch 163, § 5; SL 2003, ch 272 (Ex. Ord. 03-1), § 110; SDCL § [33-15-11.5](#).

34-48A-18. Confidentiality of information.

The information provided pursuant to §§ [34-48A-13](#) to [34-48A-18](#), inclusive, shall remain confidential and may only be used for emergency purposes.

Source: SL 2002, ch 163, § 6; SDCL § [33-15-11.6](#).

34-48A-19. Mutual aid arrangements with other states and between political subdivisions.

The secretary with the approval of the Governor may enter into mutual aid arrangements with other states and coordinate mutual aid plans between political subdivisions of this state.

Source: SL 1949, ch 236, § 6; SL 1951, ch 285, § 6; SDC Supp 1960, § 41.01C05 (2) (e); SL 1977, ch 271, § 13; SL 2004, ch 17, § 193; SDCL § [33-15-13](#).

34-48A-20. Cooperation with federal agencies--Mobilization of forces--Warning signals--Utility systems--Public meetings--Evacuation.

The Governor and secretary may cooperate with the President and other appropriate federal officers and agencies and with the officers and agencies of other states and political subdivisions, in matters pertaining to the emergency management of the state and nation, including the direction or control of:

- (1) Mobilization of emergency management forces;

- (2) The use of warning signals for tests, exercise, or attacks;
- (3) The maintenance of utility systems;
- (4) Public meetings or gatherings; and
- (5) The evacuation and reception of the civilian population.

Source: SL 1951, ch 285, § 6; SDC Supp 1960, § 41.01C05 (2) (h); SL 1977, ch 271, § 14; SL 2004, ch 17, § 194; SDCL § [33-15-16](#).

34-48A-21. Assignment of workers to reinforce local organization--Call to duty--Place of duty.

The secretary may assign emergency management workers, to be controlled by the secretary, as may be necessary to reinforce emergency management organizations in stricken areas. Emergency management workers shall be called to duty by orders of the secretary and shall perform their functions in any part of the state or without the state in compliance with mutual aid agreements.

Source: SL 1949, ch 236, § 7; SL 1951, ch 285, § 7; SDC Supp 1960, § 41.01C06 (1); SL 1977, ch 271, § 16; SL 1992, ch 236, § 4; SL 2004, ch 17, § 195; SDCL § [33-15-17](#).

34-48A-22. Emergency management workers--Rights, duties, and compensation.

An emergency management worker while on duty, whether within or without the state, shall:

- (1) If the worker is an employee of the state, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to the worker's employment;
- (2) If the worker is an employee of a political subdivision of the state, and whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to the worker's employment;
- (3) If the worker is not an employee of the state or a political subdivision thereof, be compensated by the state at a rate set by rules promulgated pursuant to chapter [1-26](#) by the secretary, and have the same rights and immunities as are provided by law for the employees of this state; and
- (4) Be subject to the operational control of the authority in charge of emergency management activities in the area in which the worker is now serving.

Source: SL 1949, ch 236, § 7; SL 1951, ch 285, § 7; SDC Supp 1960, § 41.01C06 (2); SL 1977, ch 271, § 34; SL 1986, ch 272, § 16; SL 1992, ch 236, § 5; SL 2004, ch 17, § 196; SDCL § [33-15-18](#).

34-48A-23. Civil immunity of persons requested to assist with hazardous material incidents--Exceptions.

A person who provides assistance at the request of any emergency management agency in the event of an accident or other emergency situation involving the use, handling, transportation, transmission, or storage of hazardous material defined in subdivision 34-48A-1(6) is not liable in any civil action for damages as a result of his acts of commission or omission in rendering assistance. Nothing in this section grants immunity to a person causing damages as a result of his business activities or by his willful or wanton act of commission or omission in rendering assistance. Nothing in this section grants immunity to a person causing damages as a result of his business activities or by his willful or wanton act of commission or omission which takes place without the request of an emergency management agency.

Source: SL 1980, ch 235, § 1; SL 1987, ch 29, § 16; SL 1992, ch 236, § 6; SDCL § [33-15-18.1](#).

34-48A-24. Scope of immunity extends to employers and other responsible parties.

The immunity granted by § [34-48A-23](#) shall extend to the employer of the person rendering such assistance, and to any other person, employer, partnership, or corporation legally responsible for the acts or omissions of such individual.

Source: SL 1980, ch 235, § 2; SDCL § [33-15-18.2](#).

