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H. 4/13/97 Do Pass

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Calendar

SENATE FILE **358**
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 206)

Passed Senate, Date ^(p. 685) 3/18/97 Passed House, Date 4/22/97 (p. 1403)
Vote: Ayes 47 Nays 0 Vote: Ayes 99 Nays 0
Approved May 7, 1997

A BILL FOR

1 An Act relating to the adoption of the interstate emergency
2 management assistance compact.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 358

1 Section 1. Section 29C.21, Code 1997, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 29C.21 EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

5 The interstate emergency management assistance compact is
6 entered into with all other states which enter into the
7 compact in substantially the following form:

8 ARTICLE I -- PURPOSE AND AUTHORITIES

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

15 The purpose of this compact is to provide for mutual
16 assistance between the states entering into this compact in
17 managing any emergency or disaster that is duly declared by
18 the governor of the affected state, whether arising from
19 natural disaster, technological hazard, man-made disaster,
20 civil emergency aspects of resource shortages, community
21 disorders, insurgency, or enemy attack.

22 This compact shall also provide for mutual cooperation in
23 emergency-related exercises, testing, or other training
24 activities using equipment and personnel simulating
25 performance of any aspect of the giving and receiving of aid
26 by party states or subdivisions of party states during
27 emergencies, such actions occurring outside actual declared
28 emergency periods. Mutual assistance in this compact may
29 include the use of the states' national guard forces, either
30 in accordance with the national guard mutual assistance
31 compact or by mutual agreement between states.

32 ARTICLE II -- GENERAL IMPLEMENTATION

33 Each party state entering into this compact recognizes many
34 emergencies transcend political jurisdictional boundaries and
35 that intergovernmental coordination is essential in managing

1 these and other emergencies under this compact. Each state
2 further recognizes that there will be emergencies which
3 require immediate access and present procedures to apply
4 outside resources to make a prompt and effective response to
5 such an emergency. This is because few, if any, individual
6 states have all the resources they may need in all types of
7 emergencies or the capability of delivering resources to areas
8 where emergencies exist.

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

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

22 ARTICLE III -- PARTY STATE RESPONSIBILITIES

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

28 a. Review individual state hazards analyses and, to the
29 extent reasonably possible, determine all those potential
30 emergencies the party states might jointly suffer, whether due
31 to natural disaster, technological hazard, man-made disaster,
32 emergency aspects of resource shortages, civil disorders,
33 insurgency, or enemy attack.

34 b. Review party states' individual emergency plans and
35 develop a plan which will determine the mechanism for the

1 interstate management and provision of assistance concerning
2 any potential emergency.

3 c. Develop interstate procedures to fill any identified
4 gaps and to resolve any identified inconsistencies or overlaps
5 in existing or developed plans.

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

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

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

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

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

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

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

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

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

10 ARTICLE IV -- LIMITATIONS

11 Any party state requested to render mutual aid or conduct
12 exercises and training for mutual aid shall take such action
13 as is necessary to provide and make available the resources
14 covered by this compact in accordance with the terms hereof,
15 provided that it is understood that the state rendering aid
16 may withhold resources to the extent necessary to provide
17 reasonable protection for such state. Each party state shall
18 afford to the emergency forces of any party state, while
19 operating within its state limits under the terms and
20 conditions of this compact, the same powers, except that of
21 arrest unless specifically authorized by the receiving state,
22 duties, rights, and privileges as are afforded forces of the
23 state in which they are performing emergency services.
24 Emergency forces will continue under the command and control
25 of their regular leaders, but the organizational units will
26 come under the operational control of the emergency services
27 authorities of the state receiving assistance. These
28 conditions may be activated, as needed, only subsequent to a
29 declaration of a state of emergency or disaster by the
30 governor of the party state that is to receive assistance or
31 commencement of exercises or training for mutual aid and shall
32 continue so long as the exercises or training for mutual aid
33 are in progress, the state of emergency or disaster remains in
34 effect, or loaned resources remain in the receiving state,
35 whichever is longer.

