

# HB0096S01 compared with HB0096

~~deleted text~~ shows text that was in HB0096 but was deleted in HB0096S01.

inserted text shows text that was not in HB0096 but was inserted into HB0096S01.

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Representative Suzanne Harrison proposes the following substitute bill:

## EMERGENCY MANAGEMENT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Suzanne Harrison**

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

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### LONG TITLE

#### General Description:

This bill amends provisions of the Emergency Management Act related to emergency preparedness and response, and other duties of the Division of Emergency Management.

#### Highlighted Provisions:

This bill:

- ▶ amends definitions and defines terms;
- ▶ requires political subdivisions to designate an emergency manager and create an emergency operations plan;
- ▶ requires interest earned by the State Disaster Recovery Restricted Account to be deposited back into the account;
- ▶ requires state agencies to coordinate with the Division of Emergency Management

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before construction of a state building in a flood plain;

▶ extends the sunset of the Emergency Management Administration Council;

▶ amends appointment of membership of the Utah Seismic Safety Commission; and

▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**53-2a-102**, as last amended by Laws of Utah 2020, Chapter 85

**53-2a-104**, as last amended by Laws of Utah 2020, Chapter 85

**53-2a-603**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

**53-2a-807**, as last amended by Laws of Utah 2020, Chapter 85

**63C-6-101**, as last amended by Laws of Utah 2020, Chapter 154

**63I-1-253**, as last amended by Laws of Utah 2020, Chapters 154, 174, 214, 234, 242, 269, 335, and 354

ENACTS:

**53-2a-106**, Utah Code Annotated 1953

**53-2a-1401**, Utah Code Annotated 1953

**53-2a-1402**, Utah Code Annotated 1953

**53-2a-1403**, Utah Code Annotated 1953

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

Section 1. Section **53-2a-102** is amended to read:

**53-2a-102. Definitions.**

As used in this chapter:

(1) "Alerting authority" means a political subdivision that has received access to send alerts through the Integrated Public Alert and Warning System.

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

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(3) "Commissioner" means the commissioner of the Department of Public Safety or the commissioner's designee.

(4) "Director" means the division director appointed under Section 53-2a-103 or the director's designee.

(5) "Disaster" means an event that:

(a) causes, or threatens to cause, loss of life, human suffering, public or private property damage, or economic or social disruption resulting from attack, internal disturbance, natural phenomena, or technological hazard; and

(b) requires resources that are beyond the scope of local agencies in routine responses to emergencies and accidents and may be of a magnitude or involve unusual circumstances that require response by government, not-for-profit, or private entities.

(6) "Division" means the Division of Emergency Management created in Section 53-2a-103.

(7) "Emergency manager" means an individual designated as the emergency manager for a political subdivision as described in Section 53-2a-1402.

~~[(7)]~~ (8) "Energy" includes the energy resources defined in this chapter.

~~[(8)]~~ (9) "Expenses" means actual labor costs of government and volunteer personnel, and materials.

~~[(9)]~~ (10) "Hazardous materials emergency" means a sudden and unexpected release of any substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

~~[(10)]~~ (11) "Internal disturbance" means a riot, prison break, terrorism, or strike.

~~[(11)]~~ (12) "IPAWS" means the Integrated Public Alert and Warning System administered by the Federal Emergency Management Agency.

~~[(12)]~~ (13) "Municipality" means the same as that term is defined in Section 10-1-104.

~~[(13)]~~ (14) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, or epidemic.

(15) "Officer" means a person who is elected or appointed to an office or position within a political subdivision.

(16) "Political subdivision" means the same as that term is defined in Section

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11-61-102.

~~[(14)]~~ (17) "State of emergency" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

~~[(15)]~~ (18) "Technological hazard" means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

~~[(16)]~~ (19) "Terrorism" means activities or the threat of activities that:

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

~~[(17)]~~ (20) "Urban search and rescue" means the location, extrication, and initial medical stabilization of victims trapped in a confined space as the result of a structural collapse, transportation accident, mining accident, or collapsed trench.

