

Calendar No. 494

112TH CONGRESS
2^D SESSION

S. J. RES. 44

Granting the consent of Congress to the State and Province Emergency
Management Assistance Memorandum of Understanding.

IN THE SENATE OF THE UNITED STATES

JUNE 14, 2012

Mr. KOHL (for himself, Mr. HOEVEN, and Mr. PRYOR) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

AUGUST 2, 2012

Reported by Mr. LEAHY, without amendment

JOINT RESOLUTION

Granting the consent of Congress to the State and Province
Emergency Management Assistance Memorandum of Understanding.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

3 **SECTION 1. CONGRESSIONAL CONSENT.**

4 Congress consents to the State and Province Emer-
5 gency Management Assistance Memorandum of Under-
6 standing entered into between States of Illinois, Indiana,

1 Ohio, Michigan, Minnesota, Montana, North Dakota,
 2 Pennsylvania, New York, and Wisconsin, and the Cana-
 3 dian Provinces of Alberta, Manitoba, Ontario, and Sas-
 4 katchewan. The compact is substantially as follows:

5 “ARTICLE I—PURPOSE AND AUTHORITIES

6 “The State and Province Emergency Management
 7 Assistance Memorandum of Understanding, hereinafter
 8 referred to as the ‘compact’, is made and entered into by
 9 and among such of the jurisdictions as shall enact or
 10 adopt this compact, hereinafter referred to as ‘parti-
 11 cating jurisdictions’. For the purposes of this compact, the
 12 term ‘jurisdictions’ may include any or all of the States
 13 of Illinois, Indiana, Ohio, Michigan, Minnesota, Montana,
 14 North Dakota, Pennsylvania, New York, and Wisconsin,
 15 and the Canadian Provinces of Alberta, Manitoba, On-
 16 tario, and Saskatchewan, and such other States and prov-
 17 inces as may hereafter become a party to this compact.
 18 The term ‘States’ means the several States, the Common-
 19 wealth of Puerto Rico, the District of Columbia, and all
 20 territorial possessions of the United States. The term
 21 ‘Province’ means the 10 political units of government
 22 within Canada.

23 “The purpose of this compact is to provide for the
 24 possibility of mutual assistance among the participating
 25 jurisdictions in managing any emergency or disaster when

1 the affected jurisdiction or jurisdictions ask for assistance,
2 whether arising from natural disaster, technological haz-
3 ard, manmade disaster or civil emergency aspects of re-
4 sources shortages.

5 “This compact also provides for the process of plan-
6 ning mechanisms among the agencies responsible and for
7 mutual cooperation, including civil emergency prepared-
8 ness exercises, testing, or other training activities using
9 equipment and personnel simulating performance of any
10 aspect of the giving and receiving of aid by participating
11 jurisdictions or subdivisions of participating jurisdictions
12 during emergencies, with such actions occurring outside
13 emergency periods.

14 “ARTICLE II—GENERAL IMPLEMENTATION

15 “Each participating jurisdiction entering into this
16 compact recognizes that many emergencies may exceed the
17 capabilities of a participating jurisdiction and that inter-
18 governmental cooperation is essential in such cir-
19 cumstances. Each participating jurisdiction further recog-
20 nizes that there will be emergencies that may require im-
21 mediate access and present procedures to apply outside
22 resources to make a prompt and effective response to such
23 an emergency because few, if any, individual jurisdictions
24 have all the resources they need in all types of emergencies

1 or the capability of delivering resources to areas where
2 emergencies exist.

3 “On behalf of the participating jurisdictions in the
4 compact, the legally designated official who is assigned re-
5 sponsibility for emergency management is responsible for
6 formulation of the appropriate inter-jurisdictional mutual
7 aid plans and procedures necessary to implement this com-
8 pact, and for recommendations to the participating juris-
9 diction concerned with respect to the amendment of any
10 statutes, regulations, or ordinances required for that pur-
11 pose.