34-48A-25. Reimbursement of local governments for employees' expenses and damages.

The state shall reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of employees of such political subdivision while serving as emergency management workers, and for all payments for death, disability, or injury of such employees incurred

in the course of such duty, and for all losses of or damage to supplies and equipment of such political subdivision resulting from the operation of emergency management workers under state control.

Source: SL 1951, ch 285, § 7; SDC Supp 1960, § 41.01C06 (3); SL 1977, ch 271, § 35; SL 1992, ch 236, § 7; SDCL § [33-15-20](#).

34-48A-26. Duty to utilize already existing facilities.

The Governor, the secretary, and the executive officers or governing bodies of the political subdivisions of the state shall utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies. Such departments, offices, and agencies shall cooperate with and extend such services and facilities to the Governor, the secretary and to the emergency management organizations of the state upon request. A local political subdivision must exhaust its available resources prior to obtaining assistance from another political subdivision. The state must exhaust all available governmental resources prior to obtaining private resources.

Source: SL 1949, ch 236, § 12; SL 1951, ch 285, § 12; SDC Supp 1960, § 41.01C11; SL 1977, ch 271, § 15; SL 2004, ch 17, § 197; SDCL § [33-15-21](#).

34-48A-27. Secretary of public safety responsible for carrying out emergency management program.

The secretary of public safety, subject to the direction and control of the Governor, is responsible for carrying out the program for emergency management of this state. He shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperation with emergency management agencies and organizations of other states and of the federal government.

Source: SL 1949, ch 236, § 4; SL 1951, ch 285, § 4; SDC Supp 1960, § 41.01C04 (4); SL 1977, ch 271, § 8; SL 1992, ch 236, § 8; SL 2003, ch 272 (Ex. Ord. 03-1), § 111; SDCL § [33-15-22](#).

34-48A-28. Special emergency and disaster special revenue fund.

There is hereby created a fund to be known as the "special emergency and disaster special revenue fund." Expenditures may be made from the fund to meet special emergency requirements of the Division of Emergency Management, not included in the general and special appropriations which provide for the ordinary operation and maintenance of functions of this department, and for carrying into effect the objectives and provisions of this chapter. No part of this fund may revert to the general fund. Withdrawal from this fund shall be made on warrants drawn by the state auditor on vouchers signed by the secretary of public safety.

Source: SL 1955, ch 236, § 4; SL 1957, ch 418, § 2; SDC Supp 1960, § 41.01C15; SL 1977, ch 271, § 24; SL 1992, ch 236, § 9; SL 2003, ch 272 (Ex. Ord. 03-1), § 112; SDCL § [33-15-23](#).

34-48A-29. Credits to fund--Expenditures from fund.

All collections, donations, bequests, or funds, received by way of gift, grant, or loan, for the purposes of emergency management shall be credited to the fund created by § [34-48A-28](#) and shall be expended therefrom in accordance with that section.

Source: SL 1955, ch 236, § 4; SDC Supp 1960, § 41.01C15; SL 1977, ch 271, § 25; SL 1993, ch 242, § 2; SDCL § [33-15-24](#).

34-48A-30. Minimum local effort required for state aid.

In order to qualify for state financial assistance to meet the costs of an emergency or disaster declared by the Governor, a county shall meet the minimum standard of local effort as specified in subdivision 34-48A-1(7).

Source: SL 1969, ch 247, § 2; SDCL Supp, § [33-15-24.2](#); SL 1977, ch 271, § 26; SL 1987, ch 29, § 17; SDCL § [33-15-24.1](#).

34-48A-31. County duty to assist local government subdivisions to meet local effort eligibility requirement.

In order to meet the total local effort eligibility requirement for state financial assistance, counties shall assist all other local government subdivisions within their political jurisdiction with all available emergency and disaster funds.

Source: SL 1969, ch 247, § 2; SL 1977, ch 271, § 27; SDCL § [33-15-24.3](#).

[34-48A-32](#). Amount of state financial assistance--Additional assistance authorized.

In those counties in which the Governor has officially declared an emergency or disaster and in which local effort requirements have been met, the state will provide financial assistance for such additional operational costs needed for the particular emergency or disaster situation up to a maximum of sixty percent of additional local effort expenditures; provided, however, that the Governor upon finding it necessary for the preservation of life and property may authorize additional state financial assistance.

