

**EMERGENCY MANAGEMENT**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis Oda**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Public Safety Code relating to the name and duties of the Division of Homeland Security.

**Highlighted Provisions:**

This bill:

- ▶ changes the name of the Division of Homeland Security to the Division of Emergency Management;
- ▶ specifies the responsibilities of the division relating to emergency management as directed by the governor or commissioner of the Department of Public Safety, including:
  - coordinating with state and local governments the use of personnel and resources during a disaster;
  - requesting or assisting in the allocation of state and local resources for a disaster or a local state of emergency;
  - receiving and disbursing federal resources provided to the state in a declared disaster; and
  - appointing a state coordinating officer, as the governor's representative, to work with a federal coordinating officer during a federally declared disaster;
- ▶ authorizes the department to designate geographical regions for the purpose of emergency planning within the state, and allows the political subdivisions within



28 each region to:

29 • coordinate planning with other political subdivisions and tribal governments

30 within that region and with state agencies;

31 • coordinate grant management and resource purchases; and

32 • organize joint emergency response training and exercises;

33 ▶ provides that political subdivisions within a region may not establish the region as a  
34 new governmental entity in the federal disaster declaration **H→ [hierarchy] process ←H** ;

35 ▶ authorizes the division to:

36 • receive and maintain an inventory of state and local services, equipment,  
37 supplies, personnel, and other resources related to participation in the Statewide

38 Mutual Aid Act and the Emergency Management Assistance Compact; and

39 • make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
40 Rulemaking Act, to prepare and coordinate a process so that the division may

41 assist political subdivisions that are acting as agents of the state in mobilizing or

42 demobilizing available assets in response to an intrastate or interstate disaster;

43 ▶ makes clarifying changes; and

44 ▶ provides rulemaking authority.

45 **Money Appropriated in this Bill:**

46 None

47 **Other Special Clauses:**

48 None

49 **Utah Code Sections Affected:**

50 AMENDS:

51 **19-3-112**, as last amended by Laws of Utah 2007, Chapter 66

52 **26-23b-110**, as last amended by Laws of Utah 2008, Chapter 382

53 **53-1-104**, as last amended by Laws of Utah 2010, Chapter 62

54 **53-2-102**, as last amended by Laws of Utah 2010, Chapter 334

55 **53-2-103**, as last amended by Laws of Utah 2007, Chapter 66

56 **53-2-104**, as last amended by Laws of Utah 2008, Chapter 382

57 **53-2-108**, as last amended by Laws of Utah 2010, Chapter 286

58 **53-2-502**, as last amended by Laws of Utah 2008, Chapter 360

- 59           **53-2-505**, as enacted by Laws of Utah 2007, Chapter 331
- 60           **53-2-506**, as enacted by Laws of Utah 2007, Chapter 331
- 61           **53-2-507**, as enacted by Laws of Utah 2007, Chapter 331
- 62           **53-2-509**, as last amended by Laws of Utah 2008, Chapter 382
- 63           **63C-6-101**, as last amended by Laws of Utah 2007, Chapter 66
- 64           **63C-6-104**, as last amended by Laws of Utah 2007, Chapter 66
- 65           **63G-2-305**, as last amended by Laws of Utah 2010, Chapters 6, 113, and 247
- 66           **63J-4-502**, as last amended by Laws of Utah 2010, Chapter 286
- 67           **63K-1-102**, as last amended by Laws of Utah 2010, Chapter 334
- 68           **63K-1-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 69           **63K-3-201**, as last amended by Laws of Utah 2010, Chapter 286
- 70           **63K-4-402**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and
- 71 amended by Laws of Utah 2008, Chapter 382
- 72           **63M-4-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

75           Section 1. Section **19-3-112** is amended to read:

76           **19-3-112. Notification by the department to certain persons of release of**  
 77 **radiation from Nevada Test Site -- Notification to certain news outlets.**

78           (1) When informed by the United States Department of Energy of any release of  
 79 radiation exceeding the Nuclear Regulatory Commission's limits for unrestricted use in air or  
 80 water from the Nevada Test Site which is detected outside its boundaries, the department shall,  
 81 unless prohibited by federal law, immediately convey to the persons specified in Subsection (2)  
 82 all information that is made available to it, including:

- 83           (a) the date;
- 84           (b) the time and duration of each release of radiation;
- 85           (c) estimates of total amounts of radiation released;
- 86           (d) the types and amounts of each isotope detected off-site;
- 87           (e) the locations of monitoring stations detecting off-site radiation; and
- 88           (f) current and projected wind direction, wind velocity, and precipitation for the region.

89           (2) Unless prohibited by federal law, the department shall provide the information

90 required under Subsection (1) to the following:

- 91 (a) members of the Utah congressional delegation or their designated representatives;
- 92 (b) the director of the Division of [~~Homeland Security~~] Emergency Management;
- 93 (c) the attorney general;
- 94 (d) the regional director of the Federal Emergency Management Agency;
- 95 (e) the regional director of the National Oceanic and Atmospheric Administration;
- 96 (f) the executive director of the Utah League of Cities and Towns;
- 97 (g) the executive director of the Department of Health; and
- 98 (h) the chairpersons of the county commissions of affected counties.

99 (3) If the state is informed by the United States Department of Energy that any  
 100 radiation released from the Nevada Test Site has been detected by the United States  
 101 Department of Energy or United States Environmental Protection Agency or the department  
 102 within the boundaries of the state of Utah, the department shall, unless prohibited by federal  
 103 law, immediately provide all information available to it as specified in Subsection (1) to the  
 104 Associated Press and United Press International outlets in the state.

105 Section 2. Section **26-23b-110** is amended to read:

106 **26-23b-110. Information sharing with public safety authorities.**

107 (1) For purposes of this section, "public safety authority" means a local, state, or  
 108 federal law enforcement authority including the Division of [~~Homeland Security~~] Emergency  
 109 Management, emergency medical services personnel, and firefighters.

110 (2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records  
 111 Access and Management Act:

112 (a) whenever a public safety authority suspects a case of a reportable illness or  
 113 condition under the provisions of this chapter, it shall immediately notify the department;

114 (b) whenever the department learns of a case of a reportable illness or condition under  
 115 this chapter that it reasonably believes has the potential to be caused by one of the factors listed  
 116 in Subsection 26-23b-103(1), it shall immediately notify the appropriate public safety  
 117 authority; and

118 (c) sharing of information reportable under the provisions of this chapter between  
 119 persons authorized by this chapter shall be limited to information necessary for the treatment,  
 120 control, investigation, and prevention of a public health emergency.

121 (3) Except to the extent inconsistent with this chapter, Sections 26-6-27 and 26-6-28  
122 apply to this chapter.

