

1 **EMERGENCY AND DISASTER MANAGEMENT**

2 **AMENDMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Curtis Oda**

6 Senate Sponsor: John L. Valentine

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Disaster Recovery Funding Act, the Disaster Response and
11 Recovery Act, and related provisions to address the expenditure of monies relating to a
12 declared disaster, the governor's powers during a state of emergency, and related
13 reporting requirements to the Legislative Management Committee or the Executive
14 Appropriations Committee.

15 **Highlighted Provisions:**

16 This bill:

- 17 ▶ modifies definitions;
- 18 ▶ increases the monies that the Division of Homeland Security may expend from the
19 State Disaster Recovery Restricted Account to address costs to the state of
20 emergency disaster services in response to a declared disaster;
- 21 ▶ provides that the monies that the Division of Homeland Security may expend from
22 the State Disaster Recovery Restricted Account are subject to appropriation by the
23 Legislature;
- 24 ▶ repeals obsolete language;
- 25 ▶ addresses the governor's powers during a state of emergency including:
 - 26 • suspending or modifying a statute or administrative rule or suspending the
27 enforcement of a statute during a state of emergency under certain
28 circumstances;
 - 29 • repealing a requirement that the president of the United States declare an

30 emergency or major disaster before the governor may exercise certain powers;

31 • addressing the removal of debris or wreckage; and

32 • declaring a state of emergency;

33 ▶ requires certain reports to the Legislative Management Committee or the Executive

34 Appropriations Committee; and

35 ▶ makes technical and conforming changes.

36 **Monies Appropriated in this Bill:**

37 This bill appropriates:

38 ▶ \$3,000,000 from the State Disaster Recovery Restricted Account for fiscal year

39 2010-11 only, to the Department of Public Safety - Division of Homeland Security

40 - Emergency and Disaster Management line item.

41 **Other Special Clauses:**

42 This bill provides effective dates.

43 **Utah Code Sections Affected:**

44 AMENDS:

45 **26-49-102**, as enacted by Laws of Utah 2008, Chapter 242

46 **53-2-403**, as last amended by Laws of Utah 2009, Chapters 3 and 183

47 **53-2-404**, as last amended by Laws of Utah 2009, Chapters 183 and 368

48 **53-2-406**, as enacted by Laws of Utah 2007, Chapter 328

49 **63J-5-103**, as renumbered and amended by Laws of Utah 2008, Chapter 382

50 **63J-7-102**, as enacted by Laws of Utah 2008, Chapter 195

51 **63K-4-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

52 **63K-4-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382

53 **63K-4-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382

54 **76-8-317**, as last amended by Laws of Utah 2008, Chapter 382

55 ENACTS:

56 **63K-4-406**, Utah Code Annotated 1953

57

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

59 Section 1. Section **26-49-102** is amended to read:

60 **26-49-102. Definitions.**

61 As used in this chapter:

62 (1) "Department of Health" shall have the meaning provided for in Section 26-1-4.

63 (2) "Disaster relief organization" means an entity that:

64 (a) provides emergency or disaster relief services that include health or veterinary
65 services provided by volunteer health practitioners;

66 (b) is designated or recognized as a provider of the services described in Subsection
67 (2)(a) under a disaster response and recovery plan adopted by:

68 (i) an agency of the federal government;

69 (ii) the state Department of Health; or

70 (iii) a local health department; and

71 (c) regularly plans and conducts its activities in coordination with:

72 (i) an agency of the federal government;

73 (ii) the Department of Health; or

74 (iii) a local health department.

75 (3) "Emergency" means a "state of emergency" as defined in Section 63K-4-103.

76 (4) "Emergency declaration" [~~shall have the meaning provided for in Sections~~] means
77 a declaration made in accordance with Section 63K-4-203 [and] or 63K-4-301.

78 (5) "Emergency Management Assistance Compact" means the interstate compact
79 approved by Congress by Public Law No. 104-321, 110 Stat. 3877 and adopted by Utah in
80 Title 53, Chapter 2, Part 2, Emergency Management Assistance Compact.

81 (6) "Entity" means a person other than an individual.

82 (7) "Health facility" means an entity licensed under the laws of this or another state to
83 provide health or veterinary services.

