

1 **EMERGENCY MANAGEMENT ACT PROCUREMENT PROCESS**

2 **AMENDMENTS**

3 2020 FIFTH SPECIAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Val L. Peterson**

6 Senate Sponsor: Ann Millner

8 **LONG TITLE**

9 **General Description:**

10 This bill requires the governor to provide notice to the Legislature after certain
11 expenditures of federal funds received during an epidemic or pandemic disease
12 emergency.

13 **Highlighted Provisions:**

14 This bill:

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

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides a special effective date.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **53-2a-204**, as last amended by Laws of Utah 2017, Chapter 18

27 **63I-2-253 (Superseded 07/01/20)**, as last amended by Laws of Utah 2020, Chapters
28 216, 320, 321, and 354

29 **63I-2-253 (Effective 07/01/20)**, as last amended by Laws of Utah 2020, Chapters 216,

30 320, 321, 354, and 365

31 ENACTS:

32 **53-2a-217**, Utah Code Annotated 1953

33

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

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

36 **53-2a-204. Authority of governor -- Federal assistance -- Fraud or willful**
37 **misstatement in application for financial assistance -- Penalty.**

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

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

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

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

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

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

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

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

58 the political subdivision, corporation, organization, or individual that is affected by the removal
59 of the debris or wreckage:

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

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

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

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

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

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

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

76 (k) upon determination that a political subdivision of the state will suffer a substantial
77 loss of tax and other revenues because of a state of emergency and the political subdivision so
78 affected has demonstrated a need for financial assistance to perform its governmental
79 functions, in accordance with Utah Constitution, Article XIV, Sections 3 and 4, and Section
80 [10-8-6](#):

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

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

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

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

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

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

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

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

102 **53-2a-217. Procurement process during an epidemic or pandemic emergency.**

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

105 (2) (a) During a state of emergency declared as described in Section 53-2a-206 that is
106 in response or related to an epidemic or pandemic disease emergency, or during a national
107 epidemic or pandemic emergency, the governor shall provide notice to the Legislature within
108 24 hours after an expenditure or procurement, if the expenditure or procurement:

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

110 (ii) totals more than \$2,000,000 or includes a line item of more than \$2,000,000; and

111 (iii) is made using emergency procurement processes as described in Section
112 63G-6a-803.

113 (b) The governor may not divide an expenditure or procurement into multiple

114 expenditures or procurements to fall below the \$2,000,000 threshold described in Subsection
115 (2)(a)(ii).

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

117 **63I-2-253 (Superseded 07/01/20). Repeal dates -- Titles 53 through 53G.**

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

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

123 ~~[(1)]~~ (2) (a) Subsection **53B-2a-108(5)**, regarding exceptions to the composition of a
124 technical college board of directors, is repealed July 1, 2022.

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

128 ~~[(2)]~~ (3) Section **53B-6-105.7** is repealed July 1, 2024.

129 ~~[(3)]~~ (4) (a) Subsection **53B-7-705(6)(b)(ii)(A)**, the language that states "Except as
130 provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

131 (b) Subsection **53B-7-705(6)(b)(ii)(B)**, regarding comparing a technical college's
132 change in performance with the technical college's average performance, is repealed July 1,
133 2021.

134 ~~[(4)]~~ (5) (a) Subsection **53B-7-707(3)(a)(ii)**, the language that states "Except as
135 provided in Subsection (3)(b)," is repealed July 1, 2021.

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

138 ~~[(5)]~~ (6) Section **53B-8-112** is repealed July 1, 2024.

139 ~~[(6)]~~ (7) Section **53B-8-114** is repealed July 1, 2024.

