



## 2020 South Dakota Legislature

# House Bill 1288

Introduced by: **Representative Duvall**

1 **An Act to review certain provisions regarding emergency management.**

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

3 **Section 1.** That § 34-48A-1 be AMENDED:

4 **34-48A-1. Definitions.**

5 Terms used in this chapter mean:

- 6 (1) "Secretary," the secretary of the Department of Public Safety;
- 7 (2) "Disaster," any natural, nuclear, man-made, ~~war-related~~ war-related, or other  
 8 catastrophe producing phenomena in any part of the state which, in the  
 9 determination of the Governor, causes damage of sufficient severity and magnitude  
 10 to warrant all state assistance that is reasonably available, above and beyond  
 11 emergency resource commitments;
- 12 (3) "Emergency," any natural, nuclear, man-made, ~~war-related~~ war-related, or other  
 13 catastrophe producing phenomena in any part of the state which in the  
 14 determination of the Governor requires the commitment of less than all available  
 15 state resources to supplement local efforts of political subdivisions of the state to  
 16 save lives and to protect property, public health, and safety or to avert or lessen  
 17 the threat of a disaster;
- 18 (4) "Emergency management," the preparation for and the carrying out of all  
 19 emergency functions, other than functions for which military forces are primarily  
 20 responsible, to prevent, minimize, repair injury and damage resulting from disasters  
 21 caused by enemy attack, sabotage, or other hostile action, fire, flood, snowstorm,  
 22 windstorm, tornado, cyclone, drought, earthquake, or other natural causes and  
 23 provide for the relief of distressed humans and livestock in areas where such  
 24 conditions prevail whether affecting all or only a portion of the state. These  
 25 functions include, without limitation, fire fighting services, police services, medical  
 26 and health services, hazardous materials, search and rescue, engineering, warning,

1 communications, radiological, chemical, and other special weapons of defense,  
2 evacuation of persons or livestock, emergency welfare services, emergency  
3 transportation, existing or properly assigned functions of plant protection,  
4 temporary restoration of public utility services, and other functions related to  
5 civilian or livestock protection, together with other activities necessary or incidental  
6 to the preparation for any carrying out of the foregoing functions including  
7 cooperation with the federal government, county and tribal governments, national  
8 relief organizations, public or private organizations, and persons;

9 (5) "Emergency management worker," any full or part-time paid, volunteer or auxiliary  
10 employee of this state, or other state, territory, possession, or the District of  
11 Columbia, of the federal government, or any neighboring county, or of any political  
12 subdivision thereof, or of any agency or organization, performing services at any  
13 place in this state subject to the order or control of, or pursuant to a request of, the  
14 state government or any political subdivision thereof;

15 (6) "Hazardous material," any material, including ~~but not limited to~~, explosives,  
16 flammable liquids, flammable compressed gas, flammable solids, oxidizing  
17 materials, poisons, corrosive materials, and radiological materials, the loss of  
18 control or mishandling ~~of which~~ that could cause personal injury or death to humans  
19 or damage to property or the environment;

20 (7) "Local effort," the expenditure for emergency or disaster purposes within the  
21 twelve-month period preceding the date of the request, ~~of an amount equal to two~~  
22 ~~mills of the assessed valuation, exclusive of capital asset purchases, in each county~~  
23 ~~for the assessment date preceding the date of the request under an emergency or~~  
24 ~~disaster declaration by the Governor;~~

25 (8) "Local organization for emergency management," an organization created in  
26 accordance with the provisions of this chapter by state or local authority to perform  
27 local emergency management functions;

28 (9) "Political subdivision," counties, townships, Indian tribes, and municipalities; and

29 (10) "Search and rescue," the preparation and carrying out of search for and rescue of  
30 persons.

