

3 **Senate Bill No. 242**
4 **As Amended**

5 SENATE BILL NO. 242 - By: CAPPS and SHURDEN of the Senate and MORGAN
6 (Danny) of the House.

7 [Oklahoma Emergency Management Act of 2003 - establishing
8 the Oklahoma Intrastate Mutual Aid Compact - repealing the
9 Civil Defense Shelter Incentive Act - codification -
10 emergency]

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 63 O.S. 2001, Section 683.2, as
13 amended by Section 4, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2004,
14 Section 683.2), is amended to read as follows:

15 Section 683.2 A. Because of the existing and increasing
16 possibility of the occurrence of disasters of unprecedented size and
17 destructiveness resulting from natural and man-made causes, in order
18 to ensure that preparations of this state will adequately deal with
19 such disasters and emergencies, to generally provide for the common
20 defense and to protect the public peace, health, and safety, to
21 preserve the lives and property of the people of this state, and to
22 carry out the objectives of state and national survival and recovery
23 in the event of a disaster or emergency, it is hereby found and
24 declared to be necessary to:

- 1 1. Create the Oklahoma Department of Emergency Management
2 (OEM);
- 3 2. Authorize the creation of local organizations for emergency
4 management in the counties and incorporated municipalities of this
5 state;
- 6 3. Provide for the formulation and execution of an emergency
7 operations plan for the state;
- 8 4. Confer upon the Governor and upon the executive heads or
9 governing bodies of the political subdivisions of the state the
10 emergency powers provided by the Oklahoma Emergency Management Act
11 of 2003;
- 12 5. Provide for the rendering of mutual aid among the political
13 subdivisions of this state and with other states to cooperate with
14 the federal government with respect to carrying out emergency
15 management functions and hazard mitigation; and
- 16 6. Provide sufficient organization to meet, prevent or reduce
17 emergencies in the general interest and welfare of the public and
18 this state.
- 19 B. It is further declared to be the purpose of the Oklahoma
20 Emergency Management Act of 2003 and the policy of this state that
21 all emergency management and hazard mitigation functions of this
22 state be coordinated to the maximum extent with the comparable
23 functions of the federal government, including its various

1 departments and agencies, of other states and localities, and of
2 private agencies of every type, to the end that the most effective
3 preparation and use may be made of available workforce, resources
4 and facilities for dealing with disaster and hazard mitigation.

5 C. It is also directed that each state agency, board,
6 commission, department or other state entity having responsibilities
7 either indicated in the state Emergency Operations Plan or by the
8 nature of the service it provides to the citizens of Oklahoma shall
9 have written plans and procedures in place to protect individual
10 employees, administrators and visitors from natural and man-made
11 disasters and emergencies occurring at the work place. Plans and
12 procedures shall be in concurrence with the Oklahoma Department of
13 Emergency Management Guidebook titled "Emergency Standard Operating
14 Procedures" for state departments, agencies, offices and employees.
15 Each state agency, board, commission, department or other state
16 entity shall provide a calendar year annual report on the status of
17 their emergency management program to ~~the Department of Emergency~~
18 ~~Management~~ OEM. ~~The Department of Emergency Management~~ OEM shall
19 compile and integrate all reports into a report to the Governor and
20 Legislature on the status of state emergency preparedness.

21 D. Each state agency, board, commission, department or other
22 state entity shall have written plans and procedures in place to

1 support the responsibilities stated in the state Emergency
2 Operations Plan.

3 E. The National Incident Management System (NIMS) shall be the
4 standard for incident management in the State of Oklahoma. All on-
5 scene management of disasters and emergencies shall be conducted
6 using the Incident Command System (ICS).

7 SECTION 2. AMENDATORY 63 O.S. 2001, Section 683.14, as
8 amended by Section 13, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2004,
9 Section 683.14), is amended to read as follows:

10 Section 683.14 A. Any person owning or controlling real estate
11 or other premises who voluntarily and without compensation grants a
12 license or privilege or otherwise permits the designation or use of
13 the whole or any part or parts of such real estate or premises for
14 the purpose of sheltering persons, mass immunization and
15 prophylactic site or Strategic National Stockpile storage site
16 during an actual or impending emergency or exercise shall, together
17 with any successors in interest, if any, not be civilly liable for
18 negligently causing the death of, or injury to, any person on or
19 about such real estate or premises for loss of, or damage to, the
20 property of such person; provided, that the injury or death was
21 caused by or incidental to the actual use of such premises for such
22 real, actual or impending emergency or exercise, and further

1 provided that nothing herein contained shall grant immunity from
2 gross, willful or wanton acts of negligence.

