

**EMERGENCY AND DISASTER MANAGEMENT  
AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis Oda**

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

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ defines terms and modifies definitions;
  - ▶ increases the monies that the Division of Homeland Security may expend without the monies being appropriated by the Legislature to address costs to the state of emergency disaster services in response to a declared disaster;
  - ▶ addresses the governor's powers during a state of emergency including:
    - suspending or modifying a statute or administrative rule during a state of emergency;
    - repealing a requirement that the president of the United States declare an emergency or major disaster before the governor may exercise certain powers;
- and
- addressing the removal of debris or wreckage;



- 28           ▶ requires certain reports to the Legislative Management Committee or the Executive
- 29 Appropriations Committee; and
- 30           ▶ makes technical and conforming changes.

31 **Monies Appropriated in this Bill:**

32           None

33 **Other Special Clauses:**

34           None

35 **Utah Code Sections Affected:**

36 AMENDS:

- 37           **26-49-102**, as enacted by Laws of Utah 2008, Chapter 242
- 38           **53-2-402**, as last amended by Laws of Utah 2009, Chapter 77
- 39           **53-2-403**, as last amended by Laws of Utah 2009, Chapters 3 and 183
- 40           **53-2-404**, as last amended by Laws of Utah 2009, Chapters 183 and 368
- 41           **53-2-406**, as enacted by Laws of Utah 2007, Chapter 328
- 42           **63J-5-103**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 43           **63J-7-102**, as enacted by Laws of Utah 2008, Chapter 195
- 44           **63K-4-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 45           **63K-4-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 46           **63K-4-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 47           **76-8-317**, as last amended by Laws of Utah 2008, Chapter 382

48 ENACTS:

- 49           **63K-4-406**, Utah Code Annotated 1953

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

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

53           **26-49-102. Definitions.**

54           As used in this chapter:

- 55           (1) "Department of Health" shall have the meaning provided for in Section 26-1-4.
- 56           (2) "Disaster relief organization" means an entity that:
  - 57           (a) provides emergency or disaster relief services that include health or veterinary
  - 58 services provided by volunteer health practitioners;

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

- 61 (i) an agency of the federal government;
- 62 (ii) the state Department of Health; or
- 63 (iii) a local health department; and
- 64 (c) regularly plans and conducts its activities in coordination with:

- 65 (i) an agency of the federal government;
- 66 (ii) the Department of Health; or
- 67 (iii) a local health department.

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

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

71 (5) "Emergency Management Assistance Compact" means the interstate compact  
72 approved by Congress by Public Law No. 104-321, 110 Stat. 3877 and adopted by Utah in Title  
73 53, Chapter 2, Part 2, Emergency Management Assistance Compact.

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

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

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

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

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

- 84 (i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; or
- 85 (ii) counseling, assessment, procedures, or other services;

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

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

89 (10) "Host entity":

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

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

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

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

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

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

102 (12) "Local health department" shall have the meaning provided for in Subsection  
103 26A-1-102(5).

104 (13) "Person" means an individual, corporation, business trust, trust, partnership,  
105 limited liability company, association, joint venture, public corporation, government or  
106 governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

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

111 (15) "State" means:

112 (a) a state of the United States;

113 (b) the District of Columbia;

114 (c) Puerto Rico;

115 (d) the United States Virgin Islands; or

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

117 (16) "Veterinary services" shall have the meaning provided for in Subsection  
118 58-28-102(11).

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

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

124 (i) not a Utah resident; and

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

127 Section 2. Section **53-2-402** is amended to read:

128 **53-2-402. Definitions.**

129 (1) Unless otherwise defined in this section, the terms defined in Part 1, Homeland  
130 Security Act, shall have the same meaning for this part.

131 (2) As used in this part:

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

133 (i) within the state;

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

135 (iii) that involve:

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

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

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

139 and

140 (v) that results in:

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

143 (B) the governor declaring a state of emergency under Title 63K, Chapter 4, Disaster  
144 Response and Recovery Act; or

145 (C) the chief executive officer of a local government declaring a local emergency under  
146 Title 63K, Chapter 4, Disaster Response and Recovery Act.

