

FEMA DISASTER ASSISTANCE REFORM ACT OF 2015

\_\_\_\_\_

FEBRUARY 29, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

\_\_\_\_\_

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1471]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1471) to reauthorize the programs and activities of the Federal Emergency Management Agency, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose of Legislation .....	11
Background and Need for Legislation .....	11
Hearings .....	23
Legislative History and Consideration .....	25
Committee Votes .....	25
Committee Oversight Findings .....	25
New Budget Authority and Tax Expenditures .....	25
Congressional Budget Office Cost Estimate .....	25
Performance Goals and Objectives .....	30
Advisory of Earmarks .....	30
Duplication of Federal Programs .....	30
Disclosure of Directed Rule Makings .....	30
Federal Mandate Statement .....	31
Preemption Clarification .....	31
Advisory Committee Statement .....	31
Applicability of Legislative Branch .....	31
Section-by-Section Analysis of Legislation .....	31
Changes in Existing Law Made by the Bill, as Reported .....	33

The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “FEMA Disaster Assistance Reform Act of 2015”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—FEMA REAUTHORIZATION**

Sec. 101. Reauthorization of Federal Emergency Management Agency.

**TITLE II—COMPREHENSIVE STUDY OF DISASTER COSTS AND LOSSES**

Sec. 201. Comprehensive study of disaster costs and losses.

**TITLE III—STAFFORD ACT AND OTHER PROGRAMS**

- Sec. 301. Reauthorization of urban search and rescue response system.  
 Sec. 302. Reauthorization of emergency management assistance compact grants.  
 Sec. 303. Nonprofit facilities.  
 Sec. 304. Statute of limitations.  
 Sec. 305. Action plan to improve field transition.  
 Sec. 306. Simplified procedures.  
 Sec. 307. Management costs.  
 Sec. 308. Debts owed to the United States related to disaster assistance.  
 Sec. 309. Statute of limitations for debts owed to the United States related to disaster assistance.  
 Sec. 310. Technical assistance and recommendations.  
 Sec. 311. Local impact.  
 Sec. 312. Proof of insurance.

**TITLE IV—WILDFIRE PREVENTION AND MITIGATION**

- Sec. 401. Wildfire mitigation assistance.  
 Sec. 402. Additional activities.

**TITLE I—FEMA REAUTHORIZATION****SEC. 101. REAUTHORIZATION OF FEDERAL EMERGENCY MANAGEMENT AGENCY.**

Section 699 of the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295; 6 U.S.C. 811) is amended—

- (1) by striking “administration and operations” each place it appears and inserting “management and administration”; and
- (2) in paragraph (2), by striking “; and”;
- (3) in paragraph (3), by striking the period and inserting “; and”; and
- (4) by adding at the end the following:  
 “(4) for fiscal year 2016, \$946,982,000;  
 “(5) for fiscal year 2017, \$946,982,000; and  
 “(6) for fiscal year 2018, \$946,982,000.”.

**TITLE II—COMPREHENSIVE STUDY OF DISASTER COSTS AND LOSSES****SEC. 201. COMPREHENSIVE STUDY OF DISASTER COSTS AND LOSSES.**

(a) **ESTABLISHMENT.**—Not later than 30 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall commence, through the National Advisory Council, a comprehensive study related to disaster costs and losses (referred to in the subsection as the “Study”).

(b) **ADDITIONAL MEMBERSHIP.**—For the purposes of the Study, as soon as practicable after the date of enactment of this section, the Administrator shall appoint additional qualified members to the National Advisory Council from the following:

- (1) Individuals that have the requisite technical knowledge and expertise on issues related to disaster costs and losses.
- (2) Representatives of the insurance industry.
- (3) Experts in and representatives of the construction and building industry.
- (4) Individuals nominated by national organizations representing local governments and personnel.
- (5) Academic experts.
- (6) Vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for emergency management services.
- (7) Representatives of such other stakeholders and interested and affected parties as the Administrator considers appropriate.

