

1                   **EMERGENCY MANAGEMENT ACT PROCUREMENT PROCESS**

2                                   **AMENDMENTS**

3   2020 FIFTH SPECIAL SESSION

4   STATE OF UTAH



6   **LONG TITLE**

7   **General Description:**

8           This bill requires the governor to provide notice to the Legislature of certain expenditures  
9           of federal funds received during an epidemic or pandemic disease emergency.

10 **Highlighted Provisions:**

11       This bill:

- 12       ▶ requires the governor to provide notice to the Legislature of an expenditure that is over
- 13       a certain amount that is made during an epidemic or pandemic disease emergency
- 14       under emergency procurement processes;
- 15       ▶ provides a sunset date of certain provisions; and
- 16       ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18       None

19 **Other Special Clauses:**

20       This bill provides a special effective date.

21 **Utah Code Sections Affected:**

22 AMENDS:

23       **53-2a-204**, as last amended by Laws of Utah 2017, Chapter 18

24       **63I-2-253 (Superseded 07/01/20)**, as last amended by Laws of Utah 2020, Chapters  
25       216, 320, 321, and 354

26       **63I-2-253 (Effective 07/01/20)**, as last amended by Laws of Utah 2020, Chapters 216,  
27       320, 321, 354, and 365

28 ENACTS:

29       **53-2a-217**, Utah Code Annotated 1953



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

32 Section 1. Section **53-2a-204** is amended to read:

33 **53-2a-204. Authority of governor -- Federal assistance -- Fraud or willful**  
34 **misstatement in application for financial assistance -- Penalty.**

35 (1) In addition to any other authorities conferred upon the governor, if the governor issues  
36 an executive order declaring a state of emergency, the governor may:

37 (a) utilize all available resources of state government as reasonably necessary to cope  
38 with a state of emergency;

39 (b) employ measures and give direction to state and local officers and agencies that are  
40 reasonable and necessary for the purpose of securing compliance with the provisions of this part  
41 and with orders, rules, and regulations made pursuant to this part;

42 (c) recommend and advise the evacuation of all or part of the population from any  
43 stricken or threatened area within the state if necessary for the preservation of life;

44 (d) recommend routes, modes of transportation, and destination in connection with  
45 evacuation;

46 (e) in connection with evacuation, suspend or limit the sale, dispensing, or transportation  
47 of alcoholic beverages, explosives, and combustibles, not to include the lawful bearing of arms;

48 (f) control ingress and egress to and from a disaster area, the movement of persons  
49 within the area, and recommend the occupancy or evacuation of premises in a disaster area;

50 (g) clear or remove from publicly or privately owned land or water debris or wreckage  
51 that is an immediate threat to public health, public safety, or private property, including allowing an  
52 employee of a state department or agency designated by the governor to enter upon private land  
53 or waters and perform any tasks necessary for the removal or clearance operation if the political  
54 subdivision, corporation, organization, or individual that is affected by the removal of the debris or  
55 wreckage:

56 (i) presents an unconditional authorization for removal of the debris or wreckage from  
57 private property; and

58 (ii) agrees to indemnify the state against any claim arising from the removal of the debris  
59 or wreckage;

60 (h) enter into agreement with any agency of the United States:

61 (i) for temporary housing units to be occupied by victims of a state of emergency or  
62 persons who assist victims of a state of emergency; and

63 (ii) to make the housing units described in Subsection (1)(h)(i) available to a political  
64 subdivision of this state;

65 (i) assist any political subdivision of this state to acquire sites and utilities necessary for  
66 temporary housing units described in Subsection (1)(h)(i) by passing through any funds made  
67 available to the governor by an agency of the United States for this purpose;

68 (j) subject to Sections 53-2a-209 and 53-2a-214, temporarily suspend or modify by  
69 executive order, during the state of emergency, any public health, safety, zoning, transportation, or  
70 other requirement of a statute or administrative rule within this state if such action is essential to  
71 provide temporary housing described in Subsection (1)(h)(i);

72 (k) upon determination that a political subdivision of the state will suffer a substantial loss  
73 of tax and other revenues because of a state of emergency and the political subdivision so  
74 affected has demonstrated a need for financial assistance to perform its governmental functions,  
75 in accordance with Utah Constitution, Article XIV, Sections 3 and 4, and Section 10-8-6:

76 (i) apply to the federal government for a loan on behalf of the political subdivision if the  
77 amount of the loan that the governor applies for does not exceed 25% of the annual operating  
78 budget of the political subdivision for the fiscal year in which the state of emergency occurs; and

79 (ii) receive and disburse the amount of the loan to the political subdivision;

80 (l) accept funds from the federal government and make grants to any political subdivision  
81 for the purpose of removing debris or wreckage from publicly owned land or water;

82 (m) subject to Section 53-2a-217, upon determination that financial assistance is essential  
83 to meet expenses related to a state of emergency of individuals or families adversely affected by  
84 the state of emergency that cannot be sufficiently met from other means of assistance, apply for,  
85 accept, and expend a grant by the federal government to fund the financial assistance, subject to  
86 the terms and conditions imposed upon the grant;

87 (n) recommend to the Legislature other actions the governor considers to be necessary to  
88 address a state of emergency; or

89 (o) authorize the use of all water sources as necessary for fire suppression.

90 (2) A person who fraudulently or willfully makes a misstatement of fact in connection  
91 with an application for financial assistance under this section shall, upon conviction of each  
92 offense, be subject to a fine of not more than \$5,000 or imprisonment for not more than one year,

93 or both.

