

**CHAPTER 12-10B
INTRASTATE MUTUAL AID ACT**

12-10B-1. SHORT TITLE.

This act may be cited as the "Intrastate Mutual Aid Act".

12-10B-2. DEFINITIONS.

As used in the Intrastate Mutual Aid Act [12-10B-1 NMSA 1978]:

- A. "committee" means the intrastate mutual aid committee;
- B. "disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from a natural or artificial cause, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, earthquakes, landslides, mudslides, volcanic action, fires, explosions, air or water contamination, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption of state services, accidents involving radioactive or hazardous materials, bioterrorism or incidents involving weapons of mass destruction;
- C. "emergency" means the imminent threat of a disaster causing immediate peril to life or property that timely action can avert or minimize;
- D. "member jurisdiction" means the state, through the office of the governor or the governor's designee, a political subdivision or an Indian nation, tribe or pueblo that participates in the system;
- E. "political subdivision" means a county or a municipality; and
- F. "system" means the intrastate mutual aid system.

12-10B-3. COMMITTEE CREATED; MEMBERSHIP; MEETINGS; DUTIES; EXPENSES.

A. The "intrastate mutual aid committee" is created. The committee shall consist of eleven members appointed by the governor, including a representative of the department of public safety and the governor's homeland security advisor who shall be a permanent member and the presiding officer of the committee. The members shall represent emergency management and response disciplines, political subdivisions and, if participating, Indian nations, tribes or pueblos. Appointments shall be made for terms expiring four years from the date of appointment. The committee shall elect from among its members a vice-presiding officer and any other officers the committee deems appropriate. The committee shall meet at least annually and may meet at the call of the

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presiding officer or as otherwise called by seven of its members. The committee shall be attached to the department of public safety for administrative purposes only.

B. The committee shall:

- (1) review the progress and status of intrastate mutual aid;
- (2) assist in developing methods to track and evaluate activation of the system;
- (3) examine issues facing member jurisdictions in the implementation of intrastate mutual aid;
- (4) develop, adopt and disseminate comprehensive guidelines and procedures that address the following:
 - (a) projected or anticipated costs of establishing and maintaining the system;
 - (b) checklists for requesting and providing intrastate mutual aid;
 - (c) record keeping for member jurisdictions; and
 - (d) procedures for reimbursing the actual and legitimate expenses of a member jurisdiction that responds to a request for aid through the system; and
- (5) adopt other guidelines or procedures considered necessary by the committee to implement an effective and efficient system.

C. Members of the committee shall not be paid for participating in committee meetings and activities; however:

- (1) members representing the state, its agencies or political subdivisions shall receive per diem and mileage expenses as provided in the Per Diem and Mileage Act [10-8-1 NMSA 1978] paid by their sponsors;
- (2) members representing the private sector shall receive per diem and mileage expenses as provided in the Per Diem and Mileage Act paid by the department of public safety; and
- (3) members representing Indian nations, tribes or pueblos may be compensated or reimbursed as provided by the tribal government they represent.

12-10B-4. INTRASTATE MUTUAL AID SYSTEM; INITIAL PARTICIPATION;
WITHDRAWAL.

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A. The "intrastate mutual aid system" is created. The system, pursuant to the Intrastate Mutual Aid Act, is composed of and may be described as:

- (1) member jurisdictions and action taken by a member jurisdiction;
- (2) the committee and action taken by the committee;
- (3) guidelines and procedures;
- (4) action taken with respect to requesting aid for an emergency or disaster; and
- (5) action taken with respect to responding to a request for aid for an emergency or disaster.

B. The state and, except as provided in Subsection D of this section, every political subdivision of the state is part of the system.

C. An Indian nation, tribe or pueblo located within the boundaries of the state may become a member jurisdiction upon:

- (1) adoption by the tribal government of a resolution declaring the tribe's desire to be a member jurisdiction and to comply with the provisions of the Intrastate Mutual Aid Act [12-10B-1 NMSA 1978] and the guidelines and procedures adopted by the committee; and
- (2) receipt by the emergency planning and coordination bureau of the department of public safety of a copy of the resolution.