123 Section 3. Section **53-1-104** is amended to read:

124 **53-1-104. Boards, bureaus, councils, divisions, and offices.**

125 (1) The following are the policymaking boards within the department:

- 126 (a) the Driver License Medical Advisory Board, created in Section 53-3-303;  
127 (b) the Concealed Firearm Review Board, created in Section 53-5-703;  
128 (c) the Utah Fire Prevention Board, created in Section 53-7-203;  
129 (d) the Liquified Petroleum Gas Board, created in Section 53-7-304; and  
130 (e) the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.

131 (2) The following are the councils within the department:

- 132 (a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and  
133 (b) the Motor Vehicle Safety Inspection Advisory Council, created in Section  
134 53-8-203.

135 (3) The following are the divisions within the department:

- 136 (a) the Administrative Services Division, created in Section 53-1-203;  
137 (b) the Management Information Services Division, created in Section 53-1-303;  
138 (c) the Division of [~~Homeland Security~~] Emergency Management, created in Section  
139 53-2-103;  
140 (d) the Driver License Division, created in Section 53-3-103;  
141 (e) the Criminal Investigations and Technical Services Division, created in Section  
142 53-10-103;  
143 (f) the Peace Officers Standards and Training Division, created in Section 53-6-103;  
144 (g) the State Fire Marshal Division, created in Section 53-7-103; and  
145 (h) the Utah Highway Patrol Division, created in Section 53-8-103.  
146 (4) The Office of Executive Protection is created in Section 53-1-112.  
147 (5) The following are bureaus within the department:  
148 (a) Bureau of Criminal Identification, created in Section 53-10-201;  
149 (b) State Bureau of Investigation, created in Section 53-10-301;  
150 (c) Bureau of Forensic Services, created in Section 53-10-401; and  
151 (d) Bureau of Communications, created in Section 53-10-501.

152 Section 4. Section **53-2-102** is amended to read:

153 **53-2-102. Definitions.**

154 As used in this part:

155 (1) "Attack" means a nuclear, conventional, biological, or chemical warfare action  
156 against the United States of America or this state.

157 (2) "Director" means the division director appointed under Section 53-2-103.

158 (3) "Disaster" means a situation causing, or threatening to cause, widespread damage,  
159 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,  
160 natural phenomena, or technological hazard.

161 (4) "Division" means the Division of [~~Homeland Security~~] Emergency Management  
162 created in Section 53-2-103.

163 (5) "Energy" includes the energy resources defined in Section 63K-2-103.

164 (6) "Expenses" means actual labor costs of government and volunteer personnel,  
165 including [~~workers~~] workers' compensation benefits, fringe benefits, administrative overhead,  
166 cost of equipment, cost of equipment operation, cost of materials, and the cost of any contract  
167 labor and materials.

168 (7) "Hazardous materials emergency" means a sudden and unexpected release of any  
169 substance that because of its quantity, concentration, or physical, chemical, or infectious  
170 characteristics presents a direct and immediate threat to public safety or the environment and  
171 requires immediate action to mitigate the threat.

172 (8) "Internal disturbance" means a riot, prison break, terrorism, or strike.

173 (9) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide,  
174 avalanche, forest or range fire, drought, or epidemic.

175 (10) "State of emergency" means a condition in any part of this state that requires state  
176 government emergency assistance to supplement the local efforts of the affected political  
177 subdivision to save lives and to protect property, public health, welfare, or safety in the event  
178 of a disaster, or to avoid or reduce the threat of a disaster.

179 (11) "Technological hazard" means any hazardous materials accident, mine accident,  
180 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

181 (12) "Terrorism" means activities that:

182 (a) involve acts dangerous to human life;

- 183 (b) are a violation of the criminal laws of the United States or of this state; and  
 184 (c) to a reasonable person, would appear to be intended to:  
 185 (i) intimidate or coerce a civilian population;  
 186 (ii) influence the policy of a government by intimidation or coercion; or  
 187 (iii) affect the conduct of a government by mass destruction, assassination, or  
 188 kidnapping.

189 Section 5. Section **53-2-103** is amended to read:

190 **53-2-103. Division of Emergency Management -- Creation -- Director --**  
 191 **Appointment -- Term -- Compensation.**

192 (1) There is created within the department the Division of [~~Homeland Security~~]  
 193 Emergency Management.

194 (2) The division shall be administered by a director appointed by the commissioner  
 195 with the approval of the governor.

196 (3) The director is the executive and administrative head of the division and shall be  
 197 experienced in administration and possess additional qualifications as determined by the  
 198 commissioner and as provided by law.

199 (4) The director acts under the supervision and control of the commissioner and may be  
 200 removed from [~~his~~] the position at the will of the commissioner.

201 (5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah  
 202 State Personnel Management Act.

203 Section 6. Section **53-2-104** is amended to read:

204 **53-2-104. Division duties -- Powers.**

205 (1) The division shall:

206 (a) respond to the policies of the governor and the Legislature;

207 (b) perform functions relating to emergency [~~services and homeland security matters~~]  
 208 management as directed by the governor or by the commissioner[;] including:

209 (i) coordinating with state agencies and local governments the use of personnel and  
 210 other resources of these governmental entities as agents of the state during an interstate disaster  
 211 in accordance with the Emergency Management Assistance Compact described in Section  
 212 53-2-202;

213 (ii) coordinating the requesting, activating, and allocating of state resources during an

214 intrastate disaster or a local state of emergency;  
215 (iii) receiving and disbursing federal resources provided to the state in a declared  
216 disaster; and  
217 (iv) appointing a state coordinating officer who is the governor's representative and  
218 who shall work with a federal coordinating officer during a federally declared disaster;  
219 (c) prepare, implement, and maintain programs and plans to provide for:  
220 (i) prevention and minimization of injury and damage caused by disasters;  
221 (ii) prompt and effective response to and recovery from disasters;  
222 (iii) identification of areas particularly vulnerable to disasters;  
223 (iv) coordination of hazard mitigation and other preventive and preparedness measures  
224 designed to eliminate or reduce disasters;  
225 (v) assistance to local officials, state agencies, and the business and public sectors, in  
226 developing emergency action plans;  
227 (vi) coordination of federal, state, and local emergency activities;  
228 (vii) coordination of emergency operations plans with emergency plans of the federal  
229 government;  
230 (viii) coordination of search and rescue activities;  
231 (ix) coordination of rapid and efficient communications in times of emergency; and  
232 (x) other measures necessary, incidental, or appropriate to this part;  
233 (d) coordinate with local officials, state agencies, and the business and public sectors in  
234 developing, implementing, and maintaining a state energy emergency plan in accordance with  
235 Section 53-2-110; and  
236 (e) administer Part 4, Disaster Recovery Funding Act, in accordance with that part.  
237 (2) (a) The department shall designate state geographical regions and allow the  
238 political subdivisions within each region to:  
239 (i) coordinate planning with other political subdivisions, tribal governments, and as  
240 appropriate, other entities within that region and with state agencies as appropriate, or as  
241 designated by the division;  
242 (ii) coordinate grant management and resource purchases; and  
243 (iii) organize joint emergency response training and exercises.  
244 (b) The political subdivisions within a region designated in Subsection (2)(a) may not



245 establish the region as a new government entity in the federal disaster declaration

245a **H→ [hierarchy] process ←H** ,

246 which runs in the following order:

247 (i) local governmental entities;

248 (ii) counties;

249 (iii) the state; and

250 (iv) the federal government.