84 (8) "Health practitioner" means an individual licensed under Utah law or another state
85 to provide health or veterinary services.

86 (9) "Health services" means the provision of treatment, care, advice, guidance, other
87 services, or supplies related to the health or death of individuals or human populations, to the
88 extent necessary to respond to an emergency, including:

89 (a) the following, concerning the physical or mental condition or functional status of
90 an individual or affecting the structure or function of the body:

91 (i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care;

92 or

93 (ii) counseling, assessment, procedures, or other services;

94 (b) selling or dispensing a drug, a device, equipment, or another item to an individual
95 in accordance with a prescription; and

96 (c) funeral, cremation, cemetery, or other mortuary services.

97 (10) "Host entity":

98 (a) means an entity operating in Utah that:

99 (i) uses volunteer health practitioners to respond to an emergency; and

100 (ii) is responsible during an emergency, for actually delivering health services to
101 individuals or human populations, or veterinary services to animals or animal populations; and

102 (b) may include disaster relief organizations, hospitals, clinics, emergency shelters,
103 health care provider offices, or any other place where volunteer health practitioners may
104 provide health or veterinary services.

105 (11) (a) "License" means authorization by a state to engage in health or veterinary
106 services that are unlawful without authorization.

107 (b) "License" includes authorization under this title to an individual to provide health
108 or veterinary services based upon a national or state certification issued by a public or private
109 entity.

110 (12) "Local health department" shall have the meaning provided for in Subsection
111 26A-1-102(5).

112 (13) "Person" means an individual, corporation, business trust, trust, partnership,
113 limited liability company, association, joint venture, public corporation, government or

114 governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

115 (14) "Scope of practice" means the extent of the authorization to provide health or
116 veterinary services granted to a health practitioner by a license issued to the practitioner in the
117 state in which the principal part of the practitioner's services are rendered, including any
118 conditions imposed by the licensing authority.

119 (15) "State" means:

120 (a) a state of the United States;

121 (b) the District of Columbia;

122 (c) Puerto Rico;

123 (d) the United States Virgin Islands; or

124 (e) any territory or insular possession subject to the jurisdiction of the United States.

125 (16) "Veterinary services" shall have the meaning provided for in Subsection
126 58-28-102(11).

127 (17) (a) "Volunteer health practitioner" means a health practitioner who provides
128 health or veterinary services, whether or not the practitioner receives compensation for those
129 services.

130 (b) "Volunteer health practitioner" does not include a practitioner who receives
131 compensation under a preexisting employment relationship with a host entity or affiliate that
132 requires the practitioner to provide health services in Utah, unless the practitioner is:

133 (i) not a Utah resident; and

134 (ii) employed by a disaster relief organization providing services in Utah while an
135 emergency declaration is in effect.

136 Section 2. Section **53-2-403** is amended to read:

137 **53-2-403. State Disaster Recovery Restricted Account.**

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

140 (b) The disaster recovery fund shall consist of:

141 (i) monies deposited into the disaster recovery fund in accordance with Section

142 63J-1-314;

143 (ii) monies appropriated to the disaster recovery fund by the Legislature; and

144 (iii) any other public or private monies received by the division that are:

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

146 (B) deposited into the disaster recovery fund at the request of:

147 (I) the division; or

148 (II) the person giving the monies.

149 (c) The Division of Finance shall deposit interest or other earnings derived from
150 investment of fund monies into the General Fund.

151 (d) ~~[Monies]~~ Subject to being appropriated by the Legislature, monies in the disaster
152 recovery fund may only be ~~[used]~~ expended or committed to be expended as follows:

153 (i) (A) ~~[without the monies being appropriated by the Legislature]~~ subject to Section
154 53-2-406, in any fiscal year the division may ~~[use \$100,000 to fund]~~ expend or commit to
155 expend an amount that does not exceed \$250,000, in accordance with Section 53-2-404, to
156 fund costs to the state of emergency disaster services in response to a declared disaster;

157 (B) subject to Section 53-2-406, in any fiscal year the division may expend or commit
158 to expend an amount that exceeds \$250,000, but does not exceed \$1,000,000, in accordance
159 with Section 53-2-404, to fund costs to the state of emergency disaster services in response to
160 a declared disaster if the division:

161 (I) before making the expenditure or commitment to expend, obtains approval for the
162 expenditure or commitment to expend from the governor;

163 (II) subject to Subsection (4), provides written notice of the expenditure or
164 commitment to expend to the speaker of the House of Representatives, the president of the
165 Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than
166 72 hours after making the expenditure or commitment to expend; and

167 (III) makes the report required by Subsection 53-2-406(2); and

168 (C) subject to Section 53-2-406, in any fiscal year the division may expend or commit
169 to expend an amount that exceeds \$1,000,000, but does not exceed \$3,000,000, in accordance

170 with Section 53-2-404, to fund costs to the state of emergency disaster services in response to
171 a declared disaster if, before making the expenditure or commitment to expend, the division:

172 (I) obtains approval for the expenditure or commitment to expend from the governor;
173 and

174 (II) submits the expenditure or commitment to expend to the Executive Appropriations
175 Committee in accordance with Subsection 53-2-406(3); and

176 (ii) subject to being appropriated by the Legislature, monies not described in
177 Subsection (1)(d)(i) may be ~~used~~ expended or committed to be expended to fund costs to the
178 state directly related to a declared disaster that are not costs related to:

179 (A) emergency disaster services;

180 (B) emergency preparedness; or

181 (C) notwithstanding whether or not a county participates in the Wildland Fire
182 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs
183 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the
184 Wildland Fire Suppression Fund~~;~~ and.

185 ~~[(iii) for fiscal years 2009 and 2010 only, to address a General Fund budget deficit as~~
186 ~~defined in Section 63J-1-312.]~~

187 (2) The state treasurer shall invest monies in the disaster recovery fund according to
188 Title 51, Chapter 7, State Money Management Act.

189 (3) (a) Except as provided in Subsection (1), the monies in the disaster recovery fund
190 may not be diverted, appropriated, ~~or used~~ expended, or committed to be expended for a
191 purpose that is not listed in this section.

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

196 (c) The Legislature may not amend the purposes for which monies in the disaster
197 recovery fund may be ~~used~~ expended or committed to be expended except by the affirmative

198 vote of two-thirds of all the members elected to each house.

199 (4) The division:

200 (a) shall provide the notice required by Subsection (1)(d)(i)(B) using the best available
201 method under the circumstances as determined by the division; and

202 (b) may provide the notice required by Subsection (1)(d)(i)(B) in electronic format.

203 Section 3. Section **53-2-404** is amended to read:

204 **53-2-404. State costs for emergency disaster services.**

205 (1) Subject to this section and Section 53-2-403, the division shall [~~use~~] expend or
206 commit to expend monies described in Subsection 53-2-403(1)(d)(i) to fund costs to the state
207 of emergency disaster services.

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

211 Section 4. Section **53-2-406** is amended to read:

212 **53-2-406. Reporting.**

213 (1) By no later than December 31 of each year, the division shall provide a written
214 report to the governor and the [~~Legislature's~~] Executive Appropriations Committee of:

215 [~~(+)~~] (a) the division's activities under this part;

216 [~~(2)~~] (b) monies expended or committed to be expended in accordance with this part;

217 [~~and~~]

218 [~~(3)~~] (c) the balances in the disaster recovery fund[-]; and

219 (d) any unexpended balance of appropriations from the disaster recovery fund.

220 (2) (a) The governor and the Department of Public Safety shall report to the
221 Legislative Management Committee an expenditure or commitment to expend made in
222 accordance with Subsection 53-2-403(1)(d)(i)(B).

223 (b) The governor and the Department of Public Safety shall make the report required
224 by this Subsection (2) on or before the sooner of:

225 (i) the day on which the governor calls the Legislature into session in accordance with

226 Section 63K-1-302; or

227 (ii) 15 days after the division makes the expenditure or commitment to expend
228 described in Subsection 53-2-403(1)(d)(i)(B).

229 (3) (a) Subject to Subsection (3)(b), before the division makes an expenditure or
230 commitment to expend described in Subsection 53-2-403(1)(d)(i)(C), the governor and the
231 Department of Public Safety shall submit the expenditure or commitment to expend to the
232 Executive Appropriations Committee for its review and recommendations.

