

Representative Curtis Oda proposes the following substitute bill:

DISASTER RECOVERY FOR LOCAL GOVERNMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

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

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

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

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

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



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

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

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

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

37 ENACTS:

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

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

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

41

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

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

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

45 (1) Unless otherwise defined in this section, the terms defined in Part 1, Emergency
46 Management Act, shall have the same meaning for this part.

47 (2) As used in this part:

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

49 (i) within the state;

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

51 (iii) that involve:

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

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

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

55 and

56 (v) that results in:

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

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

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

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

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

68 (i) the purchase of equipment;

69 (ii) the training of personnel; or

70 (iii) the obtaining of a certification.

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

72 (A) evacuation;

73 (B) shelter;

74 (C) medical triage;

75 (D) emergency transportation;

76 (E) repair of infrastructure;

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

78 (G) sandbagging;

79 (H) debris removal;

80 (I) temporary bridges;

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

82 (K) procurement and deployment of generators;

83 (L) rescue or recovery;

84 (M) emergency protective measures; or

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

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

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

93 (e) "Governing body" means:

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

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

96 (iii) for a special service district:

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

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

101 (f) "Local district" has the same meaning as defined in Section 17B-1-102.

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

104 (h) "Local government" means:

105 (i) a county;

106 (ii) a city or town; or

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

108 (A) operates a water system;

109 (B) provides transportation service;

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

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

113 (E) operates an airport; or

114 (F) operates a sewage system.

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

118 (j) "Special service district" has the same meaning as defined in Section 17D-1-102.

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

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

122 **53-2a-603. State Disaster Recovery Restricted Account.**

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

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

126 (i) money deposited into the disaster recovery fund in accordance with Section

127 [63J-1-314](#);

128 (ii) money appropriated to the disaster recovery fund by the Legislature; and

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

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

131 (B) deposited into the disaster recovery fund at the request of:

132 (I) the division; or

133 (II) the person giving the money.

134 (c) The Division of Finance shall deposit interest or other earnings derived from
135 investment of fund money into the General Fund.

136 (2) Subject to being appropriated by the Legislature, money in the disaster recovery
137 fund may only be expended or committed to be expended as follows:

138 (a) (i) subject to Section [53-2a-606](#), in any fiscal year the division may expend or
139 commit to expend an amount that does not exceed \$250,000, in accordance with Section
140 [53-2a-604](#), to fund costs to the state of emergency disaster services in response to a declared
141 disaster;

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

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

148 (B) subject to Subsection (5), provides written notice of the expenditure or
149 commitment to expend to the speaker of the House of Representatives, the president of the

150 Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than
151 72 hours after making the expenditure or commitment to expend; and

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

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

157 (A) obtains approval for the expenditure or commitment to expend from the governor;

158 and

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

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

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

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

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

170 (i) emergency disaster services;

171 (ii) emergency preparedness; or

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

176 (c) to fund the Local Government Emergency Response Loan Fund created in Section
177 53-2a-607.

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

180 (4) (a) Except as provided in Subsections (1) and (2), the money in the disaster

181 recovery fund may not be diverted, appropriated, expended, or committed to be expended for a
182 purpose that is not listed in this section.

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

187 (c) The Legislature may not amend the purposes for which money in the disaster
188 recovery fund may be expended or committed to be expended except by the affirmative vote of
189 two-thirds of all the members elected to each house.

190 (5) The division:

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

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

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

195 **53-2a-607. Creation and administration.**

196 (1) (a) There is created an enterprise fund known as the Local Government Emergency
197 Response Loan Fund, administered by the director or the director's designee.

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

199 (2) The fund shall consist of:

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

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

202 (c) interest earned on the fund; and

203 (d) money deposited into the fund in accordance with Section [63J-1-314](#).

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

207 (4) Local government entities may apply through the division for a short-term loan
208 from the fund for the purposes provided in Section [53-2a-608](#), provided that the local
209 government entity:

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

211 (b) is not in default on any other state loans administered by the Division of Finance or

212 any other state agency.

213 (5) The division may not loan out:

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

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

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

218 **53-2a-608. Purposes and criteria for loans.**

219 (1) Money in the fund shall be used by the department, as prioritized by the director,
220 only to:

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

222 (i) the costs incurred by a local government entity for providing emergency disaster
223 services as defined in Section 53-2a-602; or

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

226 (b) pay the Division of Finance for the costs of administering the fund, providing loans,
227 and obtaining repayments of loans.

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

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

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

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

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

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

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

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

247 **53-2a-609. Division to make rules to administer the loan program.**

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

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

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

258 **63J-1-314. Deposits related to the Disaster Recovery Funding Act.**

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

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

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

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

- 272 (i) 25% of the amount determined under Subsection (2)(a); or
- 273 (ii) 6% of the total of the General Fund appropriation amount for the fiscal year in

274 which the surplus occurs; and

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

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

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

281 (A) a surplus exists; and

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

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

288 (4) Notwithstanding Subsection (2):

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

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