(c) **CONSULTATION WITH NONMEMBERS.**—The National Advisory Council shall consult with other relevant agencies and groups that are not represented on the National Advisory Council to consider research, data, findings, recommendations, innovative technologies and developments, including—

- (1) entities engaged in federally funded research; and
  - (2) academic institutions engaged in relevant work and research.
  - (d) RECOMMENDATIONS.—Not later than 120 days after the date of enactment of this Act, the National Advisory Council shall convene to evaluate the following topics and develop recommendations for reducing disaster costs and losses:
    - (1) DISASTER LOSSES.—
      - (A) COST TRENDS.—Trends in disaster costs including loss of life and injury, property damage to individuals, the private sector, and each level of government (State, local and tribal) since the enactment of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), to the extent data is available.
      - (B) CONTRIBUTING FACTORS.—Contributing factors such as shifting demographics and aging infrastructure and their impacts on the trends in disaster losses and costs.
    - (2) DISASTER COSTS.—
      - (A) TRENDS IN DECLARATIONS.—Trends in disaster declarations, including factors contributing to the trends.
      - (B) DISASTER ASSISTANCE.—Disaster assistance available from all Federal sources, including descriptions of programs, eligibility and authorities, where assistance has been used geographically, how quickly the funds are used, how that assistance is coordinated among the various agencies and departments, and recommendations for ways to improve the effectiveness and efficiency of the delivery of such assistance.
      - (C) COSTS.—Disaster costs borne by the private sector and individuals.
    - (3) DISASTER ROLES AND RESPONSIBILITY.—Fundamental principles that should drive national disaster assistance decision making, including the appropriate roles for each level of government, the private sector and individuals.
    - (4) REDUCTION OF COSTS AND LOSSES.—
      - (A) MECHANISMS AND INCENTIVES.—Mechanisms and incentives, including tax incentives, to promote disaster cost reduction, mitigation, and recovery, including cost data, projections for the return on investment, and measures of effectiveness.
      - (B) IDENTIFICATION OF CHALLENGES.—Identify fundamental legal, societal, geographic and technological challenges to implementation.
    - (5) LEGISLATIVE PROPOSALS.—Legislative proposals for implementing the recommendations in the report compiled pursuant to the requirement in section 1111 of the Sandy Recovery Improvement Act of 2013 (Public Law 113–2).
  - (e) REPORT TO ADMINISTRATOR AND CONGRESS.—Not later than 1 year after the date of enactment of this section, the National Advisory Council shall submit a report containing the data, analysis, and recommendations developed under subsection (d) to—
    - (1) the Administrator of the Federal Emergency Management Agency;
    - (2) the Committee on Transportation and Infrastructure of the House of Representatives; and
    - (3) the Committee on Homeland Security and Governmental Affairs of the Senate.
- The Administrator shall make the data collected pursuant to this section publically available on the Agency’s website.

## **TITLE III—STAFFORD ACT AND OTHER PROGRAMS**

### **SEC. 301. REAUTHORIZATION OF URBAN SEARCH AND RESCUE RESPONSE SYSTEM.**

(a) IN GENERAL.—Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5141 et seq.) is amended by adding at the end the following:

#### **“SEC. 327. NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM.**

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.

“(2) AGENCY.—The term ‘Agency’ means the Federal Emergency Management Agency.

“(3) HAZARD.—The term ‘hazard’ has the meaning given that term by section 602.

“(4) NONEMPLOYEE SYSTEM MEMBER.—The term ‘nonemployee System member’ means a System member not employed by a sponsoring agency or participating agency.

“(5) PARTICIPATING AGENCY.—The term ‘participating agency’ means a State or local government, nonprofit organization, or private organization that has executed an agreement with a sponsoring agency to participate in the System.

“(6) SPONSORING AGENCY.—The term ‘sponsoring agency’ means a State or local government that is the sponsor of a task force designated by the Administrator to participate in the System.

“(7) SYSTEM.—The term ‘System’ means the National Urban Search and Rescue Response System to be administered under this section.

“(8) SYSTEM MEMBER.—The term ‘System member’ means an individual who is not a full-time employee of the Federal Government and who serves on a task force or on a System management or other technical team.

“(9) TASK FORCE.—The term ‘task force’ means an urban search and rescue team designated by the Administrator to participate in the System.

“(b) GENERAL AUTHORITY.—Subject to the requirements of this section, the Administrator shall continue to administer the emergency response system known as the National Urban Search and Rescue Response System.

“(c) FUNCTIONS.—In administering the System, the Administrator shall provide for a national network of standardized search and rescue resources to assist States and local governments in responding to hazards.

“(d) TASK FORCES.—

“(1) DESIGNATION.—The Administrator shall designate task forces to participate in the System. The Administration shall determine the criteria for such participation.