3 B. Neither the State of Oklahoma nor any political subdivision
4 thereof nor any officer or employee of the State of Oklahoma or of
5 any political subdivision thereof nor volunteer whose services have
6 been accepted and utilized by an officer or employee of the State of
7 Oklahoma or of any political subdivision thereof for carrying out
8 the functions of this act shall be civilly liable for any loss or
9 injury resulting to any person's company, corporation or other legal
10 entity as a result of any decision, determination, order or action
11 of such employee in the performance of ~~his~~ assigned duties and
12 responsibilities under this act during a stated emergency unless
13 such loss or injury was caused by the gross negligence, or willfully
14 and unnecessarily or by the wanton act of such state officer or
15 employee or volunteer. Nothing in this act shall be construed to
16 waive the sovereignty or immunity of the State of Oklahoma, or any
17 political subdivision thereof, from being sued.

18 SECTION 3. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 695.1 of Title 63, unless there
20 is created a duplication in numbering, reads as follows:

21 Sections 3 through 13 of this act shall be known and may be
22 cited as the "Oklahoma Intrastate Mutual Aid Compact".

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 695.2 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 The purpose of this legislation is to create a system of
5 intrastate mutual aid between participating jurisdictions in the
6 state.

7 "Jurisdiction" means any county, city, town or municipal
8 corporation of the State of Oklahoma represented by an elected
9 governing body.

10 Tribal Nations in the State of Oklahoma shall also be considered
11 jurisdictions under the Oklahoma Intrastate Mutual Aid Compact and
12 participating unless electing not to participate or later
13 withdrawing from the system.

14 Each participant of the system recognizes that emergencies
15 transcend political jurisdictional boundaries and that
16 intergovernmental coordination is essential for the protection of
17 lives and property and for best use of available assets both public
18 and private. The system shall provide for mutual assistance among
19 the participating jurisdictions in the prevention of, response to,
20 and recovery from, any disaster that results in a formal state of
21 emergency in a participating jurisdiction subject to that
22 participating jurisdiction's criterion for declaration. The system
23 shall provide for mutual cooperation among the participating

1 jurisdictions in conducting disaster-related exercises, testing or
2 other training activities outside actual declared emergency periods.
3 This legislation provides no immunity, rights or privileges for any
4 individual responding to a state of emergency that is not requested
5 and/or authorized to respond by a participating jurisdiction.
6 Participating jurisdictions will be ensured eligibility, to the
7 fullest extent possible, for state and federal disaster funding.

8 All jurisdictions within the state, upon enactment of this
9 legislation, are automatically a part of the statewide mutual aid
10 system. A jurisdiction within the state may elect not to
11 participate or to later withdraw from the system upon enacting an
12 appropriate resolution by its governing body declaring that it
13 elects not to participate in the statewide mutual aid system and
14 providing a copy of the resolution to the Oklahoma Department of
15 Emergency Management. This legislation does not preclude
16 participating jurisdictions from entering into supplementary
17 agreements with another jurisdiction and does not affect any other
18 agreement to which a jurisdiction may currently be a party or decide
19 to be a party to.

20 This mutual aid compact is made and entered into by and between
21 the participating jurisdictions, hereinafter called "party
22 jurisdictions", that enact the Compact.

1 In support of the Emergency Management Compact, Section 684.1 et
2 seq of Title 63 of the Oklahoma Statutes, the Governor or the
3 Governor's representative may request mutual aid assistance from
4 local jurisdictions for other states or their jurisdictions. In
5 such situations, the assisting local jurisdiction shall be
6 considered an agent of the State.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 695.3 of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 Each party jurisdiction entering into the Oklahoma Intrastate
11 Mutual Aid Compact recognizes that many emergencies transcend
12 political jurisdictional boundaries and that intergovernmental
13 coordination is essential in managing these and other emergencies
14 under the Compact. Each jurisdiction further recognizes that there
15 will be emergencies which require immediate access and will present
16 procedures to apply outside resources to make prompt and effective
17 response to such an emergency. This is because few, if any,
18 individual jurisdictions have all the resources they need in all
19 types of emergencies and the capability of delivering resources to
20 the area where emergencies occur.