Source: SL 1969, ch 247, § 3; SL 1977, ch 271, § 28; SDCL § [33-15-24.4](#).

[34-48A-33](#). State financial assistance paid from special emergency and disaster special revenue fund--Vouchers.

The state financial assistance provided by § [34-48A-32](#) may be paid and advanced from the funds appropriated to the special emergency and disaster special revenue fund upon vouchers executed by the county treasurer and approved by the secretary.

Source: SL 1969, ch 247, § 4; SL 1977, ch 271, § 29; SL 2004, ch 17, § 198; SDCL § [33-15-24.5](#).

[34-48A-34](#). Estimates of costs and certification of county needs--Excess assistance payments revert to fund.

The county commissioners of such counties shall prepare detailed estimates of the additional operational costs which they anticipate will be needed to meet the costs of the emergency or disaster within the limitations of §§ [34-48A-30](#) to [34-48A-35](#), inclusive, and shall from time to time certify the needs of the county to the county treasurer who shall submit the necessary vouchers for the advances and payment provided by § [34-48A-33](#). Any advance which is in excess of the actual needs of the county and actual expenditures thereby for allowable costs shall be returned to the state and reverted to the emergency and disaster special revenue fund.

Source: SL 1969, ch 247, § 4; SL 1977, ch 271, § 30; SL 1980, ch 26, § 25; SL 1992, ch 236, § 10; SDCL § [33-15-24.6](#).

[34-48A-35](#). Scope of rules.

The Department of Public Safety may promulgate rules pursuant to chapter [1-26](#) concerning:

- (1) The establishment of minimum standards of local effort to obtain financial assistance under this chapter and the procedures for obtaining such assistance;
- (2) The establishment of compensation levels for emergency management workers under subdivision 34-48A-22(3); and
- (3) The standards and procedures for providing benefits under the Disaster Relief Act of 1974, as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988.

Source: SL 1969, ch 247, § 5; SL 1977, ch 271, § 17; SL 1980, ch 26, § 26; SL 1986, ch 272, § 18; SL 1992, ch 236, § 11; SL 2003, ch 272 (Ex. Ord. 03-1), § 113; SDCL § [33-15-24.8](#).

[34-48A-36](#). Authority to accept federal moneys, services, or equipment--Conditions.

If the federal government, or any agency or officer thereof, or any person, firm, or corporation offers to the state or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for emergency management, the Governor or the political subdivision, acting through the Governor, or such political subdivision, acting through its executive officer or governing body, may accept such offer. Upon acceptance the Governor or executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

Source: SL 1949, ch 236, § 11; SL 1951, ch 285, § 11; SDC Supp 1960, § 41.01C10 (2); SL 1977, ch 271, § 6; SL 1992, ch 236, § 12; SDCL § [33-15-25](#).

34-48A-37. Cooperation in implementation of federal Disaster Relief Act.

The Governor may cooperate with or enter into agreements with agencies of the federal government to the extent necessary or appropriate to implement the provisions of the Disaster Relief Act of 1974, as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and to provide, under rules promulgated pursuant to chapter [1-26](#) by the Department of Public Safety, such benefits to the residents of the state as may be available to them under that act.

Source: SL 1977, ch 271, § 7; SL 1986, ch 272, § 19; SL 1992, ch 236, § 13; SL 2003, ch 272 (Ex. Ord. 03-1), § 114; SDCL § [33-15-25.1](#).

34-48A-38. Audit of project applications.

The auditor general shall conduct required audits of disaster project applications pursuant to the Federal Register, Volume 40, Number 103, part III, General Section.

Source: SL 1977, ch 271, § 41; SDCL § [33-15-25.2](#).

34-48A-39. County emergency management organizations.

Each organized county of this state shall establish a local organization and develop an emergency plan for emergency management in accordance with the state emergency management plan and program.

Source: SL 1949, ch 236, § 8; SL 1951, ch 285, § 8; SL 1953, ch 288, § 5; SDC Supp 1960, § 41.01C07 (1); SL 1977, ch 271, § 18; SL 1992, ch 236, § 14; SDCL § [33-15-26](#).

34-48A-40. Director of local organization--Duties and powers.

Each local organization for emergency management shall have a director who shall be appointed by the executive officer or governing body of the county, and who shall have direct responsibility for the development and implementation of emergency and disaster plans, organization, administration, and operation of the local organization for emergency management, subject to the direction and control of the executive officer or governing body.