“(2) SPONSORING AGENCIES.—Each task force shall have a sponsoring agency. The Administrator shall enter into an agreement with the sponsoring agency with respect to the participation of each task force in the System.

“(3) COMPOSITION.—

“(A) PARTICIPATING AGENCIES.—A task force may include, at the discretion of the sponsoring agency, one or more participating agencies. The sponsoring agency shall enter into an agreement with each participating agency with respect to the participation of the participating agency on the task force.

“(B) OTHER INDIVIDUALS.—A task force may also include, at the discretion of the sponsoring agency, other individuals not otherwise associated with the sponsoring agency or a participating agency. The sponsoring agency of a task force may enter into a separate agreement with each such individual with respect to the participation of the individual on the task force.

“(e) MANAGEMENT AND TECHNICAL TEAMS.—The Administrator shall maintain such management teams and other technical teams as the Administrator determines are necessary to administer the System.

“(f) APPOINTMENT OF SYSTEM MEMBERS INTO FEDERAL SERVICE.—

“(1) IN GENERAL.—The Administrator may appoint a System member into Federal service for a period of service to provide for the participation of the System member in exercises, preincident staging, major disaster and emergency response activities, and training events sponsored or sanctioned by the Administrator.

“(2) NONAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Administrator may make appointments under paragraph (1) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

“(3) RELATIONSHIP TO OTHER AUTHORITIES.—The authority of the Administrator to make appointments under this subsection shall not affect any other authority of the Administrator under this Act.

“(4) LIMITATION.—A System member who is appointed into Federal service under paragraph (1) shall not be considered an employee of the United States for purposes other than those specifically set forth in this section.

“(g) COMPENSATION.—

“(1) PAY OF SYSTEM MEMBERS.—Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force—

“(A) to reimburse each employer of a System member on the task force for compensation paid by the employer to the System member for any period during which the System member is appointed into Federal service under subsection (f)(1); and

“(B) to make payments directly to a nonemployee System member on the task force for any period during which the non-employee System member is appointed into Federal service under subsection (f)(1).

“(2) REIMBURSEMENT FOR EMPLOYEES FILLING POSITIONS OF SYSTEM MEMBERS.—

“(A) IN GENERAL.—Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force to reimburse each employer of a System member on the task force for compensation paid by the employer to an employee filling a position normally filled by the System member for any period during which the System member is appointed into Federal service under subsection (f)(1).

“(B) LIMITATION.—Costs incurred by an employer shall be eligible for reimbursement under subparagraph (A) only to the extent that the costs are in excess of the costs that would have been incurred by the employer had the System member not been appointed into Federal service under subsection (f)(1).

“(3) METHOD OF PAYMENT.—A System member shall not be entitled to pay directly from the Agency for a period during which the System member is appointed into Federal service under subsection (f)(1).

“(h) PERSONAL INJURY, ILLNESS, DISABILITY, OR DEATH.—

“(1) IN GENERAL.—A System member who is appointed into Federal service under subsection (f)(1) and who suffers personal injury, illness, disability, or death as a result of a personal injury sustained while acting in the scope of such appointment shall, for the purposes of subchapter I of chapter 81 of title 5, United States Code, be treated as though the member were an employee (as defined by section 8101 of that title) who had sustained the injury in the performance of duty.

“(2) ELECTION OF BENEFITS.—

“(A) IN GENERAL.—If a System member (or, in the case of the death of the System member, the System member’s dependent) is entitled—

“(i) under paragraph (1) to receive benefits under subchapter I of chapter 81 of title 5, United States Code, by reason of personal injury, illness, disability, or death, and

“(ii) to receive benefits from a State or local government by reason of the same personal injury, illness, disability, or death, the System member or dependent shall elect to receive either the benefits referred to in clause (i) or (ii).

“(B) DEADLINE.—A System member or dependent shall make an election of benefits under subparagraph (A) not later than 1 year after the date of the personal injury, illness, disability, or death that is the reason for the benefits or until such later date as the Secretary of Labor may allow for reasonable cause shown.

“(C) EFFECT OF ELECTION.—An election of benefits made under this paragraph is irrevocable unless otherwise provided by law.

“(3) REIMBURSEMENT FOR STATE OR LOCAL BENEFITS.—Subject to such terms and conditions as the Administrator may impose by regulation, in the event that a System member or dependent elects benefits from a State or local government under paragraph (2)(A), the Administrator shall reimburse the State or local government for the value of those benefits.

