

1 **EMERGENCY SERVICES ACCOUNT LOAN AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill modifies the Emergency Management Act.

8 **Highlighted Provisions:**

9 This bill:

- 10 ▶ defines "agent of the state" for emergency response purposes;
- 11 ▶ authorizes the Division of Emergency Management to provide short-term loans to
- 12 agents of the state for the purposes of providing emergency services to a member
- 13 state of the Emergency Management Assistance Compact when:
- 14 • the member state has a declared disaster;
- 15 • the member state has requested support from the agent of the state; and
- 16 • the agent of the state has no funds available to respond to the request from a
- 17 member state;
- 18 ▶ provides that agents of the state will reimburse the State Disaster Recovery
- 19 Restricted Account when reimbursed by the member state for emergency services
- 20 provided; and
- 21 ▶ clarifies that the applicant or sub-applicant agency is responsible for any financial
- 22 match requirements when requesting a federal disaster declaration.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **53-2a-602**, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and

30 amended by Laws of Utah 2013, Chapter 295

31 **53-2a-603**, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and

32 amended by Laws of Utah 2013, Chapter 295

33 **53-2a-604**, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and
 34 amended by Laws of Utah 2013, Chapter 295 and last amended by Coordination
 35 Clause, Laws of Utah 2013, Chapter 117

36

37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **53-2a-602** is amended to read:

39 **53-2a-602. Definitions.**

40 (1) Unless otherwise defined in this section, the terms [~~defined in Part 1, Emergency~~
 41 ~~Management Act, shall have the same meaning for this part]~~ that are used in this part mean the
 42 same as these terms are defined in Part 1, Emergency Management Act.

43 (2) As used in this part:

44 (a) "Agent of the state" means any representative of a state agency, local agency, or
 45 non-profit entity that agrees to provide support to a requesting intrastate or interstate
 46 government entity that has declared an emergency or disaster and has requested assistance
 47 through the division.

48 ~~(a)~~ (b) "Declared disaster" means one or more events:

49 (i) within the state;

50 (ii) that occur within a limited period of time;

51 (iii) that involve:

52 (A) a significant number of persons being at risk of bodily harm, sickness, or death; or

53 (B) a significant portion of real property at risk of loss;

54 (iv) that are sudden in nature and generally occur less frequently than every three years;

55 and

56 (v) that results in:

57 (A) the president of the United States declaring an emergency or major disaster in the
 58 state;

59 (B) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2,
 60 Disaster Response and Recovery Act; or

61 (C) the chief executive officer of a local government declaring a local emergency under
 62 Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

63 ~~(b)~~ (c) "Disaster recovery [~~fund~~] account" means the State Disaster Recovery

64 Restricted Account created in Section 53-2a-603.

65 [~~(d)~~] (d) (i) "Emergency disaster services" means [the following]:

66 (A) evacuation;

67 (B) shelter;

68 (C) medical triage;

69 (D) emergency transportation;

70 (E) repair of infrastructure;

71 (F) safety services, including fencing or roadblocks;

72 (G) sandbagging;

73 (H) debris removal;

74 (I) temporary bridges;

75 (J) procurement and distribution of food, water, or ice;

76 (K) procurement and deployment of generators;

77 (L) rescue or recovery;

78 (M) emergency protective measures; or

79 (N) services similar to those described in Subsections (2)(d)(i)(A) through (M), as

80 defined by the division by rule, that are generally required in response to a declared disaster.

81 (ii) "Emergency disaster services" does not include:

82 (A) emergency preparedness; or

83 (B) notwithstanding whether or not a county participates in the Wildland Fire

84 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs

85 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the

86 Wildland Fire Suppression Fund.

87 [~~(e)~~] (e) "Emergency preparedness" means the following done for the purpose of being

88 prepared for an emergency as defined by the division by rule made in accordance with Title

89 63G, Chapter 3, Utah Administrative Rulemaking Act:

90 (i) the purchase of equipment;

91 (ii) the training of personnel; or

92 (iii) the obtaining of a certification.

93 [~~(f)~~] (f) "Governing body" means:

94 (i) for a county, city, or town, the legislative body of the county, city, or town;

95 (ii) for a local district, the board of trustees of the local district; and

96 (iii) for a special service district:

97 (A) the legislative body of the county, city, or town that established the special service
98 district, if no administrative control board has been appointed under Section 17D-1-301; or

99 (B) the administrative control board of the special service district, if an administrative
100 control board has been appointed under Section 17D-1-301.

101 ~~[(f)]~~ (g) "Local district" ~~[has the same meaning as]~~ means the same as that term is
102 defined in Section 17B-1-102.

103 ~~[(g)]~~ (h) "Local fund" means a local government disaster fund created in accordance
104 with Section 53-2a-605.

105 ~~[(h)]~~ (i) "Local government" means:

106 (i) a county;

107 (ii) a city or town; or

108 (iii) a local district or special service district that:

109 (A) operates a water system;

110 (B) provides transportation service;

111 (C) provides, operates, and maintains correctional and rehabilitative facilities and
112 programs for municipal, state, and other detainees and prisoners;

113 (D) provides consolidated 911 and emergency dispatch service;

114 (E) operates an airport; or

115 (F) operates a sewage system.

116 ~~[(i)]~~ (j) "Special fund" means a fund other than a general fund of a local government
117 that is created for a special purpose established under the uniform system of budgeting,
118 accounting, and reporting.

119 ~~[(j)]~~ (k) "Special service district" ~~[has the same meaning as]~~ means the same as that
120 term is defined in Section 17D-1-102.

