

Calendar No. 531

110TH CONGRESS }
1st Session

SENATE

{ REPORT
110-240

STREAMLINING MITIGATION ACTIONS AND
RECOVERY TOOLS AND REGIONAL EVACU-
ATION AND SHELTERING PLANNING OF
OVERARCHING NETWORKS FOR SEVERE
EMERGENCIES ACT (SMART RESPONSE
ACT)

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2445

TO PROVIDE FOR THE FLEXIBILITY OF CERTAIN DISASTER RELIEF
FUNDS, AND FOR IMPROVED EVACUATION AND SHELTERING
DURING DISASTERS AND CATASTROPHES



DECEMBER 11, 2007.—Ordered to be printed

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DECEMBER 11, 2007.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2445]

The Committee on Homeland Security and Governmental Affairs reports the original bill (S. 2445) to provide for the flexibility of certain disaster relief funds, and for improved evacuation and sheltering during disasters and catastrophes, having considered the same reports favorably thereon and recommends that the bill do pass.

I. PURPOSE AND SUMMARY

The purpose of this bill is to eliminate obstacles to the rebuilding efforts in Louisiana after the catastrophic impact of Hurricanes Katrina and Rita by providing flexibility for the expenditure of certain Hazard Mitigation Grant Program (HMGP) funds, as well as to develop regional evacuation and sheltering plans.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Hurricane Katrina made landfall in Louisiana on August 29, 2005 and swept across the Southern Gulf Coast states, decimating 90,000 square miles of public infrastructure and destroying homes in numbers never before seen in modern American history. The Katrina waters sat for about three weeks, and were beginning to recede when Hurricane Rita made landfall heavily impacting parts of Southwest Louisiana, and reopening the temporarily repaired levees, refilling parts of New Orleans with water. All told, the housing stock in Louisiana suffered historic levels of devastation. Statewide, some 204,467 owner-occupied homes suffered either major damage or were completely destroyed.

Rebuilding the housing stock in Louisiana is crucial to restoring the state's cultural, economic, and social vitality. Congress appro-

priated funds through the Department of Housing and Urban Development's Community Development Block Grant (CDBG) Fund for the rebuilding of the Hurricane Katrina and Rita impacted regions. As a result of the catastrophic impact of Hurricanes Katrina and Rita on Louisiana, the rebuilding process has been very slow on nearly all fronts, particularly with regard to efforts to rebuild residential homes in devastated areas. Part of the delay is attributed to the delays in providing assistance to homeowners. Louisiana used CDBG money to fund its state homeowner assistance program, called the Road Home Program. In order to encourage the residents and spur economic activity, the program offers favorable treatment to those rebuilding in the affected area by penalizing recipients of program funds who leave the state, but provides exemptions from this penalty for senior citizens.

Another important federal disaster assistance tool offered by the federal government is the Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program (HMGP). The purpose of the HMGP is to reduce the loss of life and property during future disasters and to enable mitigation measures to be implemented during the immediate disaster recovery. HMGP provides grants to States and local governments to implement hazard mitigation measures after a major disaster declaration. FEMA's mitigation grants are provided to eligible applicants (States/Tribes/Territories) which, in turn, provide sub-grants which can be awarded for numerous projects, including approved mitigation projects by private homeowners.

In designing the Road Home Program, Louisiana chose to use its HMGP funds in conjunction with the Road Home Program in order to allow HMGP and Road Home funds to be distributed to applicants in one process. This would enable individuals—who might be required to elevate their homes to meet flood zoning requirements or to perform other important mitigation efforts to prevent future loss of life or property—to use HMGP funds within their overall rebuilding effort, thereby streamlining activities, making the rebuilding process more efficient and effective, and helping to ensure mitigation practices are incorporated into the rebuilding process to the greatest extent possible to help reduce potential damages from future disasters.