“(i) CERTAIN BENEFITS.—In the case of a death or disability, a System member (or in the case of the death of the System member, the System member’s dependent) shall be able to apply for the Public Safety Officers’ Benefits program (as described in subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. chapter 46, subchapter XII) if the System member meets the requirements of a ‘public safety officer’ as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

“(j) LIABILITY.—A System member appointed into Federal service under subsection (f)(1), while acting within the scope of the appointment, is deemed an employee of the Federal Government under section 1346(b) of title 28, United States Code, and chapter 171 of that title, relating to tort claims procedure.

“(k) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—With respect to a System member who is not a regular full-time employee of a sponsoring agency or participating agency, the following terms and conditions apply:

“(1) SERVICE.—Service as a System member is deemed ‘service in the uniformed services’ for purposes of chapter 43 of title 38, United States Code, relating to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons

and procedures for assistance, enforcement, and investigation shall be as provided for in such chapter.

“(2) PRECLUSION.—Preclusion of giving notice of service by necessity of appointment under this section is deemed preclusion by ‘military necessity’ for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Administrator and shall not be subject to judicial review.

“(1) LICENSES AND PERMITS.—If a System member holds a valid license, certificate, or other permit issued by any State or other governmental jurisdiction evidencing the member’s qualifications in any professional, mechanical, or other skill or type of assistance required by the System, the System member is deemed to be performing a Federal activity when rendering aid involving such skill or assistance during a period of appointment into Federal service under subsection (f)(1).

“(m) ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Administrator shall establish and maintain an advisory committee to provide expert recommendations to the Administrator in order to assist the Administrator in administering the System.

“(2) COMPOSITION.—The advisory committee shall be composed of members from geographically diverse areas, and shall include—

“(A) the chief officer or senior executive from at least three sponsoring agencies;

“(B) the senior emergency manager from at least two States that include sponsoring agencies; and

“(C) at least one representative recommended by the leaders of the task forces.

“(3) INAPPLICABILITY OF TERMINATION REQUIREMENT.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee under this subsection.

“(n) PREPAREDNESS COOPERATIVE AGREEMENTS.—

“(1) IN GENERAL.—Subject to the availability of appropriations for such purpose, the Administrator shall enter into an annual preparedness cooperative agreement with each sponsoring agency. Amounts made available to a sponsoring agency under such a preparedness cooperative agreement shall be for the following purposes:

“(A) Training and exercises, including training and exercises with other Federal, State, and local government response entities.

“(B) Acquisition and maintenance of equipment, including interoperable communications and personal protective equipment.

“(C) Medical monitoring required for responder safety and health in anticipation of and following a major disaster, emergency, or other hazard, as determined by the Administrator.

“(2) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding section 1552(b) of title 31, United States Code, amounts made available for cooperative agreements under this subsection that are not expended shall be deposited in an agency account and shall remain available for such agreements without fiscal year limitation.

“(o) RESPONSE COOPERATIVE AGREEMENTS.—The Administrator shall enter into a response cooperative agreement with each sponsoring agency, as appropriate, under which the Administrator agrees to reimburse the sponsoring agency for costs incurred by the sponsoring agency in responding to a major disaster or emergency.

“(p) OBLIGATIONS.—The Administrator may incur all necessary obligations consistent with this section in order to ensure the effectiveness of the System.

“(q) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out the System and the provisions of this section \$50,000,000 for each of fiscal years 2016, 2017, and 2018.

“(2) ADMINISTRATIVE EXPENSES.—The Administrator may use not to exceed 6 percent of the funds appropriated for a fiscal year pursuant to paragraph (1) for salaries, expenses, and other administrative costs incurred by the Administrator in carrying out this section.”.

(b) CONFORMING AMENDMENTS.—

(1) APPLICABILITY OF TITLE 5, UNITED STATES CODE.—Section 8101(1) of title 5, United States Code, is amended—

(A) in subparagraph (D) by striking “and” at the end;

(B) by moving subparagraph (F) to appear after subparagraph (E);

(C) in subparagraph (F)—

(i) by striking “United States Code.”; and

(ii) by adding “and” at the end; and

(D) by inserting after subparagraph (F) the following:

“(G) an individual who is a System member of the National Urban Search and Rescue Response System during a period of appointment into Federal service pursuant to section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act;”.

