

**Senator Ronald M. Winterton** proposes the following substitute bill:

**DISASTER AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ronald M. Winterton**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**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:

- allow for certain emergency management expenses under certain conditions;

and

- 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;



- 26 ▶ grants rulemaking authority to the Division of Emergency Management; and
- 27 ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **53-2a-603**, as last amended by Laws of Utah 2022, Chapters 111, 373

35 **53-2a-1301**, as enacted by Laws of Utah 2019, Chapter 306

36 **53-2a-1302**, as enacted by Laws of Utah 2019, Chapter 306

37 **53-2a-1303**, as enacted by Laws of Utah 2019, Chapter 306

38 **53-2a-1305**, as enacted by Laws of Utah 2019, Chapter 306

39 **63J-1-314**, as last amended by Laws of Utah 2017, Chapter 210

40 REPEALS AND REENACTS:

41 **53-2a-1304**, as enacted by Laws of Utah 2019, Chapter 306



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

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

45 **53-2a-603. State Disaster Recovery Restricted Account.**

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

48 (b) The disaster recovery account consists of:

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

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

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

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

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

55 (I) the division; or

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

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

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

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

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

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

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

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

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

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

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

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

88 (A) in accordance with Section [39A-3-103](#), the governor orders into active service the  
89 National Guard in response to a declared disaster; and

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

92 (v) in any fiscal year, the division may expend an amount that does not exceed  
93 \$750,000 to fund expenses incurred to develop or enhance emergency management capabilities  
94 if:

95 (A) the money is used for personnel, equipment, supplies, contracts, training, exercises,  
96 or other expenses deemed reasonable and necessary to:

97 (I) promote and strengthen the state's level of resiliency through mitigation,  
98 preparedness, response, or recovery activities; or

99 (II) meet federal grant matching requirements; and

100 (B) the disaster recovery account has a balance of funds available to be utilized while  
101 maintaining a minimum balance of \$5,000,000;

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

105 (i) emergency disaster services;

106 (ii) emergency preparedness; or

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

111 (c) to fund:

112 (i) the Local Government Emergency Response Loan Fund created in Section  
113 [53-2a-607](#); and

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

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

118 (i) Utah has agreed, through the division, to enact the Emergency Management

119 Assistance Compact with another member state that has requested assistance during a declared  
120 disaster;

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

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

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

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

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

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

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

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

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

142 (6) The division:

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

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

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

147 **Part 13. Local Response, Recovery, and Post-Disaster Mitigation Restricted Account**  
148 **53-2a-1301. Definitions.**

149 As used in the part:

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

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

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

156 (a) located within an affected community; and

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

158 ~~[(3) "Chief executive officer" means the same as that term is defined in Section~~  
159 ~~[53-2a-203](#).]~~

160 (4) "Community" means a county, municipality, local district, or special service  
161 district.

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

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

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

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

170 ~~[(7)]~~ (5) "Disaster response and recovery" means:

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

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

176 ~~[(8)]~~ (6) "Disaster response and recovery grant" means money granted to an affected  
177 community for disaster response and recovery [~~that amounts to not more than 75% of the~~  
178 ~~difference between the cost of disaster recovery, as determined by the division after reviewing~~  
179 ~~the official damage assessment, and costs not recoverable].~~

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

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

185 ~~[(10)]~~ (8) "Post-disaster hazard mitigation" means action taken, after a natural disaster,  
 186 to reduce or eliminate risk to people or property that may occur as a result of the long-term  
 187 effects of the natural disaster or a subsequent natural disaster, including action to prevent  
 188 damage caused by flooding, earthquake, dam failure, wildfire, landslide, severe weather,  
 189 drought, and problem soil.

190 ~~[(11) "Post hazard mitigation grant" means money granted to a community for post~~  
 191 ~~hazard mitigation that amounts to not more than 75% of the costs deemed necessary by the~~  
 192 ~~division to complete the post hazard mitigation.]~~

193 ~~[(12)]~~ (9) "Official damage assessment" means a financial assessment of the damage to  
 194 an affected community, caused by a disaster, that is conducted under the direction of the  
 195 governing body of the affected community, in accordance with the rules described in Section  
 196 [53-2a-1305](#).

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

198 **53-2a-1302. Local Response, Recovery, and Post-Disaster Mitigation Restricted**  
 199 **Account.**

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

203 (2) The account consists of:

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

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

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

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

210 (3) (a) At the close of a fiscal year, money in the account exceeding ~~[\$10,000,000]~~  
 211 \$50,000,000, excluding money granted to the account under ~~[Subsection] [(2)(e)]~~ Subsection

212 (2)(d), shall be transferred to the [~~General Fund~~] State Disaster Recovery Restricted Account.

