

EMERGENCY MANAGEMENT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Suzanne Harrison

Senate Sponsor: _____

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 before construction of a state building in a flood plain;
- ▶ 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:



28 AMENDS:

29 **53-2a-102**, as last amended by Laws of Utah 2020, Chapter 85

30 **53-2a-104**, as last amended by Laws of Utah 2020, Chapter 85

31 **53-2a-603**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

32 **53-2a-807**, as last amended by Laws of Utah 2020, Chapter 85

33 **63C-6-101**, as last amended by Laws of Utah 2020, Chapter 154

34 ENACTS:

35 **53-2a-106**, Utah Code Annotated 1953

36 **53-2a-1401**, Utah Code Annotated 1953

37 **53-2a-1402**, Utah Code Annotated 1953

38 **53-2a-1403**, Utah Code Annotated 1953



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

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

42 **53-2a-102. Definitions.**

43 As used in this chapter:

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

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

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

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

52 (5) "Disaster" means an event that:

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

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

59 (6) "Division" means the Division of Emergency Management created in Section
60 [53-2a-103](#).

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

63 [~~7~~] (8) "Energy" includes the energy resources defined in this chapter.

64 [~~8~~] (9) "Expenses" means actual labor costs of government and volunteer personnel,
65 and materials.

66 [~~9~~] (10) "Hazardous materials emergency" means a sudden and unexpected release of
67 any substance that because of its quantity, concentration, or physical, chemical, or infectious
68 characteristics presents a direct and immediate threat to public safety or the environment and
69 requires immediate action to mitigate the threat.

70 [~~10~~] (11) "Internal disturbance" means a riot, prison break, terrorism, or strike.

71 [~~11~~] (12) "IPAWS" means the Integrated Public Alert and Warning System
72 administered by the Federal Emergency Management Agency.

73 [~~12~~] (13) "Municipality" means the same as that term is defined in Section [10-1-104](#).

74 [~~13~~] (14) "Natural phenomena" means any earthquake, tornado, storm, flood,
75 landslide, avalanche, forest or range fire, drought, or epidemic.

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

78 (16) "Political subdivision" means the same as that term is defined in Section
79 [11-61-102](#).

80 [~~14~~] (17) "State of emergency" means a condition in any part of this state that
81 requires state government emergency assistance to supplement the local efforts of the affected
82 political subdivision to save lives and to protect property, public health, welfare, or safety in
83 the event of a disaster, or to avoid or reduce the threat of a disaster.

84 [~~15~~] (18) "Technological hazard" means any hazardous materials accident, mine
85 accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

86 [~~16~~] (19) "Terrorism" means activities or the threat of activities that:

87 (a) involve acts dangerous to human life;

88 (b) are a violation of the criminal laws of the United States or of this state; and

89 (c) to a reasonable person, would appear to be intended to:

- 90 (i) intimidate or coerce a civilian population;
- 91 (ii) influence the policy of a government by intimidation or coercion; or
- 92 (iii) affect the conduct of a government by mass destruction, assassination, or
- 93 kidnapping.

94 [(17)] (20) "Urban search and rescue" means the location, extrication, and initial
95 medical stabilization of victims trapped in a confined space as the result of a structural
96 collapse, transportation accident, mining accident, or collapsed trench.

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

98 **53-2a-104. Division duties -- Powers.**

99 (1) The division shall:

- 100 (a) respond to the policies of the governor and the Legislature;
- 101 (b) perform functions relating to emergency management as directed by the governor

102 or by the commissioner, including:

103 (i) coordinating with state agencies and local governments the use of personnel and
104 other resources of these governmental entities as agents of the state during an interstate disaster
105 in accordance with the Emergency Management Assistance Compact described in Section

106 [53-2a-402](#);

107 (ii) coordinating the requesting, activating, and allocating of state resources during an
108 intrastate disaster or a local state of emergency;

109 (iii) receiving and disbursing federal resources provided to the state in a declared
110 disaster;

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

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

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

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

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

118 (iii) identification of areas particularly vulnerable to disasters;

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

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

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

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

126 (viii) coordination of urban search and rescue activities;

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

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

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

132 (e) coordinate with state agencies regarding development and construction of state
133 buildings within a flood plain to ensure compliance with minimum standards of the National
134 Flood Insurance Program, 42 U.S.C. Chapter 50, Subchapter I, as described in Section
135 [53-2a-106](#);

136 [~~e~~] (f) administer Part 6, Disaster Recovery Funding Act, in accordance with that
137 part;

138 [~~f~~] (g) conduct outreach annually to agencies and officials who have access to
139 IPAWS; and

140 [~~g~~] (h) coordinate with counties to ensure every county has the access and ability to
141 send, or a plan to send, IPAWS messages, including Wireless Emergency Alerts and
142 Emergency Alert System messages.

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

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

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

- 152 (ii) coordinate grant management and resource purchases; and
- 153 (iii) organize joint emergency response training and exercises.