(2) INCLUSION AS PART OF UNIFORMED SERVICES FOR PURPOSES OF USERRA.—Section 4303 of title 38, United States Code, is amended—

(A) in paragraph (13) by inserting “, a period for which a System member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act” before “, and a period”; and

(B) in paragraph (16) by inserting after “Public Health Service,” the following: “System members of the National Urban Search and Rescue Response System during a period of appointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act;”.

**SEC. 302. REAUTHORIZATION OF EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.**

(a) IN GENERAL.—Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

**“SEC. 617. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.**

“(a) IN GENERAL.—The Administrator of the Federal Emergency Management Agency may make grants to provide for implementation of the Emergency Management Assistance Compact consented to by Congress in the joint resolution entitled ‘Joint resolution granting the consent of Congress to the Emergency Management Assistance Compact’ (Public Law 104–321; 110 Stat. 3877).

“(b) ELIGIBLE GRANT RECIPIENTS.—States and the Administrator of the Emergency Management Assistance Compact shall be eligible to receive grants under subsection (a).

“(c) USE OF FUNDS.—A grant received under this section shall be used—

“(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane seasons;

“(2) to administer compact operations on behalf of States, as such term is defined in the compact, that have enacted the compact;

“(3) to continue coordination with the Federal Emergency Management Agency and appropriate Federal agencies;

“(4) to continue coordination with States and local governments and their respective national organizations; and

“(5) to assist State and local governments, emergency response providers, and organizations representing such providers with credentialing the providers and the typing of emergency response resources.

“(d) COORDINATION.—The Administrator of the Federal Emergency Management Agency shall consult with the Administrator of the Emergency Management Assistance Compact to ensure effective coordination of efforts in responding to requests for assistance.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$2,000,000 for each of the fiscal years 2016, 2017, and 2018. Such sums shall remain available until expended.”.

(b) REPEAL.—Section 661 of the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295; 6 U.S.C. 761) is repealed.

**SEC. 303. NONPROFIT FACILITIES.**

(a) DEFINITION OF PRIVATE NONPROFIT FACILITY.—Section 102(11)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(11)(B)) is amended to read as follows:

“(B) ADDITIONAL FACILITIES.—In addition to the facilities described in subparagraph (A), the term ‘private nonprofit facility’ includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, public broadcasting facilities, and facilities that provide health and safety services of a governmental nature), as defined by the President.”.

(b) REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.—Section 406(a)(3)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act

(42 U.S.C. 5172(a)(3)) is amended by striking “communications,” and inserting “communications (including public broadcasting),”.

**SEC. 304. STATUTE OF LIMITATIONS.**

(a) **IN GENERAL.**—Section 705(a)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5205) is amended—

(1) by striking “Except” and inserting “Notwithstanding section 3716(e) of title 31, United States Code, and except”; and

(2) by striking “report for the disaster or emergency” and inserting “report for project completion as certified by the grantee”.

(b) **APPLICABILITY.**—

(1) **IN GENERAL.**—With respect to disaster or emergency assistance provided to a State or local government on or after January 1, 2004—

(A) no administrative action may be taken to recover a payment of such assistance after the date of enactment of this Act if the action is prohibited under section 705(a)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5205(a)(1)), as amended by subsection (a); and

(B) any administrative action to recover a payment of such assistance that is pending on such date of enactment shall be terminated if the action is prohibited under section 705(a)(1) of that Act, as amended by subsection (a).

(2) **LIMITATION.**—This section, including the amendments made by this section, may not be construed to invalidate or otherwise affect any administration action completed before the date of enactment of this Act.

**SEC. 305. ACTION PLAN TO IMPROVE FIELD TRANSITION.**

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate regarding the plans the agency will undertake to provide the following:

(1) Consistent guidance to applicants on FEMA disaster funding procedures during the response to an emergency.

(2) Appropriate record maintenance and transfer of documents to new teams during staff transitions.

(3) Accurate assistance to applicants and grantees to ease the administrative burden throughout the process of obtaining and monitoring assistance.

(b) **MAINTAINING RECORDS.**—The report shall also include a plan for implementing operating procedures and document retention requirements to ensure the maintenance of appropriate records throughout the lifecycle of the disaster.