251 (3) The division may make rules in accordance with Title 63G, Chapter 3, Utah

252 Administrative Rulemaking Act, to:

253 (a) establish protocol for prevention, mitigation, preparedness, response, recovery, and

254 the activities described in Subsection (2);

255 (b) coordinate federal, state, and local resources in a declared disaster or local

256 emergency; and

257 (c) implement provisions of the Emergency Management Assistance Compact as

258 provided in Section 53-2-202 and Title 53, Chapter 2, Part 5, Statewide Mutual Aid Act.

259 ~~[(2)]~~ (4) The division may consult with the Legislative Management Committee, the

260 Judicial Council, and legislative and judicial staff offices to assist them in preparing emergency

261 succession plans and procedures under Title 63K, Chapter 1, Emergency Interim Succession

262 Act.

263 Section 7. Section **53-2-108** is amended to read:

264 **53-2-108. Search and Rescue Advisory Board -- Members -- Compensation.**

265 (1) There is created the Search and Rescue Advisory Board consisting of seven

266 members appointed as follows:

267 (a) two representatives designated by the Utah Search and Rescue Association, one of

268 whom is from a county having a population of 75,000 or more; and one from a county having a

269 population of less than 75,000;

270 (b) three representatives designated by the Utah Sheriff's Association, at least one of

271 whom shall be a member of a voluntary search and rescue unit operating in the state, at least

272 one of whom shall be from a county having a population of 75,000 or more, and at least one of

273 whom shall be from a county having a population of less than 75,000;

274 (c) one representative of the Division of [~~Homeland Security~~] Emergency Management

275 designated by the director; and

276 (d) one private citizen appointed by the governor with the consent of the Senate.

277 (2) (a) The term of each member of the board is four years.

278 (b) A member may be reappointed to successive terms.

279 (c) When a vacancy occurs in the membership for any reason, the replacement shall be  
280 appointed for the unexpired term.

281 (d) In order to stagger the terms of membership, the members appointed or reappointed  
282 to represent the Utah Sheriff's Association on or after May 2, 2005, shall serve a term of two  
283 years, and all subsequent terms shall be four years.

284 (3) A member may not receive compensation or benefits for the member's service, but  
285 may receive per diem and travel expenses in accordance with:

286 (a) Section 63A-3-106;

287 (b) Section 63A-3-107; and

288 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
289 63A-3-107.

290 Section 8. Section **53-2-502** is amended to read:

291 **53-2-502. Definitions.**

292 As used in this part:

293 (1) "Committee" means the statewide mutual aid committee established in Section  
294 53-2-503.

295 (2) "Director" means the director of the division, appointed under Section 53-2-103 or  
296 the director's designee.

297 (3) "Division" means the Division of [~~Homeland Security~~] Emergency Management,  
298 created under Section 53-2-103.

299 (4) "Emergency responder":

300 (a) means a person in the public or private sector:

301 (i) who has special skills, qualification, training, knowledge, or experience, whether or  
302 not possessing a license, certificate, permit, or other official recognition for the skills,  
303 qualification, training, knowledge, or experience, that would benefit a participating political  
304 subdivision in responding to a locally declared emergency or in an authorized drill or exercise;  
305 and

306 (ii) [~~that~~] whom a participating political subdivision requests or authorizes to assist in

307 responding to a locally declared emergency or in an authorized drill or exercise; and

308 (b) includes:

309 (i) a law enforcement officer;

310 (ii) a firefighter;

311 (iii) an emergency medical services worker;

312 (iv) a physician, nurse, or other public health worker;

313 (v) an emergency management official;

314 (vi) a public works worker;

315 (vii) a building inspector;

316 (viii) an architect, engineer, or other design professional; or

317 (ix) a person with specialized equipment operations skills or training or with any other  
318 skills needed to provide aid in a declared emergency.

319 (5) "Participating political subdivision" means each county, municipality, public safety  
320 district, and public safety interlocal entity that has not adopted a resolution under Section  
321 53-2-506 withdrawing itself from the statewide mutual aid system.

322 (6) "Public safety interlocal entity" means an interlocal entity under Title 11, Chapter  
323 13, Interlocal Cooperation Act, that provides public safety service.

324 (7) "Public safety service" means a service provided to the public to protect life and  
325 property and includes fire protection, police protection, emergency medical service, and  
326 hazardous material response service.

327 (8) "Public safety district" means a local district under Title 17B, Limited Purpose  
328 Local Government Entities - Local Districts, or special service district under Title 17D,  
329 Chapter 1, Special Service District Act, that provides public safety service.

330 (9) "Requesting political subdivision" means a participating political subdivision that  
331 requests emergency assistance under Section 53-2-507 from one or more other participating  
332 political subdivisions.

333 (10) "Responding political subdivision" means a participating political subdivision that  
334 responds to a request under Section 53-2-507 from a requesting political subdivision.

335 (11) "State" means the state of Utah.

336 [~~(H)~~] (12) "Statewide mutual aid system" or "system" means the aggregate of all  
337 participating political subdivisions and the state.

338 Section 9. Section **53-2-505** is amended to read:

339 **53-2-505. Agreements not affected by this part.**

340 Nothing in this part may be construed:

341 (1) to limit the state, a county, municipality, local district, special service district, or  
342 interlocal entity from entering into an agreement allowed by law for public safety and related  
343 purposes; or

344 (2) to affect an agreement to which the state, a county, municipality, local district,  
345 special service district, or interlocal entity is a party.

