

CHAPTER 369

GOVERNMENT - STATE

HOUSE BILL 13-1031

BY REPRESENTATIVE(S) Gerou, Levy, Hamner, Kagan, Labuda, Mitsch Bush, Young;
also SENATOR(S) Nicholson and Roberts, Aguilar, Giron, Heath, Jones, King, Newell, Schwartz, Todd, Morse.

AN ACT

CONCERNING STATEWIDE ALL-HAZARDS RESOURCE MOBILIZATION, AND, IN CONNECTION THEREWITH, CLARIFYING THE POWERS AND DUTIES OF THE DEPARTMENT OF PUBLIC SAFETY WITH RESPECT TO THE STATEWIDE ALL-HAZARDS RESOURCE MOBILIZATION PLAN, SPECIFYING HOW MOBILIZED ENTITIES RECEIVE REIMBURSEMENT FOR EXPENSES INCURRED BY RENDERING ASSISTANCE, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 24-33.5-705.4 as follows:

24-33.5-705.4. All-hazards resource mobilization system - creation - plan - duties - reimbursement for expenses incurred by mobilized entities - eligibility - resource mobilization fund - creation - definitions - legislative declaration.

(1) (a) ~~The office of emergency management shall prepare a statewide resource mobilization system to provide for the allocation and deployment of resources in the event of a disaster or local incident that requires more resources than those available under any existing interjurisdictional or mutual aid agreement~~ **THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE STATEWIDE ALL-HAZARDS RESOURCE MOBILIZATION SYSTEM, WHICH PROVIDES FOR EFFICIENT MOBILIZING, TRACKING, ALLOCATING, AND DEMOBILIZING EMERGENCY RESOURCES AND ENSURES THAT A REQUESTING UNIT OF GOVERNMENT RECEIVES PROPER EQUIPMENT AND QUALIFIED PERSONNEL, IS NECESSARY TO PROVIDE RESOURCES TO ANY EMERGENCY INCIDENT BEYOND LOCAL CAPABILITIES AND THUS NECESSARY TO PROTECT LIFE, PROPERTY, THE ENVIRONMENT, AND CULTURAL AND ECONOMIC RESOURCES. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE NEED TO ENSURE THAT THE STATE IS ADEQUATELY PREPARED AND ABLE TO ADDRESS LARGE-SCALE EMERGENCIES AND DISASTERS REQUIRES A MECHANISM TO REIMBURSE STATE AGENCIES, TRIBAL GOVERNMENTS, AND LOCAL JURISDICTIONS THAT RESPOND TO REQUESTS FOR HELP FROM OTHER JURISDICTIONS IN TIMES OF NEED. IT IS**

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THEREFORE NECESSARY TO:

(I) FORMULATE THE POLICY AND ORGANIZATIONAL STRUCTURE FOR LARGE-SCALE MOBILIZATION OF EMERGENCY RESOURCES IN THE STATE THROUGH CREATION OF A STATEWIDE ALL-HAZARDS RESOURCE MOBILIZATION SYSTEM;

(II) ESTABLISH THE MEANS BY WHICH STATE AGENCIES AND TRIBAL AND LOCAL JURISDICTIONS MAY BE REIMBURSED FOR EXPENSES THEY INCUR WHEN MOBILIZED BY THE EXECUTIVE DIRECTOR PURSUANT TO THE MOBILIZATION PLAN; AND

(III) PROVIDE A PROCEDURE TO REIMBURSE A HOST JURISDICTION WHEN IT HAS EXHAUSTED OR WILL EXHAUST ALL OF ITS OWN RESOURCES AND THE RESOURCES OF ITS LOCAL MUTUAL AID NETWORK AVAILABLE UNDER A MUTUAL AID OR INTERJURISDICTIONAL AGREEMENT.

(b) IN ACCORDANCE WITH SECTION 24-33.5-713, IT IS THE INTENT OF THE LEGISLATURE TO ENCOURAGE POLITICAL SUBDIVISIONS TO ENTER INTO MUTUAL AID AND OTHER INTERJURISDICTIONAL AGREEMENTS. SUCH AGREEMENTS PRODUCE ENHANCED EMERGENCY RESPONSE AND ARE THUS ESSENTIAL TO PROTECTING THE PUBLIC PEACE, SAFETY, HEALTH, AND WELFARE, INCLUDING THE LIVES AND PROPERTY, OF THE PEOPLE OF THE STATE OF COLORADO.