21 The prompt, full and effective utilization of resources of the
22 participating jurisdictions, including any resources on hand or
23 available from any other source, that are essential to the safety,

1 care and welfare of the people in the event of any emergency or
2 disaster declared by a party jurisdiction, shall be the underlying
3 principle on which all articles of this Compact shall be understood.

4 On behalf of the chief elected officer of each jurisdiction
5 participating in the Compact, the legally designated jurisdiction
6 official who is assigned responsibility for emergency management
7 will be responsible for the formulation of the appropriate
8 interjurisdictional mutual aid plans and procedures necessary to
9 implement the Compact.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 695.4 of Title 63, unless there
12 is created a duplication in numbering, reads as follows:

13 A. It shall be the responsibility of each party jurisdiction to
14 formulate procedural plans and programs for interjurisdictional
15 cooperation in the performance of the responsibilities listed in
16 this section. In formulating such plans, and in carrying them out,
17 the party jurisdictions, insofar as practical, shall:

18 1. Review individual jurisdictional hazards analyses and, to the
19 extent reasonably possible, determine all those potential
20 emergencies the party jurisdictions might jointly suffer, whether
21 due to natural or man-made disasters or emergencies;

22 2. Review party jurisdictions' individual emergency plans and
23 develop a plan that will determine the mechanism for the

1 interjurisdictional management and provision of assistance
2 concerning any potential emergency;

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

6 4. Assist in warning communities adjacent to or crossing the
7 jurisdictional boundaries;

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

11 6. Inventory and set procedures for the interjurisdictional loan
12 and delivery of human and material resources, together with
13 procedures for reimbursement or forgiveness; and

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

17 8. Use the National Incident Management System (NIMS), and all
18 on-scene management of an emergency or disaster shall be conducted
19 using the Incident Command System (ICS).

20 B. The authorized representative of a party jurisdiction may
21 request assistance of another party jurisdiction by contacting the
22 authorized representative of that jurisdiction. The provisions of
23 the Oklahoma Intrastate Mutual Aid Compact shall apply only to

1 requests for assistance made by and to authorized representatives.
2 Requests may be verbal or in writing. If verbal, the request shall
3 be confirmed in writing within thirty (30) days of the verbal
4 request. Requests shall provide the following information:

5 1. A description of the emergency service function for which
6 assistance is needed, including, but not limited to, fire services,
7 law enforcement, emergency medical, transportation, communications,
8 public works and engineering, building inspection, planning and
9 information assistance, mass care, resource support, health and
10 medical services, and search and rescue;

11 2. The amount and type of personnel, equipment, materials and
12 supplies needed and a reasonable estimate of the length of time they
13 will be needed; and

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

16 C. There shall be frequent consultation between jurisdiction
17 officials who have assigned emergency management responsibilities
18 and other appropriate representatives of the party jurisdictions
19 with affected jurisdictions, with free exchange of information,
20 plans, and resource records relating to emergency capabilities.

21 D. The chief elected officer of the jurisdiction shall not be
22 obligated under the Compact to send the requested assistance, except
23 in such chief elected officer's sole and absolute discretion, and

1 assistance may be withdrawn at any time in the sole and absolute
2 discretion of the chief elected officer.

3 SECTION 7. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 695.5 of Title 63, unless there
5 is created a duplication in numbering, reads as follows:

6 Any party jurisdiction requested to render mutual aid or conduct
7 exercises and training for mutual aid shall take such action as is
8 necessary to provide and make available the resources covered by the
9 Oklahoma Intrastate Mutual Aid Compact in accordance with the terms
10 hereof; provided that it is understood that the jurisdiction
11 rendering aid may withhold resources to the extent necessary to
12 provide reasonable protection for its own jurisdiction.

13 Each party jurisdiction shall afford the emergency forces of any
14 party jurisdiction, while operating within its jurisdictional limits
15 under the terms and conditions of the Compact, the same powers,
16 duties, rights, and privileges except that of arrest unless
17 specifically authorized by the receiving jurisdiction, as are
18 afforded forces of the jurisdiction in which they are performing
19 emergency services. Emergency forces will continue under the
20 command and control of their regular leaders, but the organizational
21 units will come under operational control of the emergency services
22 authorities of the jurisdiction receiving assistance. These
23 provisions may be activated, as needed, only subsequent to a

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

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 695.6 of Title 63, unless there
10 is created a duplication in numbering, reads as follows:

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

21 SECTION 9. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 695.7 of Title 63, unless there
23 is created a duplication in numbering, reads as follows:

1 Officers or employees of a party jurisdiction rendering aid in
2 another jurisdiction pursuant to the Oklahoma Intrastate Mutual Aid
3 Compact shall be considered agents of the requesting jurisdiction
4 for tort liability and immunity purposes. No party jurisdiction or
5 its officers or employees rendering aid in another jurisdiction
6 pursuant to the Compact shall be liable on account of any act or
7 omission in good faith on the part of such forces while so engaged
8 or on account of the maintenance or use of any equipment or supplies
9 in connection therewith. Good faith shall not include willful
10 misconduct, gross negligence, or recklessness.