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

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

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

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

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

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

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

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

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

177 **53-2a-106. Coordination for state development in a flood plain.**

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

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

182 **53-2a-603. State Disaster Recovery Restricted Account.**

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

185 (b) The disaster recovery account consists of:

186 (i) money deposited into the disaster recovery account in accordance with Section
187 63J-1-314;

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

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

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

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

192 (I) the division; or

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

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

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

198 (a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or
199 commit to expend an amount that does not exceed \$500,000, in accordance with Section
200 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared
201 disaster;

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

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

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

214 (C) makes the report required by Subsection 53-2a-606(2);
215 (iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit
216 to expend an amount that exceeds \$3,000,000, but does not exceed \$5,000,000, in accordance
217 with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to
218 a declared disaster if, before making the expenditure or commitment to expend, the division:
219 (A) obtains approval for the expenditure or commitment to expend from the governor;
220 and
221 (B) submits the expenditure or commitment to expend to the Executive Appropriations
222 Committee in accordance with Subsection 53-2a-606(3); and
223 (iv) in any fiscal year the division may expend or commit to expend an amount that
224 does not exceed \$150,000 to fund expenses incurred by the National Guard if:
225 (A) in accordance with Section 39-1-5, the governor orders into active service the
226 National Guard in response to a declared disaster; and
227 (B) the money is not used for expenses that qualify for payment as emergency disaster
228 services;
229 (b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or
230 committed to be expended to fund costs to the state directly related to a declared disaster that
231 are not costs related to:
232 (i) emergency disaster services;
233 (ii) emergency preparedness; or
234 (iii) notwithstanding whether a county participates in the Wildland Fire Suppression
235 Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be
236 paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland
237 Fire Suppression Fund;
238 (c) to fund the Local Government Emergency Response Loan Fund created in Section
239 53-2a-607;
240 (d) the division may provide advanced funding from the disaster recovery account to
241 recognized agents of the state when:
242 (i) Utah has agreed, through the division, to enact the Emergency Management
243 Assistance Compact with another member state that has requested assistance during a declared
244 disaster;

- 245 (ii) Utah agrees to provide resources to the requesting member state;
- 246 (iii) the agent of the state who represents the requested resource has no other funding
247 source available at the time of the Emergency Management Assistance Compact request; and
- 248 (iv) the disaster recovery account has a balance of funds available to be utilized while
249 maintaining a minimum balance of \$10,000,000;
- 250 (e) the division may expend up to \$3,200,000 during fiscal year 2019 to fund
251 operational costs incurred by the division during fiscal year 2019; and
- 252 (f) to fund up to \$500,000 for the governor's emergency appropriations described in
253 Subsection [63J-1-217\(4\)](#).
- 254 (3) All funding provided in advance to an agent of the state and subsequently
255 reimbursed shall be credited to the account.
- 256 (4) The state treasurer shall invest money in the disaster recovery account according to
257 Title 51, Chapter 7, State Money Management Act.
- 258 (5) (a) Except as provided in Subsections (1) and (2), the money in the disaster
259 recovery account may not be diverted, appropriated, expended, or committed to be expended
260 for a purpose that is not listed in this section.
- 261 (b) Notwithstanding Section [63J-1-410](#), the Legislature may not appropriate money
262 from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the
263 money appropriated from the disaster recovery account is expended or committed to be
264 expended for a purpose other than one listed in this section.
- 265 (c) The Legislature may not amend the purposes for which money in the disaster
266 recovery account may be expended or committed to be expended except by the affirmative vote
267 of two-thirds of all the members elected to each house.
- 268 (6) The division:
- 269 (a) shall provide the notice required by Subsection (2)(a)(ii) using the best available
270 method under the circumstances as determined by the division; and
- 271 (b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.
- 272 Section 5. Section **53-2a-807** is amended to read:
- 273 **53-2a-807. Emergency interim successors for local officers.**
- 274 (1) By July 1 of each year, each political subdivision shall:
- 275 (a) for each officer and the emergency manager described in Part 14, Designated

276 Emergency Manager Act, designate three emergency interim successors and specify their order
277 of succession;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

307 **53-2a-1401. Title.**

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

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

310 **53-2a-1402. Designation and duties of emergency managers.**

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

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

315 (3) An emergency manager shall:

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

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

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

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

323 **53-2a-1403. Emergency operations plan.**

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

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

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

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

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

330 **63C-6-101. Creation of commission -- Membership -- Appointment -- Vacancies.**

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

333 (a) the director of the Division of Emergency Management or the director's designee;

334 (b) the director of the Utah Geological Survey or the director's designee;

335 (c) the director of the University of Utah Seismograph Stations or the director's
336 designee;

337 (d) the executive director of the Utah League of Cities and Towns or the executive

338 director's designee;

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

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

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

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

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

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

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

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

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

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

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

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