Source: SL 1949, ch 236, § 8; SL 1951, ch 285, § 8; SL 1953, ch 288, § 5; SDC Supp 1960, § 41.01C07 (1); SL 1977, ch 271, § 19; SL 1992, ch 236, § 15; SDCL § [33-15-27](#).

34-48A-41. Contracting power of local subdivision--Obedience to mandatory constitutional requirements.

Each political subdivision in which any disaster or emergency as described in subdivision 34-48A-1(2) occurs, may enter into contracts and incur obligations necessary to combat the disaster or emergency, to protect the health and safety of persons and property, and to provide emergency assistance to the victims of such disaster or emergency without regard to time-consuming procedure and formalities prescribed by law. However, the political subdivision shall comply with mandatory constitutional requirements, pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds.

Source: SL 1949, ch 236, § 8; SL 1951, ch 285, § 8; SDC Supp 1960, § 41.01C07 (2); SL 1977, ch 271, § 20; SL 1992, ch 236, § 16; SDCL § [33-15-29](#).

34-48A-42. County emergency management revenue fund.

Each county shall establish an emergency management fund in the office of the county treasurer, which shall be a special revenue fund. Any reimbursement or matching funds for emergency management purposes from any source whatever, shall be deposited in the special emergency and disaster fund and used for emergency management purposes. Withdrawals from this fund shall be made on warrants drawn by the county auditor in the manner provided by law for the ordinary expenditures of such political subdivision.

Source: SDC Supp 1960, § 41.01C10 (3) as added by SL 1964, ch 117; SL 1977, ch 271, § 31; SL 1992, ch 236, § 17; SDCL § [33-15-31](#).

34-48A-43. Matching federal moneys--Deferring local obligation.

If an emergency management special revenue fund has been established, in accordance with this chapter, and the moneys in the fund are insufficient to pay the full amount of a proposed purchase under a federal matching funds project, the county or district may request an advance of federal funds to be deposited in the special revenue fund to permit the payment of the full amount of the obligation when due.

Source: SDC Supp 1960, § 41.01C10 (4) as added by SL 1964, ch 117; SL 1977, ch 271, § 33; SL 1992, ch 236, § 18; SDCL § [33-15-32](#).

34-48A-44. Local emergency management districts--Appropriations.

In addition to the other provisions of this chapter, any county may join with other counties to form emergency management districts. Each county may appropriate money out of the general fund to pay salaries and expenses of such emergency management district.

Source: SL 1959, ch 287; SDC Supp 1960, § 41.01C07 (3); SL 1977, ch 271, § 21; SL 1992, ch 236, § 19; SDCL § [33-15-33](#).

34-48A-45. Mutual aid arrangements of local organizations.

The director of a local emergency management organization may develop mutual aid arrangements consistent with state plans and programs. The provisions of such arrangements shall be implemented in the event of emergency or disaster.

Source: SL 1949, ch 236, § 9; SL 1951, ch 285, § 9; SDC Supp 1960, § 41.01C08 (1); SL 1977, ch 271, § 22; SL 1992, ch 236, § 20; SDCL § [33-15-34](#).

34-48A-46. Interstate mutual aid arrangements.

The director of each local organization for emergency management may, subject to the approval of the Governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted.

Source: SL 1949, ch 236, § 9; SL 1951, ch 285, § 9; SDC Supp 1960, § 41.01C08 (2); SL 1977, ch 271, § 23; SL 1992, ch 236, § 21; SDCL § [33-15-35](#).

34-48A-47. Powers of emergency management workers outside local jurisdiction.

Any emergency management worker performing emergency management at any place in this state pursuant to agreements, compacts, or arrangements for mutual aid and assistance, to which the state or political subdivision thereof is a party, shall possess the same powers, duties, immunities, and privileges he would ordinarily possess if performing his duties in the state, province, or political subdivision thereof in which normally employed or rendering services.

Source: SL 1953, ch 288, § 6; SDC Supp 1960, § 41.01C09 (4); SL 1977, ch 271, § 37; SL 1992, ch 236, § 22; SL 1993, ch 242, § 2; SDCL § [33-15-36](#).

34-48A-48. District special emergency and disaster fund--Sources--Withdrawals.