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

### **53-2a-104. Division duties -- Powers.**

- (1) The division shall:
  - (a) respond to the policies of the governor and the Legislature;
  - (b) perform functions relating to emergency management as directed by the governor or by the commissioner, including:
    - (i) coordinating with state agencies and local governments the use of personnel and other resources of these governmental entities as agents of the state during an interstate disaster in accordance with the Emergency Management Assistance Compact described in Section 53-2a-402;
    - (ii) coordinating the requesting, activating, and allocating of state resources during an intrastate disaster or a local state of emergency;
    - (iii) receiving and disbursing federal resources provided to the state in a declared

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disaster;

(iv) appointing a state coordinating officer who is the governor's representative and who shall work with a federal coordinating officer during a federally declared disaster; and

(v) appointing a state recovery officer who is the governor's representative and who shall work with a federal recovery officer during a federally declared disaster;

(c) prepare, implement, and maintain programs and plans to provide for:

(i) prevention and minimization of injury and damage caused by disasters;

(ii) prompt and effective response to and recovery from disasters;

(iii) identification of areas particularly vulnerable to disasters;

(iv) coordination of hazard mitigation and other preventive and preparedness measures designed to eliminate or reduce disasters;

(v) assistance to local officials, state agencies, and the business and public sectors, in developing emergency action plans;

(vi) coordination of federal, state, and local emergency activities;

(vii) coordination of emergency operations plans with emergency plans of the federal government;

(viii) coordination of urban search and rescue activities;

(ix) coordination of rapid and efficient communications in times of emergency; and

(x) other measures necessary, incidental, or appropriate to this part;

(d) coordinate with local officials, state agencies, and the business and public sectors in developing, implementing, and maintaining a state energy emergency plan in accordance with Section 53-2a-902;

(e) coordinate with state agencies regarding development and construction of state buildings within a flood plain to ensure compliance with minimum standards of the National Flood Insurance Program, 42 U.S.C. Chapter 50, Subchapter I, as described in Section 53-2a-106;

~~(f)~~ (f) administer Part 6, Disaster Recovery Funding Act, in accordance with that part;

~~(g)~~ (g) conduct outreach annually to agencies and officials who have access to IPAWS; and

~~(h)~~ (h) coordinate with counties to ensure every county has the access and ability to

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send, or a plan to send, IPAWS messages, including Wireless Emergency Alerts and Emergency Alert System messages.

(2) Every three years, organizations that have the ability to send IPAWS messages, including emergency service agencies, public safety answering points, and emergency managers shall send verification of Federal Emergency Management Agency training to the Division.

(3) (a) The Department of Public Safety shall designate state geographical regions and allow the political subdivisions within each region to:

(i) coordinate planning with other political subdivisions, tribal governments, and as appropriate, other entities within that region and with state agencies as appropriate, or as designated by the division;

(ii) coordinate grant management and resource purchases; and

(iii) organize joint emergency response training and exercises.

(b) The political subdivisions within a region designated in Subsection (3)(a) may not establish the region as a new government entity in the emergency disaster declaration process under Section 53-2a-208.

(4) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish protocol for prevention, mitigation, preparedness, response, recovery, and the activities described in Subsection (3);

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

(c) implement provisions of the Emergency Management Assistance Compact as provided in Section 53-2a-402 and Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

(5) The division may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist the division in preparing emergency succession plans and procedures under Title 53, Chapter 2a, Part 8, Emergency Interim Succession Act.

(6) The division shall report annually in writing not later than October 31 to the Law Enforcement and Criminal Justice, and Political Subdivisions Interim Committees regarding the status of the emergency alert system in the state. The report shall include:

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- (a) a status summary of the number of alerting authorities in Utah;
- (b) any changes in that number;
- (c) administrative actions taken; and
- (d) any other information considered necessary by the division.

Section 3. Section **53-2a-106** is enacted to read:

### **53-2a-106. Coordination for state development in a flood plain.**

Any state agency that plans to develop or construct a building within a flood plain shall consult and coordinate with the division to ensure compliance with minimum standards of the National Flood Insurance Program, 42 U.S.C. Chapter 50, Subchapter I.

Section 4. Section **53-2a-603** is amended to read:

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

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

(b) The disaster recovery account consists of:

(i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;

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

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

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

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

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the [~~General Fund~~] account.

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

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed \$500,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit

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to expend an amount that exceeds \$500,000, but does not exceed \$3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

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

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

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

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds \$3,000,000, but does not exceed \$5,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

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

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

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

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

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

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

(i) emergency disaster services;

(ii) emergency preparedness; or



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

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

(d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of \$10,000,000;

(e) the division may expend up to \$3,200,000 during fiscal year 2019 to fund operational costs incurred by the division during fiscal year 2019; and

(f) to fund up to \$500,000 for the governor's emergency appropriations described in Subsection 63J-1-217(4).