140 ~~[(7)]~~ (8) (a) The following sections, regarding the Regents' scholarship program, are
141 repealed on July 1, 2023:

- 142 (i) Section [53B-8-202](#);
- 143 (ii) Section [53B-8-203](#);
- 144 (iii) Section [53B-8-204](#); and
- 145 (iv) Section [53B-8-205](#).
- 146 (b) (i) Subsection [53B-8-201](#)(2), regarding the Regents' scholarship program for
- 147 students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.
- 148 (ii) When repealing Subsection [53B-8-201](#)(2), the Office of Legislative Research and
- 149 General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3), make
- 150 necessary changes to subsection numbering and cross references.
- 151 [~~8~~] (9) Section [53B-10-101](#) is repealed on July 1, 2027.
- 152 [~~9~~] (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is
- 153 repealed July 1, 2023.
- 154 [~~10~~] (11) Section [53E-3-519](#) regarding school counselor services is repealed July 1,
- 155 2020.
- 156 [~~11~~] (12) Section [53E-3-520](#) is repealed July 1, 2021.
- 157 [~~12~~] (13) Subsection [53E-5-306](#)(3)(b)(ii)(B), related to improving school
- 158 performance and continued funding relating to the School Recognition and Reward Program, is
- 159 repealed July 1, 2020.
- 160 [~~13~~] (14) Section [53E-5-307](#) is repealed July 1, 2020.
- 161 [~~14~~] (15) Subsection [53E-10-309](#)(7), related to the PRIME pilot program, is repealed
- 162 July 1, 2024.
- 163 [~~15~~] (16) In Subsections [53F-2-205](#)(4) and (5), regarding the State Board of
- 164 Education's duties if contributions from the minimum basic tax rate are overestimated or
- 165 underestimated, the language that states "or [53F-2-301.5](#), as applicable" is repealed July 1,
- 166 2023.
- 167 [~~16~~] (17) Subsection [53F-2-301](#)(1), relating to the years the section is not in effect, is
- 168 repealed July 1, 2023.
- 169 [~~17~~] (18) In Subsection [53F-2-515](#)(1), the language that states "or [53F-2-301.5](#), as

170 applicable" is repealed July 1, 2023.

171 ~~[(18)]~~ (19) Section 53F-4-207 is repealed July 1, 2022.

172 ~~[(19)]~~ (20) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as
173 applicable" is repealed July 1, 2023.

174 ~~[(20)]~~ (21) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as
175 applicable" is repealed July 1, 2023.

176 ~~[(21)]~~ (22) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as
177 applicable" is repealed July 1, 2023.

178 ~~[(22)]~~ (23) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5,
179 as applicable" is repealed July 1, 2023.

180 ~~[(23)]~~ (24) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7),
181 related to the civics engagement pilot program, are repealed on July 1, 2023.

182 ~~[(24)]~~ (25) On July 1, 2023, when making changes in this section, the Office of
183 Legislative Research and General Counsel shall, in addition to the office's authority under
184 Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections
185 identified in this section are complete sentences and accurately reflect the office's perception of
186 the Legislature's intent.

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

188 **63I-2-253 (Effective 07/01/20). Repeal dates -- Titles 53 through 53G.**

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190 emergency, is repealed on December 31, 2021.

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

194 ~~[(1)]~~ (2) Section 53B-2a-103 is repealed July 1, 2021.

195 ~~[(2)]~~ (3) Section 53B-2a-104 is repealed July 1, 2021.

196 ~~[(3)]~~ (4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a
197 technical college board of trustees, is repealed July 1, 2022.

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

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205 change in performance with the technical college's average performance, is repealed July 1,
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208 provided in Subsection (3)(b)," is repealed July 1, 2021.

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210 during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

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

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

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

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

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232 repealed July 1, 2020.

233 ~~[(15)]~~ (16) Section [53E-5-307](#) is repealed July 1, 2020.

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235 July 1, 2024.

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237 Education's duties if contributions from the minimum basic tax rate are overestimated or
238 underestimated, the language that states "or [53F-2-301.5](#), as applicable" is repealed July 1,
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241 repealed July 1, 2023.

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245 ~~[(21)]~~ (22) In Subsection [53F-9-302](#)(3), the language that states "or [53F-2-301.5](#), as
246 applicable" is repealed July 1, 2023.

247 ~~[(22)]~~ (23) In Subsection [53F-9-305](#)(3)(a), the language that states "or [53F-2-301.5](#), as
248 applicable" is repealed July 1, 2023.

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250 applicable" is repealed July 1, 2023.

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256 Legislative Research and General Counsel shall, in addition to the office's authority under
257 Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections
258 identified in this section are complete sentences and accurately reflect the office's perception of
259 the Legislature's intent.

260 Section 5. **Effective date.**

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