346 Section 10. Section **53-2-506** is amended to read:

347 **53-2-506. Duties of the Division of Emergency Management and participating**  
348 **political subdivisions.**

349 (1) The division shall:

350 (a) receive and maintain an inventory of the state and local services, equipment,  
351 supplies, personnel, and other resources related to participation in Title 53, Chapter 2, Part 2,  
352 Emergency Management Assistance Compact, and Title 53, Chapter 2, Part 5, Statewide  
353 Mutual Aid Act; and

354 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
355 Rulemaking Act, to prepare and coordinate a process and plans so that the division may assist  
356 political subdivisions that are acting as agents of the state in mobilizing or demobilizing  
357 available assets in response to an intrastate or interstate disaster as provided in Title 53,  
358 Chapter 2, Part 2, Emergency Management Assistance Compact.

359 (2) Each participating political subdivision in the Statewide Mutual Aid Act shall:

360 [~~(1)~~] (a) identify potential hazards that could affect the participating political  
361 subdivision;

362 [~~(2)~~] (b) conduct joint planning, intelligence sharing, and threat assessment  
363 development with contiguous participating political subdivisions and conduct joint training  
364 with them at least biennially;

365 [~~(3)~~] (c) identify and inventory the services, equipment, supplies, personnel, and other  
366 resources related to participating political subdivision's planning, prevention, mitigation,  
367 response, and recovery activities; and

368 [~~(4)~~] (d) adopt and implement the standardized incident management system approved

369 by the division.

370 Section 11. Section **53-2-507** is amended to read:

371 **53-2-507. Requests for disaster assistance or assistance with an authorized drill**  
372 **or exercise.**

373 (1) [A] The state or a participating political subdivision may request another  
374 participating political subdivision to assist:

375 (a) in preventing, mitigating, responding to, or recovering from a disaster, if the  
376 requesting political subdivision or the state has declared a state of emergency; or

377 (b) with a drill or exercise that the state or requesting political subdivision has  
378 authorized.

379 (2) Each request under Subsection (1) shall be:

380 (a) made by the chief executive officer of the state or participating political  
381 subdivision, or the officer's designee; and

382 (b) reported as soon as practical to the director.

383 (3) (a) A request under Subsection (1) may be communicated orally or in writing.

384 (b) Each request communicated orally shall be reduced to writing and delivered to the  
385 other participating political subdivision:

386 (i) as soon as practical; or

387 (ii) [in] within the number of days specified by the director.

388 (4) In responding to a request under Subsection (1), a responding political subdivision  
389 may:

390 (a) donate assets of any kind to a requesting political subdivision; and

391 (b) withhold its resources to the extent necessary to provide reasonable protection and  
392 services for its own residents.

393 (5) The emergency response personnel, equipment, and other assets of a responding  
394 political subdivision or the state shall be under the operational control of the incident  
395 management system of the state or requesting political subdivision, except to the extent that the  
396 exercise of operational control would result in a violation of a policy, standard, procedure, or  
397 protocol of the responding political subdivision or of the state.

398 Section 12. Section **53-2-509** is amended to read:

399 **53-2-509. Personnel responding to requests for assistance.**

400 (1) Each person or entity holding a license, certificate, or other permit evidencing  
401 qualification in a professional, mechanical, or other skill and responding to a request from a  
402 requesting political subdivision shall, while providing assistance during a declared emergency  
403 or during an authorized drill or exercise, be considered to be licensed, certified, or permitted in  
404 the requesting political subdivision, except as limited by the chief executive officer of the  
405 requesting political subdivision.

406 (2) Each law enforcement officer rendering aid as provided in this part under the  
407 authority of a state of emergency declared by the governor, whether inside or outside the  
408 officer's jurisdiction, ~~shall have~~ has all law enforcement powers and the same privileges and  
409 immunities that the officer has in the officer's own jurisdiction.

410 (3) Each employee of a responding political subdivision responding to a request by or  
411 giving assistance to a requesting political subdivision or the state as provided in this part:

412 (a) is entitled to:

413 (i) all applicable workers compensation benefits for injury or death occurring as a  
414 result of the employee's participation in the response or assistance; and

415 (ii) any additional state or federal benefits available for line of duty injury or death; and

416 (b) is, for purposes of liability, considered to be an employee of the requesting political  
417 subdivision.

418 (4) Each responding political subdivision and its employees are immune from liability  
419 arising out of their actions in responding to a request from a requesting political subdivision to  
420 the extent provided in Section 63G-7-201.

421 Section 13. Section **63C-6-101** is amended to read:

422 **63C-6-101. Creation of commission -- Membership -- Appointment -- Vacancies.**

423 (1) There is created the Utah Seismic Safety Commission consisting of 15 members,  
424 designated as follows:

425 (a) the director of the Division of [~~Homeland Security or his~~] Emergency Management  
426 or the director's designee;

427 (b) the director of the Utah Geological Survey or [~~his~~] the director's designee;

428 (c) the director of the University of Utah Seismograph Stations or [~~his~~] the director's  
429 designee;

430 (d) the executive director of the Utah League of Cities and Towns or [~~his~~] the

431 executive director's designee;

432 (e) a representative from the Structural Engineers Association of Utah biannually  
433 selected by its membership;

434 (f) the director of the Division of Facilities Construction and Management or [~~his~~] the  
435 director's designee;

436 (g) the executive director of the Department of Transportation or [~~his~~] the director's  
437 designee;

438 (h) the State Planning Coordinator or [~~his~~] the coordinator's designee;

439 (i) a representative from the American Institute of Architects, Utah Section;

440 (j) a representative from the American Society of Civil Engineers, Utah Section;

441 (k) a member of the House of Representatives appointed biannually by the speaker of  
442 the House;

443 (l) a member of the Senate appointed biannually by the president of the Senate;

444 (m) the commissioner of the Department of Insurance or [~~his~~] the commissioner's  
445 designee;

446 (n) a representative from the Association of Contingency Planners, Utah Chapter,  
447 biannually selected by its membership; and

448 (o) a representative from the American Public Works Association, Utah Chapter,  
449 biannually selected by its membership.

450 (2) The commission shall annually select one of its members to serve as chair of the  
451 commission.

452 (3) When a vacancy occurs in the membership for any reason, the replacement shall be  
453 appointed for the unexpired term.

454 Section 14. Section **63C-6-104** is amended to read:

455 **63C-6-104. Staffing and appropriated funds.**

456 (1) Staff support to the commission shall be provided by the Division of [~~Homeland~~  
457 ~~Security~~] Emergency Management and the Utah Geological Survey.

458 (2) [~~Monies~~] Money not expended by the Utah Seismic Safety Commission during a  
459 fiscal year are nonlapsing except that any balance of General Fund [~~monies~~] money greater  
460 than \$10,000 lapses to the General Fund.

