

# 38A:20-4

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2001                      **CHAPTER:** 249  
**NJSA:** 38A:20-4                      ("Emergency Management Assistance Compact Act")  
**BILL NO:** A3727                      (Substituted for S2490)

**SPONSOR(S):** Kelly and others

**DATE INTRODUCED:** June 25, 2001

**COMMITTEE:**                      **ASSEMBLY:** Law and Public Safety

**SENATE:** ----

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**                      **ASSEMBLY:** October 3, 2001

**SENATE:** October 3, 2001

**DATE OF APPROVAL:** October 4, 2001

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (Assembly Committee Substitute enacted)

**A3727**

**SPONSORS STATEMENT** (statement on page 7 of original bill)                      Yes

**COMMITTEE STATEMENT:**                      **ASSEMBLY:**                      Yes

**SENATE:**                      No

**FLOOR AMENDMENT STATEMENTS:**                      No

**LEGISLATIVE FISCAL ESTIMATE:**                      No

**S2490**

**SPONSORS STATEMENT:** (Begins on page 7 of original bill)                      Yes

Bill and Sponsors Statement identical to A3727

<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	No
	<b>SENATE:</b>	Yes
<b>FLOOR AMENDMENT STATEMENTS:</b>		No
<b>LEGISLATIVE FISCAL ESTIMATE:</b>		No
<b>VETO MESSAGE:</b>		No
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>		Yes

**FOLLOWING WERE PRINTED:**

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<b>REPORTS:</b>	No
<b>HEARINGS:</b>	No
<b>NEWSPAPER ARTICLES:</b>	Yes

For newspaper clippings see legislative history of L. 2001 c.246

# ASSEMBLY, No. 3727

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JUNE 25, 2001

**Sponsored by:**

**Assemblyman JOHN V. KELLY**

**District 36 (Bergen, Essex and Passaic)**

**Assemblyman GERALD H. ZECKER**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

**Assemblymen Merkt, Pennacchio, Payne, Assemblywoman Crecco and**

**Assemblyman Wisniewski**

**SYNOPSIS**

"The Emergency Management Assistance Compact Act."

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT to enact the Emergency Management Assistance Compact  
2 and supplementing Title 38A of the New Jersey Statutes.

3

4 BE IT ENACTED by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. This act shall be known and may be cited as "The Emergency  
8 Management Assistance Compact Act."

9

10 2. The Governor is hereby authorized and directed to execute a  
11 compact on behalf of this State with any other state legally joining  
12 therein in the form substantially as follows:

13

14 Emergency Management Assistance Compact

15

16 The contracting states solemnly agree:

17

#### 18 ARTICLE I PURPOSE

19 This compact is made and entered into by and between the  
20 participating member states which enact this compact, hereinafter  
21 called party states. For the purposes of this agreement, the term  
22 "states" is taken to mean the several states, the Commonwealth of  
23 Puerto Rico, the District of Columbia, and all United States territorial  
24 possessions.

25 The purpose of this compact is to provide for mutual assistance  
26 between the states entering into this compact in managing any  
27 emergency or disaster that is duly declared by the governor of the  
28 affected state or states, whether arising from natural disaster,  
29 technological hazard, man-made disaster, civil emergency due to  
30 resource shortages, community disorders, insurgency, or enemy attack.

31 This compact also shall provide for mutual cooperation in  
32 emergency-related exercises, testing, or other training activities using  
33 equipment and personnel simulating the performance of any aspect of  
34 the giving and receiving of aid by party states or subdivisions of party  
35 states during emergencies, when such actions occur outside actual  
36 declared emergency periods. Mutual assistance in this compact may  
37 include the use of the states' National Guard forces, either in  
38 accordance with the National Guard Mutual Assistance Compact or by  
39 mutual agreement between states.

40

#### 41 ARTICLE II GENERAL IMPLEMENTATION

42 Each party state entering into this compact recognizes many  
43 emergencies transcend political jurisdictional boundaries and that  
44 intergovernmental coordination is essential in managing these and  
45 other emergencies under this compact. Each state further recognizes  
46 that there will be emergencies which require immediate access and

1 procedures to apply outside resources to make a prompt and effective  
2 response to such an emergency. This is because few, if any, individual  
3 states have all the resources they may need in all types of emergencies  
4 or the capability of delivering resources to areas where emergencies  
5 exist.

6 The prompt, full, and effective utilization of resources of the  
7 participating states, including any resources on hand or available from  
8 the Federal Government or any other source, that are essential to the  
9 safety, care, and welfare of the people in the event of any emergency  
10 or disaster declared by a party state, shall be the underlying principal  
11 on which all articles of this Compact shall be understood.

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

17

### 18 ARTICLE III PARTY STATE RESPONSIBILITIES

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

24 a. Review individual state hazards analyses and, to the extent  
25 reasonably possible, determine all those potential emergencies the  
26 party states might jointly suffer, whether due to natural disaster,  
27 technological hazard, man-made disaster, resource shortages, civil  
28 disorders, insurgency, or enemy attack.

29 b. Review party states' individual emergency plans and develop a  
30 plan which will determine the mechanism for the interstate  
31 management and provision of assistance concerning any potential  
32 emergency.

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

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

38 e. Protect and assure uninterrupted delivery of services, medicines,  
39 water, food, energy and fuel, search and rescue, and critical lifeline  
40 equipment, services, and resources, both human and material.

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

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

1       2. The authorized representative of a party state may request  
2 assistance of another party state by contacting the authorized  
3 representative of that state. The provisions of this agreement shall  
4 only apply to requests for assistance made by and to authorized  
5 representatives. Requests may be verbal or in writing. If verbal, the  
6 request shall be confirmed in writing within 30 days of the verbal  
7 request. Requests shall provide the following information:

8       a. A description of the emergency service function for which  
9 assistance is needed, such as but not limited to fire services, law  
10 enforcement, emergency medical, transportation, communications,  
11 public works and engineering, building inspection, planning and  
12 information assistance, mass care, resource support, health and  
13 medical services, and search and rescue.

14       b. The amount and type of personnel, equipment, materials and  
15 supplies needed, and a reasonable estimate of the length of time they  
16 will be needed.

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

19       3. There shall be frequent consultation between state officials who  
20 have assigned emergency management responsibilities and other  
21 appropriate representatives of the party states with affected  
22 jurisdictions and the United States Government, with free exchange of  
23 information, plans, and resource records relating to emergency  
24 capabilities.

25  
26 **ARTICLE IV LIMITATIONS**

27       Any party state requested to render mutual aid or conduct  
28 exercises and training for mutual aid shall take such action as is  
29 necessary to provide and make available the resources covered by this  
30 compact in accordance with its terms; except that it is understood that  
31 the state rendering aid may withhold resources to the extent necessary  
32 to provide reasonable protection for such state.

33       Each party state shall afford to the emergency forces of any party  
34 state, while operating within its state limits under the terms and  
35 conditions of this compact, the same powers (except that of arrest  
36 unless specifically authorized by the receiving state), duties, rights, and  
37 privileges as are afforded forces of the state in which they are  
38 performing emergency services. Emergency forces shall continue  
39 under the command and control of their regular leaders, but the  
40 organizational units shall come under the operational control of the  
41 emergency services authorities of the state receiving assistance. These  
42 conditions may be activated, as needed, only subsequent to a  
43 declaration of a state of emergency or disaster by the governor of the  
44 party state that is to receive assistance or commencement of exercises  
45 or training for mutual aid and shall continue so long as the exercises  
46 or training for mutual aid are in progress, the state of emergency or

1 disaster remains in effect or loaned resources remain in the receiving  
2 state or states, whichever is longer.

3

4 ARTICLE V LICENSES AND PERMITS

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

14

15 ARTICLE VI LIABILITY

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

25

26 ARTICLE VII SUPPLEMENTARY AGREEMENTS

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

38

39 ARTICLE VIII COMPENSATION

40 Each party state shall provide for the payment of compensation and  
41 death benefits to injured members of the emergency forces of that state  
42 and representatives of deceased members of such forces in case such  
43 members sustain injuries or are killed while rendering aid pursuant to  
44 this compact, in the same manner and on the same terms as if the  
45 injury or death were sustained within their own state.

1 ARTICLE IX REIMBURSEMENT

2 Any party state rendering aid in another state pursuant to this  
3 compact shall be reimbursed by the party state receiving such aid for  
4 any loss or damage to or expense incurred in the operation of any  
5 equipment and the provision of any service in answering a request for  
6 aid and for the costs incurred in connection with such requests; except  
7 that any aiding party state may assume in whole or in part such loss,  
8 damage, expense, or other cost, or may loan such equipment or donate  
9 such services to the receiving party state without charge or cost; and  
10 furthermore, that any two or more party states may enter into  
11 supplementary agreements establishing a different allocation of costs  
12 among those states. Article VIII expenses shall not be reimbursable  
13 under this provision.