12 “ARTICLE III—PARTICIPATING JURISDICTION
13 RESPONSIBILITIES

14 “(a) FORMULATE PLANS AND PROGRAMS.—It is the
15 responsibility of each participating jurisdiction to formu-
16 late procedural plans and programs for inter-jurisdictional
17 cooperation in the performance of the responsibilities list-
18 ed in this section. In formulating and implementing such
19 plans and programs the participating jurisdictions, to the
20 extent practical, may—

21 “(1) share and review individual jurisdiction
22 hazards analyses that are available and determine all
23 those potential emergencies the participating juris-
24 ditions might jointly suffer, whether due to natural

1 disaster, technological hazard, man-made disaster or
2 emergency aspects of resource shortages;

3 “(2) share emergency operations plans, proce-
4 dures, and protocols established by each of the par-
5 ticipating jurisdictions before entering into this com-
6 pact;

7 “(3) share policies and procedures for resource
8 mobilization, tracking, demobilization, and reim-
9 bursement;

10 “(4) consider joint planning, training, and exer-
11 cises;

12 “(5) assist with alerts, notifications, and warn-
13 ings for communities adjacent to or crossing partici-
14 pating jurisdiction boundaries;

15 “(6) consider procedures to facilitate the move-
16 ment of evacuees, refugees, civil emergency per-
17 sonnel, equipment, or other resources into or across
18 boundaries, or to a designated staging area when it
19 is agreed that such movement or staging will facili-
20 tate civil emergency operations by the affected or
21 participating jurisdictions; and

22 “(7) provide, to the extent authorized by law,
23 for temporary suspension of any statutes or ordi-
24 nances that impeded the implementation of respon-
25 sibilities described in this section.

1 “(b) REQUEST ASSISTANCE.—The authorized rep-
2 resentative of a participating jurisdiction may request as-
3 sistance of another participating jurisdiction by contacting
4 the authorized representative of that jurisdiction. These
5 provisions only apply to requests for assistance made by
6 and to authorized representatives. Requests may be verbal
7 or in writing. If verbal, the request must be confirmed in
8 writing within 15 days of the verbal request. Requests
9 must provide the following information:

10 “(1) A description of the emergency service
11 function for which assistance is needed and of the
12 mission or missions, including but not limited to fire
13 services, emergency medical, transportation, commu-
14 nications, public works and engineering, building in-
15 spection, planning and information assistance, mass
16 care, resource support, health and medical services,
17 and search and rescue.

18 “(2) The amount and type of personnel, equip-
19 ment, materials, and supplies needed and a reason-
20 able estimate of the length of time they will be need-
21 ed.

22 “(3) The specific place and time for staging of
23 the assisting participating jurisdictions’s response
24 and a point of contact at the location.

1 “(c) CONSULTATION AMONG PARTICIPATING JURIS-
2 DICTION OFFICIALS.—There shall be periodic consultation
3 among the authorized representatives who have assigned
4 emergency management responsibilities.

5 “ARTICLE IV—LIMITATION

6 “It is recognized that any participating jurisdiction
7 that agrees to render mutual aid or conduct exercises and
8 training for mutual aid will respond as soon as possible.
9 It is also recognized that the participating jurisdiction ren-
10 dering aid may withhold or recall resources to provide rea-
11 sonable protection for itself, at its discretion. To the ex-
12 tent authorized by law, each participating jurisdiction will
13 afford to the personnel of the emergency contingent of any
14 other participating jurisdiction while operating within its
15 jurisdiction limits under the terms and conditions of this
16 agreement and under the operational control of an officer
17 of the requesting participating jurisdiction the same treat-
18 ment as is afforded similar or like human resources of the
19 participating jurisdiction in which they are performing
20 emergency services. Staff comprising the emergency con-
21 tingent continue under the command and control of their
22 regular leaders but the organizational units come under
23 the operational control of the emergency services authori-
24 ties of the participating jurisdiction receiving assistance.
25 These conditions may be activated, as needed, by the par-

1 participating jurisdiction that is to receive assistance or upon
 2 commencement of exercises or training for mutual aid and
 3 continue as long as the exercises or training for mutual
 4 aid are in progress, the emergency or disaster remains in
 5 effect or loaned resources remain in the receiving partici-
 6 pating jurisdictions, whichever is longer. The receiving
 7 participating jurisdiction is responsible for informing the
 8 assisting participating jurisdiction when services will no
 9 longer be required.