~~(2) The resource mobilization system created pursuant to subsection (1) of this section shall be developed in coordination with appropriate federal, tribal, state, local government, and private sector agencies and organizations. The system shall include mobilization procedures and may include provisions for reimbursement of costs.~~ AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF EMERGENCY MANAGEMENT CREATED IN SECTION 24-33.5-705.

(b) "EMERGENCY MANAGER" MEANS THE DIRECTOR OR COORDINATOR OF THE LOCAL OR INTERJURISDICTIONAL DISASTER AGENCY, AS DESCRIBED IN SECTION 24-33.5-707(4), OR OTHER PERSON, IDENTIFIED PURSUANT TO SECTION 24-33.5-707(6), RESPONSIBLE FOR LOCAL OR INTERJURISDICTIONAL DISASTER PREPAREDNESS AND RESPONSE.

(c) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

(d) "HOST JURISDICTION" MEANS THE JURISDICTION HAVING AUTHORITY OVER THE DISASTER OR EMERGENCY.

(e) "INCIDENT COMMAND SYSTEM" HAS THE MEANING SET FORTH IN SECTION 29-22.5-102(3), C.R.S.

(f) "JURISDICTION" MEANS STATE AND TRIBAL AUTHORITIES AND COUNTY, CITY, CITY AND COUNTY, TOWN, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISIONS OF THE STATE.

(g) "MOBILIZATION" MEANS THE PROCESS OF PROVIDING, UPON REQUEST AND

SUBJECT TO AVAILABILITY, EMERGENCY RESOURCES BEYOND THOSE AVAILABLE THROUGH EXISTING INTERJURISDICTIONAL OR MUTUAL AID AGREEMENTS IN RESPONSE TO A REQUEST FROM A JURISDICTION IN WHICH AN EMERGENCY OR DISASTER SITUATION OR LOCAL EMERGENCY INCIDENT THAT HAS EXCEEDED OR WILL EXCEED THE CAPABILITIES OF AVAILABLE LOCAL RESOURCES. THE TERM INCLUDES THE NONHOST JURISDICTION'S AUTHORIZATION AND APPROVAL FOR REDISTRIBUTION OF RESOURCES EITHER TO DIRECT EMERGENCY INCIDENT ASSIGNMENTS OR TO ASSIGNMENT IN COMMUNITIES WHERE RESOURCES ARE NEEDED TO PROVIDE COVERAGE WHEN THOSE COMMUNITIES' RESOURCES HAVE BEEN MOBILIZED TO ASSIST OTHER JURISDICTIONS.

(h) "MOBILIZATION PLAN" MEANS THE STATEWIDE ALL-HAZARDS RESOURCE MOBILIZATION PLAN DEVELOPED AND UTILIZED PURSUANT TO THIS SECTION.

(i) "MOBILIZATION SYSTEM" MEANS THE STATEWIDE ALL-HAZARDS RESOURCE MOBILIZATION SYSTEM CREATED UNDER THIS SECTION, WHICH SYSTEM INCLUDES THE MOBILIZATION PLAN AND THE TECHNOLOGY AND PERSONNEL NECESSARY TO MOBILIZE RESOURCES ACCORDING TO THE PLAN.

(j) "MUTUAL AID" MEANS EMERGENCY INTERAGENCY ASSISTANCE RENDERED PURSUANT TO AN AGREEMENT BETWEEN THE JURISDICTIONS RENDERING AND RECEIVING ASSISTANCE.

(k) "NONHOST JURISDICTION" MEANS A JURISDICTION PROVIDING DISASTER OR EMERGENCY RESPONSE RESOURCES TO A HOST JURISDICTION.

(l) "UNIFIED COMMAND" HAS THE MEANING SET FORTH IN SECTION 29-22.5-102 (8), C.R.S.