(c) **NEW TECHNOLOGIES.**—Finally, the report shall identify new technologies that further aid the disaster workforce in partnering with State, local, and tribal governments and private nonprofits in the wake of a disaster or emergency to educate, assist, and inform applicants on the status of their disaster assistance applications and projects.

**SEC. 306. SIMPLIFIED PROCEDURES.**

Section 422(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189) is amended—

(1) by striking “\$35,000” the first place it appears and inserting “\$1,000,000”; and

(2) by striking the second sentence.

**SEC. 307. MANAGEMENT COSTS.**

Section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165b) is amended—

(1) in subsection (a) by striking “any administrative expense, and any other expense not directly chargeable to” and inserting “direct administrative cost, and any other administrative expense associated with”; and

(2) in subsection (b)—

(A) by striking “Notwithstanding” and inserting the following:

“(1) **IN GENERAL.**—Notwithstanding”.

(B) by striking “establish” and inserting the following: “implement the following.”; and

(C) by adding at the end the following:

“(2) **SPECIFIC MANAGEMENT COSTS.**—The Administrator shall provide the following percentage rates, in addition to the eligible project costs, to cover direct and indirect costs of administering the following programs:

“(A) **HAZARD MITIGATION.**—A grantee under section 404 may be reimbursed not more than 15 percent of the total amount of the grant award

under such section of which not more than 10 percent may be used by the grantee and 5 percent by the subgrantee for such costs.

“(B) PUBLIC ASSISTANCE.—A grantee under sections 403, 406, 407, and 502, may be reimbursed not more than 10 percent of the total award amount under such sections, of which not more than 6 percent may be used by the grantee and 4 percent by the subgrantee for such costs.”.

**SEC. 308. DEBTS OWED TO THE UNITED STATES RELATED TO DISASTER ASSISTANCE.**

(a) DEFINITION.—In this section, the term “covered assistance” means assistance provided—

(1) under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174); and

(2) in relation to a major disaster or emergency declared by the President under section 401 or 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170; 42 U.S.C. 5191) on or after October 30, 2012.

(b) WAIVER AUTHORITY.—Notwithstanding section 3716(e) of title 31, United States Code, the Administrator of the Federal Emergency Management Agency—

(1) subject to paragraph (2), may waive a debt owed to the United States related to covered assistance provided to an individual or household if—

(A) the covered assistance was distributed based on an error by the Federal Emergency Management Agency;

(B) there was no fault on behalf of the debtor; and

(C) the collection of the debt would be against equity and good conscience; and

(2) may not waive a debt under paragraph (1) if the debt involves fraud, the presentation of a false claim, or misrepresentation by the debtor or any party having an interest in the claim.

(c) MONITORING OF COVERED ASSISTANCE DISTRIBUTED BASED ON ERROR.—

(1) IN GENERAL.—The Inspector General shall monitor the distribution of covered assistance to individuals and households to determine the percentage of such assistance distributed based on an error.

(2) REMOVAL OF WAIVER AUTHORITY BASED ON EXCESSIVE ERROR RATE.—If the Inspector General determines, with respect to any 12-month period, that the amount of covered assistance distributed based on an error by the Federal Emergency Management Agency exceeds 4 percent of the total amount of covered assistance distributed—

(A) the Inspector General shall notify the Administrator and publish the determination in the Federal Register; and

(B) with respect to any major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) after the date of the determination, the authority of the Administrator to waive debt under subsection (b) shall no longer be effective.

**SEC. 309. STATUTE OF LIMITATIONS FOR DEBTS OWED TO THE UNITED STATES RELATED TO DISASTER ASSISTANCE.**

Notwithstanding section 3716(g) of title 31, United States Code, and unless there is evidence of civil or criminal fraud, the Administrator, on behalf of the President, shall not initiate new administrative action in any forum to recover—

(1) payments made to an individual or household under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) more than 3 years after the last date on which such payments were made; or

(2) funds owed by an individual or household for assistance provided under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) more than 3 years after the last date on which such funds were determined to be owed.

**SEC. 310. TECHNICAL ASSISTANCE AND RECOMMENDATIONS.**

(a) TECHNICAL ASSISTANCE.—The Administrator of the Federal Emergency Management Agency shall provide technical assistance to a common interest community that provides essential services of a governmental nature on actions that a common interest community may take in order to be eligible to receive reimbursement from a grantee that receives funds from the Agency for certain activities performed after an event that results in a disaster declaration.