FEMA, however, has prohibited the use of HMGP dollars within the Road Home Program because it considers the Road Home Program's penalty against those who leave the state and penalty exemption for individuals over 60 to be discriminatory based upon its interpretation of Section 308 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which prohibits the agency from discriminating when distributing disaster assistance. FEMA's prohibition of the use of HMGP funds within the State of Louisiana's Road Home Program has caused significant delays in the overall process of getting its citizens back into their homes.

Under this bill, the FEMA Administrator may not prohibit or restrict the use by the State of Louisiana through the Road Home Program of HMGP funds specified in the bill based upon the existence of certain penalties in the Road Home Program. The specified penalties include restrictions which limit or reduce the amount made available to an eligible homeowner who does not agree to remain an owner or occupant of a home in Louisiana or any waiver

of such penalty for homeowners who are elderly or senior citizens. The bill, however, leaves intact all other rules governing HMGP and ensures that Road Home applicants use the specific HMGP funds only for approved hazard mitigation activities.

The bill also addresses other problems that are significantly delaying the recovery and rebuilding process by including provisions allowing things such as programmatic cost-benefit analysis, streamlined environmental reviews, and providing HMGP funds for approved projects before a project is completed, instead of on a reimbursement basis.

Additionally, the bill directs FEMA, in coordination with other appropriate federal agencies with responsibilities under the National Response Plan, states, local governments, and appropriate nongovernmental organizations to develop regional evacuation and sheltering planning. Catastrophic disasters can overwhelm state resources and prompt displacement beyond a single state's borders. Given the evacuation issues raised by Hurricanes Katrina and Rita, improved regional evacuation and sheltering planning is needed.

III. LEGISLATIVE HISTORY

S. 2445 was introduced as an original Committee bill by Senator Landrieu on August 1, 2007 in the Senate Committee on Homeland Security and Governmental Affairs.

On August 1, 2007, the Committee considered S. 2445.

The Committee adopted two amendments. The first amendment was offered by Senator Landrieu. It was an amendment in the nature of a substitute that made minor modifications to the bill. The amendment was adopted by voice vote.

The second amendment was offered by Senator Coleman and cosponsored by Senator Landrieu. This amendment allowed eligible grantees to receive HMGP funds for approved projects in advance of completing the process, rather than on the reimbursement basis as under existing law. The amendment was adopted by voice vote.

By a voice vote, the Committee ordered the bill as amended favorably reported to the full Senate.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 2. Definitions

Section 3. Flexibility of Federal funds for Road Home Program

Under this section the Administrator of FEMA may not prohibit or restrict the use by the State of Louisiana under the Road Home Program of the HMGP funds specified in the bill based upon the existence of certain penalties under the Road Home Program. The specified penalties include restrictions which limit or reduce the amount made available to an eligible homeowner who does not agree to remain an owner or occupant of a home in Louisiana or any waiver of such penalty for homeowners who are elderly or senior citizens. All other provisions of the HMGP program outlined in section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act would apply to the use of funds. This section also requires the FEMA Administrator to transfer the specified

funds as soon as practicable to the State of Louisiana and to simplify requirements of the program, including by streamlining cost-benefit analyses and environmental reviews, to ensure the expedited distribution of such funds under the program. The section also allows a grant recipient to receive funds for approved projects prior to the completion of the project, instead of on a reimbursement basis, if proper certifications regarding use of the money are received. Finally, it allows the FEMA Administrator to design and implement audit procedures as necessary.

Section 4. Evacuation and sheltering

This section directs the Administrator of FEMA to coordinate with appropriate Federal Agencies, state and local governments, and nongovernmental organizations to develop regional evacuation and sheltering plans, create a national database of available shelters, and conduct an analysis comparing the costs, benefits, and health and safety concerns of evacuating individuals with special needs during an incident, as compared to the costs, benefits, and health and safety concerns of sheltering such people in the area where they are located when an incident occurs. The section also requires the Administrator to obtain and share information from the Evacuation Traffic Information System, a system managed by the Department of Transportation that is designed to monitor traffic flow during an incident.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirement of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate the Committee has considered the regulatory impact of this bill. CBO states that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

VI. ESTIMATED COST OF LEGISLATION

NOVEMBER 16, 2007.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the SMART RESPONSE Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

PETER R. ORSZAG.