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

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

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

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

222 **53-2a-1303. Disaster Response and Recovery Grant.**

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

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

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

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

231 (i) the president of the United States declaring an emergency or major disaster in the  
232 state; [or]

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

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

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

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



243 (e) the division [~~maintains~~] determines there is sufficient money for the grant[-]; and  
 244 (f) the affected community agrees to grant funding requirements as determined by the  
 245 division, including the affected community's minimum threshold payment amount and  
 246 cost-sharing requirements.

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

248 **53-2a-1304. Allowed uses for disaster response and recovery grant funds.**

249 (1) An affected community may use or distribute grant funds provided under Section  
 250 53-2a-1303 in accordance with funding guidelines provided by the division, which may include  
 251 providing funds for disaster response and recovery to:

- 252 (a) an affected community member;
- 253 (b) a publicly owned facility in the affected community; or
- 254 (c) publicly owned infrastructure in the affected community.

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

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

- 260 (a) when an individual or entity described in Subsection (1)(a), (b), or (c) may receive  
 261 grant funds;
- 262 (b) which costs are eligible for grant funds, including administration costs; and
- 263 (c) minimum threshold payment amounts and cost-sharing requirements.

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

265 **53-2a-1305. Rulemaking authority and division responsibilities.**

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

268 (a) designate the requirements and procedures[:(~~ti~~)] for the governing body of an  
 269 affected community to:

- 270 [~~(A)~~] (i) apply for a disaster response and recovery grant; and
- 271 [~~(B)~~] (ii) conduct an official damage assessment; [~~and~~]
- 272 [~~(ii)~~] ~~for the governing body of a community to apply for a post hazard mitigation grant;~~

273 ~~and]~~

274 (b) establish standards to determine:  
275 (i) the categories of and criteria for entities and costs that are eligible for grant funds;  
276 and  
277 (ii) minimum threshold payment amounts and cost-sharing requirements; and  
278 ~~[(b)]~~ (c) establish standards and procedures to ensure that [projects-completed] funds  
279 distributed in accordance with this [section] part are [completed] distributed in a cost effective  
280 and equitable manner, are reasonably necessary for disaster response and recovery [or post  
281 hazard mitigation], are an appropriate and necessary use of public funds, and that all receipts  
282 and invoices are documented.

283 (2) No later than December 31 of each year, the division shall provide the governor and  
284 the Criminal Justice Appropriations Subcommittee a written report of the division's activities  
285 under this part, including:

286 (a) an accounting of the money expended or committed to be expended under this part;  
287 and  
288 (b) the balance of the account.

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

290 **63J-1-314. Deposits related to the Wildland Fire Suppression Fund and the**  
291 **Disaster Recovery Funding Act.**

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

294 (2) Except as provided under Subsections (3) and (4), at the end of each fiscal year, the  
295 Division of Finance shall, after the transfer of General Fund revenue surplus has been made to  
296 the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section  
297 **63J-1-315**, and the General Fund Budget Reserve Account, as provided in Section **63J-1-312**,  
298 transfer:

299 (a) to the Wildland Fire Suppression Fund created in Section **65A-8-204** an amount  
300 equal to the lesser of:

301 (i) \$4,000,000; or  
302 (ii) an amount necessary to make the balance in the Wildland Fire Suppression Fund  
303 equal to \$12,000,000; and

304 (b) an amount into the State Disaster Recovery Restricted Account, created in Section

305 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312, calculated  
306 by:

307 (i) determining the amount of General Fund revenue surplus after the transfer to the  
308 Medicaid Growth Reduction and Budget Stabilization Account under Section 63J-1-315, the  
309 General Fund Budget Reserve Account under Section 63J-1-312, and the transfer to the  
310 Wildland Fire Suppression Fund as described in Subsection (2)(a);

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

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

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

315 (iii) adding to the amount calculated under Subsection (2)(b)(ii) an amount equal to the  
316 lesser of:

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

318 (B) the amount necessary to replace, in accordance with this Subsection (2)(b)(iii), any  
319 amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal  
320 years before the fiscal year in which the surplus occurs if:

321 (I) a surplus exists; and

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

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

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

332 (4) Notwithstanding Subsection (2):

333 (a) for the period beginning July 1, 2015, and ending June 30, 2020, the Division of  
334 Finance shall transfer to the Local Government Emergency Response Loan Fund 25% of the  
335 amount to be transferred into the State Disaster Recovery Restricted Account as provided in

336 Subsection (2)(b)(ii); [~~and~~]

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

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

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

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

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