461 Section 15. Section **63G-2-305** is amended to read:

462           **63G-2-305. Protected records.**

463           The following records are protected if properly classified by a governmental entity:

464           (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret  
465 has provided the governmental entity with the information specified in Section 63G-2-309;

466           (2) commercial information or nonindividual financial information obtained from a  
467 person if:

468           (a) disclosure of the information could reasonably be expected to result in unfair  
469 competitive injury to the person submitting the information or would impair the ability of the  
470 governmental entity to obtain necessary information in the future;

471           (b) the person submitting the information has a greater interest in prohibiting access  
472 than the public in obtaining access; and

473           (c) the person submitting the information has provided the governmental entity with  
474 the information specified in Section 63G-2-309;

475           (3) commercial or financial information acquired or prepared by a governmental entity  
476 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
477 commodities that will interfere with a planned transaction by the governmental entity or cause  
478 substantial financial injury to the governmental entity or state economy;

479           (4) records the disclosure of which could cause commercial injury to, or confer a  
480 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
481 defined in Subsection 11-13-103(4);

482           (5) test questions and answers to be used in future license, certification, registration,  
483 employment, or academic examinations;

484           (6) records the disclosure of which would impair governmental procurement  
485 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
486 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
487 Subsection (6) does not restrict the right of a person to have access to, once the contract or  
488 grant has been awarded, a bid, proposal, or application submitted to or by a governmental  
489 entity in response to:

490           (a) a request for bids;

491           (b) a request for proposals;

492           (c) a grant; or



493 (d) other similar document;

494 (7) records that would identify real property or the appraisal or estimated value of real  
495 or personal property, including intellectual property, under consideration for public acquisition  
496 before any rights to the property are acquired unless:

497 (a) public interest in obtaining access to the information outweighs the governmental  
498 entity's need to acquire the property on the best terms possible;

499 (b) the information has already been disclosed to persons not employed by or under a  
500 duty of confidentiality to the entity;

501 (c) in the case of records that would identify property, potential sellers of the described  
502 property have already learned of the governmental entity's plans to acquire the property;

503 (d) in the case of records that would identify the appraisal or estimated value of  
504 property, the potential sellers have already learned of the governmental entity's estimated value  
505 of the property; or

506 (e) the property under consideration for public acquisition is a single family residence  
507 and the governmental entity seeking to acquire the property has initiated negotiations to acquire  
508 the property as required under Section 78B-6-505;

509 (8) records prepared in contemplation of sale, exchange, lease, rental, or other  
510 compensated transaction of real or personal property including intellectual property, which, if  
511 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
512 of the subject property, unless:

513 (a) the public interest in access outweighs the interests in restricting access, including  
514 the governmental entity's interest in maximizing the financial benefit of the transaction; or

515 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
516 the value of the subject property have already been disclosed to persons not employed by or  
517 under a duty of confidentiality to the entity;

518 (9) records created or maintained for civil, criminal, or administrative enforcement  
519 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
520 release of the records:

521 (a) reasonably could be expected to interfere with investigations undertaken for  
522 enforcement, discipline, licensing, certification, or registration purposes;

523 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement

524 proceedings;

525 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
526 hearing;

527 (d) reasonably could be expected to disclose the identity of a source who is not  
528 generally known outside of government and, in the case of a record compiled in the course of  
529 an investigation, disclose information furnished by a source not generally known outside of  
530 government if disclosure would compromise the source; or

531 (e) reasonably could be expected to disclose investigative or audit techniques,  
532 procedures, policies, or orders not generally known outside of government if disclosure would  
533 interfere with enforcement or audit efforts;

534 (10) records the disclosure of which would jeopardize the life or safety of an  
535 individual;

536 (11) records the disclosure of which would jeopardize the security of governmental  
537 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
538 or other appropriation or use contrary to law or public policy;

539 (12) records that, if disclosed, would jeopardize the security or safety of a correctional  
540 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
541 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

542 (13) records that, if disclosed, would reveal recommendations made to the Board of  
543 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
544 Board of Pardons and Parole, or the Department of Human Services that are based on the  
545 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's  
546 jurisdiction;

547 (14) records and audit workpapers that identify audit, collection, and operational  
548 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
549 audits or collections;

550 (15) records of a governmental audit agency relating to an ongoing or planned audit  
551 until the final audit is released;

552 (16) records prepared by or on behalf of a governmental entity solely in anticipation of  
553 litigation that are not available under the rules of discovery;

554 (17) records disclosing an attorney's work product, including the mental impressions or

555 legal theories of an attorney or other representative of a governmental entity concerning  
556 litigation;

557 (18) records of communications between a governmental entity and an attorney  
558 representing, retained, or employed by the governmental entity if the communications would be  
559 privileged as provided in Section 78B-1-137;

560 (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
561 from a member of the Legislature; and

562 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
563 legislative action or policy may not be classified as protected under this section; and

564 (b) (i) an internal communication that is part of the deliberative process in connection  
565 with the preparation of legislation between:

566 (A) members of a legislative body;

567 (B) a member of a legislative body and a member of the legislative body's staff; or

568 (C) members of a legislative body's staff; and

569 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
570 legislative action or policy may not be classified as protected under this section;

571 (20) (a) records in the custody or control of the Office of Legislative Research and  
572 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated  
573 legislation or contemplated course of action before the legislator has elected to support the  
574 legislation or course of action, or made the legislation or course of action public; and

575 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
576 Office of Legislative Research and General Counsel is a public document unless a legislator  
577 asks that the records requesting the legislation be maintained as protected records until such  
578 time as the legislator elects to make the legislation or course of action public;

579 (21) research requests from legislators to the Office of Legislative Research and  
580 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared  
581 in response to these requests;

582 (22) drafts, unless otherwise classified as public;

583 (23) records concerning a governmental entity's strategy about collective bargaining or  
584 pending litigation;

585 (24) records of investigations of loss occurrences and analyses of loss occurrences that

586 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
587 Uninsured Employers' Fund, or similar divisions in other governmental entities;

588 (25) records, other than personnel evaluations, that contain a personal recommendation  
589 concerning an individual if disclosure would constitute a clearly unwarranted invasion of  
590 personal privacy, or disclosure is not in the public interest;

591 (26) records that reveal the location of historic, prehistoric, paleontological, or  
592 biological resources that if known would jeopardize the security of those resources or of  
593 valuable historic, scientific, educational, or cultural information;

594 (27) records of independent state agencies if the disclosure of the records would  
595 conflict with the fiduciary obligations of the agency;

596 (28) records of an institution within the state system of higher education defined in  
597 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,  
598 retention decisions, and promotions, which could be properly discussed in a meeting closed in  
599 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of  
600 the final decisions about tenure, appointments, retention, promotions, or those students  
601 admitted, may not be classified as protected under this section;