Enclosure.

SMART RESPONSE Act

Summary: The legislation would direct the Federal Emergency Management Agency (FEMA) to develop and implement regional evacuation and sheltering plans for use following a major disaster. In addition, the bill would direct FEMA to create a database of available shelters that can be shared with state and local governments. Based on information from FEMA, CBO estimates that implementing those provisions would cost about \$39 million over the

2008–2012 period, assuming appropriation of the estimated amounts.

The legislation also would prohibit FEMA from restricting the use of \$1.17 billion in hazard mitigation funding provided to Louisiana following the 2005 Gulf Coast hurricanes. The state wants to use those funds for grants to homeowners to elevate their homes; however, FEMA has denied funding for those projects because of provisions in the state’s overall recovery program. CBO estimates that implementing this provision would not affect the pace of federal expenditures for hazard mitigation projects nor would it increase the need for additional disaster relief funding in the future. Enacting this legislation would not affect direct spending or revenues.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of this legislation is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	17	6	6	5	5
Estimated Outlays	16	6	6	6	5

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted in early 2008 and that the necessary amounts will be appropriated for each fiscal year.

Evacuation and sheltering plans and database

The legislation would direct FEMA to develop and implement regional evacuation and sheltering plans for use following a major disaster. Such plans would incorporate all modes of transportation and identify shelters capable of housing evacuees in any part of the United States. CBO estimates that FEMA would need to hire additional staff in each of its 11 offices to complete the plans within the 360-day period specified in the bill. We estimate that this work would cost about \$15 million in 2008 and \$38 million over the 2008–2012 period, assuming appropriation of the necessary amounts.

The bill also would direct FEMA to create a database of available shelters that could be used following a disaster. Information from this database, as well as information from the Evacuation Traffic Information System (managed by the Federal Highway Administration), would be made available to state and local governments. CBO estimates that implementing this provision would cost about \$1 million in 2008.

Elimination of restrictions on hazard mitigation funding

The legislation would allow Louisiana to use certain funds for hazard mitigation in tandem with disaster recovery funds provided by the Community Development Block Grant (CDBG) program of the Department of Housing and Urban Development. Following

Hurricanes Katrina and Rita, Louisiana received \$1.5 billion in grants through FEMA's Hazard Mitigation Grant Program (HMGP). The state has requested to use \$1.17 billion of those amounts for elevation grants to homeowners under the terms of the Road Home program. (The Road Home program is Louisiana's plan for using CDBG funds provided in response to the 2005 hurricanes.) FEMA has denied this request because it believes that provisions of the Road Home program violate the authorizing statute for mitigation funds. The bill would prohibit FEMA from restricting the use of HMGP funds for those reasons.

CBO estimates that implementing this provision would have no cost to the federal government. The bill would not authorize additional mitigation funding for Louisiana. Moreover, FEMA has already allocated the maximum amount of HMGP funds that the state may receive under current law. (For disasters of the magnitude of Hurricane Katrina, for example, this amount is 7.5 percent of the agency's estimate of other funds it will provide for disaster relief.)

Intergovernmental and private-sector impact: This bill contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. It would provide greater flexibility for Louisiana to use federal assistance to help homeowners recover from Hurricanes Katrina and Rita. It also would authorize the administrator to provide technical assistance to state and local governments to develop and implement evacuation and sheltering plans. Any costs to those governments would be incurred voluntarily as a condition of participating in a federal program.

Estimate prepared by: Federal Costs: Daniel Hoople; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Justin Hall.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VIII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

No changes to existing law are made by this bill.