233 (b) The Executive Appropriations Committee shall review the expenditure or
234 commitment to expend and may:

235 (i) recommend that the division make the expenditure or commitment to expend;

236 (ii) recommend that the division not make the expenditure or commitment to expend;

237 or

238 (iii) recommend to the governor that the governor call a special session of the
239 Legislature to review and approve or reject the expenditure or commitment to expend.

240 Section 5. Section **63J-5-103** is amended to read:

241 **63J-5-103. Scope and applicability of chapter.**

242 (1) Except as provided in Subsection (2), and except as otherwise provided by a
243 statute superseding provisions of this chapter by explicit reference to this chapter, the
244 provisions of this chapter apply to each agency and govern each federal funds request.

245 (2) This chapter does not govern federal funds requests for:

246 (a) the Medical Assistance Program, commonly known as Medicaid;

247 (b) the Children's Health Insurance Program;

248 (c) the Women, Infant, and Children program;

249 (d) the Temporary Assistance to Needy Families program;

250 (e) Social Security Act monies;

251 (f) the Substance Abuse Prevention and Treatment program;

252 (g) Child Care Block grants;

253 (h) Food Stamp Administration and Training monies;

- 254 (i) Unemployment Insurance Operations monies;
- 255 (j) Federal Highway Administration monies;
- 256 (k) the Utah National Guard; or
- 257 (l) pass-through federal funds.

258 (3) The governor need not seek legislative review or approval of federal funds received
259 by the state [~~when~~] if:

- 260 (a) the governor has declared a state of emergency; and
- 261 (b) the federal funds are received to assist [~~disaster~~] victims of the state of emergency
262 under Subsection 63K-4-201[~~(2)~~](1).

263 Section 6. Section **63J-7-102** is amended to read:

264 **63J-7-102. Scope and applicability of chapter.**

265 (1) Except as provided in Subsection (2), and except as otherwise provided by a
266 statute superseding provisions of this chapter by explicit reference to this chapter, the
267 provisions of this chapter apply to each agency and govern each grant received on or after May
268 5, 2008.

269 (2) This chapter does not govern:

- 270 (a) a grant deposited into a General Fund restricted account;
- 271 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;
- 272 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;
- 273 (d) a grant made to the state without a restriction or other designated purpose that is
274 deposited into the General Fund as free revenue;
- 275 (e) a grant made to the state that is restricted only to "education" and that is deposited
276 into the Education Fund or Uniform School Fund as free revenue;
- 277 (f) in-kind donations;
- 278 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other monies due the state
279 when required by state law or application of state law;
- 280 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
281 Contribution Act;

- 282 (i) a grant received by an agency from another agency or political subdivision;
- 283 (j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion
284 Act;
- 285 (k) a grant to the Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3,
286 Heber Valley Historic Railroad Authority;
- 287 (l) a grant to the Utah Science Center Authority created in Title 9, Chapter 3, Part 4,
288 Utah Science Center Authority;
- 289 (m) a grant to the Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah
290 Housing Corporation Act;
- 291 (n) a grant to the Utah State Fair Corporation created in Title 9, Chapter 4, Part 11,
292 Utah State Fair Corporation Act;
- 293 (o) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33,
294 Workers' Compensation Fund;
- 295 (p) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah
296 State Retirement Systems Administration;
- 297 (q) a grant to the School and Institutional Trust Lands Administration created in Title
298 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;
- 299 (r) a grant to the Utah Communications Agency Network created in Title 63C, Chapter
300 7, Utah Communications Agency Network Act;
- 301 (s) a grant to the Medical Education Program created in Section 63C-8-102;
- 302 (t) a grant to the Utah Capital Investment Corporation created in Title 63M, Chapter 1,
303 Part 12, Utah Venture Capital Enhancement Act;
- 304 (u) a grant to the State Charter School Finance Authority created in Section
305 53A-20b-103;
- 306 (v) a grant to the State Building Ownership Authority created in Section 63B-1-304;
- 307 (w) a grant to the Utah Comprehensive Health Insurance Pool created in Section
308 31A-29-104; or
- 309 (x) a grant to the Military Installation Development Authority created in Section

310 63H-1-201.