602 (29) records of the governor's office, including budget recommendations, legislative  
603 proposals, and policy statements, that if disclosed would reveal the governor's contemplated  
604 policies or contemplated courses of action before the governor has implemented or rejected  
605 those policies or courses of action or made them public;

606 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
607 revenue estimates, and fiscal notes of proposed legislation before issuance of the final  
608 recommendations in these areas;

609 (31) records provided by the United States or by a government entity outside the state  
610 that are given to the governmental entity with a requirement that they be managed as protected  
611 records if the providing entity certifies that the record would not be subject to public disclosure  
612 if retained by it;

613 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body  
614 except as provided in Section 52-4-206;

615 (33) records that would reveal the contents of settlement negotiations but not including  
616 final settlements or empirical data to the extent that they are not otherwise exempt from

617 disclosure;

618 (34) memoranda prepared by staff and used in the decision-making process by an  
619 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
620 other body charged by law with performing a quasi-judicial function;

621 (35) records that would reveal negotiations regarding assistance or incentives offered  
622 by or requested from a governmental entity for the purpose of encouraging a person to expand  
623 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
624 person or place the governmental entity at a competitive disadvantage, but this section may not  
625 be used to restrict access to a record evidencing a final contract;

626 (36) materials to which access must be limited for purposes of securing or maintaining  
627 the governmental entity's proprietary protection of intellectual property rights including patents,  
628 copyrights, and trade secrets;

629 (37) the name of a donor or a prospective donor to a governmental entity, including an  
630 institution within the state system of higher education defined in Section 53B-1-102, and other  
631 information concerning the donation that could reasonably be expected to reveal the identity of  
632 the donor, provided that:

633 (a) the donor requests anonymity in writing;

634 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
635 classified protected by the governmental entity under this Subsection (37); and

636 (c) except for an institution within the state system of higher education defined in  
637 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged  
638 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
639 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
640 by the donor or the donor's immediate family;

641 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and  
642 73-18-13;

643 (39) a notification of workers' compensation insurance coverage described in Section  
644 34A-2-205;

645 (40) (a) the following records of an institution within the state system of higher  
646 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
647 or received by or on behalf of faculty, staff, employees, or students of the institution:

- 648 (i) unpublished lecture notes;
- 649 (ii) unpublished notes, data, and information:
  - 650 (A) relating to research; and
  - 651 (B) of:
    - 652 (I) the institution within the state system of higher education defined in Section
    - 653 53B-1-102; or
    - 654 (II) a sponsor of sponsored research;
    - 655 (iii) unpublished manuscripts;
    - 656 (iv) creative works in process;
    - 657 (v) scholarly correspondence; and
    - 658 (vi) confidential information contained in research proposals;
  - 659 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
  - 660 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
  - 661 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
  - 662 (41) (a) records in the custody or control of the Office of Legislative Auditor General
  - 663 that would reveal the name of a particular legislator who requests a legislative audit prior to the
  - 664 date that audit is completed and made public; and
  - 665 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
  - 666 Office of the Legislative Auditor General is a public document unless the legislator asks that
  - 667 the records in the custody or control of the Office of Legislative Auditor General that would
  - 668 reveal the name of a particular legislator who requests a legislative audit be maintained as
  - 669 protected records until the audit is completed and made public;
  - 670 (42) records that provide detail as to the location of an explosive, including a map or
  - 671 other document that indicates the location of:
    - 672 (a) a production facility; or
    - 673 (b) a magazine;
  - 674 (43) information:
    - 675 (a) contained in the statewide database of the Division of Aging and Adult Services
    - 676 created by Section 62A-3-311.1; or
    - 677 (b) received or maintained in relation to the Identity Theft Reporting Information
    - 678 System (IRIS) established under Section 67-5-22;

- 679 (44) information contained in the Management Information System and Licensing  
680 Information System described in Title 62A, Chapter 4a, Child and Family Services;
- 681 (45) information regarding National Guard operations or activities in support of the  
682 National Guard's federal mission;
- 683 (46) records provided by any pawn or secondhand business to a law enforcement  
684 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and  
685 Secondhand Merchandise Transaction Information Act;
- 686 (47) information regarding food security, risk, and vulnerability assessments performed  
687 by the Department of Agriculture and Food;
- 688 (48) except to the extent that the record is exempt from this chapter pursuant to Section  
689 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or  
690 prepared or maintained by the Division of [~~Homeland Security~~] Emergency Management, and  
691 the disclosure of which would jeopardize:
- 692 (a) the safety of the general public; or  
693 (b) the security of:
- 694 (i) governmental property;  
695 (ii) governmental programs; or  
696 (iii) the property of a private person who provides the Division of [~~Homeland Security~~]  
697 Emergency Management information;
- 698 (49) records of the Department of Agriculture and Food relating to the National  
699 Animal Identification System or any other program that provides for the identification, tracing,  
700 or control of livestock diseases, including any program established under Title 4, Chapter 24,  
701 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and  
702 Quarantine;
- 703 (50) as provided in Section 26-39-501:
- 704 (a) information or records held by the Department of Health related to a complaint  
705 regarding a child care program or residential child care which the department is unable to  
706 substantiate; and  
707 (b) information or records related to a complaint received by the Department of Health  
708 from an anonymous complainant regarding a child care program or residential child care;
- 709 (51) unless otherwise classified as public under Section 63G-2-301 and except as

710 provided under Section 41-1a-116, an individual's home address, home telephone number, or  
711 personal mobile phone number, if:

712 (a) the individual is required to provide the information in order to comply with a law,  
713 ordinance, rule, or order of a government entity; and

714 (b) the subject of the record has a reasonable expectation that this information will be  
715 kept confidential due to:

716 (i) the nature of the law, ordinance, rule, or order; and

717 (ii) the individual complying with the law, ordinance, rule, or order;

718 (52) the name, home address, work addresses, and telephone numbers of an individual  
719 that is engaged in, or that provides goods or services for, medical or scientific research that is:

720 (a) conducted within the state system of higher education, as defined in Section  
721 53B-1-102; and

722 (b) conducted using animals;

723 (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement  
724 Private Proposal Program, to the extent not made public by rules made under that chapter;

725 (54) information collected and a report prepared by the Judicial Performance  
726 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter  
727 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
728 the information or report;

729 (55) (a) records of the Utah Educational Savings Plan created under Section  
730 53B-8a-103 if the disclosure of the records would conflict with its fiduciary obligations;

731 (b) proposals submitted to the Utah Educational Savings Plan; and

732 (c) contracts entered into by the Utah Educational Savings Plan and the related  
733 payments;

734 (56) records contained in the Management Information System created in Section  
735 62A-4a-1003;

736 (57) records provided or received by the Public Lands Policy Coordinating Office in  
737 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

738 (58) information requested by and provided to the Utah State 911 Committee under  
739 Section 53-10-602;

740 (59) recorded Children's Justice Center investigative interviews, both video and audio,



741 the release of which are governed by Section 77-37-4; and

742 (60) in accordance with Section 73-10-33:

743 (a) a management plan for a water conveyance facility in the possession of the Division  
744 of Water Resources or the Board of Water Resources; or

745 (b) an outline of an emergency response plan in possession of the state or a county or  
746 municipality.