Each district organization for emergency management may establish a special emergency and disaster fund in the office of the county treasurer of the county where the district office is located, which shall be a special revenue fund. Any reimbursement or matching funds from any source whatever, shall be deposited in the fund and used for emergency management purposes. Withdrawals from the fund shall be made on warrants drawn by the county auditor of the county on vouchers signed by the district organization director and one commissioner from the advisory board of the district.

Source: SL 1959, ch 287; SDC Supp 1960, § 41.01C07 (3); SL 1977, ch 271, § 32; SL 1992, ch 236, § 23; SDCL § [33-15-37](#).

34-48A-49. Emergency management as governmental function--Exceptions--Worker's compensation.

All functions under this chapter and all other activities relating to emergency management are governmental functions. Neither the state nor any political subdivision thereof, nor other agencies, nor, except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker complying with or reasonably attempting to comply with this chapter, or any order, rule promulgated pursuant to the provisions of this chapter, or pursuant to any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of this state, is liable for the death of or injury to persons, or damage to property, as a result of such activity. The provisions of this section do not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the worker's compensation law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

Source: SL 1949, ch 236, § 10; SL 1951, ch 285, § 10; SL 1953, ch 288, § 6; SDC Supp 1960, § 41.01C09 (1); SL 1977, ch 271, § 38; SL 1992, ch 236, § 24; SDCL § [33-15-38](#).

34-48A-50. Exemption from licensing requirements during emergency.

Any requirement for a license to practice any professional, mechanical, or other skill does not apply to any authorized emergency management worker who shall, in the course of performing his duties as such, practice such professional, mechanical, or other skill during a disaster or emergency.

Source: SL 1953, ch 288, § 6; SDC Supp 1960, § 41.01C09 (2); SL 1977, ch 271, § 39; SL 1992, ch 236, § 25; SDCL § [33-15-39](#).

34-48A-51. Civil defense shelters on private property--Immunity from liability.

Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice attack or other disaster or emergency as defined within this chapter shall, together with his successors in interest, if any, not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises for loss of, or damage to, the property of such person.

Source: SL 1953, ch 288, § 6; SDC Supp 1960, § 41.01C09 (5); SL 1992, ch 236, § 26; SDCL § [33-15-41](#).

34-48A-52. Political activity by emergency management organization prohibited.

No organization for emergency management established under the authority of this chapter may participate in any form of political activity, nor may it be employed directly or indirectly for political purposes.

Source: SL 1949, ch 236, § 13; SL 1951, ch 285, § 13; SDC Supp 1960, § 41.01C12; SL 1977, ch 271, § 40; SL 1992, ch 236, § 27; SDCL § [33-15-44](#).

34-48A-53. Uniform Emergency Management Assistance Compact.

The Uniform Emergency Management Assistance Compact is hereby enacted into law and entered into by the State of South Dakota with all other states legally joining the compact, in the form substantially as follows:

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 U.S. territorial possessions.

The purpose of this compact is to provide the 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, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National

Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

ARTICLE II--GENERAL IMPLEMENTATION

Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies of the capability of delivering resources to areas where emergencies exist. The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

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

ARTICLE III--PARTY STATE RESPONSIBILITIES

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

- i. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack.
- ii. Review party states individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.
- iii. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.
- iv. Assist in warning communities adjacent to or crossing the state boundaries.
- v. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.
- vi. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.
- vii. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

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

- i. A description of the emergency service function for which assistance is needed, such as fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.
- ii. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.
- iii. The specific place and time for staging of the assisting party's response and a point of contact at that location.

C. 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 and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

ARTICLE VI--LIABILITY

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

ARTICLE VII--SUPPLEMENTARY AGREEMENTS

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII--COMPENSATION

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

ARTICLE IX--REIMBURSEMENT

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses may not be reimbursable under this provision.

ARTICLE X--EVACUATION

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the

forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

ARTICLE XI--IMPLEMENTATION

A. This compact shall become operative immediately upon its enactment into law by any two states; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. 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.

Source: SL 1996, ch 210; SDCL § [33-15-48](#).

[34-48A-54](#). State and Province Emergency Management Assistance Memorandum of Understanding.