311 (3) An agency need not seek legislative review or approval of grants under Part 2,
312 Grant Approval Requirements, ~~[when]~~ if:

313 (a) the governor has declared a state of emergency; and

314 (b) the grant is donated to the agency to assist ~~[disaster]~~ victims of the state of
315 emergency under Subsection 63K-4-201~~[(2)]~~(1).

316 Section 7. Section **63K-4-201** is amended to read:

317 **63K-4-201. Authority of governor -- Federal assistance -- Fraud or willful**
318 **misstatement in application for financial assistance -- Penalty.**

319 (1) In addition to any other authorities conferred upon the governor, if the governor
320 ~~[during the declared]~~ issues an executive order declaring a state of emergency ~~[is authorized~~
321 ~~and empowered to]~~, the governor may:

322 (a) utilize all available resources of state government as reasonably necessary to cope
323 with a ["]state of emergency["];

324 (b) employ measures and give direction to state and local officers and agencies which
325 are reasonable and necessary for the purpose of securing compliance with the provisions of
326 this act and with orders, rules and regulations made pursuant to this act;

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

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

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

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

336 (g) clear or remove from publicly or privately owned land or water ~~[through the use of~~
337 ~~state departments or agencies;]~~ debris or wreckage ~~[which may threaten]~~ that is an immediate

338 ~~threat to~~ public health, public safety, or private property [~~as hereinafter provided: (i) whenever~~
339 ~~the governor provides for clearance of debris or wreckage pursuant to this subsection;~~
340 ~~employees of the designated state agencies are authorized~~], including allowing an employee of
341 a state department or agency designated by the governor to enter upon private land or waters
342 and perform any tasks necessary for the removal or clearance operation[; ~~(ii) authority under~~
343 ~~this subsection shall not be exercised unless the affected~~] if the political subdivision,
344 corporation, organization, or individual [shall first present] that is affected by the removal of
345 the debris or wreckage:

346 (i) presents an unconditional authorization for removal of [~~such~~] the debris or
347 wreckage from private property; and [~~agree~~]

348 (ii) agrees to indemnify the state [~~government~~] against any claim arising from [~~such~~
349 ~~removal~~] the removal of the debris or wreckage;

350 [~~(h) recommend to the legislature additional action the governor deems necessary to~~
351 ~~carry out the provisions of this act.~~]

352 [~~(2) When the governor has proclaimed a "state of emergency" under this act and~~
353 ~~when the president of the United States, at the request of the governor, has declared an~~
354 ~~"emergency" or a "major disaster" to exist in this state, the governor is authorized:~~]

355 [~~(a) to~~] (h) enter into agreement with any agency of the United States:

356 (i) for temporary housing units to be occupied by [disaster victims and to make such
357 units] victims of a state of emergency or persons who assist victims of a state of emergency;
358 and

359 (ii) to make the housing units described in Subsection (1)(h)(i) available to [any] a
360 political subdivision of this state;

361 [~~(b) to~~] (i) assist any political subdivision of this state to acquire sites and utilities
362 necessary for [such] temporary housing units described in Subsection (1)(h)(i) by passing
363 through any funds made available to the governor by an agency of the United States for this
364 purpose;

365 [~~(c) to~~] (j) subject to Sections 63K-4-401 and 63K-4-406, temporarily suspend or

366 modify by ~~[proclamation]~~ executive order, during the ~~[period of the]~~ state of emergency, any
367 public health, safety, zoning, transportation, or other requirement of ~~[the law or regulation]~~ a
368 statute or administrative rule within this state if such action is essential to provide temporary
369 housing ~~[for disaster victims]~~ described in Subsection (1)(h)(i);

370 ~~[(d)]~~ (k) upon determination that a political subdivision of the state will suffer a
371 substantial loss of tax and other revenues because of a ~~[disaster]~~ state of emergency and the
372 political subdivision so affected has demonstrated a need for financial assistance to perform its
373 governmental functions, in accordance with ~~[the provisions of the]~~ Utah Constitution, Article
374 XIV, Sections 3 and 4, and Section 10-8-6~~[-to]~~:

375 (i) apply to the federal government for a loan on behalf of the political subdivision~~[-~~
376 ~~and to]~~ if the amount of the loan that the governor applies for does not exceed 25% of the
377 annual operating budget of the political subdivision for the fiscal year in which the state of
378 emergency occurs; and

379 (ii) receive and disburse the ~~[proceeds to the applicant]~~ amount of the loan to the
380 political subdivision~~[- No application amount shall exceed 25% of the annual operating~~
381 ~~budget of the applicant political subdivision for the fiscal year in which the disaster occurs];~~

382 ~~[(e) to]~~ (l) accept funds from the federal government and make grants to any political
383 subdivision for the purpose of removing debris or wreckage from publicly owned land or
384 water;

385 ~~[(f)]~~ (m) upon determination that financial assistance is essential to meet ~~[disaster~~
386 ~~related]~~ expenses related to a state of emergency of individuals or families adversely affected
387 by ~~[a disaster which]~~ the state of emergency that cannot be sufficiently met from other means
388 of assistance, ~~[to]~~ apply for, accept, and expend a grant by the federal government to fund
389 ~~[such]~~ the financial assistance, subject to the terms and conditions imposed upon the grant~~[-];~~
390 or

391 (n) recommend to the Legislature other actions the governor considers to be necessary
392 to address a state of emergency.

393 ~~[(3) Any]~~ (2) A person who fraudulently or willfully makes a misstatement of fact in

394 connection with an application for financial assistance under this section shall, upon
395 conviction of each offense, be subject to a fine of not more than \$5,000 or imprisonment for
396 not more than one year, or both.

397 Section 8. Section **63K-4-203** is amended to read:

398 **63K-4-203. State of emergency -- Declaration -- Termination --**
399 **Commander-in-chief of military forces.**

400 (1) A ["]state of emergency["] may be declared by [~~proclamation~~] executive order of
401 the governor [~~after a proclamation of local emergency as provided under Section 63K-4-301~~]
402 if the governor finds a disaster has occurred or the occurrence or threat of a disaster is
403 imminent in any area of the state in which state government assistance is required to
404 supplement the response and recovery efforts of the affected political subdivision or political
405 subdivisions. [~~The "state~~]

406 (2) A state of emergency["] shall continue until the governor finds the threat or danger
407 has passed or the disaster reduced to the extent that emergency conditions no longer exist. [~~No~~
408 "state]

409 (3) A state of emergency["] may not continue for longer than 30 days unless extended
410 by joint resolution of the Legislature, which may also terminate a ["]state of emergency["] by
411 joint resolution at any time.

412 (4) The governor shall issue an executive order [~~or proclamation~~] ending the ["]state of
413 emergency["] on receipt of the Legislature's resolution. [~~All executive orders or proclamations~~
414 ~~issued under this subsection shall state:~~]

415 (5) An executive order described in this section shall state:

- 416 (a) the nature of the ["]state of emergency["];
- 417 (b) the area or areas threatened; and
- 418 (c) the conditions creating such an emergency or those conditions allowing
419 termination of the ["]state of emergency.["]

420 [~~(2)~~] (6) During the continuance of any ["]state of emergency["] the governor is
421 commander-in-chief of the military forces of the state in accordance with [~~the provisions of~~]

422 Utah Constitution Article VII, Section 4, [~~of the Constitution of Utah,~~] and Title 39, Chapter
423 1, State Militia.

424 Section 9. Section **63K-4-401** is amended to read:

425 **63K-4-401. Orders, rules, and regulations having force of law -- Filing**
426 **requirements -- Suspension of state agency rules -- Suspension of enforcement of certain**
427 **statutes during a state of emergency.**

428 (1) All orders, rules, and regulations promulgated by the governor, a political
429 subdivision, or other agency authorized by this act to make orders, rules, and regulations, not
430 in conflict with existing laws except as specifically provided herein, shall have the full force
431 and effect of law during the state of emergency, when a copy of the order, rule, or regulation is
432 filed with:

433 (a) the Division of Administrative Rules, if issued by the governor or a state agency;
434 or

435 (b) the office of the clerk of the political subdivision, if issued by the chief executive
436 officer of a political subdivision of the state or agency of the state.