14

15 ARTICLE X EVACUATION

16 Plans for the orderly evacuation and interstate reception of  
17 portions of the civilian population as the result of any emergency or  
18 disaster of sufficient proportions to so warrant, shall be worked out  
19 and maintained between the party states and the emergency  
20 management or services directors of the various jurisdictions where  
21 any type of incident requiring evacuations might occur. Such plans  
22 shall be put into effect by request of the state from which evacuees  
23 come and shall include the manner of transporting such evacuees, the  
24 number of evacuees to be received in different areas, the manner in  
25 which food, clothing, housing, and medical care will be provided, the  
26 registration of the evacuees, the providing of facilities for the  
27 notification of relatives or friends, and the forwarding of such  
28 evacuees to other areas or the bringing in of additional materials,  
29 supplies, and all other relevant factors. Such plans shall provide that  
30 the party state receiving evacuees and the party state from which the  
31 evacuees come shall mutually agree as to reimbursement of  
32 out-of-pocket expenses incurred in receiving and caring for such  
33 evacuees, for expenditures for transportation, food, clothing,  
34 medicines and medical care, and like items. Such expenditures shall  
35 be reimbursed as agreed by the party state from which the evacuees  
36 come. After the termination of the emergency or disaster, the party  
37 state from which the evacuees come shall assume the responsibility for  
38 the ultimate support or repatriation of such evacuees.

39

40 ARTICLE XI IMPLEMENTATION

41 This compact shall become operative immediately upon its  
42 enactment into law and any two states; thereafter, this compact shall  
43 become effective as to any other state upon its enactment by such  
44 state.

45 Any party state may withdraw from this compact by enacting a  
46 statute repealing the same, but no such withdrawal shall take effect



1 until 30 days after the governor of the withdrawing state has given  
2 notice in writing of such withdrawal to the governors of all other party  
3 states. Such action shall not relieve the withdrawing state from  
4 obligations assumed hereunder prior to the effective date of  
5 withdrawal.

6 Duly authenticated copies of this compact and of such  
7 supplementary agreements as may be entered into shall, at the time of  
8 their approval, be deposited with each of the party states and with the  
9 Federal Emergency Management Agency and other appropriate  
10 agencies of the United States Government.

11

12 ARTICLE XII VALIDITY

13 This act shall be construed to effectuate the purposes stated in  
14 Article I of this compact. If any provision of this compact is declared  
15 unconstitutional, or the applicability thereof to any person or  
16 circumstances is held invalid, the constitutionality of the remainder of  
17 this act and its applicability to other persons and circumstances shall  
18 not be affected.

19

20 ARTICLE XIII ADDITIONAL PROVISIONS

21 Nothing in this compact shall authorize or permit the use of  
22 military force by the National Guard of a state at any place outside  
23 that state in any emergency for which the President is authorized by  
24 law to call into federal service the militia, or for any purpose for which  
25 the use of the Army or the Air Force would, in the absence of express  
26 statutory authorization, be prohibited under Section 1385 of Title 18  
27 of the United States Code.

28

29 3. This act shall take effect immediately.

30

31

32

STATEMENT

33

34 The Governor's Advisory Council on Emergency Services has  
35 recommended that the Emergency Management Assistance Compact  
36 (EMAC) be enacted in New Jersey. The advisory council has  
37 concluded that it would further the purposes of the Emergency  
38 Services Act of 1972, P.L.1972, c.133 (C.52:14E-1 et seq.) for the  
39 State to become a party to the EMAC. The EMAC is an interstate  
40 mutual assistance agreement that provides for sharing of resources by  
41 party jurisdictions, to manage any emergency or disaster that is duly  
42 declared by the Governor of any affected state, whether arising from  
43 technological hazard, natural or other disaster, civil emergency,  
44 resource shortage, community disorder, insurgency or enemy attack.

45 The EMAC has been promoted for adoption among the states since  
46 1996, and would supplement and modernize, but not replace, the

1 existing Interstate Civil Defense and Disaster Compact (N.J.S.38A:20-  
2 3) to which New Jersey is a party.

3 The compact is a mutual aid agreement and partnership between  
4 the states that exists because, from hurricanes to earthquakes and from  
5 wildfires to toxic waste spills, all states share a common enemy: the  
6 constant threat of disaster. The EMAC offers a workable means for  
7 states to send personnel and equipment to help disaster relief efforts  
8 in other states. There are times when state and local resources are  
9 overwhelmed and federal assistance is inadequate or unavailable. Out-  
10 of-state aid through EMAC would help fill such shortfalls.

11 Requests for EMAC assistance are legally binding contractual  
12 arrangements which make states that ask for help responsible for  
13 reimbursing all out-of-state costs and liable for out-of-state personnel.  
14 States can rest assured that sending aid will not be a financial or legal  
15 burden for them. This legal standard also helps to speed the process  
16 and reduce the paperwork required. EMAC also allows states to ask  
17 for whatever assistance they need for any emergency, from  
18 earthquakes to acts of terrorism. On the other hand, states are not  
19 forced to send any assistance they cannot provide. The compact's  
20 simple procedures also mean that states can dispense with bureaucratic  
21 wrangling. Thirty-nine states, including Delaware and Pennsylvania,  
22 and two territories are current signatories to the compact.

23 While states are capable of managing most emergencies, there are  
24 times when disasters exceed state and local resources and therefore  
25 require outside assistance. Usually this assistance comes from federal  
26 agencies. However, not all disasters are eligible for federal disaster  
27 assistance. EMAC provides another way for states to receive  
28 interstate aid in a disaster. Even when federal assistance is merited,  
29 EMAC assistance may be more readily available or cheaper. EMAC  
30 assistance may supplement federal assistance when the latter is  
31 available or replace federal assistance when unavailable. Most  
32 important, EMAC allows for a quick response to disasters using the  
33 unique resources and expertise possessed by member states. States  
34 must agree to each other's terms before sending or receiving aid.

35 In State of Nevada v. John M. Hall (1979), the United States  
36 Supreme Court ruled that states are not immune from being sued in the  
37 courts of another state. According to the National Emergency  
38 Management Association, this means that without EMAC, emergency  
39 workers from assisting states might be sued in the courts of requesting  
40 states, costing states millions of dollars. However, under EMAC,  
41 requesting states would assume tort responsibility for out-of-state  
42 workers.

43 The EMAC establishes an implementation plan which means that  
44 member states all agree to standard operating procedures for  
45 requesting and providing assistance, unlike other compacts. EMAC  
46 is supported by the National Governors' Conference and the Federal

1 Emergency Management Agency. In 1996, that agency assured states  
2 that accepting interstate aid will not be a factor in the agency's review  
3 of disaster declaration requests.

4 A prime example of states aiding each other came during the 1998  
5 summer wildfires in Florida, in which the combined resources of 45  
6 states battled 2,200 blazes across 500,000 acres and in every county  
7 in the State. Tens of these states sent assistance through EMAC,  
8 including firefighters, fire engines, tanker trucks, helicopters, cargo  
9 aircraft and specialized equipment. Other states sent aid through  
10 separate fire fighting compacts. Under the terms of the EMAC,  
11 Florida reimbursed other states for the \$3 million worth of assistance  
12 sent through the compact. When tropical storms struck Florida and  
13 the Gulf states two months later, nine states from as far away as Iowa  
14 and Maine sent help. According to State Government News, before  
15 relief efforts were over, the EMAC states already were discussing how  
16 they might aid one another during the winter storms of the coming  
17 months.

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3727**

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

ADOPTED OCTOBER 3, 2001

**Sponsored by:**

**Assemblyman JOHN V. KELLY**  
**District 36 (Bergen, Essex and Passaic)**  
**Assemblyman GERALD H. ZECKER**  
**District 34 (Essex and Passaic)**  
**Assemblywoman MARION CRECCO**  
**District 34 (Essex and Passaic)**  
**Assemblyman RICK MERKT**  
**District 25 (Morris)**  
**Assemblyman JOSEPH PENNACCHIO**  
**District 26 (Essex, Morris and Passaic)**  
**Assemblyman WILLIAM D. PAYNE**  
**District 29 (Essex and Union)**  
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**District 19 (Middlesex)**  
**Assemblyman MICHAEL J. ARNONE**  
**District 12 (Monmouth)**  
**Assemblyman NICHOLAS ASSELTA**  
**District 1 (Cape May, Atlantic and Cumberland)**  
**Assemblyman JOSEPH AZZOLINA**  
**District 13 (Middlesex and Monmouth)**  
**Assemblyman RICHARD H. BAGGER**  
**District 22 (Middlesex, Morris, Somerset and Union)**  
**Assemblyman PETER J. BARNES, JR.**  
**District 18 (Middlesex)**  
**Assemblyman CHRISTOPHER "KIP" BATEMAN**  
**District 16 (Morris and Somerset)**  
**Assemblyman PETER J. BIONDI**  
**District 16 (Morris and Somerset)**  
**Assemblyman FRANCIS J. BLEE**  
**District 2 (Atlantic)**  
**Assemblyman FRANCIS L. BODINE**  
**District 8 (Atlantic, Burlington and Camden)**  
**Assemblywoman BARBARA BUONO**  
**District 18 (Middlesex)**  
**Assemblyman WILFREDO CARABALLO**  
**District 28 (Essex)**

**Assemblyman MICHAEL PATRICK CARROLL**

**District 25 (Morris)**

**Assemblyman JOSEPH CHARLES, JR.**

**District 31 (Hudson)**

**Assemblyman LARRY CHATZIDAKIS**

**District 8 (Atlantic, Burlington and Camden)**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Assemblyman JACK COLLINS**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman HERBERT CONAWAY, JR.**