147 (b) "Disaster recovery fund" means the State Disaster Recovery Restricted Account  
148 created in Section 53-2-403.

149 (c) "Division" means the Division of Homeland Security created in Section 53-2-103.

150 [~~(e)~~] (d) "Emergency preparedness" means the following done for the purpose of being  
151 prepared for an emergency as defined by the division by rule made in accordance with Title

152 63G, Chapter 3, Utah Administrative Rulemaking Act:

- 153 (i) the purchase of equipment;
- 154 (ii) the training of personnel; or
- 155 (iii) the obtaining of a certification.

156 ~~(d)~~ (e) (i) "Emergency disaster services" means the following that are of a temporary  
157 basis:

- 158 (A) evacuation;
- 159 (B) shelter;
- 160 (C) medical triage;
- 161 (D) emergency transportation;
- 162 (E) repair of infrastructure;
- 163 (F) safety services, including fencing or roadblocks;
- 164 (G) sandbagging;
- 165 (H) emergency debris removal;
- 166 (I) temporary bridges;
- 167 (J) procurement and distribution of food, water, or ice;
- 168 (K) procurement and deployment of generators;
- 169 (L) rescue or recovery; or
- 170 (M) services similar to those described in Subsections (2)~~(d)~~(e)(i)(A) through (L), as  
171 defined by the division by rule, that are generally required within the first 96 hours of a  
172 declared disaster.

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

- 174 (A) emergency preparedness; or
- 175 (B) notwithstanding whether or not a county participates in the Wildland Fire  
176 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs  
177 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the  
178 Wildland Fire Suppression Fund.

179 ~~(e)~~ (f) "Governing body" means:

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

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

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

187 [~~f~~] (g) "Local district" has the same meaning as defined in Section 17B-1-102.

188 [~~g~~] (h) "Local fund" means a local government disaster fund created in accordance  
189 with Section 53-2-405.

190 [~~h~~] (i) "Local government" means:

191 (i) a county;

192 (ii) a city or town; or

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

194 (A) operates a water system;

195 (B) provides transportation service;

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

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

199 (E) operates an airport; or

200 (F) operates a sewage system.

201 [~~i~~] (j) "Special fund" means a fund other than a general fund of a local government  
202 that is created for a special purpose established under the uniform system of budgeting,  
203 accounting, and reporting.

204 [~~j~~] (k) "Special service district" has the same meaning as defined in Section  
205 17D-1-102.

206 Section 3. Section **53-2-403** is amended to read:

207 **53-2-403. State Disaster Recovery Restricted Account.**

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

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

211 (i) monies deposited into the disaster recovery fund in accordance with Section  
212 63J-1-314;

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

214 (iii) any other public or private monies received by the division that are:  
215 (A) given to the division for purposes consistent with this section; and  
216 (B) deposited into the disaster recovery fund at the request of:  
217 (I) the division; or  
218 (II) the person giving the monies.  
219 (c) The Division of Finance shall deposit interest or other earnings derived from  
220 investment of fund monies into the General Fund.  
221 (d) Monies in the disaster recovery fund may only be ~~used~~ expended or committed to  
222 be expended as follows:  
223 (i) (A) subject to Section 53-2-406, without the monies being appropriated by the  
224 Legislature, in any fiscal year the division may ~~use \$100,000 to fund~~ expend or commit to  
225 expend an amount that does not exceed \$250,000, in accordance with Section 53-2-404, to  
226 fund costs to the state ~~[of]~~ for emergency disaster services in response to a declared disaster;  
227 (B) subject to Section 53-2-406, without the monies being appropriated by the  
228 Legislature, in any fiscal year the division may expend or commit to expend an amount that  
229 exceeds \$250,000, but does not exceed \$1,000,000, in accordance with Section 53-2-404, to  
230 fund costs to the state for emergency disaster services in response to a declared disaster if the  
231 division:  
232 (I) before making the expenditure or commitment to expend, obtains approval for the  
233 expenditure or commitment to expend from the governor;  
234 (II) subject to Subsection (4), provides written notice of the expenditure or  
235 commitment to expend to the speaker of the House of Representatives, the president of the  
236 Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than  
237 72 hours after making the expenditure or commitment to expend; and  
238 (III) makes the report required by Subsection 53-2-406(2); and  
239 (C) subject to Section 53-2-406, without the monies being appropriated by the  
240 Legislature, in any fiscal year the division may expend or commit to expend an amount that  
241 exceeds \$1,000,000, but does not exceed \$3,000,000, in accordance with Section 53-2-404, to  
242 fund costs to the state for emergency disaster services in response to a declared disaster if,  
243 before making the expenditure or commitment to expend, the division:  
244 (I) obtains approval for the expenditure or commitment to expend from the governor;



