

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 This bill appropriates in fiscal year 2024:

- 30 ▶ to Department of Public Safety - Emergency Management:
 - 31 • from State Disaster Recovery Restricted Account, \$750,000.

32 **Other Special Clauses:**

33 This bill provides a special effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36 **53-2a-603**, as last amended by Laws of Utah 2022, Chapters 111, 373
- 37 **53-2a-1301**, as enacted by Laws of Utah 2019, Chapter 306
- 38 **53-2a-1302**, as enacted by Laws of Utah 2019, Chapter 306
- 39 **53-2a-1303**, as enacted by Laws of Utah 2019, Chapter 306
- 40 **53-2a-1305**, as enacted by Laws of Utah 2019, Chapter 306
- 41 **63J-1-314**, as last amended by Laws of Utah 2017, Chapter 210

42 REPEALS AND REENACTS:

- 43 **53-2a-1304**, as enacted by Laws of Utah 2019, Chapter 306



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

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

47 **53-2a-603. State Disaster Recovery Restricted Account.**

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

50 (b) The disaster recovery account consists of:

51 (i) money deposited into the disaster recovery account in accordance with Section
52 **63J-1-314**;

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

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

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

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

57 (I) the division; or

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

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

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

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

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

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

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

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

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

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

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

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

90 (A) in accordance with Section 39A-3-103, the governor orders into active service the
91 National Guard in response to a declared disaster; and

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

94 (v) in any fiscal year, the division may expend an amount that does not exceed
95 \$750,000 to fund expenses incurred to develop or enhance emergency management capabilities
96 if:

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

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

101 (II) meet federal grant matching requirements; and

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

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

107 (i) emergency disaster services;

108 (ii) emergency preparedness; or

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

113 (c) to fund:

114 (i) the Local Government Emergency Response Loan Fund created in Section
115 53-2a-607; and

116 (ii) the Local Response, Recovery, and Post-disaster Mitigation Restricted Account
117 created in Section 53-2a-1302;

118 (d) the division may provide advanced funding from the disaster recovery account to

119 recognized agents of the state when:

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

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

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

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

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

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

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

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

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

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

144 (6) The division:

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

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

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

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

150 **53-2a-1301. Definitions.**

151 As used in the part:

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

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

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

158 (a) located within an affected community; and

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

160 ~~[(3) "Chief executive officer" means the same as that term is defined in Section~~
161 ~~53-2a-203.]~~

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

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

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

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

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

172 ~~[(7) (5) "Disaster response and recovery" means:~~

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

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

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

181 ~~the official damage assessment, and costs not recoverable].~~

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

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

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

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

195 ~~[(12)]~~ (9) "Official damage assessment" means a financial assessment of the damage to
196 an affected community, caused by a disaster, that is conducted under the direction of the
197 governing body of the affected community, in accordance with the rules described in Section
198 [53-2a-1305](#).

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

200 **53-2a-1302. Local Response, Recovery, and Post-Disaster Mitigation Restricted**
201 **Account.**

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

205 (2) The account consists of:

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

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

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

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

212 (3) (a) At the close of a fiscal year, money in the account exceeding [~~\$10,000,000~~]
213 \$50,000,000, excluding money granted to the account under [~~Subsection~~] [~~(2)(c)~~] Subsection
214 (2)(d), shall be transferred to the [~~General Fund~~] State Disaster Recovery Restricted Account.

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

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

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

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

224 **53-2a-1303. Disaster Response and Recovery Grant.**

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

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

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

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

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

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

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

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

239 (d) [~~the cost of disaster recovery, as determined by~~] the division, after reviewing the
240 application described in Subsection (2)(a), the official damage assessment[~~;-exceeds the county~~
241 ~~threshold for the county in which the affected community is located; and~~] described in
242 Subsection (2)(c), and other information relevant to the division's determination, determines

243 that a grant to the affected community would be an appropriate and necessary use of account
244 funds;

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

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

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

250 **53-2a-1304. Allowed uses for disaster response and recovery grant funds.**

251 (1) An affected community may use or distribute grant funds provided under Section
252 53-2a-1303 in accordance with funding guidelines provided by the division, which may include
253 providing funds for disaster response and recovery to:

254 (a) an affected community member;

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

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

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

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

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

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

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

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

267 **53-2a-1305. Rulemaking authority and division responsibilities.**

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

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

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

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

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

276 (b) establish standards to determine:

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

278 and

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

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

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

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

290 (b) the balance of the account.

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

292 **63J-1-314. Deposits related to the Wildland Fire Suppression Fund and the**
293 **Disaster Recovery Funding Act.**

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

296 (2) Except as provided under Subsections (3) and (4), at the end of each fiscal year, the
297 Division of Finance shall, after the transfer of General Fund revenue surplus has been made to
298 the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section
299 **63J-1-315**, and the General Fund Budget Reserve Account, as provided in Section **63J-1-312**,
300 transfer:

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

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

304 (ii) an amount necessary to make the balance in the Wildland Fire Suppression Fund

305 equal to \$12,000,000; and

306 (b) an amount into the State Disaster Recovery Restricted Account, created in Section
307 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312, calculated
308 by:

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

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

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

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

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

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

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

323 (I) a surplus exists; and

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

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

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

334 (4) Notwithstanding Subsection (2):

335 (a) for the period beginning July 1, 2015, and ending June 30, 2020, the Division of

336 Finance shall transfer to the Local Government Emergency Response Loan Fund 25% of the
337 amount to be transferred into the State Disaster Recovery Restricted Account as provided in
338 Subsection (2)(b)(ii); [~~and~~]

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

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

346 Section 8. **Appropriation.**

347 The following sums of money are appropriated for the fiscal year beginning July 1,
348 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for
349 fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
350 Act, the Legislature appropriates the following sums of money from the funds or accounts
351 indicated for the use and support of the government of the state of Utah.

352 ITEM 1

353 To Department of Public Safety - Emergency Management

354 From State Disaster Recovery Restricted Account 750,000

355 Schedule of Programs:

356 Emergency Management 750,000

357 Section 9. **Effective date and two-thirds majority required to pass.**

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

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