

## Part 6 Disaster Recovery Funding Act

### 53-2a-601 Title.

This part is known as the "Disaster Recovery Funding Act."

Renumbered and Amended by Chapter 295, 2013 General Session

### 53-2a-602 Definitions.

- (1) Unless otherwise defined in this section, the terms that are used in this part mean the same as those terms are defined in Part 1, Emergency Management Act.
- (2) As used in this part:
  - (a) "Agent of the state" means any representative of a state agency, local agency, or non-profit entity that agrees to provide support to a requesting intrastate or interstate government entity that has declared an emergency or disaster and has requested assistance through the division.
  - (b) "Declared disaster" means one or more events:
    - (i) within the state;
    - (ii) that occur within a limited period of time;
    - (iii) that involve:
      - (A) a significant number of persons being at risk of bodily harm, sickness, or death; or
      - (B) a significant portion of real property at risk of loss;
    - (iv) that are sudden in nature and generally occur less frequently than every three years; and
    - (v) that results in:
      - (A) the president of the United States declaring an emergency or major disaster in the state;
      - (B) the governor declaring a state of emergency under Part 2 Disaster Response and Recovery Act; or
      - (C) the chief executive officer of a local government declaring a local emergency under Part 2, Disaster Response and Recovery Act.
  - (c) "Disaster recovery account" means the State Disaster Recovery Restricted Account created in Section 53-2a-603.
  - (d)
    - (i) "Emergency disaster services" means:
      - (A) evacuation;
      - (B) shelter;
      - (C) medical triage;
      - (D) emergency transportation;
      - (E) repair of infrastructure;
      - (F) safety services, including fencing or roadblocks;
      - (G) sandbagging;
      - (H) debris removal;
      - (I) temporary bridges;
      - (J) procurement and distribution of food, water, or ice;
      - (K) procurement and deployment of generators;
      - (L) rescue or recovery;
      - (M) emergency protective measures; or

- (N) services similar to those described in Subsections (2)(d)(i)(A) through (M), as defined by the division by rule, that are generally required in response to a declared disaster.
- (ii) "Emergency disaster services" does not include:
  - (A) emergency preparedness; or
  - (B) notwithstanding whether or not a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund.
- (e) "Emergency preparedness" means the following done for the purpose of being prepared for an emergency as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (i) the purchase of equipment;
  - (ii) the training of personnel; or
  - (iii) the obtaining of a certification.
- (f) "Governing body" means:
  - (i) for a county, city, or town, the legislative body of the county, city, or town;
  - (ii) for a special district, the board of trustees of the special district; and
  - (iii) for a special service district:
    - (A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
    - (B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.
- (g) "Local fund" means a local government disaster fund created in accordance with Section 53-2a-605.
- (h) "Local government" means:
  - (i) a county;
  - (ii) a city or town; or
  - (iii) a special district or special service district that:
    - (A) operates a water system;
    - (B) provides transportation service;
    - (C) provides, operates, and maintains correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;
    - (D) provides consolidated 911 and emergency dispatch service;
    - (E) operates an airport; or
    - (F) operates a sewage system.
- (i) "Special district" means the same as that term is defined in Section 17B-1-102.
- (j) "Special fund" means a fund other than a general fund of a local government that is created for a special purpose established under the uniform system of budgeting, accounting, and reporting.
- (k) "Special service district" means the same as that term is defined in Section 17D-1-102.
- (l) "State's prime interest rate" means the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold.