245 and

246 (II) obtains:

247 (Aa) a recommendation for the expenditure or commitment to expend from the  
248 Executive Appropriations Committee in accordance with Subsection 53-2-406(3)(b)(i); or

249 (Bb) approval from the Legislature to make the expenditure or commitment to expend  
250 in accordance with Subsection 53-2-406(3)(b)(iii);

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

254 (A) emergency disaster services;

255 (B) emergency preparedness; or

256 (C) notwithstanding whether or not a county participates in the Wildland Fire  
257 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs  
258 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the  
259 Wildland Fire Suppression Fund; and

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

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

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

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

271 (c) The Legislature may not amend the purposes for which monies in the disaster  
272 recovery fund may be [~~used~~] expended or committed to be expended except by the affirmative  
273 vote of two-thirds of all the members elected to each house.

274 (4) The division:

275 (a) shall provide the notice required by Subsection (1)(d)(i)(B) using the best available

276 method under the circumstances as determined by the division; and

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

278 Section 4. Section **53-2-404** is amended to read:

279 **53-2-404. State costs for emergency disaster services.**

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

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

286 Section 5. Section **53-2-406** is amended to read:

287 **53-2-406. Reporting.**

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

290 ~~(1)~~ (a) the division's activities under this part;

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

292 and

293 ~~(3)~~ (c) the balances in the disaster recovery fund.

294 (2) (a) Notwithstanding Subsection (1), the governor and the Department of Public  
295 Safety shall report to the Legislative Management Committee an expenditure or commitment to  
296 expend made in accordance with Subsection 53-2-403(1)(d)(i)(B).

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

299 (i) the day on which the governor calls the Legislature into session in accordance with  
300 Section 63K-1-302; or

301 (ii) 15 days after the Division of Homeland Security makes the expenditure or  
302 commitment to expend described in Subsection 53-2-403(1)(d)(i)(B).

303 (3) (a) Notwithstanding Subsection (1), before the Division of Homeland Security  
304 makes an expenditure or commitment to expend described in Subsection 53-2-403(1)(d)(i)(C),  
305 the governor and the Department of Public Safety shall submit the expenditure or commitment  
306 to expend to the Executive Appropriations Committee for its review and recommendations.

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

309 (i) recommend that the Division of Homeland Security make the expenditure or  
 310 commitment to expend;

311 (ii) recommend that the Division of Homeland Security not make the expenditure or  
 312 commitment to expend; or

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

315 Section 6. Section **63J-5-103** is amended to read:

316 **63J-5-103. Scope and applicability of chapter.**

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

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

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

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

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

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

325 (e) Social Security Act monies;

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

327 (g) Child Care Block grants;

328 (h) Food Stamp Administration and Training monies;

329 (i) Unemployment Insurance Operations monies;

330 (j) Federal Highway Administration monies;

331 (k) the Utah National Guard; or

332 (l) pass-through federal funds.

333 (3) The governor need not seek legislative review or approval of federal funds received  
 334 by the state ~~when~~ if:

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

336 (b) the federal funds are received to assist ~~disaster~~ victims of the state of emergency

337 under Subsection 63K-4-201~~(2)~~(1).