**District 7 (Burlington and Camden)**

**Assemblyman JACK CONNERS**

**District 7 (Burlington and Camden)**

**Assemblyman CHRISTOPHER J. CONNORS**

**District 9 (Atlantic, Burlington and Ocean)**

**Assemblyman STEVE CORODEMUS**

**District 11 (Monmouth)**

**Assemblyman MELVIN COTTRELL**

**District 30 (Burlington, Monmouth and Ocean)**

**Assemblywoman NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Assemblyman ALEX DECROCE**

**District 26 (Essex, Morris and Passaic)**

**Assemblyman PAUL DIGAETANO**

**District 36 (Bergen, Essex and Passaic)**

**Assemblyman JOSEPH V. DORIA, JR.**

**District 31 (Hudson)**

**Assemblywoman CLARE M. FARRAGHER**

**District 12 (Monmouth)**

**Assemblyman NICHOLAS R. FELICE**

**District 40 (Bergen and Passaic)**

**Assemblywoman ARLINE M. FRISCIA**

**District 19 (Middlesex)**

**Assemblyman RAUL "RUDY" GARCIA**

**District 33 (Hudson)**

**Assemblyman E. SCOTT GARRETT**

**District 24 (Sussex, Hunterdon and Morris)**

**Assemblyman GEORGE F. GEIST**

**District 4 (Camden and Gloucester)**

**Assemblyman JOHN C. GIBSON**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblywoman NIA H. GILL**

**District 27 (Essex)**

**Assemblyman JERRY GREEN**

**District 17 (Middlesex, Somerset and Union)**

**Assemblywoman LINDA R. GREENSTEIN**  
**District 14 (Mercer and Middlesex)**  
**Assemblyman LOUIS D. GREENWALD**  
**District 6 (Camden)**  
**Assemblyman GUY R. GREGG**  
**District 24 (Sussex, Hunterdon and Morris)**  
**Assemblyman GARY L. GUEAR, SR.**  
**District 14 (Mercer and Middlesex)**  
**Assemblyman REED GUSCIORA**  
**District 15 (Mercer)**  
**Assemblywoman ROSE MARIE HECK**  
**District 38 (Bergen)**  
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**District 10 (Monmouth and Ocean)**  
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**Assemblyman THOMAS H. KEAN**  
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**District 23 (Warren, Hunterdon and Mercer)**  
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**District 2 (Atlantic)**  
**Assemblyman JOSEPH R. MALONE, III**  
**District 30 (Burlington, Monmouth and Ocean)**  
**Assemblyman JEFFREY W. MORAN**  
**District 9 (Atlantic, Burlington and Ocean)**  
**Assemblyman ERIC MUNOZ**  
**District 21 (Essex and Union)**  
**Assemblywoman CONNIE MYERS**  
**District 23 (Warren, Hunterdon and Mercer)**  
**Assemblywoman NELLIE POU**  
**District 35 (Passaic)**  
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**Assemblyman ROBERT J. SMITH**  
**District 4 (Camden and Gloucester)**  
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**District 39 (Bergen)**  
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**Assemblywoman LORETTA WEINBERG**  
**District 37 (Bergen)**  
**Assemblyman JOEL WEINGARTEN**  
**District 21 (Essex and Union)**  
**Assemblyman DAVID W. WOLFE**  
**District 10 (Monmouth and Ocean)**  
**Assemblyman CHARLES "KEN" ZISA**  
**District 37 (Bergen)**

**Co-Sponsored by:**  
**Senators Allen and Palaia**

**SYNOPSIS**

"The Emergency Management Assistance Compact Act."

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Law and Public safety Committee.

**(Sponsorship Updated As Of October 4, 2001)**

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22          "states" is taken to mean the several states, the Commonwealth of  
23          Puerto Rico, the District of Columbia, and all United States territorial  
24          possessions.

25          The purpose of this compact is to provide for mutual assistance  
26          between the states entering into this compact in managing any  
27          emergency or disaster that is duly declared by the governor of the  
28          affected state or states, whether arising from natural disaster,  
29          technological hazard, man-made disaster, civil emergency due to  
30          resource shortages, community disorders, insurgency, or enemy attack.

31          This compact also shall provide for mutual cooperation in  
32          emergency-related exercises, testing, or other training activities using  
33          equipment and personnel simulating the performance of any aspect of  
34          the giving and receiving of aid by party states or subdivisions of party  
35          states during emergencies, when such actions occur outside actual  
36          declared emergency periods. Mutual assistance in this compact may  
37          include the use of the states' National Guard forces, either in  
38          accordance with the National Guard Mutual Assistance Compact or by  
39          mutual agreement between states.

40  
41          **ARTICLE II GENERAL IMPLEMENTATION**

42          Each party state entering into this compact recognizes many  
43          emergencies transcend political jurisdictional boundaries and that  
44          intergovernmental coordination is essential in managing these and  
45          other emergencies under this compact. Each state further recognizes  
46          that there will be emergencies which require immediate access and



1 procedures to apply outside resources to make a prompt and effective  
2 response to such an emergency. This is because few, if any, individual  
3 states have all the resources they may need in all types of emergencies  
4 or the capability of delivering resources to areas where emergencies  
5 exist.

6 The prompt, full, and effective utilization of resources of the  
7 participating states, including any resources on hand or available from  
8 the Federal Government or any other source, that are essential to the  
9 safety, care, and welfare of the people in the event of any emergency  
10 or disaster declared by a party state, shall be the underlying principal  
11 on which all articles of this Compact shall be understood.

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

### 17 ARTICLE III PARTY STATE RESPONSIBILITIES

18 1. It shall be the responsibility of each party state to formulate  
19 procedural plans and programs for interstate cooperation in the  
20 performance of the responsibilities listed in this article. In formulating  
21 such plans, and in carrying them out, the party states, insofar as  
22 practical, shall:

23 a. Review individual state hazards analyses and, to the extent  
24 reasonably possible, determine all those potential emergencies the  
25 party states might jointly suffer, whether due to natural disaster,  
26 technological hazard, man-made disaster, resource shortages, civil  
27 disorders, insurgency, or enemy attack.

28 b. Review party states' individual emergency plans and develop a  
29 plan which will determine the mechanism for the interstate  
30 management and provision of assistance concerning any potential  
31 emergency.

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

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

37 e. Protect and assure uninterrupted delivery of services, medicines,  
38 water, food, energy and fuel, search and rescue, and critical lifeline  
39 equipment, services, and resources, both human and material.

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

43 g. Provide, to the extent authorized by law, for temporary  
44 suspension of any statutes or ordinances that restrict the  
45 implementation of the above responsibilities.  
46

1           2. The authorized representative of a party state may request  
2 assistance of another party state by contacting the authorized  
3 representative of that state. The provisions of this agreement shall  
4 only apply to requests for assistance made by and to authorized  
5 representatives. Requests may be verbal or in writing. If verbal, the  
6 request shall be confirmed in writing within 30 days of the verbal  
7 request. Requests shall provide the following information:

8           a. A description of the emergency service function for which  
9 assistance is needed, such as but not limited to fire services, law  
10 enforcement, emergency medical, transportation, communications,  
11 public works and engineering, building inspection, planning and  
12 information assistance, mass care, resource support, health and  
13 medical services, and search and rescue.

14           b. The amount and type of personnel, equipment, materials and  
15 supplies needed, and a reasonable estimate of the length of time they  
16 will be needed.

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

19           3. There shall be frequent consultation between state officials who  
20 have assigned emergency management responsibilities and other  
21 appropriate representatives of the party states with affected  
22 jurisdictions and the United States Government, with free exchange of  
23 information, plans, and resource records relating to emergency  
24 capabilities.

#### 25 26 ARTICLE IV LIMITATIONS

27           Any party state requested to render mutual aid or conduct  
28 exercises and training for mutual aid shall take such action as is  
29 necessary to provide and make available the resources covered by this  
30 compact in accordance with its terms; except that it is understood that  
31 the state rendering aid may withhold resources to the extent necessary  
32 to provide reasonable protection for such state.

33           Each party state shall afford to the emergency forces of any party  
34 state, while operating within its state limits under the terms and  
35 conditions of this compact, the same powers (except that of arrest  
36 unless specifically authorized by the receiving state), duties, rights, and  
37 privileges as are afforded forces of the state in which they are  
38 performing emergency services. Emergency forces shall continue  
39 under the command and control of their regular leaders, but the  
40 organizational units shall come under the operational control of the  
41 emergency services authorities of the state receiving assistance. These  
42 conditions may be activated, as needed, only subsequent to a  
43 declaration of a state of emergency or disaster by the governor of the  
44 party state that is to receive assistance or commencement of exercises  
45 or training for mutual aid and shall continue so long as the exercises  
46 or training for mutual aid are in progress, the state of emergency or

1 disaster remains in effect or loaned resources remain in the receiving  
2 state or states, whichever is longer.

3

#### 4 ARTICLE V LICENSES AND PERMITS

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

14

#### 15 ARTICLE VI LIABILITY

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

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#### 26 ARTICLE VII SUPPLEMENTARY AGREEMENTS

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

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#### 39 ARTICLE VIII COMPENSATION

40 Each party state shall provide for the payment of compensation and  
41 death benefits to injured members of the emergency forces of that state  
42 and representatives of deceased members of such forces in case such  
43 members sustain injuries or are killed while rendering aid pursuant to  
44 this compact, in the same manner and on the same terms as if the  
45 injury or death were sustained within their own state.