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

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

(5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

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

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

(6) The division:

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

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

Section 5. Section **53-2a-807** is amended to read:

### **53-2a-807. Emergency interim successors for local officers.**

(1) By July 1 of each year, each political subdivision shall:

(a) for each officer and the emergency manager described in Part 14,  
~~Designated~~ Local Emergency ~~Manager~~ Management Act, designate three emergency interim successors and specify their order of succession;

(b) identify the political subdivision's alerting authority and any individuals authorized to send emergency alerts;

(c) provide a list of those designated successors and individuals to the division; and

(d) have an emergency alert plan in place and provide a copy of the plan to the division.

(2) In the event that a political subdivision does not designate emergency interim successors as required under Subsection (1), the order of succession shall be as follows:

(a) the chief executive officer of the political subdivision;

(b) the chief deputy executive officer of the political subdivision;

(c) the chair of the legislative body of the political subdivision; and

(d) the chief law enforcement officer of the political subdivision.

(3) (a) Notwithstanding any other provision of law:

(i) if any political subdivision officer or the political subdivision officer's legal deputy, if any, is unavailable, a designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession specified by the political subdivision officer; or

(ii) counties may provide by ordinance that one member of the county legislative body may act as the county legislative body if the other members are absent.

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(b) An emergency interim successor shall exercise the powers and duties of the office only until:

(i) the vacancy is filled in accordance with the constitution or statutes; or

(ii) the political subdivision officer, the political subdivision officer's deputy, or an emergency interim successor earlier in the order of succession becomes available to exercise the powers and duties of the office.

(4) The legislative bodies of each political subdivision may enact resolutions or ordinances consistent with this part and also provide for emergency interim successors to officers of the political subdivision not governed by this section.

Section 6. Section **53-2a-1401** is enacted to read:

### **Part 14. Local Emergency Management Act**

#### **53-2a-1401. Title.**

This part is known as the "Local Emergency Management Act."

Section 7. Section **53-2a-1402** is enacted to read:

#### **53-2a-1402. Designation and duties of emergency managers.**

(1) Each political subdivision of the state of Utah shall designate an emergency manager.

(2) A political subdivision may designate an officer of the political subdivision to serve as the emergency manager.

(3) An emergency manager shall:

(a) create a plan to coordinate emergency preparedness, response, mitigation, coordination, and other recovery activities; and

(b) coordinate with other emergency managers and officials to ensure efficient, appropriate, and coordinated emergency preparedness, response, mitigation, and recovery.

(4) Each political subdivision shall provide for emergency interim succession of the emergency manager as described in Part 8, Emergency Interim Succession Act.

Section 8. Section **53-2a-1403** is enacted to read:

#### **53-2a-1403. Emergency operations plan.**

(1) Each county shall create and maintain an emergency operations plan.

(2) Each city, town, and metro township shall:

(a) create and maintain an emergency operations plan; or

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(b) adopt the emergency operations plan created by the county in which the city, town, or metro township is located.

Section 9. Section **63C-6-101** is amended to read:

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

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

(a) the director of the Division of Emergency Management or the director's designee;  
(b) the director of the Utah Geological Survey or the director's designee;  
(c) the director of the University of Utah Seismograph Stations or the director's designee;

(d) the executive director of the Utah League of Cities and Towns or the executive director's designee;

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

(f) the director of the Division of Facilities Construction and Management or the director's designee;

(g) the executive director of the Department of Transportation or the director's designee;

(h) the State Planning Coordinator or the coordinator's designee;

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

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

(k) [~~two~~] three individuals, appointed by the director of the Division of Emergency Management, from earthquake-related organizations that have an interest in reducing earthquake-related loss in the state, with consideration given to recommendations of the Utah Seismic Safety Commission;

(l) the commissioner of the Department of Insurance or the commissioner's designee;  
and

~~[(m) a representative from the Association of Contingency Planners, Utah Chapter, biannually selected by its membership; and]~~

~~[(n)]~~ (m) a representative from the American Public Works Association, Utah Chapter, biannually selected by its membership.

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

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

Section 10. Section 63I-1-253 is amended to read:

**63I-1-253. Repeal dates, Titles 53 through 53G.**

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, [2021] 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Section 53B-18-1501 is repealed July 1, 2021.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Section 53E-3-515 is repealed January 1, 2023.

(14) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the

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recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(18) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

(19) Section 53F-2-514 is repealed July 1, 2020.

(20) Section 53F-5-203 is repealed July 1, 2024.

(21) Section 53F-5-212 is repealed July 1, 2024.

(22) Section 53F-5-213 is repealed July 1, 2023.

(23) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(24) Section 53F-5-215, in relation to an elementary teacher preparation grant is repealed July 1, 2025.

(25) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(26) Section 53F-9-501 is repealed January 1, 2023.

(27) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(28) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.