

AN ACT

ENTITLED, An Act to provide for statewide mutual aid requests among certain public agencies.

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

Section 1. Terms used in this Act mean:

- (1) "Assistance," the provision of personnel, equipment, expertise, supplies, or other products or services excluding financial assistance from the state;
- (2) "Covered entity," any other private or nonprofit entity that provides emergency functions as included in subdivision 33-15-1(4);
- (3) "Deploying public agency," the public agency receiving a request for assistance or providing assistance;
- (4) "Public agency," the state and any agency thereof; the United States and any agency thereof; any county, municipality, township, or other political subdivision of the state; any state tribal government.

Section 2. In addition to the provisions of chapter 1-24 and chapter 33-15, any public agency or covered entity may request assistance from any other public agency or covered entity in order to preserve and protect the public health, safety, and welfare. The requesting public agency and the deploying public agency shall utilize the Incident Command System of the National Incident Management System.

Section 3. Any public agency or covered entity requesting assistance under this Act may do so through an oral or written request to a representative of the deploying public agency or covered entity to which the request is directed who is authorized to control the items of assistance being requested.

Section 4. Any deploying public agency or covered entity receiving a request for assistance under this Act may provide the requested assistance.

Section 5. Any deploying public agency or covered entity that provides assistance pursuant to

a request under this Act may withdraw that assistance at any time.

Section 6. All personnel deployed by the deploying public agency or covered entity retain all authority of the deploying public agency or covered entity and are entitled to act with all authority available to similarly situated personnel of the public agency or covered entity receiving assistance.

Section 7. Any deploying public agency or covered entity involved in the incident may request reimbursement for its actual expenses. If reimbursement is requested, the deploying public agencies or covered entities involved shall agree upon the actual, reasonable expenses involved.

Section 8. Any deploying public agency or covered entity providing assistance in response to a request under this Act shall maintain ownership of and liability for all assistance provided, including:

- (1) Worker's compensation coverage for personnel employed, authorized, or designated to act by or on behalf of the deploying public agency or covered entity;
- (2) Insurance coverage for employees, agents, or volunteers of the deploying public agency or covered entity;
- (3) Property; and
- (4) Personnel benefits.

Section 9. No person or public agency or covered entity may be held civilly liable for actions in requesting or providing assistance under this Act except for acts of willful misconduct or gross negligence. Nothing in this Act constitutes a waiver or abrogation of sovereign immunity or any statutory immunity.

Section 10. Nothing in this Act limits or supercedes the provisions of chapter 1-24 and chapter 33-15. The provisions of this Act may be used contemporaneously with any agreement under chapters 1-24 or 33-15.

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I certify that the attached Act
originated in the

SENATE as Bill No. 109

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 109

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State