

**Representative Michael K. McKell** proposes the following substitute bill:

**POST DISASTER RECOVERY AND MITIGATION**

**RESTRICTED ACCOUNT**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

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

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**LONG TITLE**

**General Description:**

This bill creates a restricted account and sets eligibility requirements for counties, municipalities, local districts, and special service districts to receive grants from the restricted account.

**Highlighted Provisions:**

This bill:

- defines terms;
- creates the Post Disaster Recovery and Mitigation Restricted Account;
- designates the purposes, limitations, and sources of the restricted account;
- sets standards and requirements for receiving a grant from funds originating from the restricted account; and
- grants rulemaking authority to the Division of Emergency Management.

**Money Appropriated in this Bill:**

This bill appropriates in fiscal year 2020:

- to the General Fund Restricted -- Post Disaster Recovery and Mitigation Restricted Account -- as an ongoing appropriation:
  - from the General Fund, \$2,000,000.



26       ▶ to the Department of Public Safety -- as an ongoing appropriation  
27       • from the General Fund Restricted -- Post Disaster Recovery and Mitigation  
28 Restricted Account, \$2,000,000.

29 **Other Special Clauses:**

30       None

31 **Utah Code Sections Affected:**

32 ENACTS:

33       **53-2a-1301**, Utah Code Annotated 1953

34       **53-2a-1302**, Utah Code Annotated 1953

35       **53-2a-1303**, Utah Code Annotated 1953

36       **53-2a-1304**, Utah Code Annotated 1953

37       **53-2a-1305**, Utah Code Annotated 1953

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

40       Section 1. Section **53-2a-1301** is enacted to read:

41               **Part 13. Post Disaster Recovery and Mitigation Restricted Account**

42       **53-2a-1301. Definitions.**

43       As used in the part:

44       (1) "Account" means the Post Disaster Recovery and Mitigation Restricted Account  
45 created in Section **53-2a-1302**.

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

48       (3) "Chief executive officer" means the same as that term is defined in Section  
49 **53-2a-203**.

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

52       (5) "Costs not recoverable" include:

53       (a) the county threshold; and

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

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

(7) "Disaster recovery" means action taken to remove debris, implement life-saving emergency protective measures, or repair, replace, or restore facilities in response to a disaster.

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

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

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

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

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

Section 2. Section **53-2a-1302** is enacted to read:

**53-2a-1302. Post Disaster Recovery and Mitigation Restricted Account.**

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

(2) The account consists of:

- (a) money appropriated to the account by the Legislature;
- (b) income and interest derived from the deposit and investment of money in the account; and
- (c) private donations, grants, gifts, bequests, or money made available from any other

source to implement this section.

(3) At the close of a fiscal year, money in the account exceeding \$10,000,000, excluding money granted to the account under Subsection (2)(c), shall be transferred to the General Fund.

(4) Subject to the requirements described in this part, and upon appropriation by the Legislature, the division may grant money appropriated from the account:

(a) to an affected community for the affected community's disaster recovery efforts as described in Section 53-2a-1303; or

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

Section 3. Section **53-2a-1303** is enacted to read:

**53-2a-1303. Disaster Recovery Grant.**

(1) The division may grant money under Subsection 53-2a-1302(4)(a) appropriated from the account after receiving an application from an affected community for a disaster recovery grant.

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

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

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

(i) the president of the United States declaring an emergency or major disaster in the state; ~~H→~~ or ~~←H~~

(ii) the governor declaring a state of emergency under Section 53-2a-206; ~~H→~~ [or

~~(iii) the chief executive officer of a local government within the affected community declaring a local emergency under Section 53-2a-205;]~~ ~~←H~~

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

(d) the cost of disaster recovery, as determined by the division after reviewing the official damage assessment, exceeds the county threshold for the county in which the affected community is located; and

(e) the division maintains sufficient money for the grant.

Section 4. Section **53-2a-1304** is enacted to read:

**53-2a-1304. Post Hazard Mitigation Grant.**

(1) The division may grant money under Subsection [53-2a-1302\(4\)\(b\)](#) appropriated from the account after receiving an application from a community for post hazard mitigation if:

(a) the non-lapsing balance available from money appropriated by the Legislature for the previous fiscal year exceeds the amount of money appropriated by the Legislature for the current fiscal year; and

(b) the total money granted by the division for post hazard mitigation does not exceed the difference between the amount of non-lapsing funds from the previous fiscal year and the amount of money appropriated by the Legislature for the current fiscal year.

(2) A community is eligible to receive a post hazard mitigation grant if the division determines the post hazard mitigation to be funded by the post hazard mitigation grant:

(a) is reasonably likely to mitigate:

(i) economically significant property damage resulting from a disaster; or

(ii) threats to human safety resulting from a disaster;

(b) will be designed and constructed in a economically efficient manner that comports with accepted industry standards; and

(c) addresses a threat of disaster that is plausible and not merely speculative.

Section 5. Section **53-2a-1305** is enacted to read:

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

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

(a) designate the requirements and procedures:

(i) for the governing body of an affected community to:

(A) apply for a disaster recovery grant; and

(B) conduct an official damage assessment; and

(ii) for the governing body of a community to apply for a post hazard mitigation grant;

and

(b) establish standards to ensure that projects completed in accordance with this section are completed in a cost effective manner, are reasonably necessary for disaster recovery or post hazard mitigation, and that all receipts and invoices are documented.

(2) No later than December 31 of each year, the division shall provide the governor and

the Criminal Justice Appropriations Subcommittee a written report of the division's activities under this part, including:

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

and

(b) the balance of the account.

**Section 6. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

**Subsection 6a. Restricted Fund and Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds or accounts to which the money is transferred must be authorized by an appropriation.

**ITEM 1**

To the General Fund Restricted -- Post Disaster Recovery and Mitigation

Restricted Account

From General Fund

\$2,000,000

Schedule of Programs:

General Fund Restricted -- Post Disaster Recovery and

Mitigation Restricted Account

\$2,000,000

**Subsection 6b. Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**ITEM 2**

To Department of Public Safety -- Emergency Management

From General Fund Restricted -- Post Disaster Recovery and Mitigation

Restricted Account

\$2,000,000

Schedule of Programs:

Emergency Management:

\$2,000,000

181           The Legislature intends that:  
182           (1) appropriations provided under this Subsection (6)(b) be used for Disaster Recovery  
183 Grants and Post Hazard Mitigation Grants described in Sections [53-2a-1303](#) and [53-2a-1304](#);  
184 and  
185           (2) under Section [63J-1-603](#), appropriations provided under this section not lapse at the  
186 close of fiscal year 2020.