

1 **DISASTER RECOVERY FOR LOCAL GOVERNMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis Oda**

5 Senate Sponsor: J. Stuart Adams

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Public Safety Code and the Budgetary Procedures Act to establish
10 a loan program to local government entities for the purpose of providing emergency
11 disaster services.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ creates the Local Government Emergency Response Loan Fund for the purpose of
15 providing short-term, low-interest loans to local government entities to be used for:

- 16 • costs incurred for providing emergency disaster services; and
17 • matching funds required to secure federal funds or grants related to a declared
18 disaster;

19 ▶ provides the criteria by which loans from the fund will be awarded;

20 ▶ provides rulemaking authority for the Division of Emergency Management to
21 administer the loan program;

22 ▶ provides that funds from the State Disaster Recovery Restricted Account may be
23 appropriated to the Local Government Emergency Response Loan Fund; and

24 ▶ provides that a specified portion of the General Fund revenue surplus be deposited
25 annually into the Local Government Emergency Response Loan Fund.

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53-2a-602**, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and
33 amended by Laws of Utah 2013, Chapter 295

34 **53-2a-603**, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and
35 amended by Laws of Utah 2013, Chapter 295

36 **63J-1-314**, as last amended by Laws of Utah 2013, Chapter 295

37 ENACTS:

38 **53-2a-607**, Utah Code Annotated 1953

39 **53-2a-608**, Utah Code Annotated 1953

40 **53-2a-609**, Utah Code Annotated 1953



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

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

44 **53-2a-602. Definitions.**

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

48 (2) As used in this part:

49 (a) "Declared disaster" means one or more events:

50 (i) within the state;

51 (ii) that occur within a limited period of time;

52 (iii) that involve:

53 (A) a significant number of persons being at risk of bodily harm, sickness, or death; or

54 (B) a significant portion of real property at risk of loss;

55 (iv) that are sudden in nature and generally occur less frequently than every three years;

56 and

57 (v) that results in:

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

60 (B) the governor declaring a state of emergency under [~~Title 53, Chapter 2a,~~] Part 2,
61 Disaster Response and Recovery Act; or

62 (C) the chief executive officer of a local government declaring a local emergency under
63 [~~Title 53, Chapter 2a,~~] Part 2, Disaster Response and Recovery Act.

64 (b) "Disaster recovery fund" means the State Disaster Recovery Restricted Account
65 created in Section [53-2a-603](#).

66 (c) "Emergency preparedness" means the following done for the purpose of being
67 prepared for an emergency as defined by the division by rule made in accordance with Title
68 63G, Chapter 3, Utah Administrative Rulemaking Act:

69 (i) the purchase of equipment;

70 (ii) the training of personnel; or

71 (iii) the obtaining of a certification.

72 (d) (i) "Emergency disaster services" means the following:

73 (A) evacuation;

74 (B) shelter;

75 (C) medical triage;

76 (D) emergency transportation;

77 (E) repair of infrastructure;

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

79 (G) sandbagging;

80 (H) debris removal;

81 (I) temporary bridges;

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

83 (K) procurement and deployment of generators;

84 (L) rescue or recovery;

85 (M) emergency protective measures; or

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

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

89 (A) emergency preparedness; or

90 (B) notwithstanding whether or not a county participates in the Wildland Fire
91 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs
92 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the
93 Wildland Fire Suppression Fund.

94 (e) "Governing body" means:

95 (i) for a county, city, or town, the legislative body of the county, city, or town;

96 (ii) for a local district, the board of trustees of the local district; and

97 (iii) for a special service district:

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

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

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

104 (g) "Local fund" means a local government disaster fund created in accordance with
105 Section 53-2a-605.

106 (h) "Local government" means:

107 (i) a county;

108 (ii) a city or town; or

109 (iii) a local district or special service district that:

110 (A) operates a water system;

111 (B) provides transportation service;

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

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

115 (E) operates an airport; or

116 (F) operates a sewage system.

117 (i) "Special fund" means a fund other than a general fund of a local government that is
118 created for a special purpose established under the uniform system of budgeting, accounting,
119 and reporting.

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

122 (k) "State's prime interest rate" means the average interest rate paid by the state on
123 general obligation bonds issued during the most recent fiscal year in which bonds were sold.

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

125 **53-2a-603. State Disaster Recovery Restricted Account.**

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

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

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

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

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

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

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

135 (I) the division; or

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

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

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

141 (a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or

142 commit to expend an amount that does not exceed \$250,000, in accordance with Section
143 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared
144 disaster;

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

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

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

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

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

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

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

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

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

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

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

- 173 (i) emergency disaster services;
- 174 (ii) emergency preparedness; or
- 175 (iii) notwithstanding whether a county participates in the Wildland Fire Suppression
176 Fund created in Section [65A-8-204](#), any fire suppression or presuppression costs that may be
177 paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland
178 Fire Suppression Fund[-]; and

179 (c) to fund the Local Government Emergency Response Loan Fund created in Section
180 [53-2a-607](#).

181 (3) The state treasurer shall invest money in the disaster recovery fund according to
182 Title 51, Chapter 7, State Money Management Act.

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

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

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

193 (5) The division:

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

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

197 Section 3. Section **53-2a-607** is enacted to read:

198 **53-2a-607. Creation and administration.**

199 (1) (a) There is created an enterprise fund known as the Local Government Emergency
200 Response Loan Fund.

201 (b) The division as defined in Section 53-2a-103 is the administrator of the fund.