The State and Province Emergency Management Assistance Memorandum of Understanding is hereby enacted into law and entered into by the State of South Dakota with all other states legally joining the agreement, in the form substantially as follows:

ARTICLE I -- PURPOSE AND AUTHORITIES

The State and Province Emergency Management Assistance Memorandum of Understanding, hereinafter referred to as the compact, is made and entered into by and among such of the jurisdictions as shall enact or adopt this compact, hereinafter referred to as participating jurisdictions. For the purposes of this compact, the term, jurisdictions, may include any or all of the states of Illinois, Indiana, Ohio, Michigan, Minnesota, Montana, North Dakota, Pennsylvania, New York, and Wisconsin, and the Canadian Provinces of Alberta, Manitoba, Ontario, and Saskatchewan, and such other states and provinces as may hereafter become a party to this compact. The term, states, means the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all territorial possessions of the United States. The term, province, means the ten political units of government within Canada.

The purpose of this compact is to provide for the possibility of mutual assistance among the participating jurisdictions in managing any emergency or disaster when the affected jurisdiction or jurisdictions ask for assistance, whether arising from natural disaster, technological hazard, manmade disaster, or civil emergency aspects of resource shortages. This compact also provides for the process of planning mechanisms among the agencies responsible and for mutual cooperation, including civil emergency preparedness exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by participating jurisdictions or subdivisions of participating jurisdictions during emergencies, with such actions occurring outside emergency periods.

ARTICLE II -- GENERAL IMPLEMENTATION

Each participating jurisdiction entering into this compact recognizes that many emergencies may exceed the capabilities of a participating jurisdiction and that inter-governmental cooperation is essential in such circumstances. Each participating jurisdiction further recognizes that there will be emergencies that may require

immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency because few, if any, individual jurisdictions have all the resources they need in all types of emergencies or the capability of delivering resources to areas where emergencies exist. On behalf of the participating jurisdictions in the compact, the legally designated official who is assigned responsibility for emergency management is responsible for formulation of the appropriate inter-jurisdictional mutual aid plans and procedures necessary to implement this compact, and for recommendations to the participating jurisdiction concerned with respect to the amendment of any statutes, regulations, or ordinances required for that purpose.

ARTICLE III -- PARTICIPATING JURISDICTION RESPONSIBILITIES

(a) **FORMULATE PLANS AND PROGRAMS** -- It is the responsibility of each participating jurisdiction to formulate procedural plans and programs for inter-jurisdictional cooperation in the performance of the responsibilities listed in this section. In formulating and implementing such plans and programs the participating jurisdictions, to the extent practical, may:

- (1) Share and review individual jurisdiction hazards analyses that are available and determine all those potential emergencies the participating jurisdictions might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster or emergency aspects of resource shortages;
- (2) Share emergency operations plans, procedures, and protocols established by each of the participating jurisdictions before entering into this compact;
- (3) Share policies and procedures for resource mobilization, tracking, demobilization, and reimbursement;
- (4) Consider joint planning, training, and exercises;
- (5) Assist with alerts, notifications, and warnings for communities adjacent to or crossing participating jurisdiction boundaries;
- (6) Consider procedures to facilitate the movement of evacuees, refugees, civil emergency personnel, equipment, or other resources into or across boundaries, or to a designated staging area when it is agreed that such movement or staging will facilitate civil emergency operations by the affected or participating jurisdictions; and
- (7) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that impede the implementation of responsibilities described in this section.

(b) **REQUEST ASSISTANCE** -- The authorized representative of a participating jurisdiction may request assistance of another participating jurisdiction by contacting the authorized representative of that jurisdiction. These provisions only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request must be confirmed in writing within fifteen days of the verbal request. Requests must provide the following information:

- (1) A description of the emergency service function for which assistance is needed and of the mission or missions, including fire services, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;
- (2) The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed; and
- (3) The specific place and time for staging of the assisting participating jurisdiction's response and a point of contact at the location.

(c) **CONSULTATION AMONG PARTICIPATING JURISDICTION OFFICIALS** -- There shall be periodic consultation among the authorized representatives who have assigned emergency management responsibilities.

ARTICLE IV -- LIMITATION

It is recognized that any participating jurisdiction that agrees to render mutual aid or conduct exercises and training for mutual aid will respond as soon as possible. It is also recognized that the participating jurisdiction rendering aid may withhold or recall resources to provide reasonable protection for itself, at its discretion. To the extent authorized by law, each participating jurisdiction will afford to the personnel of the emergency contingent of any other participating jurisdiction while operating within its jurisdiction limits under the terms and conditions of this agreement and under the operational control of an officer of the requesting participating jurisdiction the same treatment as is afforded similar or like human resources of the participating jurisdiction in which they are performing emergency services. Staff comprising the emergency contingent continue under the command and control of their regular leaders but the organizational units come under the operational control of the emergency services authorities of the participating jurisdiction receiving assistance. These conditions may be activated, as needed, by the participating jurisdiction that is to receive assistance or upon commencement of exercises or training for mutual aid and continue as long as the exercises or training for mutual aid are in progress, the emergency or disaster remains in effect, or loaned resources remain in the receiving participating

jurisdictions, whichever is longer. The receiving participating jurisdiction is responsible for informing the assisting participating jurisdiction when services will no longer be required.