(3) **Powers and duties.** (a) THE DIRECTOR SHALL DEVELOP AND MAINTAIN A STATEWIDE ALL-HAZARDS RESOURCE MOBILIZATION PLAN THAT SETS FORTH PROCEDURES FOR MOBILIZATION, ALLOCATION, DEPLOYMENT, COORDINATION, TRACKING, COST ACCOUNTING, AND DEMOBILIZATION OF RESOURCES DURING DISASTERS AND OTHER LARGE-SCALE EMERGENCIES AND LOCAL INCIDENTS THAT REQUIRE MORE RESOURCES THAN THOSE AVAILABLE UNDER ANY EXISTING INTERJURISDICTIONAL OR MUTUAL AID AGREEMENT. IN DEVELOPING THE MOBILIZATION PLAN, THE DIRECTOR SHALL CONSULT WITH AND SOLICIT RECOMMENDATIONS FROM THE HOMELAND SECURITY AND ALL-HAZARDS SENIOR ADVISORY COMMITTEE CREATED IN SECTION 24-33.5-1614 AND OTHER APPROPRIATE REPRESENTATIVES OF STATE, TRIBAL, AND LOCAL GOVERNMENTAL AND PRIVATE SECTOR EMERGENCY MANAGEMENT ORGANIZATIONS. THE DIRECTOR SHALL ENSURE THAT THE MOBILIZATION PLAN IS CONSISTENT WITH, AND INCORPORATED INTO, THE COLORADO STATE EMERGENCY OPERATIONS PLAN.

(b) (I) THE EXECUTIVE DIRECTOR IS RESPONSIBLE FOR IMPLEMENTING THE MOBILIZATION PLAN, COORDINATING THE MOBILIZATION OF RESOURCES, AND MAKING A DETERMINATION AS TO POST-MOBILIZATION REIMBURSEMENT TO STATE AND NONHOST JURISDICTIONS, IN ACCORDANCE WITH THIS SECTION, OTHER APPLICABLE LAWS, AND THE MOBILIZATION PLAN, WHEN THE EXECUTIVE DIRECTOR DETERMINES IT IS NECESSARY TO DO SO TO PROTECT LIFE, PROPERTY, THE ENVIRONMENT, AND CULTURAL AND ECONOMIC RESOURCES.

(II) THE EXECUTIVE DIRECTOR SHALL SERVE AS STATE RESOURCE MOBILIZATION LIAISON WHEN THE MOBILIZATION PLAN IS IMPLEMENTED.

(4) **Mobilization.** (a) (I) THE EXECUTIVE DIRECTOR MAY ORDER THE IMPLEMENTATION OF THE STATE RESOURCE MOBILIZATION PLAN PURSUANT TO THIS SECTION ONLY IF HE OR SHE RECEIVES A REQUEST TO DO SO FROM THE GOVERNOR, SHERIFF, EMERGENCY MANAGER, OR OTHER AUTHORIZED PERSON IDENTIFIED IN THE STATE RESOURCE MOBILIZATION PLAN.

(II) THE EXECUTIVE DIRECTOR SHALL GRANT A MOBILIZATION REQUEST MADE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) IF THE EXECUTIVE DIRECTOR DETERMINES THAT THE REQUEST IS IN RESPONSE TO A LARGE-SCALE EMERGENCY, DISASTER, OR OTHER LOCAL INCIDENT THAT EXCEEDS OR WILL EXCEED THE CAPABILITIES OF AVAILABLE LOCAL RESOURCES AND THOSE RESOURCES AVAILABLE THROUGH EXISTING MUTUAL AID AGREEMENTS.

(III) UPON RECEIVING A REQUEST FOR MOBILIZATION AND FINDING THAT THE REQUEST COMPLIES WITH THE APPROVAL REQUIREMENTS ESTABLISHED IN THE MOBILIZATION PLAN AND THAT EITHER THE LOCAL JURISDICTION HAS EXHAUSTED OR WILL EXHAUST ALL AVAILABLE RESOURCES, OR THAT THE COMPLEXITY OR SEVERITY OF THE INCIDENT REQUIRES RESOURCES NOT OTHERWISE AVAILABLE TO THE LOCAL JURISDICTION, THE EXECUTIVE DIRECTOR SHALL DETERMINE WHETHER TO IMPLEMENT MOBILIZATION IN ACCORDANCE WITH THE MOBILIZATION PLAN. IF SO, THE EXECUTIVE DIRECTOR SHALL MOBILIZE STATE AND NONHOST JURISDICTIONS IN ACCORDANCE WITH THE MOBILIZATION PLAN.