1 ARTICLE V -- LICENSES AND PERMITS

2 Whenever any person holds a license, certificate, or other
3 permit issued by any state party to the compact evidencing the
4 meeting of qualifications for professional, mechanical, or
5 other skills, and when such assistance is requested by the
6 receiving party state, such person shall be deemed licensed,
7 certified, or permitted by the state requesting assistance to
8 render aid involving such skill to meet a declared emergency
9 or disaster, subject to such limitations and conditions as the
10 governor of the requesting state may prescribe by executive
11 order or otherwise.

12 ARTICLE VI -- LIABILITY

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

23 ARTICLE VII -- SUPPLEMENTARY AGREEMENTS

24 Inasmuch as it is probable that the pattern and detail of
25 the machinery for mutual aid among two or more states may
26 differ from that among the states that are party hereto, this
27 instrument contains elements of a broad base common to all
28 states, and nothing herein contained shall preclude any state
29 from entering into supplementary agreements with another state
30 or affect any other agreements already in force between
31 states. Supplementary agreements may comprehend, but shall
32 not be limited to, provisions for evacuation and reception of
33 injured and other persons and the exchange of medical, fire,
34 police, public utility, reconnaissance, welfare,
35 transportation and communications personnel, and equipment and

1 supplies.

2 ARTICLE VIII -- COMPENSATION

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

10 ARTICLE IX -- REIMBURSEMENT

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

24 ARTICLE X -- EVACUATION

25 Plans for the orderly evacuation and interstate reception
26 of portions of the civilian population as the result of any
27 emergency or disaster of sufficient proportions to so warrant,
28 shall be worked out and maintained between the party states
29 and the emergency management or services directors of the
30 various jurisdictions where any type of incident requiring
31 evacuations might occur. Such plans shall be put into effect
32 by request of the state from which evacuees come and shall
33 include the manner of transporting such evacuees, the number
34 of evacuees to be received in different areas, the manner in
35 which food, clothing, housing, and medical care will be

1 provided, the registration of the evacuees, the providing of
2 facilities for the notification of relatives or friends, and
3 the forwarding of such evacuees to other areas or the bringing
4 in of additional materials, supplies, and all other relevant
5 factors. Such plans shall provide that the party state
6 receiving evacuees and the party state from which the evacuees
7 come shall mutually agree as to reimbursement of out-of-pocket
8 expenses incurred in receiving and caring for such evacuees,
9 for expenditures for transportation, food, clothing, medicines
10 and medical care, and like items. Such expenditures shall be
11 reimbursed as agreed by the party state from which the
12 evacuees come. After the termination of the emergency or
13 disaster, the party state from which the evacuees come shall
14 assume the responsibility for the ultimate support of
15 repatriation of such evacuees.

16 ARTICLE XI -- IMPLEMENTATION

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

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

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

34 ARTICLE XII -- VALIDITY

35 This Act shall be construed to effectuate the purposes

1 stated in Article I hereof. If any provision of this compact
2 is declared unconstitutional, or the applicability thereof to
3 any person or circumstances is held invalid, the
4 constitutionality of the remainder of this Act and the
5 applicability thereof to other persons and circumstances shall
6 not be affected thereby.

7 ARTICLE XIII -- ADDITIONAL PROVISIONS

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

16 EXPLANATION

17 This bill provides for the emergency management assistance
18 compact which is to replace the interstate civil defense and
19 disaster compact in Code section 29C.21. Specifically, this
20 compact provides the following:

21 1. That the purpose of the compact is to provide for
22 mutual assistance between the states entering into the compact
23 in managing any emergency or disaster that is duly declared by
24 the governor of the affected state. The compact also provides
25 for mutual cooperation in emergency-related exercises,
26 testing, or other training activities.

27 2. That on behalf of the governor of each party state, a
28 designated official is responsible for the formulation of the
29 appropriate interstate mutual aid plans and procedures
30 necessary to implement the compact.

