

DISASTER AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronald M. Winterton

House Sponsor: _____

LONG TITLE

Committee Note:

The Economic Development and Workforce Services Interim Committee recommended this bill.

Legislative Vote: 12 voting for 0 voting against 4 absent

General Description:

This bill concerns funding for a disaster.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ▶ modifies provisions related to the State Disaster Recovery Restricted Account, including to provide funding for the Local Response, Recovery, and Post-disaster Mitigation Restricted Account;
- ▶ renames the Post Disaster and Mitigation Restricted Account as Local Response, Recovery, and Post-disaster Mitigation Restricted Account;
- ▶ modifies the procedures and requirements for funds in the Local Response, Recovery, and Post-disaster Mitigation Restricted Account;
- ▶ modifies standards and requirements for receiving a grant from funds originating from the Local Response, Recovery, and Post-disaster Mitigation Restricted Account;
- ▶ grants rulemaking authority to the Division of Emergency Management; and



28 ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill provides a special effective date.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **53-2a-603**, as last amended by Laws of Utah 2022, Chapters 111, 373

36 **53-2a-1301**, as enacted by Laws of Utah 2019, Chapter 306

37 **53-2a-1302**, as enacted by Laws of Utah 2019, Chapter 306

38 **53-2a-1303**, as enacted by Laws of Utah 2019, Chapter 306

39 **53-2a-1305**, as enacted by Laws of Utah 2019, Chapter 306

40 **63J-1-314**, as last amended by Laws of Utah 2017, Chapter 210

41 REPEALS AND REENACTS:

42 **53-2a-1304**, as enacted by Laws of Utah 2019, Chapter 306



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

45 Section 1. Section **53-2a-603** is amended to read:

46 **53-2a-603. State Disaster Recovery Restricted Account.**

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

49 (b) The disaster recovery account consists of:

50 (i) money deposited into the disaster recovery account in accordance with Section
51 **63J-1-314**;

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

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

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

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

56 (I) the division; or

57 (II) the person or entity giving the money.

58 (c) The Division of Finance shall deposit interest or other earnings derived from

59 investment of account money into the General Fund.

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

62 (a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or
63 commit to expend an amount that does not exceed \$500,000, in accordance with Section
64 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared
65 disaster;

66 (ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit
67 to expend an amount that exceeds \$500,000, but does not exceed \$3,000,000, in accordance
68 with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to
69 a declared disaster if the division:

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

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

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

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

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

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

87 (iv) in any fiscal year the division may expend or commit to expend an amount that
88 does not exceed \$500,000 to fund expenses incurred by the National Guard if:

89 (A) in accordance with Section 39A-3-103, the governor orders into active service the

90 National Guard in response to a declared disaster; and

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

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

96 (i) emergency disaster services;

97 (ii) emergency preparedness; or

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

102 (c) to fund:

103 (i) the Local Government Emergency Response Loan Fund created in Section

104 [53-2a-607](#); and

105 (ii) the Local Response, Recovery, and Post-disaster Mitigation Restricted Account
106 created in Section [53-2a-1302](#);

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

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

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

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

115 (iv) the disaster recovery account has a balance of funds available to be utilized while
116 maintaining a minimum balance of \$5,000,000; and

117 (e) to fund up to \$500,000 for the governor's emergency appropriations described in
118 Subsection [63J-1-217\(4\)](#).

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

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

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

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

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

133 (6) The division:

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

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

137 Section 2. Section 53-2a-1301 is amended to read:

138 **Part 13. Local Response, Recovery, and Post-Disaster Mitigation Restricted Account**

139 **53-2a-1301. Definitions.**

140 As used in the part:

141 (1) "Account" means the [~~Post-Disaster Recovery and~~] Local Response, Recovery, and
142 Post-disaster Mitigation Restricted Account created in Section 53-2a-1302.

143 (2) "Affected community" means a community directly affected by an ongoing or
144 recent disaster.