ARTICLE V -- LICENSES AND PERMITS

Whenever a person holds a license, certificate, or other permit issued by any participating jurisdiction evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving participating jurisdiction, such person is deemed to be licensed, certified, or permitted by the jurisdiction requesting assistance to render aid involving such skill to meet an emergency or disaster, subject to such limitations and conditions as the requesting jurisdiction prescribes by executive order or otherwise.

ARTICLE VI -- LIABILITY

Any person or entity of a participating jurisdiction rendering aid in another jurisdiction pursuant to this compact is considered an agent of the requesting jurisdiction for tort liability and immunity purposes. Any person or entity rendering aid in another jurisdiction pursuant to this compact is not liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article does not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII -- SUPPLEMENTARY AGREEMENTS

Because it is probable that the pattern and detail of the compact for mutual aid among two or more participating jurisdictions may differ from that among the participating jurisdictions that are party to this compact, this compact contains elements of a broad base common to all participating jurisdictions, and nothing in this compact precludes any participating jurisdiction from entering into supplementary agreements with another jurisdiction or affects any other agreements already in force among participating jurisdictions. Supplementary agreements may include provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, public utility, reconnaissance, welfare, transportation and communications personnel, equipment, and supplies.

ARTICLE VIII -- WORKERS' COMPENSATION AND DEATH BENEFITS

Each participating jurisdiction shall provide, in accordance with its own laws, for the payment of workers' compensation and death benefits to injured members of the emergency contingent of that participating jurisdiction and to representatives of deceased members of those forces if the members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

ARTICLE IX -- REIMBURSEMENT

Any participating jurisdiction rendering aid in another jurisdiction pursuant to this compact shall, if requested, be reimbursed by the participating jurisdiction receiving such aid for any loss or damage to, or expense incurred in, the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with those requests. An aiding participating jurisdiction may assume in whole or in part any such loss, damage, expense, or other cost or may loan such equipment or donate such services to the receiving participating jurisdiction without charge or cost. Any two or more participating jurisdictions may enter into supplementary agreements establishing a different allocation of costs among those jurisdictions. Expenses under Article VIII are not reimbursable under this section.

ARTICLE X -- IMPLEMENTATION

(a) This compact is effective upon its execution or adoption by any one state and one province, and is effective as to any other jurisdiction upon its execution or adoption thereby: subject to approval or authorization by the United States Congress, if required, and subject to enactment of provincial or state legislation that may be required for the effectiveness of the memorandum of understanding.

(b) Additional jurisdictions may participate in this compact upon execution or adoption of the compact.

(c) Any participating jurisdiction may withdraw from this compact, but the withdrawal does not take effect until thirty days after the governor or premier of the withdrawing jurisdiction has given notice in writing of such withdrawal to the governors or premiers of all other participating jurisdictions. The action does not relieve the withdrawing jurisdiction from obligations assumed under this compact prior to the effective date of withdrawal.

(d) Duly authenticated copies of this compact in the French and English languages and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the participating jurisdictions.

ARTICLE XI -- SEVERABILITY

This compact is construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional or the applicability of the compact to any person or circumstances is held invalid, the validity of the remainder of this compact and the applicability of the compact to other persons and circumstances are not affected.

ARTICLE XII -- CONSISTENCY OF LANGUAGE

The validity of the arrangements and agreements consented to in this compact may not be affected by any insubstantial difference in form or language as may be adopted by the various states and provinces.

Source: SL 2018, ch 210, § 1.

34-48A-55. Search and rescue services--Costs--Limitation.

The state, a fire department, a law enforcement agency, or a county-recognized entity that provides public search and rescue services may collect the actual costs of the search and rescue services provided on school or public lands or in a national park, national forest, or state park from any person for whose benefit the services are conducted, not to exceed one thousand dollars.

Source: SL 2020, ch 150, § 1.