11 SECTION 10. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 695.8 of Title 63, unless there
13 is created a duplication in numbering, reads as follows:

14 Inasmuch as it is probable that the pattern and detail of the
15 machinery for mutual aid among two or more jurisdictions may differ
16 from that among the party jurisdictions, the Oklahoma Intrastate
17 Mutual Aid Compact contains elements of a broad base common to all
18 jurisdictions, and nothing herein shall preclude any jurisdiction
19 entering into supplementary agreements with another jurisdiction or
20 affect any other agreements already in force between jurisdictions.
21 Supplementary agreements may include, but shall not be limited to,
22 provisions for evacuation and reception of injured and other persons
23 and the exchange of medical, fire, police, public utility,

1 reconnaissance, welfare, transportation and communications
2 personnel, and equipment and supplies.

3 SECTION 11. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 695.9 of Title 63, unless there
5 is created a duplication in numbering, reads as follows:

6 Each jurisdiction shall provide for the payment of compensation
7 and death benefits to injured members of the emergency forces of
8 that jurisdiction and representatives of deceased members of such
9 forces who sustain injuries or are killed while rendering aid
10 pursuant to the Oklahoma Intrastate Mutual Aid Compact, in the same
11 manner and on the same terms as if the injury or death were
12 sustained within its own jurisdiction.

13 SECTION 12. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 695.10 of Title 63, unless there
15 is created a duplication in numbering, reads as follows:

16 Any party jurisdiction rendering aid in another jurisdiction
17 pursuant to the Oklahoma Intrastate Mutual Aid Compact shall be
18 reimbursed by the party jurisdiction receiving such aid for any loss
19 or damage to or expense incurred in the operation of any equipment
20 and the provision of any service in answering a request for aid and
21 for the costs incurred in connection with such requests; provided,
22 that any aiding party jurisdiction may assume in whole or in part
23 such loss, damage, expense, or other cost, or may loan such

1 equipment or donate such services to the receiving party
2 jurisdiction without charge or cost; and provided further, that any
3 two or more party jurisdictions may enter into supplementary
4 agreements establishing a different allocation of costs among those
5 jurisdictions. Compensation expenses shall not be reimbursable
6 under this section.

7 SECTION 13. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 695.11 of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 Plans for the orderly evacuation and interjurisdiction reception
11 of portions of the civilian population as the result of any
12 emergency or disaster of sufficient proportions to so warrant, shall
13 be worked out and maintained between the party jurisdictions of the
14 Oklahoma Intrastate Mutual Aid Compact and the emergency management
15 or services directors of the various jurisdictions where any type of
16 incident requiring evacuations might occur. Such plans shall be put
17 into effect by request of the jurisdiction from which evacuees come
18 and shall include the manner of transporting such evacuees, the
19 number of evacuees to received in different areas, the manner in
20 which food, clothing, housing, and medical care will be provided,
21 the registration of evacuees, the providing of facilities for the
22 notification of relatives or friends, and the forwarding of such
23 evacuees to other areas or the bringing in of additional materials,

1 supplies, and all other relevant factors. Such plans shall provide
2 that the party jurisdiction receiving evacuees and the party
3 jurisdiction from which the evacuees come shall mutually agree as to
4 reimbursement of out-of-pocket expenses incurred in receiving and
5 caring for such evacuees, for expenditures for transportation, food,
6 clothing, medicines and medical care, and like items. Such
7 expenditures shall be reimbursed as agreed by the party jurisdiction
8 from which the evacuees come. After the termination of the
9 emergency or disaster, the party jurisdiction from which the
10 evacuees come shall assume the responsibility for the ultimate
11 support of repatriation of such evacuees.

12 SECTION 14. REPEALER 63 O.S. 2001, Sections 688.1,
13 688.2, 688.3, 688.4 and 688.5, are hereby repealed.

14 SECTION 15. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY AND HOMELAND
19 SECURITY, dated 2-21-05 - DO PASS, As Amended and Coauthored.