31 3. That in formulating the plan to implement the compact,
32 the state shall review the individual state hazards analyses
33 and determine and identify potential emergencies the party
34 states might jointly suffer, review the individual emergency
35 plans and develop a plan which will determine the mechanism

1 for the interstate management and provision of assistance
2 concerning any potential emergency, develop interstate
3 procedures to fill gaps and resolve identified inconsistencies
4 or overlaps in existing plans, assist in warning communities
5 adjacent to or crossing the state boundaries, protect and
6 assure uninterrupted delivery of services and resources, and
7 inventory and set procedures for interstate loan and delivery
8 of human and material resources and the procedures for
9 reimbursement or forgiveness. Requests for assistance may be
10 verbal or in writing. Verbal requests must be confirmed in
11 writing within 30 days. The requests must provide a
12 description of the emergency assistance which is needed, the
13 amount and type of personnel, equipment, materials, and
14 supplies needed, and a reasonable estimate of the length of
15 time they will be needed, and a specific time and place for
16 the staging of the assisting party's response and a point of
17 contact at that location.

18 4. That the state rendering aid may withhold resources
19 necessary to provide reasonable protection for such state.
20 Emergency forces of any party state are provided the same
21 powers, duties, rights, and privileges as are afforded forces
22 of the state in which they are performing emergency services.
23 Emergency forces continue under the command and control of
24 their regular leaders, but the organizational units will come
25 under the operational control of the emergency services
26 authorities of the state receiving assistance.

27 5. That licenses and permits evidencing the meeting of
28 qualifications for professional, mechanical, or other skills
29 held by persons in a party state shall be honored by the state
30 requesting assistance.

31 6. That officers and employees of a party state rendering
32 aid in another state shall be considered agents of the
33 requesting state for tort liability and immunity purposes. No
34 party state or its officers or employees rendering aid shall
35 be liable on account of any act or omission in good faith on

1 the part of such forces while so engaged.

2 7. That the compact does not preclude any state from
3 entering into supplementary agreements with another state.
4 The compact also does not affect any agreements already in
5 force between states.

6 8. That each party state shall pay compensation and death
7 benefits to injured members of the emergency forces of that
8 state and representatives of deceased members in the same
9 manner and on the same terms as if the injury or death were
10 sustained within their own state.

11 9. That any party state rendering aid may be reimbursed by
12 the state receiving aid for any loss or damage to or expense
13 incurred in the operation of any equipment and the provision
14 of any service in answering a request for aid and for the
15 costs incurred in connection with such requests.

16 10. That evacuation plans shall be worked out and
17 maintained between the party states where any type of incident
18 requiring evacuations might occur. Plans will be put into
19 effect by a request of the state from which evacuees come.
20 Evacuation plans shall provide that the party state receiving
21 evacuees and the party state from which the evacuees come
22 shall mutually agree as to reimbursement of out-of-pocket
23 expenses.

24 11. That the compact shall become operative immediately
25 upon its enactment into law by any two states and shall become
26 effective as to any other state upon its enactment by such
27 state. Withdrawal shall occur 30 days after the governor of
28 the withdrawing state has given notice of the repeal of the
29 statute to all of the other party states.

30 12. That the compact shall be construed to effectuate the
31 purposes stated in the compact and if any provision of the
32 compact is declared unconstitutional, the remainder of the
33 compact shall not be affected.

34 13. That military force shall not be used by the national
35 guard of a state outside that state in an emergency for which

1 the president is authorized by law to call into federal
2 service the militia or for a purpose for which the use of the
3 army or air force would be prohibited absent express statutory
4 authorization.

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Drake, Chair
Kibbie
Lind

SSB 206
State Government

Succeeded By
SFDHF 358

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC DEFENSE BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the adoption of the interstate emergency
2 management assistance compact.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 29C.21, Code 1997, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 29C.21 EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

5 The interstate emergency management assistance compact is
6 entered into with all other states which enter into the
7 compact in substantially the following form:

8 ARTICLE I -- PURPOSE AND AUTHORITIES

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

15 The purpose of this compact is to provide for mutual
16 assistance between the states entering into this compact in
17 managing any emergency or disaster that is duly declared by
18 the governor of the affected state, whether arising from
19 natural disaster, technological hazard, man-made disaster,
20 civil emergency aspects of resource shortages, community
21 disorders, insurgency, or enemy attack.