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

339 **63J-7-102. Scope and applicability of chapter.**

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

343 (2) This chapter does not govern:

344 (a) a grant deposited into a General Fund restricted account;

345 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

346 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

347 (d) a grant made to the state without a restriction or other designated purpose that is  
348 deposited into the General Fund as free revenue;

349 (e) a grant made to the state that is restricted only to "education" and that is deposited  
350 into the Education Fund or Uniform School Fund as free revenue;

351 (f) in-kind donations;

352 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other monies due the state  
353 when required by state law or application of state law;

354 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax  
355 Contribution Act;

356 (i) a grant received by an agency from another agency or political subdivision;

357 (j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion  
358 Act;

359 (k) a grant to the Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3,  
360 Heber Valley Historic Railroad Authority;

361 (l) a grant to the Utah Science Center Authority created in Title 9, Chapter 3, Part 4,  
362 Utah Science Center Authority;

363 (m) a grant to the Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah  
364 Housing Corporation Act;

365 (n) a grant to the Utah State Fair Corporation created in Title 9, Chapter 4, Part 11,  
366 Utah State Fair Corporation Act;

367 (o) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33,  
368 Workers' Compensation Fund;

369 (p) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah  
370 State Retirement Systems Administration;

371 (q) a grant to the School and Institutional Trust Lands Administration created in Title  
372 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

373 (r) a grant to the Utah Communications Agency Network created in Title 63C, Chapter  
374 7, Utah Communications Agency Network Act;

375 (s) a grant to the Medical Education Program created in Section 63C-8-102;

376 (t) a grant to the Utah Capital Investment Corporation created in Title 63M, Chapter 1,  
377 Part 12, Utah Venture Capital Enhancement Act;

378 (u) a grant to the State Charter School Finance Authority created in Section  
379 53A-20b-103;

380 (v) a grant to the State Building Ownership Authority created in Section 63B-1-304;

381 (w) a grant to the Utah Comprehensive Health Insurance Pool created in Section  
382 31A-29-104; or

383 (x) a grant to the Military Installation Development Authority created in Section  
384 63H-1-201.

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

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

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

390 Section 8. Section **63K-4-201** is amended to read:

391 **63K-4-201. Authority of governor -- Federal assistance -- Fraud in application**  
392 **for financial assistance -- Penalty.**

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

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

398 (b) employ measures and give direction to state and local officers and agencies which  
399 are reasonable and necessary for the purpose of securing compliance with the provisions of this

400 act and with orders, rules and regulations made pursuant to this act;

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

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

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

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

410 (g) clear or remove from publicly or privately owned land or water [~~through the use of~~  
411 ~~state departments or agencies~~], debris or wreckage [~~which may threaten~~] that is an immediate  
412 threat to public health, public safety, or private property [as hereinafter provided: (i) whenever  
413 the governor provides for clearance of debris or wreckage pursuant to this subsection;  
414 employees of the designated state agencies are authorized] including allowing an employee of a  
415 state department or agency designated by the governor to enter upon private land or waters and  
416 perform any tasks necessary for the removal or clearance operation[; (ii) authority under this  
417 subsection shall not be exercised unless the affected] if the political subdivision, corporation,  
418 organization, or individual [shall first present] that is affected by the removal of the debris or  
419 wreckage:

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

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

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

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

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

430 (i) for temporary housing units to be occupied by [~~disaster victims and to make such~~

431 ~~units~~ victims of a state of emergency or persons who assist victims of a state of emergency;  
 432 and

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

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

439 ~~(c)~~ (j) subject to Sections 63K-4-401 and 63K-4-406, to temporarily suspend or  
 440 modify by [proclamation] executive order, during the [period of the] state of emergency, any  
 441 public health, safety, zoning, transportation or other requirement of [the law or regulation] a  
 442 statute or administrative rule within this state if such action is essential to provide temporary  
 443 housing [for disaster victims] described in Subsection (1)(h)(i);

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

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

453 (ii) receive and disburse the [proceeds to the applicant] amount of the loan to the  
 454 political subdivision[. No application amount shall exceed 25% of the annual operating budget  
 455 of the applicant political subdivision for the fiscal year in which the disaster occurs];