Amended by Chapter 16, 2023 General Session

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

(1)

- (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."
  - (b) The disaster recovery account consists of:
    - (i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;
    - (ii) money appropriated to the disaster recovery account by the Legislature; and
    - (iii) any other public or private money received by the division that is:
      - (A) given to the division for purposes consistent with this section; and
      - (B) deposited into the disaster recovery account at the request of:
        - (I) the division; or
        - (II) the person or entity giving the money.
  - (c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.
- (2) Money in the disaster recovery account may only be expended or committed to be expended as follows:
- (a)
    - (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed \$500,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;
    - (ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds \$500,000, but does not exceed \$3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:
      - (A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;
      - (B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and
      - (C) makes the report required by Subsection 53-2a-606(2);
    - (iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds \$3,000,000, but does not exceed \$5,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:
      - (A) obtains approval for the expenditure or commitment to expend from the governor; and
      - (B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3);
    - (iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed \$500,000 to fund expenses incurred by the National Guard if:
      - (A) in accordance with Section 39A-3-103, the governor orders into active service the National Guard in response to a declared disaster; and
      - (B) the money is not used for expenses that qualify for payment as emergency disaster services; and
    - (v) in any fiscal year, the division may expend an amount that does not exceed \$750,000 to fund expenses incurred to develop or enhance emergency management capabilities if:

- (A) the money is used for personnel, equipment, supplies, contracts, training, exercises, or other expenses deemed reasonable and necessary to:
  - (I) promote and strengthen the state's level of resiliency through mitigation, preparedness, response, or recovery activities; or
  - (II) meet federal grant matching requirements; and
- (B) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of \$5,000,000;
- (b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:
  - (i) emergency disaster services;
  - (ii) emergency preparedness; or
  - (iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund;
- (c) to fund:
  - (i) the Local Government Emergency Response Loan Fund created in Section 53-2a-607; and
  - (ii) the Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302;
- (d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:
  - (i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;
  - (ii) Utah agrees to provide resources to the requesting member state;
  - (iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and
  - (iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of \$5,000,000;
- (e) to fund up to \$500,000 for the governor's emergency appropriations described in Subsection 63J-1-217(4); and
- (f) to pay the state's deductible in the event of an earthquake.
- (3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.
- (4) The state treasurer shall invest money in the disaster recovery account according to Title 51, Chapter 7, State Money Management Act.
- (5)
  - (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.
  - (b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery account is expended or committed to be expended for a purpose other than one listed in this section.
  - (c) The Legislature may not amend the purposes for which money in the disaster recovery account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(6) The division:

- (a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and
- (b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Amended by Chapter 434, 2023 General Session

Amended by Chapter 534, 2023 General Session

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

- (1) Subject to this section and Section 53-2a-603, the division may expend or commit to expend money described in Subsection 53-2a-603(2)(a)(i), (ii), or (iii) to fund costs to the state of emergency disaster services if, at the discretion of the division, the expenditure is necessary in response to the disaster.
- (2) Money paid by the division under this section to government entities and private persons providing emergency disaster services are subject to Title 63G, Chapter 6a, Utah Procurement Code.
- (3) If Utah requests and receives a federal disaster declaration, the applicant or sub-applicant agencies approved to receive assistance through federal disaster programs are responsible for any financial match requirements.

Amended by Chapter 83, 2016 General Session

**53-2a-605 Local government disaster funds.**

- (1)
  - (a) Subject to this section and notwithstanding anything to the contrary contained in Title 10, Utah Municipal Code, or Title 17, Counties, Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Chapter 1, Special Service District Act, the governing body of a local government may create and maintain by ordinance a special fund known as a local government disaster fund.
  - (b) The local fund shall consist of:
    - (i) subject to the limitations of this section, money transferred to it in accordance with Subsection (2);
    - (ii) any other public or private money received by the local government that is:
      - (A) given to the local government for purposes consistent with this section; and
      - (B) deposited into the local fund at the request of:
        - (I) the governing body of the local government; or
        - (II) the person giving the money; and
    - (iii) interest or income realized from the local fund.
  - (c) Interest or income realized from the local fund shall be deposited into the local fund.
  - (d) Money in a local fund may be:
    - (i) deposited or invested as provided in Section 51-7-11; or
    - (ii) transferred by the local government treasurer to the Public Treasurers' Investment Fund as defined in Section 51-7-3.
  - (e)
    - (i) The money in a local fund may accumulate from year to year until the local government governing body determines to spend any money in the local fund for one or more of the purposes specified in Subsection (3).
    - (ii) Money in a local fund at the end of a fiscal year:

- (A) shall remain in the local fund for future use; and
  - (B) may not be transferred to any other fund or used for any other purpose.
- (2) The amounts transferred to a local fund may not exceed 10% of the total estimated revenues of the local government for the current fiscal period that are not restricted or otherwise obligated.
- (3) Money in the fund may only be used to fund the services and activities of the local government creating the local fund in response to:
- (a) a declared disaster within the boundaries of the local government;
  - (b) the aftermath of the disaster that gave rise to a declared disaster within the boundaries of the local government; and
  - (c) subject to Subsection (5), emergency preparedness.
- (4)
- (a) A local fund is subject to this part and:
    - (i) in the case of a town, Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, except that:
      - (A) in addition to the funds listed in Section 10-5-106, the mayor shall prepare a budget for the local fund;
      - (B) Section 10-5-119 addressing termination of special funds does not apply to a local fund; and
      - (C) the council of the town may not authorize an interfund loan under Section 10-5-120 from the local fund;
    - (ii) in the case of a city, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, except that:
      - (A) in addition to the funds listed in Section 10-6-109, the mayor shall prepare a budget for the local fund;
      - (B) Section 10-6-131 addressing termination of special funds does not apply to a local fund; and
      - (C) the governing body of the city may not authorize an interfund loan under Section 10-6-132 from the local fund;
    - (iii) in the case of a county, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, except that:
      - (A) Section 17-36-29 addressing termination of special funds does not apply to a local fund; and
      - (B) the governing body of the county may not authorize an interfund loan under Section 17-36-30 from the local fund;
    - (iv) in the case of a special district or special service district, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, except that:
      - (A) Section 17B-1-625, addressing termination of a special fund, does not apply to a local fund; and
      - (B) the governing body of the special district or special service district may not authorize an interfund loan under Section 17B-1-626 from the local fund; and
    - (v) in the case of an interlocal entity, Title 11, Chapter 13, Part 5, Fiscal Procedures for Interlocal Entities, except for the following provisions:
      - (A) Section 11-13-522 addressing termination of a special fund does not apply to a local fund; and
      - (B) the governing board of the interlocal entity may not authorize an interfund loan under Section 11-13-523 from the local fund.

- (b) Notwithstanding Subsection (4)(a), transfers of money to a local fund or the accumulation of money in a local fund do not affect any limits on fund balances, net assets, or the accumulation of retained earnings in any of the following of a local government:
  - (i) a general fund;
  - (ii) an enterprise fund;
  - (iii) an internal service fund; or
  - (iv) any other fund.
- (5)
  - (a) A local government may not expend during a fiscal year more than 10% of the money budgeted to be deposited into a local fund during that fiscal year for emergency preparedness.
  - (b) The amount described in Subsection (5)(a) shall be determined before the adoption of the tentative budget.

Amended by Chapter 387, 2024 General Session

**53-2a-606 Reporting.**

- (1) By no later than December 31 of each year, the division shall provide a written report to the governor and the Executive Offices and Criminal Justice Appropriations Subcommittee of:
  - (a) the division's activities under this part;
  - (b) money expended or committed to be expended in accordance with this part;
  - (c) the balances in the disaster recovery fund; and
  - (d) any unexpended balance of appropriations from the disaster recovery fund.
- (2)
  - (a) The governor and the Department of Public Safety shall report to the Legislative Management Committee an expenditure or commitment to expend made in accordance with Subsection 53-2a-603(2)(a)(ii) or 53-2a-1302(5)(b)(ii).
  - (b) The governor and the Department of Public Safety shall make the report required by this Subsection (2) on or before the sooner of:
    - (i) the day on which the governor calls the Legislature into session; or
    - (ii) 15 days after the division makes the expenditure or commitment to expend described in Subsection 53-2a-603(2)(a)(ii) or 53-2a-1302(5)(b)(ii).
- (3)
  - (a) Subject to Subsection (3)(b), before the division makes an expenditure or commitment to expend described in Subsection 53-2a-603(2)(a)(iii) or 53-2a-1302(5)(b)(iii), the governor and the Department of Public Safety shall submit the expenditure or commitment to expend to the Executive Appropriations Committee for its review and recommendations.
  - (b) The Executive Appropriations Committee shall review the expenditure or commitment to expend and may:
    - (i) recommend that the division make the expenditure or commitment to expend;
    - (ii) recommend that the division not make the expenditure or commitment to expend; or
    - (iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the expenditure or commitment to expend.