31 **Section 2.** That § 34-48A-5 be AMENDED:

32 **34-48A-5. Disaster, terrorist attack, or emergency--Authority of Governor.**

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

- 1 (1) May assume direct operational control over all or any part of the emergency  
2 management functions within the state ~~which~~ that may affect all or any portion of  
3 the state;
- 4 (2) May declare an emergency or disaster to exist in the stricken area and employ  
5 emergency management to assist local authorities to affect relief and restoration;
- 6 (3) May call upon and use any facilities, equipment, other nonmedical supplies, and  
7 resources available from any source, other than personal or private funds, in order  
8 to carry out the purposes of this chapter by contributing to the expense incurred in  
9 providing relief in ~~such~~ amounts as the Governor shall determine. However, nothing  
10 in this subdivision may be construed to authorize the taking of firearms, as defined  
11 in subdivision 22-1-2(16), without the consent of the owner;
- 12 (4) May suspend the provisions of any rules of any state agency, if strict compliance  
13 with the provisions of the rule would in any way prevent, hinder, or delay necessary  
14 action in managing a disaster, war, act of terrorism, or emergency, including fire,  
15 flood, earthquake, severe high and low temperatures, tornado storm, wave action,  
16 oil spill, or other water or air contamination, epidemic, blight, drought, infestation,  
17 explosion, riot, disorderly conduct, protests, or hostile military or paramilitary  
18 action, ~~which~~ that is determined by the Governor to require state or state and  
19 federal assistance or actions to supplement the recovery efforts of local  
20 governments in alleviating the damage, loss, hardship, or suffering caused thereby;
- 21 (5) May control the ingress and egress in a designated disaster or emergency area, the  
22 movement of vehicles upon highways within the area, the movement of persons  
23 within the area, and the occupancy of premises within the area;
- 24 (6) May procure, acquire, store, distribute, and dispense any pharmaceutical agents or  
25 medical supplies located within the state as may be reasonable and necessary to  
26 respond to the disaster, emergency, or act of terrorism;
- 27 (7) May appoint and prescribe the duties of such out-of-state health care providers as  
28 may be reasonable and necessary to respond to the disaster, emergency, or act of  
29 terrorism;
- 30 (8) May provide for the examination and safe disposal of any dead body as may be  
31 reasonable and necessary to respond to the disaster, emergency, or act of  
32 terrorism; and
- 33 (9) May provide for the protection, construction or reconstruction, repair, and  
34 maintenance of public or private ~~transportation~~ facilities.

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

4 **Section 3.** That § 34-48A-30 be AMENDED:

5 **34-48A-30. State financial assistance--Local effort--Requirement.**

6 In order to qualify for state financial assistance to meet the costs of an emergency  
7 or disaster declared by the Governor, a county shall meet the minimum standard of local  
8 effort ~~as specified in subdivision 34-48A-1(7)~~ of an amount equal to fifteen percent of the  
9 total amount of all general fund appropriations contained in the budget in such county for  
10 the budgetary year of the emergency or disaster declaration by the Governor. Amounts  
11 expended by cities, townships, an improvement district as defined in § 7-25A-1, county  
12 road, ambulance, rural fire protection, sanitary, irrigation, watershed, and water project  
13 districts located within the county shall be considered included within the local effort  
14 required by this section.

15 **Section 4.** That § 34-48A-32 be AMENDED:

16 **34-48A-32. Additional operational costs.**

17 ~~In those counties in which~~ If the Governor has officially declared an emergency or  
18 disaster in a county and in which if local effort requirements have been met, the state ~~will~~  
19 shall provide financial assistance for such additional operational costs needed for the  
20 particular emergency or disaster situation ~~up to a maximum of sixty of eighty-five percent~~  
21 of additional local effort expenditures; provided, however, that the Governor upon finding  
22 it necessary for the preservation of life and property may authorize additional state  
23 financial assistance.

24 **Section 5.** That a NEW SECTION be added:

25 **4-48A-32.1. State—Lending money.**

26 The state may lend money to any county for emergency or disaster-related costs.