

1                                   **EMERGENCY RESPONSE COMMISSION**

2   **AMENDMENTS**

3   2000 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: A. Lamont Tyler**

6 AN ACT RELATING TO STATE AFFAIRS IN GENERAL; CREATING THE STATE  
7 EMERGENCY RESPONSE COMMISSION; DELINEATING ITS MEMBERSHIP;  
8 ESTABLISHING PROCEDURES; OUTLINING ITS DUTIES; AND ALLOCATING  
9 RESPONSIBILITIES.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 REPEALS AND REENACTS:

12                   **63-5-5**, as last amended by Chapter 243, Laws of Utah 1996

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

14                   Section 1. Section **63-5-5** is repealed and reenacted to read:

15                   **63-5-5. State Emergency Response Commission -- Creation -- Membership -- Salaries**  
16 **and expenses -- Allocation of responsibilities -- Local planning committees.**

17                   (1) There is created the State Emergency Response Commission.

18                   (2) The commission shall consist of 13 members knowledgeable about hazardous materials  
19 appointed by the governor as follows:

20                   (a) the director of the Division of Comprehensive Emergency Management or the director's  
21 designee;

22                   (b) the director of the Division of Environmental Response and Remediation or the  
23 director's designee;

24                   (c) one representative from the attorney general's office;

25                   (d) one representative from the hazardous materials section of the Utah Highway Patrol;

26                   (e) one representative from local fire service;

27                   (f) one representative from the fire marshal's office;

- 28           (g) one representative from the hazardous chemical transportation industry;  
29           (h) one representative from the fixed site hazardous chemical industry;  
30           (i) one representative from the recovery and remediation industry;  
31           (j) one representative from an urban local emergency planning committee;  
32           (k) one representative from a rural local emergency planning committee;  
33           (l) one representative from the Department of Transportation; and  
34           (m) one representative from organized environmental interests.  
35           (3) The commission shall elect a chair and vice chair on or before April 1 of each year  
36 from its membership.  
37           (4) Seven members of the commission are a quorum.  
38           (5) (a) Except as required by Subsection (5)(b), the governor shall appoint each  
39 commission member or reappointed member to a four-year term.  
40           (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time  
41 of appointment or reappointment, adjust the length of terms to ensure that the terms of these  
42 commission members are staggered so that approximately half of the commission membership is  
43 appointed every two years.  
44           (c) Each member is eligible for reappointment.  
45           (d) Commission members shall continue in office until the expiration of their terms and  
46 until their successors are appointed, but not more than 90 days after the expiration of their terms.  
47           (6) (a) The commission shall meet as needed, but at least quarterly.  
48           (b) The commission shall meet at the call of the chair or at the request of any three  
49 commission members.  
50           (7) When a vacancy occurs in the membership for any reason, the replacement shall be  
51 appointed by the governor for the unexpired term.  
52           (8) (a) (i) Members who are not government employees receive no compensation or  
53 benefits for their services, but may receive per diem and expenses incurred in the performance of  
54 the member's official duties at the rates established by the Division of Finance under Sections  
55 63A-3-106 and 63A-3-107.  
56           (ii) Members may decline to receive per diem and expenses for their service.  
57           (b) (i) State government officer and employee members who do not receive salary, per  
58 diem, or expenses from their agency for their service may receive per diem and expenses incurred

59 in the performance of their official duties from the commission at the rates established by the  
60 Division of Finance under Sections 63A-3-106 and 63A-3-107.

61 (ii) State government officer and employee members may decline to receive per diem and  
62 expenses for their service.

63 (c) (i) Local government members who do not receive salary, per diem, or expenses from  
64 the entity that they represent for their service may receive per diem and expenses incurred in the  
65 performance of their official duties at the rates established by the Division of Finance under  
66 Sections 63A-3-106 and 63A-3-107.

67 (ii) Local government members may decline to receive per diem and expenses for their  
68 service.

69 (9) The Department of Public Safety and the Department of Environmental Quality shall:

70 (a) provide staff services to the commission; and

71 (b) share equally commission expenses and costs.

72 (10) The commission is the designated state emergency response commission required by  
73 42 U.S.C. Sec. 1101 and shall:

74 (a) comply with the requirements of the Emergency Planning and Community Right To  
75 Know Act of 1986, 42 U.S.C. Sec. 1101 et seq; and

76 (b) in appointing the local planning committees required by that act, use an existing local  
77 governmental organization as the local planning committee.

78 (11) The commission may make rules in accordance with Title 63, Chapter 46A, Utah  
79 Administrative Rulemaking Act, to administer programs under the federal Emergency Planning  
80 and Community Right To Know Act of 1986, 42 U.S.C. Sec. 1101 et seq.

81 (12) The Department of Public Safety:

82 (a) shall conduct all emergency planning activities under the federal Emergency Planning  
83 and Community Right To Know Act of 1986, 42 U.S.C. Sec. 1101 et seq.;

84 (b) may, by following the procedures and requirements of Title 63, Chapter 46a, Utah  
85 Administrative Rulemaking Act, make rules establishing emergency planning procedures and  
86 standards; and

87 (c) shall provide copies of any proposed rules to the commission for its review before they  
88 are enacted.

89 (13) The Department of Environmental Quality:

90           (a) shall receive, process, and manage hazardous chemical information and notifications  
91 under the federal Emergency Planning and Community Right To Know Act of 1986, 42 U.S.C.  
92 Sec. 2002 et seq.:

93           (b) may, by following the procedures and requirements of Title 63, Chapter 46a, Utah  
94 Administrative Rulemaking Act, make rules establishing policies and procedures for receiving,  
95 processing, and managing chemical information and notifications; and

96           (c) shall provide copies of any proposed rules to the commission for its review before they  
97 are enacted.

98           (14) The Department of Public Safety and the Department of Environmental Quality shall  
99 enter into an interagency agreement providing for exchange of information and coordination of  
100 their respective duties and responsibilities under this section.

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**Legislative Review Note**  
**as of 2-9-00 12:54 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**