

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

435J0511

## HOUSE BILL NO. 1287

Introduced by: Representatives Begalka, Buckingham, Hanson, Hargens, Haverly, Klautdt, Kraus, McCaulley, Olson (Mel), Olson (Ryan), and Peterson (Jim) and Senators Napoli, Duenwald, Ham-Burr, Kleven, Kloucek, Moore, and Nachtigal

1 FOR AN ACT ENTITLED, An Act to revise the authority of the Governor in time of disaster,  
2 terrorist attack, or emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 33-15-8 be amended to read as follows:

5 33-15-8. In the event of disaster, war, act of terrorism as defined in state law, or emergency  
6 that is beyond local government capability, the Governor:

- 7 (1) May assume direct operational control over all or any part of the emergency  
8 management functions within the state which may affect all or any portion of the  
9 state;
- 10 (2) May declare an emergency or disaster to exist in the stricken area and employ  
11 emergency management to assist local authorities ~~to affect~~ in relief and restoration;
- 12 (3) May call upon and use any facilities, equipment, other nonmedical supplies, and  
13 resources available from any source, other than personal or private funds, in order to  
14 carry out the purposes of this chapter by ~~contributing to the expense incurred in~~



1 providing relief in such amounts as ~~he shall determine~~ the Governor determines.  
2 However, nothing in this subdivision authorizes the taking or use of private property  
3 against the will of the property owner;

4 (4) May suspend the provisions of any rules of any state agency, if strict compliance with  
5 the provisions of the rule would in any way prevent, hinder, or delay necessary action  
6 in managing a disaster, war, act of terrorism, or emergency, including fire, flood,  
7 earthquake, severe high and low temperatures, tornado storm, wave action, oil spill,  
8 or other water or air contamination, epidemic, blight, drought, infestation, explosion,  
9 riot, or hostile military or paramilitary action, which is determined by the Governor  
10 to require state or state and federal assistance or actions to supplement the recovery  
11 efforts of local governments in alleviating the damage, loss, hardship, or suffering  
12 caused thereby;

13 (5) May control the ingress and egress in a designated disaster or emergency area, the  
14 movement of vehicles upon highways within the area, the movement of persons  
15 within the area, and the occupancy of premises within the area;

16 (6) May procure, acquire, store, distribute, and dispense any pharmaceutical agents or  
17 medical supplies located within the state as may be reasonable and necessary to  
18 respond to the disaster, emergency, or act of terrorism;

19 (7) May appoint and prescribe the duties of such out-of-state health care providers as  
20 may be reasonable and necessary to respond to the disaster, emergency, or act of  
21 terrorism;

22 (8) May provide for the examination and safe disposal of any dead body as may be  
23 reasonable and necessary to respond to the disaster, emergency, or act of terrorism;  
24 and

1       (9)    May provide for the protection, construction or reconstruction, repair, and  
2                maintenance of public or private transportation facilities.

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