46

## 1 ARTICLE IX REIMBURSEMENT

2 Any party state rendering aid in another state pursuant to this  
3 compact shall be reimbursed by the party state receiving such aid for  
4 any loss or damage to or expense incurred in the operation of any  
5 equipment and the provision of any service in answering a request for  
6 aid and for the costs incurred in connection with such requests; except  
7 that any aiding party state may assume in whole or in part such loss,  
8 damage, expense, or other cost, or may loan such equipment or donate  
9 such services to the receiving party state without charge or cost; and  
10 furthermore, that any two or more party states may enter into  
11 supplementary agreements establishing a different allocation of costs  
12 among those states. Article VIII expenses shall not be reimbursable  
13 under this provision.

14

## 15 ARTICLE X EVACUATION

16 Plans for the orderly evacuation and interstate reception of  
17 portions of the civilian population as the result of any emergency or  
18 disaster of sufficient proportions to so warrant, shall be worked out  
19 and maintained between the party states and the emergency  
20 management or services directors of the various jurisdictions where  
21 any type of incident requiring evacuations might occur. Such plans  
22 shall be put into effect by request of the state from which evacuees  
23 come and shall include the manner of transporting such evacuees, the  
24 number of evacuees to be received in different areas, the manner in  
25 which food, clothing, housing, and medical care will be provided, the  
26 registration of the evacuees, the providing of facilities for the  
27 notification of relatives or friends, and the forwarding of such  
28 evacuees to other areas or the bringing in of additional materials,  
29 supplies, and all other relevant factors. Such plans shall provide that  
30 the party state receiving evacuees and the party state from which the  
31 evacuees come shall mutually agree as to reimbursement of  
32 out-of-pocket expenses incurred in receiving and caring for such  
33 evacuees, for expenditures for transportation, food, clothing,  
34 medicines and medical care, and like items. Such expenditures shall  
35 be reimbursed as agreed by the party state from which the evacuees  
36 come. After the termination of the emergency or disaster, the party  
37 state from which the evacuees come shall assume the responsibility for  
38 the ultimate support or repatriation of such evacuees.

39

## 40 ARTICLE XI IMPLEMENTATION

41 This compact shall become operative immediately upon its  
42 enactment into law and any two states; thereafter, this compact shall  
43 become effective as to any other state upon its enactment by such  
44 state.

45 Any party state may withdraw from this compact by enacting a  
46 statute repealing the same, but no such withdrawal shall take effect

1 until 30 days after the governor of the withdrawing state has given  
2 notice in writing of such withdrawal to the governors of all other party  
3 states. Such action shall not relieve the withdrawing state from  
4 obligations assumed hereunder prior to the effective date of  
5 withdrawal.

6 Duly authenticated copies of this compact and of such  
7 supplementary agreements as may be entered into shall, at the time of  
8 their approval, be deposited with each of the party states and with the  
9 Federal Emergency Management Agency and other appropriate  
10 agencies of the United States Government.

11

12 **ARTICLE XII VALIDITY**

13 This act shall be construed to effectuate the purposes stated in  
14 Article I of this compact. If any provision of this compact is declared  
15 unconstitutional, or the applicability thereof to any person or  
16 circumstances is held invalid, the constitutionality of the remainder of  
17 this act and its applicability to other persons and circumstances shall  
18 not be affected.

19

20 **ARTICLE XIII ADDITIONAL PROVISIONS**

21 Nothing in this compact shall authorize or permit the use of  
22 military force by the National Guard of a state at any place outside  
23 that state in any emergency for which the President is authorized by  
24 law to call into federal service the militia, or for any purpose for which  
25 the use of the Army or the Air Force would, in the absence of express  
26 statutory authorization, be prohibited under Section 1385 of Title 18  
27 of the United States Code.

28

29 3. This act shall take effect immediately.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3727**

# **STATE OF NEW JERSEY**

DATED: OCTOBER 3, 2001

The Assembly Law and Public Safety Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3727.

This Assembly Committee Substitute for Assembly Bill No. 3727 provides for New Jersey to enter into the Emergency Management Assistance Compact (EMAC), as recommended by the Governor's Advisory Council on Emergency Services. The advisory council concluded that it would further the purposes of the Emergency Services Act of 1972, P.L.1972, c.133 (C.52:14E-1 et seq.) for the State to become a party to the EMAC. The EMAC is an interstate mutual assistance agreement that provides for sharing of resources by party jurisdictions, to manage any emergency or disaster that is duly declared by the Governor of any affected state, whether arising from technological hazard, natural or other disaster, civil emergency, resource shortage, community disorder, insurgency or enemy attack.

The EMAC has been promoted for adoption among the states since 1996, and would supplement and modernize, but not replace, the existing Interstate Civil Defense and Disaster Compact (N.J.S.38A:20-3) to which New Jersey is a party.

The compact is a mutual aid agreement and partnership between the states that exists because, from hurricanes to earthquakes and from wildfires to toxic waste spills, all states share a common enemy: the constant threat of disaster. The EMAC offers a workable means for states to send personnel and equipment to help disaster relief efforts in other states. There are times when state and local resources are overwhelmed and federal assistance is inadequate or unavailable. Out-of-state aid through EMAC would help fill such shortfalls.

Requests for EMAC assistance are legally binding contractual arrangements which make states that ask for help responsible for reimbursing all out-of-state costs and liable for out-of-state personnel. States can rest assured that sending aid will not be a financial or legal burden for them. This legal standard also helps to speed the process and reduce the paperwork required. EMAC also allows states to ask for whatever assistance they need for any emergency, from earthquakes to acts of terrorism. On the other hand, states are not forced to send any assistance they cannot provide. The compact's

simple procedures also mean that states can dispense with bureaucratic wrangling. Forty-one states, including New York, Delaware and Pennsylvania, and two territories have ratified the compact.

While states are capable of managing most emergencies, there are times when disasters exceed state and local resources and therefore require outside assistance. Usually this assistance comes from federal agencies. However, not all disasters are eligible for federal disaster assistance. EMAC provides another way for states to receive interstate aid in a disaster. Even when federal assistance is merited, EMAC assistance may be more readily available or cheaper. EMAC assistance may supplement federal assistance when the latter is available or replace federal assistance when unavailable. Most important, EMAC allows for a quick response to disasters using the unique resources and expertise possessed by member states. States must agree to each other's terms before sending or receiving aid.

In State of Nevada v. John M. Hall (1979), the United States Supreme Court ruled that states are not immune from being sued in the courts of another state. According to the National Emergency Management Association, this means that without EMAC, emergency workers from assisting states might be sued in the courts of requesting states, costing states millions of dollars. However, under EMAC, requesting states would assume tort responsibility for out-of-state workers.

The EMAC establishes an implementation plan which means that member states all agree to standard operating procedures for requesting and providing assistance, unlike other compacts. EMAC is supported by the National Governors' Conference and the Federal Emergency Management Agency. In 1996, that agency assured states that accepting interstate aid will not be a factor in the agency's review of disaster declaration requests.

A prime example of states aiding each other came during the 1998 summer wildfires in Florida, in which the combined resources of 45 states battled 2,200 blazes across 500,000 acres and in every county in the State. Tens of these states sent assistance through EMAC, including firefighters, fire engines, tanker trucks, helicopters, cargo aircraft and specialized equipment. Other states sent aid through separate fire fighting compacts. Under the terms of the EMAC, Florida reimbursed other states for the \$3 million worth of assistance sent through the compact. When tropical storms struck Florida and the Gulf states two months later, nine states from as far away as Iowa and Maine sent help. According to State Government News, before relief efforts were over, the EMAC states already were discussing how they might aid one another during the winter storms of the coming months.

**SENATE, No. 2490**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED SEPTEMBER 6, 2001

**Sponsored by:**

**Senator DIANE ALLEN**

**District 7 (Burlington and Camden)**

**Senator JOSEPH A. PALAIA**

**District 11 (Monmouth)**

**SYNOPSIS**

"The Emergency Management Assistance Compact Act."

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT to enact the Emergency Management Assistance Compact  
2 and supplementing Title 38A of the New Jersey Statutes.

3  
4 BE IT ENACTED by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. This act shall be known and may be cited as "The Emergency  
8 Management Assistance Compact Act."

9  
10 2. The Governor is hereby authorized and directed to execute a  
11 compact on behalf of this State with any other state legally joining  
12 therein in the form substantially as follows:

13  
14 Emergency Management Assistance Compact

15  
16 The contracting states solemnly agree:

17  
18 ARTICLE I PURPOSE

19 This compact is made and entered into by and between the  
20 participating member states which enact this compact, hereinafter  
21 called party states. For the purposes of this agreement, the term  
22 "states" is taken to mean the several states, the Commonwealth of  
23 Puerto Rico, the District of Columbia, and all United States territorial  
24 possessions.

25 The purpose of this compact is to provide for mutual assistance  
26 between the states entering into this compact in managing any  
27 emergency or disaster that is duly declared by the governor of the  
28 affected state or states, whether arising from natural disaster,  
29 technological hazard, man-made disaster, civil emergency due to  
30 resource shortages, community disorders, insurgency, or enemy attack.