94 Section 2. Section **53-2a-217** is enacted to read:

95 **53-2a-217. Procurement process during an epidemic or pandemic emergency.**

96 (1) As used in this section, "epidemic or pandemic disease" means the same as that term  
97 is defined in Section 53-2a-215.

98 (2) (a) During a state of emergency declared as described in Section 53-2a-206 that is in  
99 response or related to an epidemic or pandemic disease emergency, or during a national epidemic  
100 or pandemic emergency, the governor shall provide notice to the Legislature within 24 hours of an  
101 expenditure or procurement, if the expenditure or procurement:

102 (i) uses federal funds received as described in Subsection 53-2a-204(1)(m);

103 (ii) is for more than \$2,000,000; and

104 (iii) is made using emergency procurement processes as described in Section  
105 63G-6a-803.

106 (b) The governor may not divide an expenditure or procurement into multiple expenditures  
107 or procurements to fall below the \$2,000,000 threshold described in Subsection (2)(a)(ii).

108 Section 3. Section **63I-2-253 (Superseded 07/01/20)** is amended to read:

109 **63I-2-253 (Superseded 07/01/20). Repeal dates -- Titles 53 through 53G.**

110 (1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic  
111 emergency, is repealed on December 31, 2021.

112 (b) When repealing Section 53-2a-217, the Office of Legislative Research and General  
113 Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary  
114 changes to subsection numbering and cross references.

115 ~~(+)~~ (2) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a  
116 technical college board of directors, is repealed July 1, 2022.

117 (b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and  
118 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary  
119 changes to subsection numbering and cross references.

120 ~~(2)~~ (3) Section 53B-6-105.7 is repealed July 1, 2024.

121 ~~(3)~~ (4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as  
122 provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

123 (b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change

124 in performance with the technical college's average performance, is repealed July 1, 2021.

125 [~~(4)~~] (5) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided  
126 in Subsection (3)(b)," is repealed July 1, 2021.

127 (b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during  
128 a fiscal year before fiscal year 2020, is repealed July 1, 2021.

129 [~~(5)~~] (6) Section 53B-8-112 is repealed July 1, 2024.

130 [~~(6)~~] (7) Section 53B-8-114 is repealed July 1, 2024.

131 [~~(7)~~] (8) (a) The following sections, regarding the Regents' scholarship program, are  
132 repealed on July 1, 2023:

133 (i) Section 53B-8-202;

134 (ii) Section 53B-8-203;

135 (iii) Section 53B-8-204; and

136 (iv) Section 53B-8-205.

137 (b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students  
138 who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

139 (ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and  
140 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary  
141 changes to subsection numbering and cross references.

142 [~~(8)~~] (9) Section 53B-10-101 is repealed on July 1, 2027.

143 [~~(9)~~] (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is  
144 repealed July 1, 2023.

145 [~~(10)~~] (11) Section 53E-3-519 regarding school counselor services is repealed July 1,  
146 2020.

147 [~~(11)~~] (12) Section 53E-3-520 is repealed July 1, 2021.

148 [~~(12)~~] (13) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance  
149 and continued funding relating to the School Recognition and Reward Program, is repealed July 1,  
150 2020.

151 [~~(13)~~] (14) Section 53E-5-307 is repealed July 1, 2020.

152 [~~(14)~~] (15) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed  
153 July 1, 2024.

154 ~~[(15)]~~ (16) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's  
 155 duties if contributions from the minimum basic tax rate are overestimated or underestimated, the  
 156 language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

157 ~~[(16)]~~ (17) Subsection 53F-2-301(1), relating to the years the section is not in effect, is  
 158 repealed July 1, 2023.

159 ~~[(17)]~~ (18) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as  
 160 applicable" is repealed July 1, 2023.

161 ~~[(18)]~~ (19) Section 53F-4-207 is repealed July 1, 2022.

162 ~~[(19)]~~ (20) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as  
 163 applicable" is repealed July 1, 2023.

164 ~~[(20)]~~ (21) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as  
 165 applicable" is repealed July 1, 2023.

166 ~~[(21)]~~ (22) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as  
 167 applicable" is repealed July 1, 2023.

168 ~~[(22)]~~ (23) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as  
 169 applicable" is repealed July 1, 2023.

170 ~~[(23)]~~ (24) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7),  
 171 related to the civics engagement pilot program, are repealed on July 1, 2023.

172 ~~[(24)]~~ (25) On July 1, 2023, when making changes in this section, the Office of  
 173 Legislative Research and General Counsel shall, in addition to the office's authority under  
 174 Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections  
 175 identified in this section are complete sentences and accurately reflect the office's perception of  
 176 the Legislature's intent.

177 Section 4. Section **63I-2-253 (Effective 07/01/20)** is amended to read:

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181 (b) When repealing Section 53-2a-217, the Office of Legislative Research and General  
 182 Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary  
 183 changes to subsection numbering and cross references.

184 ~~[(+)]~~ (2) Section 53B-2a-103 is repealed July 1, 2021.

185           ~~[(2)]~~ (3) Section 53B-2a-104 is repealed July 1, 2021.

186           ~~[(3)]~~ (4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a  
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244 Legislative Research and General Counsel shall, in addition to the office's authority under  
245 Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections

246 identified in this section are complete sentences and accurately reflect the office's perception of  
247 the Legislature's intent.

248 Section 5. **Effective date.**

249 If approved by two-thirds of all the members elected to each house, this bill takes effect  
250 upon approval by the governor, or the day following the constitutional time limit of Utah  
251 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the  
252 date of veto override.