145 (3) "Affected community member" means a resident, property owner, business,
146 nonprofit, or other individual or entity that is:

147 (a) located within an affected community; and

148 (b) suffered damage due to the ongoing or recent disaster in the affected community.

149 [~~(3) "Chief executive officer" means the same as that term is defined in Section~~
150 ~~53-2a-203.]~~

151 (4) "Community" means a county, municipality, local district, or special service

152 district.

153 ~~[(5) "Costs not recoverable" include:]~~

154 ~~[(a) the county threshold; and]~~

155 ~~[(b) costs covered by insurance or federal government grants, including funding~~
156 ~~provided to the state by FEMA's Public Assistance grant program described in 44 C.F.R.~~
157 ~~Chapter 1, Subchapter D, Part 206.]~~

158 ~~[(6) "County threshold" means, for each county, the countywide per capita indicator~~
159 ~~established by FEMA for the state, multiplied by the population of the county as determined by~~
160 ~~the division.]~~

161 ~~[(7)]~~ (5) "Disaster response and recovery" means:

162 (a) action taken to respond to and recover from a disaster, including action taken to
163 remove debris, implement life-saving emergency protective measures, or repair, replace, or
164 restore facilities in response to a disaster; and[:]

165 (b) post-disaster hazard mitigation directly related to the recovery from the disaster
166 described in Subsection (5)(a).

167 ~~[(8)]~~ (6) "Disaster response and recovery grant" means money granted to an affected
168 community for disaster response and recovery [~~that amounts to not more than 75% of the~~
169 ~~difference between the cost of disaster recovery, as determined by the division after reviewing~~
170 ~~the official damage assessment, and costs not recoverable].~~

171 ~~[(9) "FEMA" means the Federal Emergency Management Agency.]~~

172 (7) "Minimum threshold payment amount" means the amount of costs that an affected
173 community or an affected community member shall pay before the affected community or
174 affected community member is eligible to receive money from a disaster response and recovery
175 grant.

176 ~~[(10)]~~ (8) "Post-disaster hazard mitigation" means action taken, after a natural disaster,
177 to reduce or eliminate risk to people or property that may occur as a result of the long-term
178 effects of the natural disaster or a subsequent natural disaster, including action to prevent
179 damage caused by flooding, earthquake, dam failure, wildfire, landslide, severe weather,
180 drought, and problem soil.

181 ~~[(11) "Post hazard mitigation grant" means money granted to a community for post~~
182 ~~hazard mitigation that amounts to not more than 75% of the costs deemed necessary by the~~

183 ~~division to complete the post hazard mitigation.]~~

184 ~~[(12)]~~ (9) "Official damage assessment" means a financial assessment of the damage to
 185 an affected community, caused by a disaster, that is conducted under the direction of the
 186 governing body of the affected community, in accordance with the rules described in Section
 187 [53-2a-1305](#).

188 Section 3. Section **53-2a-1302** is amended to read:

189 **53-2a-1302. Local Response, Recovery, and Post-Disaster Mitigation Restricted**
 190 **Account.**

191 (1) There is created a restricted account in the General Fund known as the ~~["Post~~
 192 ~~Disaster Recovery and]~~ "Local Response, Recovery, and Post-disaster Mitigation Restricted
 193 Account."

194 (2) The account consists of:

195 (a) money appropriated to the account by the Legislature;

196 (b) money deposited into the account in accordance with Section [63J-1-314](#);

197 ~~[(b)]~~ (c) income and interest derived from the deposit and investment of money in the
 198 account; and

199 ~~[(c)]~~ (d) private donations, grants, gifts, bequests, or money made available from any
 200 other source to implement this section.

201 (3) (a) At the close of a fiscal year, money in the account exceeding ~~[\$10,000,000]~~
 202 \$50,000,000, excluding money granted to the account under ~~[Subsection] [(2)(c)]~~ Subsection
 203 (2)(d), shall be transferred to the ~~[General Fund]~~ State Disaster Recovery Restricted Account.