31 This compact also shall provide for mutual cooperation in  
32 emergency-related exercises, testing, or other training activities using  
33 equipment and personnel simulating the performance of any aspect of  
34 the giving and receiving of aid by party states or subdivisions of party  
35 states during emergencies, when such actions occur outside actual  
36 declared emergency periods. Mutual assistance in this compact may  
37 include the use of the states' National Guard forces, either in  
38 accordance with the National Guard Mutual Assistance Compact or by  
39 mutual agreement between states.

40  
41 ARTICLE II GENERAL IMPLEMENTATION

42 Each party state entering into this compact recognizes many  
43 emergencies transcend political jurisdictional boundaries and that  
44 intergovernmental coordination is essential in managing these and  
45 other emergencies under this compact. Each state further recognizes  
46 that there will be emergencies which require immediate access and

1 procedures to apply outside resources to make a prompt and effective  
2 response to such an emergency. This is because few, if any, individual  
3 states have all the resources they may need in all types of emergencies  
4 or the capability of delivering resources to areas where emergencies  
5 exist.

6 The prompt, full, and effective utilization of resources of the  
7 participating states, including any resources on hand or available from  
8 the Federal Government or any other source, that are essential to the  
9 safety, care, and welfare of the people in the event of any emergency  
10 or disaster declared by a party state, shall be the underlying principal  
11 on which all articles of this Compact shall be understood.

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

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### 18 ARTICLE III PARTY STATE RESPONSIBILITIES

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

24 a. Review individual state hazards analyses and, to the extent  
25 reasonably possible, determine all those potential emergencies the  
26 party states might jointly suffer, whether due to natural disaster,  
27 technological hazard, man-made disaster, resource shortages, civil  
28 disorders, insurgency, or enemy attack.

29 b. Review party states' individual emergency plans and develop a  
30 plan which will determine the mechanism for the interstate  
31 management and provision of assistance concerning any potential  
32 emergency.

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

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

38 e. Protect and assure uninterrupted delivery of services, medicines,  
39 water, food, energy and fuel, search and rescue, and critical lifeline  
40 equipment, services, and resources, both human and material.

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

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

1       2. The authorized representative of a party state may request  
2 assistance of another party state by contacting the authorized  
3 representative of that state. The provisions of this agreement shall  
4 only apply to requests for assistance made by and to authorized  
5 representatives. Requests may be verbal or in writing. If verbal, the  
6 request shall be confirmed in writing within 30 days of the verbal  
7 request. Requests shall provide the following information:

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9 assistance is needed, such as but not limited to fire services, law  
10 enforcement, emergency medical, transportation, communications,  
11 public works and engineering, building inspection, planning and  
12 information assistance, mass care, resource support, health and  
13 medical services, and search and rescue.

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15 supplies needed, and a reasonable estimate of the length of time they  
16 will be needed.

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

19       3. There shall be frequent consultation between state officials who  
20 have assigned emergency management responsibilities and other  
21 appropriate representatives of the party states with affected  
22 jurisdictions and the United States Government, with free exchange of  
23 information, plans, and resource records relating to emergency  
24 capabilities.

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26 **ARTICLE IV LIMITATIONS**

27       Any party state requested to render mutual aid or conduct  
28 exercises and training for mutual aid shall take such action as is  
29 necessary to provide and make available the resources covered by this  
30 compact in accordance with its terms; except that it is understood that  
31 the state rendering aid may withhold resources to the extent necessary  
32 to provide reasonable protection for such state.

33       Each party state shall afford to the emergency forces of any party  
34 state, while operating within its state limits under the terms and  
35 conditions of this compact, the same powers (except that of arrest  
36 unless specifically authorized by the receiving state), duties, rights, and  
37 privileges as are afforded forces of the state in which they are  
38 performing emergency services. Emergency forces shall continue  
39 under the command and control of their regular leaders, but the  
40 organizational units shall come under the operational control of the  
41 emergency services authorities of the state receiving assistance. These  
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46 or training for mutual aid are in progress, the state of emergency or

1 disaster remains in effect or loaned resources remain in the receiving  
2 state or states, whichever is longer.

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4 ARTICLE V LICENSES AND PERMITS

5 Whenever any person holds a license, certificate, or other permit  
6 issued by any state party to the compact evidencing the meeting of  
7 qualifications for professional, mechanical, or other skills, and when  
8 such assistance is requested by the receiving party state, such person  
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10 assistance to render aid involving such skill to meet a declared  
11 emergency or disaster, subject to such limitations and conditions as the  
12 governor of the requesting state may prescribe by executive order or  
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16 Officers or employees of a party state rendering aid to another  
17 state pursuant to this compact shall be considered agents of the  
18 requesting state for tort liability and immunity purposes; and no party  
19 state or its officers or employees rendering aid in another state  
20 pursuant to this compact shall be liable on account of any act or  
21 omission in good faith on the part of such forces while so engaged or  
22 on account of the maintenance or use of any equipment or supplies in  
23 connection therewith. Good faith in this article shall not include  
24 willful misconduct, gross negligence, or recklessness.

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27 Inasmuch as it is probable that the pattern and detail of the  
28 machinery for mutual aid among two or more states may differ from  
29 that among the states that are party hereto, this instrument contains  
30 elements of a broad base common to all states, and nothing herein  
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36 public utility, reconnaissance, welfare, transportation and  
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41 death benefits to injured members of the emergency forces of that state  
42 and representatives of deceased members of such forces in case such  
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44 this compact, in the same manner and on the same terms as if the  
45 injury or death were sustained within their own state.

1 ARTICLE IX REIMBURSEMENT

2 Any party state rendering aid in another state pursuant to this  
3 compact shall be reimbursed by the party state receiving such aid for  
4 any loss or damage to or expense incurred in the operation of any  
5 equipment and the provision of any service in answering a request for  
6 aid and for the costs incurred in connection with such requests; except  
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13 under this provision.

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16 Plans for the orderly evacuation and interstate reception of  
17 portions of the civilian population as the result of any emergency or  
18 disaster of sufficient proportions to so warrant, shall be worked out  
19 and maintained between the party states and the emergency  
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23 come and shall include the manner of transporting such evacuees, the  
24 number of evacuees to be received in different areas, the manner in  
25 which food, clothing, housing, and medical care will be provided, the  
26 registration of the evacuees, the providing of facilities for the  
27 notification of relatives or friends, and the forwarding of such  
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42 enactment into law and any two states; thereafter, this compact shall  
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44 state.

45 Any party state may withdraw from this compact by enacting a  
46 statute repealing the same, but no such withdrawal shall take effect

1 until 30 days after the governor of the withdrawing state has given  
2 notice in writing of such withdrawal to the governors of all other party  
3 states. Such action shall not relieve the withdrawing state from  
4 obligations assumed hereunder prior to the effective date of  
5 withdrawal.

6 Duly authenticated copies of this compact and of such  
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9 Federal Emergency Management Agency and other appropriate  
10 agencies of the United States Government.

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14 Article I of this compact. If any provision of this compact is declared  
15 unconstitutional, or the applicability thereof to any person or  
16 circumstances is held invalid, the constitutionality of the remainder of  
17 this act and its applicability to other persons and circumstances shall  
18 not be affected.

19

#### 20 ARTICLE XIII ADDITIONAL PROVISIONS

21 Nothing in this compact shall authorize or permit the use of  
22 military force by the National Guard of a state at any place outside  
23 that state in any emergency for which the President is authorized by  
24 law to call into federal service the militia, or for any purpose for which  
25 the use of the Army or the Air Force would, in the absence of express  
26 statutory authorization, be prohibited under Section 1385 of Title 18  
27 of the United States Code.

28

29 3. This act shall take effect immediately.

30

31

32

#### STATEMENT

33

34 The Governor's Advisory Council on Emergency Services has  
35 recommended that the Emergency Management Assistance Compact  
36 (EMAC) be enacted in New Jersey. The advisory council has  
37 concluded that it would further the purposes of the Emergency  
38 Services Act of 1972, P.L.1972, c.133 (C.52:14E-1 et seq.) for the  
39 State to become a party to the EMAC. The EMAC is an interstate  
40 mutual assistance agreement that provides for sharing of resources by  
41 party jurisdictions, to manage any emergency or disaster that is duly  
42 declared by the Governor of any affected state, whether arising from  
43 technological hazard, natural or other disaster, civil emergency,  
44 resource shortage, community disorder, insurgency or enemy attack.

45 The EMAC has been promoted for adoption among the states since  
46 1996, and would supplement and modernize, but not replace, the

1 existing Interstate Civil Defense and Disaster Compact (N.J.S.38A:20-  
2 3) to which New Jersey is a party.

3 The compact is a mutual aid agreement and partnership between  
4 the states that exists because, from hurricanes to earthquakes and from  
5 wildfires to toxic waste spills, all states share a common enemy: the  
6 constant threat of disaster. The EMAC offers a workable means for  
7 states to send personnel and equipment to help disaster relief efforts  
8 in other states. There are times when state and local resources are  
9 overwhelmed and federal assistance is inadequate or unavailable. Out-  
10 of-state aid through EMAC would help fill such shortfalls.