456 ~~(e)~~ (l) to accept funds from the federal government and make grants to any political  
 457 subdivision for the purpose of removing debris or wreckage from publicly owned land or  
 458 water;

459 ~~(f)~~ (m) upon determination that financial assistance is essential to meet [disaster  
 460 related] expenses related to a state of emergency of individuals or families adversely affected  
 461 by [a disaster which] the state of emergency that cannot be sufficiently met from other means

462 of assistance, to apply for, accept and expend a grant by the federal government to fund ~~[such]~~  
 463 the financial assistance, subject to the terms and conditions imposed upon the grant[-]; or  
 464 (n) recommend to the Legislature other actions the governor considers to be necessary  
 465 to address a state of emergency.

466 ~~[(3) Any]~~ (2) A person who fraudulently or willfully makes a misstatement of fact in  
 467 connection with an application for financial assistance under this section shall, upon conviction  
 468 of each offense, be subject to a fine of not more than \$5,000 or imprisonment for not more than  
 469 one year, or both.

470 Section 9. Section **63K-4-203** is amended to read:

471 **63K-4-203. State of emergency -- Declaration -- Termination --**  
 472 **Commander-in-chief of military forces.**

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

478 [~~The "state]~~

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

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

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

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

489 (a) the nature of the ["state of emergency["];

490 (b) the area or areas threatened; and

491 (c) the conditions creating such an emergency or those conditions allowing termination  
 492 of the ["state of emergency.["]



493           ~~[(2)]~~ (6) During the continuance of any ~~[“]~~state of emergency~~[“]~~ the governor is  
494 commander-in-chief of the military forces of the state in accordance with ~~[the provisions of]~~  
495 Utah Constitution Article VII, Section 4, ~~[of the Constitution of Utah,]~~ and Title 39, Chapter 1,  
496 State Militia.

497           Section 10. Section **63K-4-401** is amended to read:

498           **63K-4-401. Orders, rules, and regulations having force of law -- Filing**  
499 **requirements -- Suspension of state agency rules -- Suspension of certain statutes during**  
500 **a state of emergency.**

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

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

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

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

513           (3) (a) Except as provided in Subsection (3)(b) and subject to Subsection (3)(c) and  
514 Section 63K-4-406, the governor may by executive order suspend the enforcement of a statute  
515 if:

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

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

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

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

520           (iii) the governor acts in good faith.

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

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

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

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

526 (c) A suspension described in this Subsection (3) terminates on the date the governor

527 terminates the state of emergency in accordance with Section 63K-4-203 to which the

528 suspension relates.

529 Section 11. Section **63K-4-406** is enacted to read:

530 **63K-4-406. Reporting on the suspension or modification of certain statutes or**

531 **rules.**

532 (1) The governor and the Department of Public Safety shall report the following to the

533 Legislative Management Committee:

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

535 or

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

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

538 by this section on or before the sooner of:

539 (a) the day on which the governor calls the Legislature into session in accordance with

540 Section 63K-1-302; or

541 (b) 15 days after the date the governor declares the state of emergency to which the

542 suspension or modification relates.

543 Section 12. Section **76-8-317** is amended to read:

544 **76-8-317. Refusal to comply with order to evacuate or other orders issued in a**

545 **local or state emergency -- Penalties.**

546 (1) A person may not refuse to comply with an order to evacuate issued under this

547 chapter or refuse to comply with any other order issued by the governor in a state of an

548 emergency under Section 63K-4-201 or by a chief executive officer in a local emergency under

549 [~~Sections 63K-4-201 or~~] Section 63K-4-202, if notice of the order has been given to that

550 person.

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

**Legislative Review Note**  
as of 2-4-10 2:19 PM

**Office of Legislative Research and General Counsel**

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**H.B. 139 - Emergency and Disaster Management Amendments**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

This bill allows the Department of Homeland Security to spend as much as \$2.9 million from the Disaster Recovery Fund without appropriation by the Legislature.

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**Individual, Business and/or Local Impact**

Enactment of this bill may result in benefits to local governments, businesses, and individuals in the event of a disaster or emergency.

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