121 Section 2. Section **53-2a-603** is amended to read:

122 **53-2a-603. State Disaster Recovery Restricted Account.**

123 (1) (a) There is created a restricted account in the General Fund known as the "State
124 Disaster Recovery Restricted Account."

125 (b) The disaster recovery ~~[fund shall consist]~~ account consists of:

126 (i) money deposited into the disaster recovery [~~fund~~] account in accordance with
127 Section 63J-1-314;

128 (ii) money appropriated to the disaster recovery [~~fund~~] account by the Legislature; and

129 (iii) any other public or private money received by the division that is:

130 (A) given to the division for purposes consistent with this section; and

131 (B) deposited into the disaster recovery [~~fund~~] account at the request of:

132 (I) the division; or

133 (II) the person or entity giving the money.

134 (c) The Division of Finance shall deposit interest or other earnings derived from
135 investment of [~~fund~~] account money into the General Fund.

136 (2) Subject to being appropriated by the Legislature, money in the disaster recovery
137 [~~fund~~] account may only be expended or committed to be expended as follows:

138 (a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or
139 commit to expend an amount that does not exceed \$250,000, in accordance with Section
140 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared
141 disaster;

142 (ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit
143 to expend an amount that exceeds \$250,000, but does not exceed \$1,000,000, in accordance
144 with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to
145 a declared disaster if the division:

146 (A) before making the expenditure or commitment to expend, obtains approval for the
147 expenditure or commitment to expend from the governor;

148 (B) subject to Subsection (5), provides written notice of the expenditure or
149 commitment to expend to the speaker of the House of Representatives, the president of the
150 Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than
151 72 hours after making the expenditure or commitment to expend; and

152 (C) makes the report required by Subsection 53-2a-606(2);

153 (iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit
154 to expend an amount that exceeds \$1,000,000, but does not exceed \$3,000,000, in accordance
155 with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to
156 a declared disaster if, before making the expenditure or commitment to expend, the division:

157 (A) obtains approval for the expenditure or commitment to expend from the governor;
158 and

159 (B) submits the expenditure or commitment to expend to the Executive Appropriations
160 Committee in accordance with Subsection 53-2a-606(3); and

161 (iv) in any fiscal year the division may expend or commit to expend an amount that
162 does not exceed \$150,000 to fund expenses incurred by the National Guard if:

163 (A) in accordance with Section 39-1-5, the governor orders into active service the
164 National Guard in response to a declared disaster; and

165 (B) the money is not used for expenses that qualify for payment as emergency disaster
166 services; ~~and~~

167 (b) ~~[subject to being appropriated by the Legislature;]~~ money not described in
168 Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs
169 to the state directly related to a declared disaster that are not costs related to:

170 (i) emergency disaster services;

171 (ii) emergency preparedness; or

172 (iii) notwithstanding whether a county participates in the Wildland Fire Suppression
173 Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be
174 paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland
175 Fire Suppression Fund[-]; and

176 (c) the division may provide advanced funding from the disaster recovery account to
177 recognized agents of the state when:

178 (i) Utah has agreed, through the division, to enact the Emergency Management
179 Assistance Compact with another member state that has requested assistance during a declared
180 disaster;

181 (ii) Utah agrees to provide resources to the requesting member state;

182 (iii) the agent of the state who represents the requested resource has no other funding
183 source available at the time of the Emergency Management Assistance Compact request; and

184 (iv) the disaster recovery account has a balance of funds available to be utilized while
185 maintaining a minimum balance of \$10,000,000.

186 (3) All funding provided in advance to an agent of the state and subsequently
187 reimbursed shall be credited to the division.

188 ~~[(3)]~~ (4) The state treasurer shall invest money in the disaster recovery ~~[fund]~~ account
189 according to Title 51, Chapter 7, State Money Management Act.

190 ~~[(4)]~~ (5) (a) Except as provided in Subsections (1) and (2), the money in the disaster
191 recovery ~~[fund]~~ account may not be diverted, appropriated, expended, or committed to be
192 expended for a purpose that is not listed in this section.

193 (b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money
194 from the disaster recovery ~~[fund]~~ account to eliminate or otherwise reduce an operating deficit
195 if the money appropriated from the disaster recovery ~~[fund]~~ account is expended or committed
196 to be expended for a purpose other than one listed in this section.

197 (c) The Legislature may not amend the purposes for which money in the disaster
198 recovery ~~[fund]~~ account may be expended or committed to be expended except by the
199 affirmative vote of two-thirds of all the members elected to each house.

200 ~~[(5)]~~ (6) The division:

201 (a) shall provide the notice required by Subsection (2)(a)(ii) using the best available
202 method under the circumstances as determined by the division; and

203 (b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

204 Section 3. Section **53-2a-604** is amended to read:

205 **53-2a-604. State costs for emergency disaster services.**

206 (1) Subject to this section and Section 53-2a-603, the division may expend or commit
207 to expend money described in Subsection 53-2a-603(2)(a)(i), (ii), or (iii) to fund costs to the
208 state of emergency disaster services if, at the discretion of the division, the expenditure is
209 necessary in response to the disaster.

210 (2) Money paid by the division under this section to government entities and private
211 persons providing emergency disaster services are subject to Title 63G, Chapter 6a, Utah
212 Procurement Code.

213 (3) If Utah requests and receives a federal disaster declaration, the applicant or
214 sub-applicant agencies approved to receive assistance through federal disaster programs are
215 responsible for any financial match requirements.

Legislative Review Note
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Office of Legislative Research and General Counsel