437 (2) The governor may suspend the provisions of any order, rule, or regulation of any
438 state agency, if the strict compliance with the provisions of the order, rule, or regulation would
439 substantially prevent, hinder, or delay necessary action in coping with the emergency or
440 disaster.

441 (3) (a) Except as provided in Subsection (3)(b) and subject to Subsections (3)(c) and
442 (d), the governor may by executive order suspend the enforcement of a statute if:

443 (i) the governor declares a state of emergency in accordance with Section 63K-4-203;

444 (ii) the governor determines that suspending the enforcement of the statute is:

445 (A) directly related to the state of emergency described in Subsection (3)(a)(i); and

446 (B) necessary to address the state of emergency described in Subsection (3)(a)(i);

447 (iii) the executive order:

448 (A) describes how the suspension of the enforcement of the statute is:

449 (I) directly related to the state of emergency described in Subsection (3)(a)(i); and

450 (II) necessary to address the state of emergency described in Subsection (3)(a)(i); and
451 (B) provides the citation of the statute that is the subject of suspended enforcement;
452 (iv) the governor acts in good faith;
453 (v) the governor provides written notice of the suspension of the enforcement of the
454 statute to the speaker of the House of Representatives and the president of the Senate no later
455 than 24 hours after suspending the enforcement of the statute; and

456 (vi) the governor makes the report required by Section 63K-4-406.

457 (b) (i) Except as provided in Subsection (3)(b)(ii), the governor may not suspend the
458 enforcement of a criminal penalty created in statute.

459 (ii) The governor may suspend the enforcement of a misdemeanor or infraction if:

460 (A) the misdemeanor or infraction relates to food, health, or transportation; and

461 (B) the requirements of Subsection (3)(a) are met.

462 (c) A suspension described in this Subsection (3) terminates no later than the date the
463 governor terminates the state of emergency in accordance with Section 63K-4-203 to which
464 the suspension relates.

465 (d) The governor:

466 (i) shall provide the notice required by Subsection (3)(a)(v) using the best available
467 method under the circumstances as determined by the governor; and

468 (ii) may provide the notice required by Subsection (3)(a)(v) in electronic format.

469 Section 10. Section **63K-4-406** is enacted to read:

470 **63K-4-406. Reporting on the suspension or modification of certain statutes or**
471 **rules or the suspension of the enforcement of a statute.**

472 (1) The governor and the Department of Public Safety shall report the following to the
473 Legislative Management Committee:

474 (a) a suspension or modification of a statute or rule under Subsection 63K-4-201(1)(j);

475 or

476 (b) a suspension of the enforcement of a statute under Subsection 63K-4-401(3).

477 (2) The governor and the Department of Public Safety shall make the report required

478 by this section on or before the sooner of:

479 (a) the day on which the governor calls the Legislature into session in accordance with
480 Section 63K-1-302; or

481 (b) seven days after the date the governor declares the state of emergency to which the
482 suspension or modification relates.

483 (3) The Legislative Management Committee shall review the suspension or
484 modification of a statute or rule or the suspension of the enforcement of a statute described in
485 Subsection (1) and may:

486 (a) recommend:

487 (i) that the governor continue the suspension or modification of the statute or rule or
488 the suspension of the enforcement of the statute; and

489 (ii) the length of the suspension or modification of the statute or rule or the suspension
490 of the enforcement of the statute;

491 (b) recommend that the governor terminate the suspension or modification of the
492 statute or rule or the suspension of the enforcement of the statute; or

493 (c) recommend to the governor that the governor call a special session of the
494 Legislature to review and approve or reject the suspension or modification of the statute or rule
495 or the suspension of the enforcement of the statute.

496 Section 11. Section **76-8-317** is amended to read:

497 **76-8-317. Refusal to comply with order to evacuate or other orders issued in a**
498 **local or state emergency -- Penalties.**

499 (1) A person may not refuse to comply with an order to evacuate issued under this
500 chapter or refuse to comply with any other order issued by the governor in a state of an
501 emergency under Section 63K-4-201 or by a chief executive officer in a local emergency
502 under [~~Sections 63K-4-201 or~~] Section 63K-4-202, if notice of the order has been given to that
503 person.

504 (2) A person who violates this section is guilty of a class B misdemeanor.

505 Section 12. **Appropriation.**