Amended by Chapter 434, 2023 General Session

**53-2a-607 Creation and administration.**

- (1)

- (a) There is created an enterprise fund known as the Local Government Emergency Response Loan Fund.
- (b) The division as defined in Section 53-2a-103 is the administrator of the fund.
- (2) The fund consists of:
  - (a) money appropriated to the fund by the Legislature;
  - (b) money received for the repayment of loans made from the fund;
  - (c) interest earned on the fund; and
  - (d) money deposited into the fund in accordance with Section 63J-1-314.
- (3) The money in the fund shall be invested by the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited into the fund.
- (4) Local government entities may apply through the division for a short-term loan from the fund for the purposes provided in Section 53-2a-608, provided that the local government entity:
  - (a) agrees to the terms of the loan; and
  - (b) is not in default on any other state loans administered by the Division of Finance or any other state agency.
- (5) The division may not loan out:
  - (a) more than 50% of the total account balance available at the time that a loan request is made by a local government entity; or
  - (b) an amount that will leave the fund balance at less than \$10,000,000.

Enacted by Chapter 134, 2016 General Session

**53-2a-608 Purposes and criteria for loans.**

- (1) Money in the fund shall be used by the division, as prioritized by the director, only to:
  - (a) provide loans to local government entities for:
    - (i) the costs incurred by a local government entity for providing emergency disaster services as defined in Section 53-2a-602; or
    - (ii) providing any state or local matching funds to secure federal funds or grants related to a declared disaster, as defined in Section 53-2a-602;
  - (b) pay the Division of Finance for the costs of administering the fund, providing loans, and obtaining repayments of loans; and
  - (c) provide funds to state agencies for the costs of responding to a declared disaster.
- (2) The division shall establish the terms and conditions of the loans and the repayment schedule consistent with the following criteria:
  - (a) the interest rate charged and the maximum payback period on all loans shall be:
    - (i) the state's prime interest rate at the time of loan closing, plus zero percent, with a maximum payback period of 10 years if the applicant has reserved an average of 90% to 100% of the amount authorized in Section 53-2a-605 over the previous five fiscal years;
    - (ii) the state's prime interest rate at the time of loan closing, plus 2%, with a maximum payback period of five years if the applicant has reserved an average of 70% up to 90% of the amount authorized in Section 53-2a-605 over the previous five fiscal years; or
    - (iii) the state's prime interest rate at the time of loan closing, plus 4%, with a maximum payback period of three years if the applicant has reserved an average of 50% up to 70% of the amount authorized in Section 53-2a-605 over the previous five fiscal years; and
  - (b) the division may not authorize a loan from this fund on any terms or conditions to local government entities that have reserved an average of less than 50% of the amount authorized in Section 53-2a-605 over the previous five fiscal years.



- (3) If the division receives multiple loan applications concurrently, priority shall be given to applicants based on the extent of their participation in the reserve account authorized in Section 53-2a-605.

Enacted by Chapter 134, 2016 General Session

**53-2a-609 Division to make rules to administer the loan program.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

- (1) form, content, and procedure for loan and grant applications;
- (2) criteria and procedures for prioritizing loan and grant applications;
- (3) requirements and procedures for securing loans and grants;
- (4) procedures for making loans;
- (5) procedures for administering and ensuring repayment of loans, including late payment penalties; and
- (6) procedures for recovering on defaulted loans.

Enacted by Chapter 134, 2016 General Session