22 This compact shall also provide for mutual cooperation in
23 emergency-related exercises, testing, or other training
24 activities using equipment and personnel simulating
25 performance of any aspect of the giving and receiving of aid
26 by party states or subdivisions of party states during
27 emergencies, such actions occurring outside actual declared
28 emergency periods. Mutual assistance in this compact may
29 include the use of the states' national guard forces, either
30 in accordance with the national guard mutual assistance
31 compact or by mutual agreement between states.

32 ARTICLE II -- GENERAL IMPLEMENTATION

33 Each party state entering into this compact recognizes many
34 emergencies transcend political jurisdictional boundaries and
35 that intergovernmental coordination is essential in managing

1 these and other emergencies under this compact. Each state
 2 further recognizes that there will be emergencies which
 3 require immediate access and present procedures to apply
 4 outside resources to make a prompt and effective response to
 5 such an emergency. This is because few, if any, individual
 6 states have all the resources they may need in all types of
 7 emergencies or the capability of delivering resources to areas
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9 The prompt, full, and effective utilization of resources of
 10 the participating states, including any resources on hand or
 11 available from the federal government or any other source,
 12 that are essential to the safety, care, and welfare of the
 13 people in the event of any emergency or disaster declared by a
 14 party state, shall be the underlying principle on which all
 15 articles of this compact shall be understood.

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

22 ARTICLE III -- PARTY STATE RESPONSIBILITIES

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

28 a. Review individual state hazards analyses and, to the
 29 extent reasonably possible, determine all those potential
 30 emergencies the party states might jointly suffer, whether due
 31 to natural disaster, technological hazard, man-made disaster,
 32 emergency aspects of resource shortages, civil disorders,
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34 b. Review party states' individual emergency plans and
 35 develop a plan which will determine the mechanism for the

1 interstate management and provision of assistance concerning
2 any potential emergency.

3 c. Develop interstate procedures to fill any identified
4 gaps and to resolve any identified inconsistencies or overlaps
5 in existing or developed plans.

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

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

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

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

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

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30 inspection, planning and information assistance, mass care,
31 resource support, health and medical services, and search and
32 rescue.

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34 and supplies needed, and a reasonable estimate of the length
35 of time they will be needed.

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

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

10 ARTICLE IV -- LIMITATIONS

11 Any party state requested to render mutual aid or conduct
12 exercises and training for mutual aid shall take such action
13 as is necessary to provide and make available the resources
14 covered by this compact in accordance with the terms hereof,
15 provided that it is understood that the state rendering aid
16 may withhold resources to the extent necessary to provide
17 reasonable protection for such state. Each party state shall
18 afford to the emergency forces of any party state, while
19 operating within its state limits under the terms and
20 conditions of this compact, the same powers, except that of
21 arrest unless specifically authorized by the receiving state,
22 duties, rights, and privileges as are afforded forces of the
23 state in which they are performing emergency services.
24 Emergency forces will continue under the command and control
25 of their regular leaders, but the organizational units will
26 come under the operational control of the emergency services
27 authorities of the state receiving assistance. These
28 conditions may be activated, as needed, only subsequent to a
29 declaration of a state of emergency or disaster by the
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33 are in progress, the state of emergency or disaster remains in
34 effect, or loaned resources remain in the receiving state,
35 whichever is longer.

1 ARTICLE V -- LICENSES AND PERMITS

2 Whenever any person holds a license, certificate, or other
3 permit issued by any state party to the compact evidencing the
4 meeting of qualifications for professional, mechanical, or
5 other skills, and when such assistance is requested by the
6 receiving party state, such person shall be deemed licensed,
7 certified, or permitted by the state requesting assistance to
8 render aid involving such skill to meet a declared emergency
9 or disaster, subject to such limitations and conditions as the
10 governor of the requesting state may prescribe by executive
11 order or otherwise.