10 “ARTICLE V—LICENSES AND PERMITS

11 “Whenever a person holds a license, certificate, or
 12 other permit issued by any participating jurisdiction evi-
 13 dencing the meeting of qualifications for professional, me-
 14 chanical, or other skills, and when such assistance is re-
 15 quested by the receiving participating jurisdiction, such
 16 person is deemed to be licensed, certified, or permitted by
 17 the jurisdiction requesting assistance to render aid involv-
 18 ing such skill to meet an emergency or disaster, subject
 19 to such limitations and conditions as the requesting juris-
 20 diction prescribes by Executive order or otherwise.

21 “ARTICLE VI—LIABILITY

22 “Any person or entity of a participating jurisdiction
 23 rendering aid in another jurisdiction pursuant to this com-
 24 pact is considered an agent of the requesting jurisdiction
 25 for tort liability and immunity purposes. Any person or

1 entity rendering aid in another jurisdiction pursuant to
 2 this compact is not liable on account of any act or omis-
 3 sion in good faith on the part of such forces while so en-
 4 gaged or on account of the maintenance or use of any
 5 equipment or supplies in connection therewith. Good faith
 6 in this article does not include willful misconduct, gross
 7 negligence, or recklessness.

8 “ARTICLE VII—SUPPLEMENTARY AGREEMENTS

9 “Because it is probable that the pattern and detail
 10 of the compact for mutual aid among 2 or more partici-
 11 pating jurisdictions may differ from that among the par-
 12 ticipating jurisdictions that are party to this compact, this
 13 compact contains elements of a broad base common to all
 14 participating jurisdictions, and nothing in this compact
 15 precludes any participating jurisdiction from entering into
 16 supplementary agreements with another jurisdiction or af-
 17 fects any other agreements already in force among partici-
 18 pating jurisdictions.

19 “Supplementary agreements may include, but are not
 20 limited to, provisions for evacuation and reception of in-
 21 jured and other persons and the exchange of medical, fire,
 22 public utility, reconnaissance, welfare, transportation and
 23 communications personnel, equipment, and supplies.

12 “ARTICLE IX—REIMBURSEMENT

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1 tion of costs among those jurisdictions. Expenses under
2 article VIII are not reimbursable under this section.

3 “ARTICLE X—IMPLEMENTATION

4 “(a) This compact is effective upon its execution or
5 adoption by any 1 State and 1 province, and is effective
6 as to any other jurisdiction upon its execution or adoption
7 thereby: subject to approval or authorization by the
8 United States Congress, if required, and subject to enact-
9 ment of provincial or State legislation that may be re-
10 quired for the effectiveness of the Memorandum of Under-
11 standing.

12 “(b) Additional jurisdictions may participate in this
13 compact upon execution or adoption thereof.

14 “(c) Any participating jurisdiction may withdraw
15 from this compact, but the withdrawal does not take effect
16 until 30 days after the governor or premier of the with-
17 drawing jurisdiction has given notice in writing of such
18 withdrawal to the governors or premiers of all other par-
19 ticipating jurisdictions. The action does not relieve the
20 withdrawing jurisdiction from obligations assumed under
21 this compact prior to the effective date of withdrawal.

22 “(d) Duly authenticated copies of this compact in the
23 French and English languages and of such supplementary
24 agreements as may be entered into shall, at the time of

1 their approval, be deposited with each of the participating
 2 jurisdictions.

3 “ARTICLE XI—SEVERABILITY

4 “This compact is construed to effectuate the purposes
 5 stated in Article I. If any provision of this compact is de-
 6 clared unconstitutional or the applicability of the compact
 7 to any person or circumstances is held invalid, the validity
 8 of the remainder of this compact and the applicability of
 9 the compact to other persons and circumstances are not
 10 affected.

11 “ARTICLE XII—CONSISTENCY OF LANGUAGE

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

16 **SEC. 2. INCONSISTENCY OF LANGUAGE.**

17 The validity of the arrangements consented to by this
 18 Act shall not be affected by any insubstantial difference
 19 in their form or language as adopted by the States and
 20 provinces.

21 **SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.**

22 The right to alter, amend, or repeal this Act is hereby
 23 expressly reserved.

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