202 (2) The fund consists of:

203 (a) money appropriated to the fund by the Legislature;

204 (b) money received for the repayment of loans made from the fund;

205 (c) interest earned on the fund; and

206 (d) money deposited into the fund in accordance with Section 63J-1-314.

207 (3) The money in the fund shall be invested by the state treasurer according to the
208 procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that
209 all interest or other earnings derived from money in the fund shall be deposited into the fund.

210 (4) Local government entities may apply through the division for a short-term loan
211 from the fund for the purposes provided in Section 53-2a-608, provided that the local
212 government entity:

213 (a) agrees to the terms of the loan; and

214 (b) is not in default on any other state loans administered by the Division of Finance or
215 any other state agency.

216 (5) The division may not loan out:

217 (a) more than 50% of the total account balance available at the time that a loan request
218 is made by a local government entity; or

219 (b) an amount that will leave the fund balance at less than \$10,000,000.

220 Section 4. Section **53-2a-608** is enacted to read:

221 **53-2a-608. Purposes and criteria for loans.**

222 (1) Money in the fund shall be used by the division, as prioritized by the director, only
223 to:

224 (a) provide loans to local government entities for:

225 (i) the costs incurred by a local government entity for providing emergency disaster

226 services as defined in Section 53-2a-602; or

227 (ii) providing any state or local matching funds to secure federal funds or grants related
228 to a declared disaster, as defined in Section 53-2a-602;

229 (b) pay the Division of Finance for the costs of administering the fund, providing loans,
230 and obtaining repayments of loans; and

231 (c) provide funds to state agencies for the costs of responding to a declared disaster.

232 (2) The division shall establish the terms and conditions of the loans and the repayment
233 schedule consistent with the following criteria:

234 (a) the interest rate charged and the maximum payback period on all loans shall be:

235 (i) the state's prime interest rate at the time of loan closing, plus zero percent, with a
236 maximum payback period of 10 years if the applicant has reserved an average of 90% to 100%
237 of the amount authorized in Section 53-2a-605 over the previous five fiscal years;

238 (ii) the state's prime interest rate at the time of loan closing, plus 2%, with a maximum
239 payback period of five years if the applicant has reserved an average of 70% up to 90% of the
240 amount authorized in Section 53-2a-605 over the previous five fiscal years; or

241 (iii) the state's prime interest rate at the time of loan closing, plus 4%, with a maximum
242 payback period of three years if the applicant has reserved an average of 50% up to 70% of the
243 amount authorized in Section 53-2a-605 over the previous five fiscal years; and

244 (b) the division may not authorize a loan from this fund on any terms or conditions to
245 local government entities that have reserved an average of less than 50% of the amount
246 authorized in Section 53-2a-605 over the previous five fiscal years.

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

250 Section 5. Section 53-2a-609 is enacted to read:

251 **53-2a-609. Division to make rules to administer the loan program.**

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

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

261 Section 6. Section **63J-1-314** is amended to read:

262 **63J-1-314. Deposits related to the Disaster Recovery Funding Act.**

263 (1) As used in this section, "operating deficit" means that, at the end of the fiscal year,
264 the unassigned fund balance in the General Fund is less than zero.

265 (2) Except as provided under [~~Subsection~~] Subsections (3) and (4), at the end of each
266 fiscal year, the Division of Finance shall, after the transfer of General Fund revenue surplus has
267 been made to the Medicaid Growth Reduction and Budget Stabilization Account, as provided
268 in Section **63J-1-315**, and the General Fund Budget Reserve Account, as provided in Section
269 **63J-1-312**, transfer an amount into the State Disaster Recovery Restricted Account, created in
270 Section **53-2a-603**, from the General Fund revenue surplus as defined in Section **63J-1-312**,
271 calculated by:

272 (a) determining the amount of General Fund revenue surplus after the transfer to the
273 Medicaid Growth Reduction and Budget Stabilization Account under Section **63J-1-315** and
274 the General Fund Budget Reserve Account under Section **63J-1-312**;

275 (b) calculating an amount equal to the lesser of:

276 (i) 25% of the amount determined under Subsection (2)(a); or

277 (ii) 6% of the total of the General Fund appropriation amount for the fiscal year in
278 which the surplus occurs; and

279 (c) adding to the amount calculated under Subsection (2)(b) an amount equal to the
280 lesser of:

281 (i) 25% more of the amount described in Subsection (2)(a); or

282 (ii) the amount necessary to replace, in accordance with this Subsection (2)(c), any
283 amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal
284 years before the fiscal year in which the surplus occurs if:

285 (A) a surplus exists; and

286 (B) the Legislature appropriates money from the State Disaster Recovery Restricted
287 Account that is not replaced by appropriation or as provided in this Subsection (2)(c).

288 (3) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of
289 Finance determines that an operating deficit exists, the division shall reduce the transfer to the
290 State Disaster Recovery Restricted Account by the amount necessary to eliminate the operating
291 deficit.

292 (4) Notwithstanding Subsection (2):

293 (a) for the period beginning July 1, 2015, and ending June 30, 2020, the Division of
294 Finance shall transfer to the Local Government Emergency Response Loan Fund 25% of the
295 amount to be transferred into the State Disaster Recovery Restricted Account as provided in
296 Subsection (2)(b); and

297 (b) on and after July 1, 2020, the Division of Finance shall transfer to the Local
298 Government Emergency Response Loan Fund 10% of the amount to be transferred into the
299 State Disaster Recovery Restricted Account as provided in Subsection (2)(b).