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13 Officers or employees of a party state rendering aid in
14 another state pursuant to this compact shall be considered
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16 purposes; and no party state or its officers or employees
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19 the part of such forces while so engaged or on account of the
20 maintenance or use of any equipment or supplies in connection
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34 police, public utility, reconnaissance, welfare,
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4 compensation and death benefits to injured members of the
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31 evacuations might occur. Such plans shall be put into effect
32 by request of the state from which evacuees come and shall
33 include the manner of transporting such evacuees, the number
34 of evacuees to be received in different areas, the manner in
35 which food, clothing, housing, and medical care will be

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2 facilities for the notification of relatives or friends, and
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13 disaster, the party state from which the evacuees come shall
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15 repatriation of such evacuees.

16 ARTICLE XI -- IMPLEMENTATION

17 1. This compact shall become operative immediately upon
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25 withdrawal to the governors of all other party states. Such
26 action shall not relieve the withdrawing state from
27 obligations assumed hereunder prior to the effective date of
28 withdrawal.

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

34 ARTICLE XII -- VALIDITY

35 This Act shall be construed to effectuate the purposes

1 stated in Article I hereof. If any provision of this compact
2 is declared unconstitutional, or the applicability thereof to
3 any person or circumstances is held invalid, the
4 constitutionality of the remainder of this Act and the
5 applicability thereof to other persons and circumstances shall
6 not be affected thereby.

7 ARTICLE XIII -- ADDITIONAL PROVISIONS

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

16 EXPLANATION

17 This bill provides for the emergency management assistance
18 compact which is to replace the interstate civil defense and
19 disaster compact in Code section 29C.21. Specifically, this
20 compact provides the following:

21 1. That the purpose of the compact is to provide for
22 mutual assistance between the states entering into the compact
23 in managing any emergency or disaster that is duly declared by
24 the governor of the affected state. The compact also provides
25 for mutual cooperation in emergency-related exercises,
26 testing, or other training activities.

27 2. That on behalf of the governor of each party state, a
28 designated official is responsible for the formulation of the
29 appropriate interstate mutual aid plans and procedures
30 necessary to implement the compact.

31 3. That in formulating the plan to implement the compact,
32 the state shall review the individual state hazards analyses
33 and determine and identify potential emergencies the party
34 states might jointly suffer, review the individual emergency
35 plans and develop a plan which will determine the mechanism

1 for the interstate management and provision of assistance
2 concerning any potential emergency, develop interstate
3 procedures to fill gaps and resolve identified inconsistencies
4 or overlaps in existing plans, assist in warning communities
5 adjacent to or crossing the state boundaries, protect and
6 assure uninterrupted delivery of services and resources, and
7 inventory and set procedures for interstate loan and delivery
8 of human and material resources and the procedures for
9 reimbursement or forgiveness. Requests for assistance may be
10 verbal or in writing. Verbal requests must be confirmed in
11 writing within 30 days. The requests must provide a
12 description of the emergency assistance which is needed, the
13 amount and type of personnel, equipment, materials, and
14 supplies needed, and a reasonable estimate of the length of
15 time they will be needed, and a specific time and place for
16 the staging of the assisting party's response and a point of
17 contact at that location.

18 4. That the state rendering aid may withhold resources
19 necessary to provide reasonable protection for such state.
20 Emergency forces of any party state are provided the same
21 powers, duties, rights, and privileges as are afforded forces
22 of the state in which they are performing emergency services.
23 Emergency forces continue under the command and control of
24 their regular leaders, but the organizational units will come
25 under the operational control of the emergency services
26 authorities of the state receiving assistance.--

27 5. That licenses and permits evidencing the meeting of
28 qualifications for professional, mechanical, or other skills
29 held by persons in a party state shall be honored by the state
30 requesting assistance.

31 6. That officers and employees of a party state rendering
32 aid in another state shall be considered agents of the
33 requesting state for tort liability and immunity purposes. No
34 party state or its officers or employees rendering aid shall
35 be liable on account of any act or omission in good faith on

1 the part of such forces while so engaged.

2 7. That the compact does not preclude any state from
3 entering into supplementary agreements with another state.
4 The compact also does not affect any agreements already in
5 force between states.