204 (b) Except as provided by Subsection (3)(a), money in the Local Response, Recovery,
 205 and Post-disaster Mitigation Restricted Account may only be used for the purposes set forth in
 206 this part.

207 (4) Subject to the requirements described in this part, and upon appropriation by the
 208 Legislature, the division may grant money appropriated from the account~~[-(a)]~~ to an affected
 209 community for the affected community's disaster response and recovery efforts as described in
 210 Section [53-2a-1303](#)~~[-or]~~.

211 ~~[(b) to a community for post hazard mitigation as described in Section [53-2a-1304](#).]~~

212 Section 4. Section **53-2a-1303** is amended to read:

213 **53-2a-1303. Disaster Response and Recovery Grant.**

214 (1) The division may grant money under Subsection [~~53-2a-1302(4)(a)~~] 53-2a-1302(4)
 215 appropriated from the account after receiving an application from an affected community for a
 216 disaster response and recovery grant.

217 (2) An affected community is eligible to receive a disaster response and recovery grant
 218 appropriated from the account if:

219 (a) the affected community submits an application described in Subsection (1) that
 220 includes the information required by the rules described in Section 53-2a-1305;

221 (b) the occurrence of a disaster in the affected community results in:

222 (i) the president of the United States declaring an emergency or major disaster in the
 223 state; [~~or~~]

224 (ii) the governor declaring a state of emergency under Section 53-2a-206; or

225 (iii) the local municipality or county declaring an emergency under Section 53-2a-208;

226 (c) the governing body of the affected community conducts an official damage
 227 assessment of the disaster;

228 (d) [~~the cost of disaster recovery, as determined by~~] the division, after reviewing the
 229 application described in Subsection (2)(a), the official damage assessment[~~-, exceeds the county~~
 230 threshold for the county in which the affected community is located; and] described in
 231 Subsection (2)(c), and other information relevant to the division's determination, determines
 232 that a grant to the affected community would be an appropriate and necessary use of account
 233 funds;

234 (e) the division [~~maintains~~] determines there is sufficient money for the grant[-]; and

235 (f) the affected community agrees to grant funding requirements as determined by the
 236 division, including the affected community's minimum threshold payment amount and
 237 cost-sharing requirements.

238 Section 5. Section 53-2a-1304 is repealed and reenacted to read:

239 **53-2a-1304. Allowed uses for disaster response and recovery grant funds.**

240 (1) An affected community may use or distribute grant funds provided under Section
 241 53-2a-1303 in accordance with funding guidelines provided by the division, which may include
 242 providing funds for disaster response and recovery to:

243 (a) an affected community member;

244 (b) a publicly owned facility in the affected community; or

245 (c) publicly owned infrastructure in the affected community.

246 (2) The director may expend money from the account to pay necessary costs of
247 evaluating and administering grants under this part.

248 (3) In accordance with Section 53-2a-1305, the division shall establish standards and
249 procedures for the distribution of grant funds under this section, including standards and
250 procedures for determining:

251 (a) when an individual or entity described in Subsection (1)(a), (b), or (c) may receive
252 grant funds;

253 (b) which costs are eligible for grant funds, including administration costs; and

254 (c) minimum threshold payment amounts and cost-sharing requirements.

255 Section 6. Section 53-2a-1305 is amended to read:

256 **53-2a-1305. Rulemaking authority and division responsibilities.**

257 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
258 division may make rules to:

259 (a) designate the requirements and procedures~~[(+)]~~ for the governing body of an
260 affected community to:

261 ~~[(A)]~~ (i) apply for a disaster response and recovery grant; and

262 ~~[(B)]~~ (ii) conduct an official damage assessment; ~~[and]~~

263 ~~[(ii) for the governing body of a community to apply for a post hazard mitigation grant;~~
264 ~~and]~~

265 (b) establish standards to determine:

266 (i) the categories of and criteria for entities and costs that are eligible for grant funds;
267 and

268 (ii) minimum threshold payment amounts and cost-sharing requirements; and

269 ~~[(b)]~~ (c) establish standards and procedures to ensure that [projects completed] funds
270 distributed in accordance with this [section] part are [completed] distributed in a cost effective
271 and equitable manner, are reasonably necessary for disaster response and recovery [or post
272 hazard mitigation], are an appropriate and necessary use of public funds, and that all receipts
273 and invoices are documented.