11 Requests for EMAC assistance are legally binding contractual  
12 arrangements which make states that ask for help responsible for  
13 reimbursing all out-of-state costs and liable for out-of-state personnel.  
14 States can rest assured that sending aid will not be a financial or legal  
15 burden for them. This legal standard also helps to speed the process  
16 and reduce the paperwork required. EMAC also allows states to ask  
17 for whatever assistance they need for any emergency, from  
18 earthquakes to acts of terrorism. On the other hand, states are not  
19 forced to send any assistance they cannot provide. The compact's  
20 simple procedures also mean that states can dispense with bureaucratic  
21 wrangling. Thirty-nine states, including Delaware and Pennsylvania,  
22 and two territories are current signatories to the compact.

23 While states are capable of managing most emergencies, there are  
24 times when disasters exceed state and local resources and therefore  
25 require outside assistance. Usually this assistance comes from federal  
26 agencies. However, not all disasters are eligible for federal disaster  
27 assistance. EMAC provides another way for states to receive  
28 interstate aid in a disaster. Even when federal assistance is merited,  
29 EMAC assistance may be more readily available or cheaper. EMAC  
30 assistance may supplement federal assistance when the latter is  
31 available or replace federal assistance when unavailable. Most  
32 important, EMAC allows for a quick response to disasters using the  
33 unique resources and expertise possessed by member states. States  
34 must agree to each other's terms before sending or receiving aid.

35 In State of Nevada v. John M. Hall (1979), the United States  
36 Supreme Court ruled that states are not immune from being sued in the  
37 courts of another state. According to the National Emergency  
38 Management Association, this means that without EMAC, emergency  
39 workers from assisting states might be sued in the courts of requesting  
40 states, costing states millions of dollars. However, under EMAC,  
41 requesting states would assume tort responsibility for out-of-state  
42 workers.

43 The EMAC establishes an implementation plan which means that  
44 member states all agree to standard operating procedures for  
45 requesting and providing assistance, unlike other compacts. EMAC  
46 is supported by the National Governors' Conference and the Federal

1 Emergency Management Agency. In 1996, that agency assured states  
2 that accepting interstate aid will not be a factor in the agency's review  
3 of disaster declaration requests.

4 A prime example of states aiding each other came during the 1998  
5 summer wildfires in Florida, in which the combined resources of 45  
6 states battled 2,200 blazes across 500,000 acres and in every county  
7 in the State. Tens of these states sent assistance through EMAC,  
8 including firefighters, fire engines, tanker trucks, helicopters, cargo  
9 aircraft and specialized equipment. Other states sent aid through  
10 separate fire fighting compacts. Under the terms of the EMAC,  
11 Florida reimbursed other states for the \$3 million worth of assistance  
12 sent through the compact. When tropical storms struck Florida and  
13 the Gulf states two months later, nine states from as far away as Iowa  
14 and Maine sent help. According to State Government News, before  
15 relief efforts were over, the EMAC states already were discussing how  
16 they might aid one another during the winter storms of the coming  
17 months.



# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### SENATE, No. 2490

# STATE OF NEW JERSEY

DATED: OCTOBER 3, 2001

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 2490.

This bill provides for New Jersey to enter into the Emergency Management Assistance Compact (EMAC), an interstate mutual assistance agreement. EMAC provides for the sharing of resources by party jurisdictions to manage any emergency or disaster declared by the Governor of any affected state, whether arising from technological hazard, natural or other disaster, civil emergency, resource shortage, community disorder, insurgency or enemy attack. The compact allows for a rapid response to disasters using the unique resources and expertise possessed by member states.

The terrorist attacks on September 11, 2001, demonstrated that all states share the constant threat of disaster. Other emergencies when EMAC could be invoked include hurricanes, earthquakes, wildfires and toxic waste spills. At present, forty-one states, including New York, Delaware and Pennsylvania, and two territories are signatories to the compact.

Requests for EMAC assistance are legally binding contractual arrangements, which make states requesting assistance responsible for reimbursing all out-of-state costs and liable for out-of-state personnel. EMAC also allows states to request any needed assistance in an emergency; however, states are not forced to send any assistance they cannot provide. States must agree to each other's terms before sending or receiving aid.

While states are capable of managing most emergencies, there are occasions, such as the terrorist attacks, when disasters exceed state and local resources and therefore require outside assistance. Usually this assistance is provided by federal agencies. However, not all disasters are eligible for federal disaster assistance. EMAC provides another alternative for states to receive interstate aid in a disaster. Even when federal assistance is merited, EMAC assistance may be more readily available or less expensive. Therefore, EMAC assistance may supplement federal assistance when the latter is available, or replace federal assistance when unavailable.

It is the committee's understanding that the Governor's Advisory Council on Emergency Services concluded that EMAC would further the purposes of the Emergency Services Act of 1972, P.L.1972, c.133

(C.52:14E-1 et seq.). In addition, EMAC would supplement and modernize, but not replace, the existing Interstate Civil Defense and Disaster Compact (N.J.S.38A:20-3) to which New Jersey is a party.

P.L. 2001, CHAPTER 249, *approved October 4, 2001*

Assembly Committee Substitute for

Assembly, No. 3727

1 **AN ACT** to enact the Emergency Management Assistance Compact and  
2 supplementing Title 38A of the New Jersey Statutes.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. This act shall be known and may be cited as "The Emergency  
8 Management Assistance Compact Act."

9  
10 2. The Governor is hereby authorized and directed to execute a  
11 compact on behalf of this State with any other state legally joining  
12 therein in the form substantially as follows:

13  
14 Emergency Management Assistance Compact

15  
16 The contracting states solemnly agree:

17  
18 **ARTICLE I PURPOSE**

19 This compact is made and entered into by and between the  
20 participating member states which enact this compact, hereinafter  
21 called party states. For the purposes of this agreement, the term  
22 "states" is taken to mean the several states, the Commonwealth of  
23 Puerto Rico, the District of Columbia, and all United States territorial  
24 possessions.

25 The purpose of this compact is to provide for mutual assistance  
26 between the states entering into this compact in managing any  
27 emergency or disaster that is duly declared by the governor of the  
28 affected state or states, whether arising from natural disaster,  
29 technological hazard, man-made disaster, civil emergency due to  
30 resource shortages, community disorders, insurgency, or enemy attack.

31 This compact also shall provide for mutual cooperation in  
32 emergency-related exercises, testing, or other training activities using  
33 equipment and personnel simulating the performance of any aspect of  
34 the giving and receiving of aid by party states or subdivisions of party  
35 states during emergencies, when such actions occur outside actual  
36 declared emergency periods. Mutual assistance in this compact may  
37 include the use of the states' National Guard forces, either in  
38 accordance with the National Guard Mutual Assistance Compact or by  
39 mutual agreement between states.

40  
41 **ARTICLE II GENERAL IMPLEMENTATION**

42 Each party state entering into this compact recognizes many

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

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

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

### 21 22 ARTICLE III PARTY STATE RESPONSIBILITIES

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

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

33 b. Review party states' individual emergency plans and develop a  
34 plan which will determine the mechanism for the interstate  
35 management and provision of assistance concerning any potential  
36 emergency.

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

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

42 e. Protect and assure uninterrupted delivery of services, medicines,  
43 water, food, energy and fuel, search and rescue, and critical lifeline  
44 equipment, services, and resources, both human and material.

45 f. Inventory and set procedures for the interstate loan and delivery  
46 of human and material resources, together with procedures for

1 reimbursement or forgiveness.

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

5 2. The authorized representative of a party state may request  
6 assistance of another party state by contacting the authorized  
7 representative of that state. The provisions of this agreement shall  
8 only apply to requests for assistance made by and to authorized  
9 representatives. Requests may be verbal or in writing. If verbal, the  
10 request shall be confirmed in writing within 30 days of the verbal  
11 request. Requests shall provide the following information:

12 a. A description of the emergency service function for which  
13 assistance is needed, such as but not limited to fire services, law  
14 enforcement, emergency medical, transportation, communications,  
15 public works and engineering, building inspection, planning and  
16 information assistance, mass care, resource support, health and  
17 medical services, and search and rescue.

18 b. The amount and type of personnel, equipment, materials and  
19 supplies needed, and a reasonable estimate of the length of time they  
20 will be needed.

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

23 3. There shall be frequent consultation between state officials who  
24 have assigned emergency management responsibilities and other  
25 appropriate representatives of the party states with affected  
26 jurisdictions and the United States Government, with free exchange of  
27 information, plans, and resource records relating to emergency  
28 capabilities.

29

30 **ARTICLE IV LIMITATIONS**

31 Any party state requested to render mutual aid or conduct  
32 exercises and training for mutual aid shall take such action as is  
33 necessary to provide and make available the resources covered by this  
34 compact in accordance with its terms; except that it is understood that  
35 the state rendering aid may withhold resources to the extent necessary  
36 to provide reasonable protection for such state.

37 Each party state shall afford to the emergency forces of any party  
38 state, while operating within its state limits under the terms and  
39 conditions of this compact, the same powers (except that of arrest  
40 unless specifically authorized by the receiving state), duties, rights, and  
41 privileges as are afforded forces of the state in which they are  
42 performing emergency services. Emergency forces shall continue  
43 under the command and control of their regular leaders, but the  
44 organizational units shall come under the operational control of the  
45 emergency services authorities of the state receiving assistance. These  
46 conditions may be activated, as needed, only subsequent to a

1 declaration of a state of emergency or disaster by the governor of the  
2 party state that is to receive assistance or commencement of exercises  
3 or training for mutual aid and shall continue so long as the exercises  
4 or training for mutual aid are in progress, the state of emergency or  
5 disaster remains in effect or loaned resources remain in the receiving  
6 state or states, whichever is longer.