747 Section 16. Section **63J-4-502** is amended to read:

748 **63J-4-502. Membership -- Terms -- Chair -- Expenses.**

749 (1) The Resource Development Coordinating Committee shall consist of the following  
750 25 members:

751 (a) the state science advisor;

752 (b) a representative from the Department of Agriculture and Food appointed by the  
753 executive director;

754 (c) a representative from the Department of Community and Culture appointed by the  
755 executive director;

756 (d) a representative from the Department of Environmental Quality appointed by the  
757 executive director;

758 (e) a representative from the Department of Natural Resources appointed by the  
759 executive director;

760 (f) a representative from the Department of Transportation appointed by the executive  
761 director;

762 (g) a representative from the Governor's Office of Economic Development appointed  
763 by the director;

764 (h) a representative from the Division of Housing and Community Development  
765 appointed by the director;

766 (i) a representative from the Division of State History appointed by the director;

767 (j) a representative from the Division of Air Quality appointed by the director;

768 (k) a representative from the Division of Drinking Water appointed by the director;

769 (l) a representative from the Division of Environmental Response and Remediation  
770 appointed by the director;

771 (m) a representative from the Division of Radiation appointed by the director;

772 (n) a representative from the Division of Solid and Hazardous Waste appointed by the  
773 director;

774 (o) a representative from the Division of Water Quality appointed by the director;

775 (p) a representative from the Division of Oil, Gas, and Mining appointed by the  
776 director;

777 (q) a representative from the Division of Parks and Recreation appointed by the  
778 director;

779 (r) a representative from the Division of Forestry, Fire, and State Lands appointed by  
780 the director;

781 (s) a representative from the Utah Geological Survey appointed by the director;

782 (t) a representative from the Division of Water Resources appointed by the director;

783 (u) a representative from the Division of Water Rights appointed by the director;

784 (v) a representative from the Division of Wildlife Resources appointed by the director;

785 (w) a representative from the School and Institutional Trust Lands Administration  
786 appointed by the director;

787 (x) a representative from the Division of Facilities Construction and Management  
788 appointed by the director; and

789 (y) a representative from the Division of [~~Homeland Security~~] Emergency Management  
790 appointed by the director.

791 (2) (a) As particular issues require, the committee may, by majority vote of the  
792 members present, and with the concurrence of the state planning coordinator, appoint  
793 additional temporary members to serve as ex officio voting members.

794 (b) Those ex officio members may discuss and vote on the issue or issues for which  
795 they were appointed.

796 (3) A chair shall be selected by a majority vote of committee members with the  
797 concurrence of the state planning coordinator.

798 (4) A member may not receive compensation or benefits for the member's service, but  
799 may receive per diem and travel expenses in accordance with:

800 (a) Section 63A-3-106;

801 (b) Section 63A-3-107; and

802 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

803 63A-3-107.

804 Section 17. Section **63K-1-102** is amended to read:

805 **63K-1-102. Definitions.**

806 (1) (a) "Absent" means:

807 (i) not physically present or not able to be communicated with for 48 hours; or

808 (ii) for local government officers, as defined by local ordinances.

809 (b) "Absent" does not include a person who can be communicated with via telephone,  
810 radio, or telecommunications.

811 (2) "Attack" means a nuclear, conventional, biological, or chemical warfare action  
812 against the United States of America or this state.

813 (3) "Department" means the Department of Administrative Services, the Department of  
814 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of  
815 Commerce, the Department of Community and Culture, the Department of Corrections, the  
816 Department of Environmental Quality, the Department of Financial Institutions, the  
817 Department of Health, the Department of Human Resource Management, the Department of  
818 Workforce Services, the Labor Commission, the National Guard, the Department of Insurance,  
819 the Department of Natural Resources, the Department of Public Safety, the Public Service  
820 Commission, the Department of Human Services, the State Tax Commission, the Department  
821 of Technology Services, the Department of Transportation, any other major administrative  
822 subdivisions of state government, the State Board of Education, the State Board of Regents, the  
823 Utah Housing Corporation, the Workers' Compensation Fund, the State Retirement Board, and  
824 each institution of higher education within the system of higher education.

825 (4) "Disaster" means a situation causing, or threatening to cause, widespread damage,  
826 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,  
827 natural phenomenon, or technological hazard.

828 (5) "Division" means the Division of [~~Homeland Security~~] Emergency Management  
829 established in Title 53, Chapter 2, Part 1, Homeland Security Act.

830 (6) "Emergency interim successor" means a person designated by this chapter to  
831 exercise the powers and discharge the duties of an office when the person legally exercising the  
832 powers and duties of the office is unavailable.

833 (7) "Executive director" means the person with ultimate responsibility for managing

834 and overseeing the operations of each department, however denominated.

835 (8) "Internal disturbance" means a riot, prison break, terrorism, or strike.

836 (9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide,  
837 avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

838 (10) (a) "Office" includes all state and local offices, the powers and duties of which are  
839 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

840 (b) "Office" does not include the office of governor or the legislative or judicial offices.

841 (11) "Place of governance" means the physical location where the powers of an office  
842 are being exercised.

843 (12) "Political subdivision" includes counties, cities, towns, townships, districts,  
844 authorities, and other public corporations and entities whether organized and existing under  
845 charter or general law.

846 (13) "Political subdivision officer" means a person holding an office in a political  
847 subdivision.

848 (14) "State officer" means the attorney general, the state treasurer, the state auditor, and  
849 the executive director of each department.

850 (15) "Technological hazard" means any hazardous materials accident, mine accident,  
851 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

852 (16) "Unavailable" means:

853 (a) absent from the place of governance during a disaster that seriously disrupts normal  
854 governmental operations, whether or not that absence or inability would give rise to a vacancy  
855 under existing constitutional or statutory provisions; or

856 (b) as otherwise defined by local ordinance.

857 Section 18. Section **63K-1-301** is amended to read:

858 **63K-1-301. Division to consult with legislative and judicial branch.**

859 The Division of [~~Homeland Security~~] Emergency Management may consult with the  
860 Legislative Management Committee, the Judicial Council, and legislative and judicial staff  
861 offices to assist them in preparing emergency succession plans and procedures.