(IV) THE EXECUTIVE DIRECTOR MAY CONSIDER RESOURCES THAT HAVE ALREADY BEEN DEPLOYED TO ADDRESS AN INCIDENT TO BE MOBILIZED FOR THE PURPOSE OF REIMBURSEMENT OR COST-SHARING UNDER THE MOBILIZATION PLAN.

(b) UPON AND FOR THE DURATION OF MOBILIZATION:

(I) THE EXECUTIVE DIRECTOR SHALL SERVE AS A RESOURCE MOBILIZATION LIAISON TO THE LOCAL UNIFIED COORDINATION GROUP, INCIDENT COMMANDER, OR THE HOST JURISDICTION'S DISASTER AGENCY UNDER UNIFIED COMMAND TO SUPPORT THE MOBILIZATION EFFORT CONSISTENT WITH THE INCIDENT COMMAND SYSTEM AND MOBILIZATION PLAN AND PROCEDURES;

(II) THE RESOURCES, INCLUDING THOSE OF THE HOST JURISDICTION AND THOSE OF NONHOST JURISDICTIONS THAT RESPONDED EARLIER UNDER AN EXISTING INTERJURISDICTIONAL OR MUTUAL AID OR OTHER AGREEMENT, MAY REMAIN MOBILIZED, BASED ON CAPABILITY TO DO SO AND PURSUANT TO AGREEMENT BETWEEN THE EXECUTIVE DIRECTOR, THE INCIDENT COMMANDER, AND THE HOST JURISDICTION OR NONHOST JURISDICTION THAT PROVIDED THE RESOURCES;

(III) THE REASSIGNMENT OR REALLOCATION OF RESOURCES DUE TO MULTIPLE CONCURRENT INCIDENTS OR OTHER SITUATIONS OF RESOURCE SCARCITY SHALL BE PRIORITIZED PURSUANT TO THE POLICIES AND PROCEDURES SPECIFIED IN THE MOBILIZATION PLAN.

(IV) ANY LIMITS ON OR EXEMPTION FROM LIABILITY TO WHICH THE JURISDICTIONS

PROVIDING RESOURCES IN RESPONSE TO A MOBILIZATION EFFECTED UNDER THIS SECTION ARE ENTITLED UNDER LAW APPLY AS THOUGH THE JURISDICTIONS WERE OPERATING UNDER THEIR NORMAL STATUTORY AUTHORITIES WITHIN THEIR JURISDICTIONAL BOUNDARIES.

(c) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE LOCAL INCIDENT COMMANDER, SHALL DETERMINE WHEN MOBILIZATION IS NO LONGER REQUIRED AND, AT THAT TIME, SHALL DECLARE THE END TO THE MOBILIZATION.

(5) Reimbursement. (a) THE DIRECTOR, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING CREATED IN SECTION 24-37-102, SHALL DEVELOP PROCEDURES TO FACILITATE REIMBURSEMENT TO STATE AGENCIES AND JURISDICTIONS FROM APPROPRIATE FEDERAL AND STATE FUNDS WHEN STATE AGENCIES AND JURISDICTIONS ARE MOBILIZED BY THE EXECUTIVE DIRECTOR PURSUANT TO THE MOBILIZATION PLAN. THE DIRECTOR SHALL ENSURE THAT THESE PROCEDURES PROVIDE REIMBURSEMENT IN AS TIMELY A MANNER AS POSSIBLE.

(b) (I) IN ORDER TO BE ELIGIBLE FOR SUPPORT UNDER THE MOBILIZATION PLAN, A JURISDICTION MUST BE MOBILIZED PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION AND MUST BE PARTICIPATING IN AN INTERJURISDICTIONAL OR MUTUAL AID AGREEMENT ENTERED INTO PURSUANT TO THIS PART 7.

(II) ALL MOBILIZED NONHOST JURISDICTIONS ARE ELIGIBLE FOR EXPENSE REIMBURSEMENT FROM THE TIME OF THE MOBILIZATION DECLARATION THROUGH DEMOBILIZATION.