7  
8 **ARTICLE V LICENSES AND PERMITS**

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

18  
19 **ARTICLE VI LIABILITY**

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

29  
30 **ARTICLE VII SUPPLEMENTARY AGREEMENTS**

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

42  
43 **ARTICLE VIII COMPENSATION**

44 Each party state shall provide for the payment of compensation and  
45 death benefits to injured members of the emergency forces of that state  
46 and representatives of deceased members of such forces in case such

1 members sustain injuries or are killed while rendering aid pursuant to  
2 this compact, in the same manner and on the same terms as if the  
3 injury or death were sustained within their own state.

#### 4 5 ARTICLE IX REIMBURSEMENT

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

#### 18 19 ARTICLE X EVACUATION

20 Plans for the orderly evacuation and interstate reception of  
21 portions of the civilian population as the result of any emergency or  
22 disaster of sufficient proportions to so warrant, shall be worked out  
23 and maintained between the party states and the emergency  
24 management or services directors of the various jurisdictions where  
25 any type of incident requiring evacuations might occur. Such plans  
26 shall be put into effect by request of the state from which evacuees  
27 come and shall include the manner of transporting such evacuees, the  
28 number of evacuees to be received in different areas, the manner in  
29 which food, clothing, housing, and medical care will be provided, the  
30 registration of the evacuees, the providing of facilities for the  
31 notification of relatives or friends, and the forwarding of such  
32 evacuees to other areas or the bringing in of additional materials,  
33 supplies, and all other relevant factors. Such plans shall provide that  
34 the party state receiving evacuees and the party state from which the  
35 evacuees come shall mutually agree as to reimbursement of  
36 out-of-pocket expenses incurred in receiving and caring for such  
37 evacuees, for expenditures for transportation, food, clothing,  
38 medicines and medical care, and like items. Such expenditures shall  
39 be reimbursed as agreed by the party state from which the evacuees  
40 come. After the termination of the emergency or disaster, the party  
41 state from which the evacuees come shall assume the responsibility for  
42 the ultimate support or repatriation of such evacuees.

#### 43 44 ARTICLE XI IMPLEMENTATION

45 This compact shall become operative immediately upon its  
46 enactment into law and any two states; thereafter, this compact shall

1 become effective as to any other state upon its enactment by such  
2 state.

3 Any party state may withdraw from this compact by enacting a  
4 statute repealing the same, but no such withdrawal shall take effect  
5 until 30 days after the governor of the withdrawing state has given  
6 notice in writing of such withdrawal to the governors of all other party  
7 states. Such action shall not relieve the withdrawing state from  
8 obligations assumed hereunder prior to the effective date of  
9 withdrawal.

10 Duly authenticated copies of this compact and of such  
11 supplementary agreements as may be entered into shall, at the time of  
12 their approval, be deposited with each of the party states and with the  
13 Federal Emergency Management Agency and other appropriate  
14 agencies of the United States Government.

15

16 ARTICLE XII VALIDITY

17 This act shall be construed to effectuate the purposes stated in  
18 Article I of this compact. If any provision of this compact is declared  
19 unconstitutional, or the applicability thereof to any person or  
20 circumstances is held invalid, the constitutionality of the remainder of  
21 this act and its applicability to other persons and circumstances shall  
22 not be affected.

23

24 ARTICLE XIII ADDITIONAL PROVISIONS

25 Nothing in this compact shall authorize or permit the use of  
26 military force by the National Guard of a state at any place outside  
27 that state in any emergency for which the President is authorized by  
28 law to call into federal service the militia, or for any purpose for which  
29 the use of the Army or the Air Force would, in the absence of express  
30 statutory authorization, be prohibited under Section 1385 of Title 18  
31 of the United States Code.

32

33 3. This act shall take effect immediately.

34

35

36

37

38

\_\_\_\_\_

"The Emergency Management Assistance Compact Act."



## CHAPTER 249

**AN ACT** to enact the Emergency Management Assistance Compact and supplementing Title 38A of the New Jersey Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.38A:20-4 Short title.

1. This act shall be known and may be cited as "The Emergency Management Assistance Compact Act."

C.38A:20-5 Emergency Management Assistance Compact.

2. The Governor is hereby authorized and directed to execute a compact on behalf of this State with any other state legally joining therein in the form substantially as follows:

Emergency Management Assistance Compact

The contracting states solemnly agree:

### ARTICLE I PURPOSE

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 or states, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency due to resource shortages, community disorders, insurgency, or enemy attack.

This compact also shall provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating the performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, when such actions occur 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 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, 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 30 days of the verbal request. Requests shall provide the following information:

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 its terms; except 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 shall continue under the command and control of their regular leaders, but the organizational units shall 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 or states, whichever is longer.

#### ARTICLE V LICENSES AND PERMITS

Whenever any person holds a license, certificate, or other permit issued by any state party

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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 to 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 include, 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; except 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 furthermore, 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

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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 or repatriation of such evacuees.

ARTICLE XI IMPLEMENTATION

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.

Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 30 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.

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 of this compact. 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 its applicability to other persons and circumstances shall not be affected.

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 of the United States Code.

3. This act shall take effect immediately.

Approved October 4, 2001.

**Office of the Governor**  
**NEWS RELEASE**

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RELEASE: October, 4 , 2001

**DiFrancesco Signs Anti-Terrorism and Victims' Assistance Bills Following Unanimous, Bipartisan Support of Legislature Includes Domestic Security Preparedness Task Force**

Acting Governor Donald T. DiFrancesco today signed into law four bills to increase anti-terrorism efforts and aid disaster victims and their families. The legislation was introduced yesterday and passed the same day with unanimous, bipartisan support following the acting Governor's address to a Joint Session of the Legislature.

"In less than 24 hours, the Legislature introduced, modified and passed these four bills that will support our response to terrorism and help us meet this threat for years to come. By any measure, their action was historic. Without a single 'no' vote, legislators came together in a bipartisan way to pass some of the most important legislation we may ever see in New Jersey," stated DiFrancesco.

DiFrancesco signed the following legislation today:

- S-2575, New Jersey Domestic Security Preparedness Act to create a New Jersey Domestic Security Preparedness Task Force, which will report directly to the Governor, and will improve response planning and crisis management capabilities, fight biological and chemical terrorism and provide statewide disease surveillance.
- A-22, New Jersey Victims Assistance Act of 2001 to allow state agencies the flexibility needed to address victims' needs by extending time requirements and filing deadlines for affected families.
- A-21, Declaration of Death Act to ease the restrictions concerning death certificates in a catastrophic event and waive all application fees for victims and their loved ones.
- S-3727, Emergency Management Assistance Compact to enter into a 41-state compact to provide mutual assistance and cooperation in emergency-related training and disaster response.

The New Jersey Domestic Security Preparedness Act of 2001 - the centerpiece of the acting Governor's anti-terrorism package - was sponsored by Speaker Jack Collins and Minority Leader Joe Doria in the Assembly and Senate Majority Leader John Bennett and Senator Ray Lesniak. It commits nearly \$9 million to enhancing existing anti-terrorism efforts and establishes the New Jersey Domestic Security Preparedness Task Force.

"Let me be clear at the outset: the work of this Task Force will not change the constitutional rights of any citizen in any way, shape, or form. The role of this Task Force is not to take away our civil rights, but to safeguard our liberties," DiFrancesco remarked.

The Task Force will also have an Infrastructure Advisory Committee that will serve as a liaison between the public and private sectors to ensure that the Task Force's work meets reasonable standards for change that do not create undue hardships for private industry or for government.

The nine-member Task Force board, which reports directly to the Governor, will be comprised of the Superintendent of the Division of State Police, Attorney General, Adjutant General of the Department of Military and Veterans' Affairs, Commissioner of the Department of Transportation, Commissioner of the Department of Health and Senior Services and Coordinator of the Office of Recovery and Victim Assistance or their designees. Additionally, three public members are to be appointed by the Governor with the consent of the Senate.

"I am confident that - with the help of our legislators and the support of our citizens - we will continue to do all that must be done to provide for all New Jerseyans and to protect our great state and nation. We can do no less - for the sake of our families, for the sake of our children, for the memories of those who gave their lives in this tragedy," concluded the acting Governor.

Bill descriptions are attached.

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### **New Jersey Domestic Security Preparedness Act S-2575**

The ANew Jersey Domestic Security Preparedness Act,@ (NJDSPA) will reinforce and expand our existing anti-terrorism efforts by enhancing and integrating security planning and preparedness measures throughout the State. By establishing a cooperative effort between government at all levels, and the private sector, the NJDSPA is designed to foster and stimulate a greater unification and coordination of the State=s domestic security preparedness and planning.

Section 4 of the NJDSPA establishes the Domestic Security Preparedness Task Force as a nine member body comprised of cabinet level officials, the Superintendent of the State Police, the Coordinator of the Office of Recovery and Victim Assistance and three public members. The task force will adopt a plan of operation which must be approved by the Governor

Section 5 of the bill identifies the primary responsibilities of the task force to include but not be limited to: (1) developing proposals to preserve, protect and sustain domestic security and to ensure a comprehensive program of domestic preparedness, particularly with regard to New Jersey=s infrastructure, transportation system, telecommunications and information systems, financial systems and network, health services and the potential impact of terrorist attacks or sabotage involving chemical or biological agents or nuclear weapons; and (2) developing, implementing and managing comprehensive responses to terroristic attacks or other technological disasters. Section 5 also notes that disaster remediation, recovery and response functions performed by the task force will supplement, rather than replace, those disaster relief functions currently performed by the Office of Emergency Management.