862 Section 19. Section **63K-3-201** is amended to read:

863 **63K-3-201. Emergency Management Administration Council created -- Function**  
864 **-- Composition -- Expenses.**

865 (1) There is created the Emergency Management Administration Council to provide  
866 advice and coordination for state and local government agencies on government emergency  
867 prevention, mitigation, preparedness, response, and recovery actions and activities.

868 (2) The council shall meet at the call of the chair, but at least quarterly.

869 (3) The council shall be made up of the:

870 (a) lieutenant governor, or the lieutenant governor's designee;

871 (b) attorney general, or the attorney general's designee;

872 (c) heads of the following state agencies, or their designees:

873 (i) Department of Public Safety;

874 (ii) Division of [~~Homeland Security~~] Emergency Management;

875 (iii) Department of Transportation;

876 (iv) Department of Health;

877 (v) Department of Environmental Quality;

878 (vi) Department of Community and Economic Development; and

879 (vii) Department of Natural Resources;

880 (d) adjutant general of the National Guard or the adjutant general's designee;

881 (e) commissioner of agriculture and food or the commissioner's designee;

882 (f) two representatives with expertise in emergency management appointed by the Utah

883 League of Cities and Towns;

884 (g) two representatives with expertise in emergency management appointed by the

885 Utah Association of Counties;

886 (h) up to four additional members with expertise in [~~homeland security~~] emergency  
887 management, critical infrastructure, or key resources as these terms are defined under 6 U.S.

888 Code Section 101 appointed from the private sector, by the chair of the council; and

889 (i) two representatives appointed by the Utah Emergency Management Association.

890 (4) The commissioner of Public Safety and the lieutenant governor shall serve as

891 co-chairs of the council.

892 (5) A member may not receive compensation or benefits for the member's service, but  
893 may receive per diem and travel expenses in accordance with:

894 (a) Section 63A-3-106;

895 (b) Section 63A-3-107; and

896 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
897 63A-3-107.

898 (6) The council shall coordinate with existing emergency management related entities  
899 including:

900 (a) the Homeland Security Regional Committees established by the Department of  
901 Public Safety;

902 (b) the Statewide Mutual Aid Committee established under Section 53-2-503; and

903 (c) the Hazardous Chemical Emergency Response Commission designated under  
904 Section 63K-3-301.

905 (7) The council may establish other committees and task forces as determined  
906 necessary by the council to carry out the duties of the council.

907 Section 20. Section **63K-4-402** is amended to read:

908 **63K-4-402. Acquisition of property for public use -- Compensation of owners.**

909 (1) (a) Upon proclamation of a state of emergency, the governor may purchase or lease  
910 public or private property for public use including:

911 (i) food and medical supplies;

912 (ii) clothing;

913 (iii) shelter;

914 (iv) means of transportation;

915 (v) fuels;

916 (vi) oils; or

917 (vii) buildings or lands.

918 (b) The governor may not purchase private home storage nor privately owned arms.

919 (2) (a) The governor may use property purchased under authority of this section for any  
920 purpose to meet the needs of an emergency, including its use to relieve want, distress, and  
921 disease.

922 (b) Any property used by the governor to meet the needs of an emergency is a public  
923 use.

924 (3) (a) The governor shall compensate the owner of property taken or used under  
925 authority of this section by complying with the procedures established in Title 78B, Chapter 6,  
926 Part 5, Eminent Domain.

927 (b) The governor shall pay for those purchases or leases from the funds available to the  
928 Division of [~~Homeland Security~~] Emergency Management under:

929 (i) this chapter; or

930 (ii) Title 53, Chapter 2, Part 4, Disaster Recovery Funding Act, to the extent provided  
931 for in that chapter.

932 (4) Nothing in this section applies to or authorizes compensation for the destruction or  
933 damage of standing timber or other property in order to provide a fire break or to the release of  
934 waters or the breach of impoundments in order to reduce pressure or other danger from actual  
935 or threatened flood.

936 Section 21. Section **63M-4-201** is amended to read:

937 **63M-4-201. Governor's energy advisor -- Duties.**

938 (1) (a) The governor shall appoint an energy advisor.

939 (b) The governor's energy advisor serves at the pleasure of the governor.

940 (2) The governor's energy advisor shall:

941 (a) advise the governor on energy-related matters;

942 (b) annually review and propose updates to the state's energy policy, as contained in

943 Section 63M-4-301;

944 (c) promote as the governor's energy advisor considers necessary:

945 (i) the development of cost-effective energy resources both renewable and  
946 nonrenewable; and

947 (ii) educational programs, including programs supporting conservation and energy  
948 efficiency measures;

949 (d) coordinate across state agencies to assure consistency with state energy policy,  
950 including:

951 (i) working with the State Energy Program to promote access to federal assistance for  
952 energy-related projects for state agencies and members of the public;

953 (ii) working with the Division of [~~Homeland Security~~] Emergency Management to  
954 assist the governor in carrying out the governor's energy emergency powers under Title 63K,  
955 Chapter 2, Energy Emergency Powers of the Governor Act;

956 (iii) participating in the annual review of the energy emergency plan and the  
957 maintenance of the energy emergency plan and a current list of contact persons required by

958 Section 53-2-110; and  
959 (iv) identifying and proposing measures necessary to facilitate low-income consumers'  
960 access to energy services;  
961 (e) coordinate with the Division of [~~Homeland Security~~] Emergency Management  
962 ongoing activities designed to test an energy emergency plan to ensure coordination and  
963 information sharing among state agencies and political subdivisions in the state, public utilities  
964 and other energy suppliers, and other relevant public sector persons as required by Sections  
965 53-2-110, 63K-2-201, 63K-2-205, and 63K-2-301;  
966 (f) coordinate with requisite state agencies to study:  
967 (i) the creation of a centralized state repository for energy-related information;  
968 (ii) methods for streamlining state review and approval processes for energy-related  
969 projects; and  
970 (iii) the development of multistate energy transmission and transportation  
971 infrastructure;  
972 (g) coordinate energy-related regulatory processes within the state;  
973 (h) compile, and make available to the public, information about federal, state, and  
974 local approval requirements for energy-related projects;  
975 (i) act as the state's advocate before federal and local authorities for energy-related  
976 infrastructure projects or coordinate with the appropriate state agency; and  
977 (j) help promote the Division of Facilities Construction and Management's measures to  
978 improve energy efficiency in state buildings.

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**Legislative Review Note**  
**as of 1-25-11 5:14 PM**

**Office of Legislative Research and General Counsel**



# FISCAL NOTE

H.B. 80

SHORT TITLE: **Emergency Management**

SPONSOR: **Oda, C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.