274 (2) No later than December 31 of each year, the division shall provide the governor and
275 the Criminal Justice Appropriations Subcommittee a written report of the division's activities

276 under this part, including:

277 (a) an accounting of the money expended or committed to be expended under this part;

278 and

279 (b) the balance of the account.

280 Section 7. Section **63J-1-314** is amended to read:

281 **63J-1-314. Deposits related to the Wildland Fire Suppression Fund and the**
282 **Disaster Recovery Funding Act.**

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

285 (2) Except as provided under Subsections (3) and (4), at the end of each fiscal year, the
286 Division of Finance shall, after the transfer of General Fund revenue surplus has been made to
287 the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section
288 [63J-1-315](#), and the General Fund Budget Reserve Account, as provided in Section [63J-1-312](#),
289 transfer:

290 (a) to the Wildland Fire Suppression Fund created in Section [65A-8-204](#) an amount
291 equal to the lesser of:

292 (i) \$4,000,000; or

293 (ii) an amount necessary to make the balance in the Wildland Fire Suppression Fund
294 equal to \$12,000,000; and

295 (b) an amount into the State Disaster Recovery Restricted Account, created in Section
296 [53-2a-603](#), from the General Fund revenue surplus as defined in Section [63J-1-312](#), calculated
297 by:

298 (i) determining the amount of General Fund revenue surplus after the transfer to the
299 Medicaid Growth Reduction and Budget Stabilization Account under Section [63J-1-315](#), the
300 General Fund Budget Reserve Account under Section [63J-1-312](#), and the transfer to the
301 Wildland Fire Suppression Fund as described in Subsection (2)(a);

302 (ii) calculating an amount equal to the lesser of:

303 (A) 25% of the amount determined under Subsection (2)(b)(i); or

304 (B) 6% of the total of the General Fund appropriation amount for the fiscal year in
305 which the surplus occurs; and

306 (iii) adding to the amount calculated under Subsection (2)(b)(ii) an amount equal to the

307 lesser of:

308 (A) 25% more of the amount described in Subsection (2)(b)(i); or

309 (B) the amount necessary to replace, in accordance with this Subsection (2)(b)(iii), any

310 amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal

311 years before the fiscal year in which the surplus occurs if:

312 (I) a surplus exists; and

313 (II) the Legislature appropriates money from the State Disaster Recovery Restricted
314 Account that is not replaced by appropriation or as provided in this Subsection (2)(b)(iii).

315 (3) (a) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of
316 Finance determines that an operating deficit exists, the division shall reduce the transfer to the
317 State Disaster Recovery Restricted Account by an amount necessary to eliminate the operating
318 deficit, up to the full amount of the transfer.

319 (b) If, after reducing the transfer to the State Disaster Recovery Account to zero under
320 Subsection (3)(a), the Division of Finance determines that an operating deficit still exists, the
321 division shall reduce the transfer to the Wildland Fire Suppression Fund by an amount
322 necessary to eliminate the operating deficit, up to the full amount of the transfer.

323 (4) Notwithstanding Subsection (2):

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

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

331 (c) on and after July 1, 2023, the Division of Finance shall transfer to the Local
332 Response, Recovery, and Post-disaster Mitigation Restricted Account 25% of the amount to be
333 transferred into the State Disaster Recovery Restricted Account as provided in Subsection
334 (2)(b).

335 Section 8. **Effective date and two-thirds majority required to pass.**

336 (1) If approved by two-thirds of all the members elected to each house, this bill takes
337 effect on May 3, 2023.

338 (2) In accordance with Subsection [53-2a-603](#)(5)(c), if this bill is not approved by
339 two-thirds of all the members elected to each house, this bill will not go into effect.