6 8. That each party state shall pay compensation and death
7 benefits to injured members of the emergency forces of that
8 state and representatives of deceased members in the same
9 manner and on the same terms as if the injury or death were
10 sustained within their own state.

11 9. That any party state rendering aid may be reimbursed by
12 the state receiving aid for any loss or damage to or expense
13 incurred in the operation of any equipment and the provision
14 of any service in answering a request for aid and for the
15 costs incurred in connection with such requests.

16 10. That evacuation plans shall be worked out and
17 maintained between the party states where any type of incident
18 requiring evacuations might occur. Plans will be put into
19 effect by a request of the state from which evacuees come.
20 Evacuation plans shall provide that the party state receiving
21 evacuees and the party state from which the evacuees come
22 shall mutually agree as to reimbursement of out-of-pocket
23 expenses.

24 11. That the compact shall become operative immediately
25 upon its enactment into law by any two states and shall become
26 effective as to any other state upon its enactment by such
27 state. Withdrawal shall occur 30 days after the governor of
28 the withdrawing state has given notice of the repeal of the
29 statute to all of the other party states.

30 12. That the compact shall be construed to effectuate the
31 purposes stated in the compact and if any provision of the
32 compact is declared unconstitutional, the remainder of the
33 compact shall not be affected.

34 13. That military force shall not be used by the national
35 guard of a state outside that state in an emergency for which

S.F. _____ H.F. _____

1 the president is authorized by law to call into federal
2 service the militia or for a purpose for which the use of the
3 army or air force would be prohibited absent express statutory
4 authorization.

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LSB 1187DP 77

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TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF PUBLIC DEFENSE
EMERGENCY MANAGEMENT DIVISION
ELLEN M. GORDON, ADMINISTRATOR

January 22, 1996

Members of 77th General Assembly
State Capitol Building
LOCAL

RE: LSB 1187DP 77

Dear Members:

This Emergency Management Assistance Compact (EMAC) language would replace the existing Iowa Code Chapter 29C.21, Interstate civil defense and disaster compact authorized. It is important to note that the terms of the compact are not negotiable, and the language must be passed substantially as provided, to ensure that all states adopting the compact have agreed to the same terms and conditions. It is important the final line of the enactment clause, immediately prior to the actual text of the compact, says that the state is entering into a compact "in the form substantially as follows". In September and October the U.S. Congress approved the EMAC per the U.S. Constitution, which allows for blanket congressional approval as state legislatures pass the compact.

This replacement language updates our emergency management interstate mutual aid compact. It provides for mutual assistance in managing any declared emergency or disaster, mutual cooperation in exercises and training, and in the use of the National Guard.

The EMAC allows for a quick response to a disaster with the unique resources possessed by government (personnel, equipment, materials). States cannot always rely upon the federal government, we must ensure that we have the capacity to utilize the nation's full resources by coordinating between states. Each member state of the compact is required to formulate interstate mutual aid plans and procedures to implement the compact.

The compact language clarifies party state responsibilities, limitations, liability, compensation, reimbursement, evacuation, implementation and interstate recognition of licenses and permits.

Please let me know if you need any additional information or clarification on what has been submitted.

Sincerely,

Ellen M. Gordon
Administrator

Enclosure(s)

SENATE FILE 358

AN ACT
RELATING TO THE ADOPTION OF THE INTERSTATE EMERGENCY
MANAGEMENT ASSISTANCE COMPACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 29C.21, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

29C.21 EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

The interstate emergency management assistance compact is entered into with all other states which enter into the compact in substantially the following form:

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, man-made disaster, civil emergency aspects of resource 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 or 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

1. 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:

a. 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.

b. 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.

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

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

e. 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.

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

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

2. 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 all of the following:

a. A description of the emergency service function for which assistance is needed, such as but not limited to 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.

b. The amount and type of personnel, equipment, materials and supplies 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 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, but shall not be limited to, 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 shall 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 or 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

1. 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.

2. 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.

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.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 358, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved *Mary* 1997

TERRY E. BRANSTAD
Governor