D. A member jurisdiction other than the state may elect not to participate in or to withdraw from the system upon:

- (1) adopting a resolution or ordinance declaring that the member jurisdiction elects not to participate in or to withdraw from the system; and
- (2) receipt by the emergency planning and coordination bureau of the department of public safety of a copy of the resolution or ordinance.

E. This section does not preclude a member jurisdiction from entering into any other agreement with another political subdivision or Indian nation, tribe or pueblo, to the extent provided by law, and does not affect any other agreement to which a political subdivision is a party or may become a party.

12-10B-5. REQUEST FOR AID.

A. A member jurisdiction may request aid from another member jurisdiction:

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- (1) to prevent, mitigate, respond to or recover from an emergency or disaster; or
- (2) in concert with drills or exercises between member jurisdictions.

B. A request for aid shall be made by or through the presiding officer of the governing body of a member jurisdiction or the chief executive officer or the officer's designee of a member jurisdiction. A request may be verbal or in writing. If the request is verbal, it shall be confirmed in writing within thirty days of the date on which the request was made.

12-10B-6. LIMITATION ON AID; COMMAND AND CONTROL.

A member jurisdiction that responds to a request to provide aid to prevent, mitigate, respond to or recover from an emergency or disaster or in drills or exercises is subject to the following conditions:

- A. a member jurisdiction that responds to a request for aid may withhold resources to the extent necessary to provide reasonable protection and services for that responding member jurisdiction;
- B. the personnel of a responding member jurisdiction are under:
 - (1) the command and control of the responding member jurisdiction for purposes that include medical protocols, standard operating procedures and other protocols; and
 - (2) the operational control of the appropriate officials of the member jurisdiction receiving aid; and
- C. the assets and equipment of a responding member jurisdiction are under:
 - (1) the command and control of the responding member jurisdiction; and
 - (2) the operational control of the appropriate officials of the member jurisdiction receiving aid.

12-10B-7. PORTABILITY OF BONA FIDES.

If a person holds a license, certificate, permit or similar documentation that evidences the person's qualifications in a professional, mechanical or other skill and the aid of the person is requested by a member jurisdiction, the person is:

- A. considered to be licensed, certified, permitted or otherwise documented in the member jurisdiction that requests aid for the duration of the emergency or disaster or of the drills or exercises; and

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B. subject to legal limitations or conditions prescribed by the governing body or chief executive officer of the member jurisdiction that requests aid.

12-10B-8. REIMBURSEMENT; DISPUTE RESOLUTION.

A. A requesting member jurisdiction shall reimburse, to the extent permitted by law, each member jurisdiction that responds to a request for aid and renders aid under the system, unless the responding member jurisdiction donates all or a portion of the cost of the aid to the requesting member jurisdiction.

B. A request for reimbursement shall be in accordance with procedures developed by the committee.

C. If a dispute regarding reimbursement arises between a member jurisdiction that requested aid under the system and a member jurisdiction that provided aid under the system, they shall make every effort to resolve the dispute within thirty days of written notice of the dispute given by the member jurisdiction raising the dispute to the other member jurisdiction. If the dispute is not resolved within ninety days from the date of the written notice, either member jurisdiction may:

- (1) request the department of finance and administration to resolve the dispute; or
- (2) if one of the disputing member jurisdictions is an Indian nation, tribe or pueblo, request arbitration pursuant to the commercial arbitration rules and mediation procedures of the American arbitration association.

12-10B-9. BENEFITS.

A. If a person is an employee of a member jurisdiction that responds to a request for aid under the system and the person sustains injury in the course of providing the requested aid, the person is entitled to all applicable benefits, including workers' compensation benefits, that are normally available to the person as an employee of the member jurisdiction that employs the person.

B. If a person described in Subsection A of this section sustains injury that results in death, the person's estate shall receive additional state and federal benefits that may be available for death in the line of duty.

12-10B-10. LIABILITY.

Except as provided in Section 9 [12-10B-9 NMSA 1978] of the Intrastate Mutual Aid Act, a person responding to a request for aid by a member jurisdiction and who is under the operational control of that member jurisdiction, as provided in Section 6 [12-10B-6 NMSA 1978] of the Intrastate Mutual Aid Act, is considered for the purposes of liability to be an employee of the requesting member jurisdiction.

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