(6) Resource mobilization fund - notice of funding through gifts, grants, and donations - repeal. (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE RESOURCE MOBILIZATION FUND, WHICH FUND SHALL BE ADMINISTERED BY THE EXECUTIVE DIRECTOR, IN ACCORDANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (6), TO PROVIDE REIMBURSEMENT TO STATE AGENCIES AND JURISDICTIONS MOBILIZED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS SECTION. THE EXECUTIVE DIRECTOR IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, REIMBURSEMENTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION. THE FUND CONSISTS OF ALL MONEYS THAT MAY BE APPROPRIATED THERETO BY THE GENERAL ASSEMBLY, MONEYS THAT MAY BE TRANSFERRED PURSUANT TO SECTION 24-33.5-706 (4.5), AND ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS, GRANTS, REIMBURSEMENTS, OR DONATIONS THAT ARE TRANSMITTED TO THE STATE TREASURER AND CREDITED TO THE FUND. ALL INTEREST EARNED FROM THE INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. THE MONEYS IN THE FUND ARE HEREBY CONTINUOUSLY APPROPRIATED FOR THE PURPOSES INDICATED IN THIS SECTION. ANY MONEYS NOT EXPENDED AT THE END OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO OR REVERT TO THE GENERAL FUND.

(b) THE EXECUTIVE DIRECTOR SHALL USE THE MONEYS IN THE RESOURCE MOBILIZATION FUND TO PROVIDE REIMBURSEMENT TO STATE AGENCIES AND JURISDICTIONS FOR INCIDENTS IN ACCORDANCE WITH THE TERMS OF THE MOBILIZATION PLAN.

(c) (I) THE GENERAL ASSEMBLY FINDS THAT THE IMPLEMENTATION OF THIS SECTION RELIES ENTIRELY OR IN PART ON THE RECEIPT OF ADEQUATE FUNDING THROUGH GIFTS, GRANTS, OR DONATIONS. THE EXECUTIVE DIRECTOR SHALL NOTIFY THE LEGISLATIVE COUNCIL STAFF WHEN ADEQUATE FUNDING THROUGH GIFTS, GRANTS, OR DONATIONS FOR THE PURPOSE DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (6) HAS BEEN RECEIVED AND SHALL INCLUDE IN THE NOTICE THE INFORMATION SPECIFIED IN SECTION 24-75-1303 (3).

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2016.

(7) (a) NOTHING IN THIS SECTION LIMITS THE POWERS OF THE GOVERNOR DURING A DISASTER UNDER 24-33.5-704.

(b) EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, NOTHING IN THIS SECTION LIMITS THE ELIGIBILITY OF ANY NONHOST JURISDICTION FOR REIMBURSEMENT OF EXPENSES INCURRED IN PROVIDING RESOURCES FOR MOBILIZATION.

(c) NOTHING IN THIS SECTION PRECLUDES A STATE OR LOCAL GOVERNMENTAL ENTITY FROM SEEKING PUBLIC ASSISTANCE FUNDING PURSUANT TO THE FEDERAL "ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT", AS AMENDED, 42 U.S.C. SEC. 5121 ET SEQ.

SECTION 2. In Colorado Revised Statutes, 24-33.5-706, **add** (4.5) as follows:

24-33.5-706. Disaster emergency fund - established - financing - legislative intent - repeal. (4.5) THE GOVERNOR MAY, FROM TIME TO TIME AS THE GOVERNOR DEEMS NECESSARY BASED ON HIS OR HER DETERMINATION THAT A DISASTER EMERGENCY IS IMMINENT, DIRECT THE STATE TREASURER TO TRANSFER, AND THE STATE TREASURER SHALL TRANSFER, MONEYS FROM THE DISASTER EMERGENCY FUND TO THE RESOURCE MOBILIZATION FUND CREATED IN SECTION 24-33.5-705.4 (6).

SECTION 3. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the department of public safety, for the fiscal year beginning July 1, 2013, the sum of \$260,114 and 2.8 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$152,114 and 2.8 FTE for the office of emergency management for program administration; and

(b) \$108,000 for the purchase of computer center services.

(2) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2013, the sum of \$108,000, or so much thereof as may be necessary, for allocation to the office of information technology, for the provision of computer center services for the department of public safety related to the implementation of this act. Said sum is from reappropriated funds received from the department of public safety out of the appropriation made in paragraph (b) of subsection (1) of this section.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2013