

EMERGENCY SERVICES ACCOUNT LOAN AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: Todd Weiler

LONG TITLE

Committee Note:

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

General Description:

This bill modifies the Emergency Management Act.

Highlighted Provisions:

This bill:

- ▶ defines "agent of the state" for emergency response purposes;
- ▶ authorizes the Division of Emergency Management to provide short-term loans to agents of the state for the purpose of providing emergency services to a member state of the Emergency Management Assistance Compact when:
 - the member state has a declared disaster;
 - the member state has requested support from the agent of the state; and
 - the agent of the state has no funds available to respond to the request from a

member state;

- ▶ provides that agents of the state will reimburse the State Disaster Recovery

Restricted Account when reimbursed by the member state for emergency services

provided; and

- ▶ clarifies that the applicant or sub-applicant agency is responsible for any financial match requirements when requesting a federal disaster declaration.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **53-2a-602**, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and
34 amended by Laws of Utah 2013, Chapter 295

35 **53-2a-603**, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and
36 amended by Laws of Utah 2013, Chapter 295

37 **53-2a-604**, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and
38 amended by Laws of Utah 2013, Chapter 295 and last amended by Coordination
39 Clause, Laws of Utah 2013, Chapter 117



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

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

43 **53-2a-602. Definitions.**

44 (1) Unless otherwise defined in this section, the terms [~~defined in Part 1, Emergency~~
45 ~~Management Act, shall have the same meaning for this part]~~ that are used in this part mean the
46 same as those terms are defined in Part 1, Emergency Management Act.

47 (2) As used in this part:

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

52 [(a)] (b) "Declared disaster" means one or more events:

- 53 (i) within the state;
- 54 (ii) that occur within a limited period of time;
- 55 (iii) that involve:
 - 56 (A) a significant number of persons being at risk of bodily harm, sickness, or death; or
 - 57 (B) a significant portion of real property at risk of loss;
- 58 (iv) that are sudden in nature and generally occur less frequently than every three years;

59 and

60 (v) that results in:

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

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

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

67 ~~(b)~~ (c) "Disaster recovery ~~[fund]~~ account" means the State Disaster Recovery
68 Restricted Account created in Section [53-2a-603](#).

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

70 (A) evacuation;

71 (B) shelter;

72 (C) medical triage;

73 (D) emergency transportation;

74 (E) repair of infrastructure;

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

76 (G) sandbagging;

77 (H) debris removal;

78 (I) temporary bridges;

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

80 (K) procurement and deployment of generators;

81 (L) rescue or recovery;

82 (M) emergency protective measures; or

83 (N) services similar to those described in Subsections (2)(d)(i)(A) through (M), as
84 defined by the division by rule, that are generally required in response to a declared disaster.

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

86 (A) emergency preparedness; or

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

88 Suppression Fund created in Section [65A-8-204](#), any fire suppression or presuppression costs
89 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the

90 Wildland Fire Suppression Fund.

91 ~~[(e)]~~ (e) "Emergency preparedness" means the following done for the purpose of being
92 prepared for an emergency as defined by the division by rule made in accordance with Title
93 63G, Chapter 3, Utah Administrative Rulemaking Act:

- 94 (i) the purchase of equipment;
- 95 (ii) the training of personnel; or
- 96 (iii) the obtaining of a certification.

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

- 98 (i) for a county, city, or town, the legislative body of the county, city, or town;
- 99 (ii) for a local district, the board of trustees of the local district; and
- 100 (iii) for a special service district:

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

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

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

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

109 ~~[(i)]~~ (i) "Local government" means:

- 110 (i) a county;
- 111 (ii) a city or town; or
- 112 (iii) a local district or special service district that:

113 (A) operates a water system;

114 (B) provides transportation service;

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

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

118 (E) operates an airport; or

119 (F) operates a sewage system.

120 ~~[(j)]~~ (j) "Special fund" means a fund other than a general fund of a local government

121 that is created for a special purpose established under the uniform system of budgeting,
122 accounting, and reporting.

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

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

126 **53-2a-603. State Disaster Recovery Restricted Account.**

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

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

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

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

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

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

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

136 (I) the division; or

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

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

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

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

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

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

152 (B) subject to Subsection (5), provides written notice of the expenditure or
153 commitment to expend to the speaker of the House of Representatives, the president of the
154 Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than
155 72 hours after making the expenditure or commitment to expend; and

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

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

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

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

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

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

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

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

174 (i) emergency disaster services;

175 (ii) emergency preparedness; or

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

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

182 (i) Utah has agreed, through the division, to enact the Emergency Management

183 Assistance Compact with another member state that has requested assistance during a declared
 184 disaster;

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

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

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

190 (3) All funding provided in advance to an agent of the state and subsequently

191 reimbursed shall be credited to the ~~State~~ **→ [division] account ← State** .

192 ~~[(3)]~~ (4) The state treasurer shall invest money in the disaster recovery ~~[fund]~~ account
 193 according to Title 51, Chapter 7, State Money Management Act.

194 ~~[(4)]~~ (5) (a) Except as provided in Subsections (1) and (2), the money in the disaster
 195 recovery ~~[fund]~~ account may not be diverted, appropriated, expended, or committed to be
 196 expended for a purpose that is not listed in this section.

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

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

204 ~~[(5)]~~ (6) The division:

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

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

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

209 **53-2a-604. State costs for emergency disaster services.**

210 (1) Subject to this section and Section [53-2a-603](#), the division may expend or commit
 211 to expend money described in Subsection [53-2a-603\(2\)\(a\)\(i\)](#), (ii), or (iii) to fund costs to the
 212 state of emergency disaster services if, at the discretion of the division, the expenditure is
 213 necessary in response to the disaster.

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

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

Legislative Review Note
Office of Legislative Research and General Counsel