Section 6 of the NJDSPA requires the task force to adopt domestic security and preparedness standards, guidelines and protocols to preserve, protect and sustain the critical assets of the State's infrastructure, which may be applicable to both public and private entities and facilities, as may be appropriate and critical to the public interest and well being. In adopting such standards, protocols and guidelines, the task force shall not be bound by the requirements of the Administrative Procedure Act, @ however, no adoption shall take place without review by the Infrastructure Advisory Committee (established in section 7) and approval by the Governor.

Section 6 also authorizes the task force, subject to applicable constitutional and statutory limitations, to seek or request and, if necessary compel, the production of such information as the task force deems necessary to carry out its duties under the NJDSPA; provided, however, that any such information that is confidential in nature, including proprietary information, shall be deemed privileged and shall not be publicly disclosed by the task force without cause directly relating to the security, public safety or well being of the citizens of this State.

Section 7 requires the task force to establish an Infrastructure Advisory Committee to assist it in the carrying out of its obligations. The advisory committee shall act as a liaison to private industry throughout the State, and will establish ongoing communication between private industry, and any other private entity, and State and local officials regarding domestic preparedness and the respective roles and responsibilities of the public and private sectors. The advisory committee will serve as a resource to the task force and the planning group (established in section 8) with respect to domestic preparedness issues facing private industry and other private entities. The advisory committee will include representatives of gas, water, electric utilities and nuclear facilities, and the telecommunications, transportation, health care, chemical, and pharmaceutical industries situate in, or otherwise serving the citizens of this State, as well as such other industries or entities the task force deems appropriate.

Section 8 establishes the New Jersey Domestic Security Preparedness Planning Group to assist the task force in performing its duties. In cooperation with the task force, the planning group shall develop and provide to the task force, for consideration, a coordinated plan, to be included in the State Emergency Operations Plan, to prepare for, respond to, mitigate and recover from incidents of terrorism. The membership of the planning group is set forth in this section.

Section 9 requires the planning group to identify New Jersey's needs and resources, to develop, coordinate and integrate proposals to afford guidance to the task force in carrying out its duties, to formulate recommendations for the development of necessary training programs, and to provide such technical assistance as may be appropriate and necessary for the task force to fulfill its duties under this act. To the extent that the planning group obtains critical or sensitive intelligence information, such information shall be confidential. The planning group, in consultation with the task force, will obtain and maintain data on the security needs of State and local governments and shall serve as the central agency for submitting applications to the federal government for terrorism planning and equipment grants.

Section 9 directs the task force to establish, within the planning group, a Weapons of Mass Destruction Advisory Committee. The committee will investigate and assess the nature and extent of the risk associated with terroristic attack or sabotage involving such weapons and shall assist the task force in developing appropriate preparedness plans.

Section 10 of the NJDSPA authorizes the Attorney General to institute an action or proceeding in the Superior Court for equitable and other relief if a person knowingly has refused or failed to comply with applicable domestic security preparedness standards or furnish information required by the NJDSPA.

Section 11 of the NJDSPA mandates that no record held, maintained or kept on file by the task force or the planning group shall be deemed to public record. The task force and the planning group shall designate such records as may be available for public inspection when, in the sole discretion of the entity possessing the record, the inspection of those records shall not jeopardize the public safety. In addition neither the task force nor the planning group shall be subject to the provisions of the AOpen Public Meetings Act."

Section 12 directs the Commissioner of Health and Senior Services to establish or cause to be established a program of laboratory services for the prompt and accurate detection and analysis of biological and chemical agents that may be or have been used in the commission of terroristic acts or any other technological disaster. The program shall include the capacity to detect, analyze and identify chemical agents so used during and beyond the first 24 hours of a suspected event, and to support the safe handling of potentially dangerous environmental and clinical specimens so identified.

Section 13 requires the task force to issue an annual report to the Legislature as to their activities during the preceding year. The report shall include, but not be limited to, an account of the general security measures that have been implemented during the preceding year, the public and private entities that are affected by the work of the task force, and such other information as may be necessary or useful to the Legislature.

Section 14 of the NJDSPA appropriates \$8,950,000. \$2.7M to the Division of State Police to fund a counter-terrorism unit; \$1M to fund and enhance the services provided by the Office of Emergency Management; \$2M to fund, train and equip a domestic emergency response team in the Department of Military and Veterans Affairs; \$1.8M to establish a program of laboratory services in the Department of Health and Senior Services to provide for the prompt and accurate detection and analysis of biological and chemical agents that may be used in terrorist acts and \$1.45M to the Department of Health and Senior Services to fund a program of disease surveillance and investigation.

Section 15 directs the Governor, 65 months following enactment, to give notice to the Legislature to review the conduct and performance of the task force. If the Legislature fails to find that the task force has adequately performed its duties, the task force will continue to operate.



## **New Jersey Terrorism Victims' Assistance Act of 2001**

**A-22/S-21**

**Collins/Doria and Bennett/Codey**

- This bill authorizes the Governor to expedite the receipt of State benefits or assistance by the victims and families of victims of the September 11, 2001 terrorist attack on the United States. It provides that, upon recommendation of a State agency, the Governor, in regard to victims of the attack and their families, may waive certain administrative requirements and approve the payment of benefits or the provision of assistance under State programs, and extend deadlines for certain filings with, and payments (with interest and penalties forgiven) to, State agencies.
- The bill also authorizes the governing body of a municipality to adopt a resolution temporarily waiving interest on any property tax assessments due on or before December 31, 2001 in regard to victims of the attack and the families of such victims.
- The legislation sunsets on December 31 on the premise that if permanent program changes are needed, there will be time in December to effectuate them in the normal course of legislative business.
- Notice of waivers or extensions would be published in the New Jersey Register and on the State agency's website and a copy thereof transmitted to the presiding officers of each house of the Legislature and chairpersons of the budget committees of each house.

### **EMERGENCY MANAGEMENT ASSISTANCE COMPACT**

#### **BILL NO:**

Assembly Bill No. 3727 (2001)

Senate Bill No. 2490 (2001)

#### **SPONSORS:**

Assemblymembers Kelly and Zecker.

Senators Allen and Palaia.

#### **PURPOSE:**

The Emergency Management Assistance Compact (EMAC) is an interstate mutual assistance agreement that provides for sharing of resources by party jurisdictions, to manage any emergency or disaster that is duly declared by the Governor of any affected state, whether arising from technological hazard, natural or other disaster, civil emergency, resource shortage, community disorder, insurgency or enemy attack.

The Governor's Advisory Council on Emergency Services has recommended that the Emergency Management Assistance Compact (EMAC) be enacted in New Jersey. Forty-one

states, including New York (which became a member on September 17, 2001), Delaware and Pennsylvania, and two territories are current signatories to the compact.

Requests for EMAC assistance are legally binding contractual arrangements which make states that ask for help responsible for reimbursing all out-of-state costs and liable for out-of-state personnel. States can rest assured that sending aid will not be a financial or legal burden for them. EMAC allows states to ask for whatever assistance they need for any emergency, from earthquakes to acts of terrorism.

While states are capable of managing most emergencies, there are times when disasters exceed state and local resources and therefore require outside assistance - this assistance usually comes from federal agencies. However, not all disasters are eligible for federal disaster assistance. EMAC provides another way for states to receive interstate aid in a disaster. EMAC assistance may supplement federal assistance when the latter is available or replace federal assistance when unavailable. Most important, EMAC allows for a quick response to disasters using the unique resources and expertise possessed by member states.

EMAC is supported by the National Governors' Conference and the Federal Emergency Management Agency. In 1996, that agency assured states that accepting interstate aid will not be a factor in the agency's review of disaster declaration requests.

## **DECLARATION OF DEATH**

### **Bill Numbers: A-21 and S-20**

### **Sponsors:**

A-21 (Collins/Doria)

S-20 (Codey/Bennett)

**Purpose:** Provides for a presumption of death for persons exposed to a catastrophic event.

- Currently, N.J.S.A. 3B:27-1 allows for a person missing for five years to be presumed dead or at an earlier time in certain circumstances. Present common law recognizes a "special peril" doctrine to allow persons exposed to a peril to be presumed dead earlier than the five year statutory period. The Supreme Court and Administrative Office of the Courts have relaxed all applicable court rules to and established procedures to assist families in obtaining a declaration of death as expeditiously as possible.
- This bill codifies the special peril doctrine by creating a special subsection of N.J.S.A. 3B:27-1 to provide that a person exposed to a specific event certified by the Governor as a catastrophic event that has resulted in loss of life to persons known and unknown whose absence is not satisfactorily explained after diligent search and inquiry may be presumed to be dead as of the time of the catastrophic event.
- The bill also adds a section to provide that a State resident who has obtained a declaration of death pursuant to the above section may apply for and the court shall

order the State registrar of vital statistics to issue a death certificate at no cost to the applicant.

- The bill also provides the authority for the Attorney General to initiate and intervene in any proceedings to assist persons in seeking a declaration of death pursuant to this subsection.