(b) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall provide recommendations to the House Committee on Transportation and Infrastructure and the Senate Committee on Homeland Security and Governmental Affairs on how common areas of condominiums and housing co-

operatives may be eligible for assistance, including any progress the Agency has made in its explorations of this issue and the potential challenges identified since the Agency issued its report on May 22, 2014.

**SEC. 311. LOCAL IMPACT.**

In making recommendations to the President regarding a major disaster declaration, the Administrator shall give greater weight and consideration to severe localized impact. Further, the Administrator shall make corresponding adjustments to the Agency's policies and regulations. Not later than 1 year after the date of enactment of this section, the Administrator shall report to the Committees on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the changes made to regulations and policies and the number of declarations that have been declared based on the new criteria.

**SEC. 312. PROOF OF INSURANCE.**

A State shall be deemed to have proven that an applicant has satisfied the purchase of insurance requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et. seq.) when an encumbrance requiring the purchase and maintenance of insurance has been placed on the title of the property receiving the benefit of the grant or assistance. This section in no way removes or reduces the insurance requirements on an applicant under the Act and in no way limits the requirement that assistance provided under the Stafford Act be reduced or eliminated when the requirements are not met.

## **TITLE IV—WILDFIRE PREVENTION AND MITIGATION**

**SEC. 401. WILDFIRE MITIGATION ASSISTANCE.**

(a) **IN GENERAL.**—Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5187) is amended—

- (1) by redesignating subsection (d) as subsection (e); and
- (2) by inserting after subsection (c) the following:

“(d) **HAZARD MITIGATION ASSISTANCE.**—Whether or not a major disaster is declared, the President may provide hazard mitigation assistance in accordance with section 404 in any area affected by a fire for which assistance was provided under this section.”

(b) **CONFORMING AMENDMENTS.**—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

- (1) in section 404(a) (42 U.S.C. 5170c(a))—
  - (A) by inserting before the first period “, or any area affected by a fire for which assistance was provided under section 420”; and
  - (B) in the third sentence by inserting “or event under section 420” after “major disaster” each place it appears; and
- (2) in section 322(e)(1) (42 U.S.C. 5165(e)(1)), by inserting “or event under section 420” after “major disaster” each place it appears.

(c) **AUTHORITY TO TRANSFER.**—For major disaster relief funds made available to the Disaster Relief Fund for the specified purpose of wildfire suppression activities on Federal lands, the Administrator of the Federal Emergency Management Agency may authorize transfer of these funds to the Department of Interior and the Department of Agriculture.

**SEC. 402. ADDITIONAL ACTIVITIES.**

Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended by adding at the end the following:

“(f) **USE OF ASSISTANCE.**—Recipients of hazard mitigation assistance provided under this section and section 203 may use the assistance to conduct the following activities to help reduce the risk of future damage, hardship, loss, or suffering in any area affected by—

- “(1) a wildfire, including—
  - “(A) reseeding ground cover with quick-growing or native species;
  - “(B) mulching with straw or chipped wood;
  - “(C) constructing straw, rock, or log dams in small tributaries to prevent flooding;
  - “(D) placing logs and other erosion barriers to catch sediment on hill slopes;
  - “(E) installing debris traps to modify road and trail drainage mechanisms;

- “(F) modifying or removing culverts to allow drainage to flow freely;
- “(G) adding drainage dips and constructing emergency spillways to keep roads and bridges from washing out during floods;
- “(H) planting grass to prevent the spread of noxious weeds;
- “(I) installing warning signs;
- “(J) establishing defensible space measures; and
- “(K) reducing hazardous fuels; and
- “(2) earthquake hazards, including—
  - “(A) improvements to regional seismic networks in support of building a capability for earthquake early warning;
  - “(B) improvements to geodetic networks in support of building a capability for earthquake early warning; or
  - “(C) seismometers, GPS receivers, and associated infrastructure in support of building a capability for earthquake early warning.”.

#### PURPOSE OF LEGISLATION

H.R. 1471, as amended, would reauthorize the programs and activities of the Federal Emergency Management Agency (FEMA).

#### BACKGROUND AND NEED FOR LEGISLATION

##### *Federal Emergency Management Agency: history and reauthorization*

FEMA was established in 1979 by Executive Order 12148 by President Jimmy Carter in response to a number of massive disasters in the 1960’s and 1970’s. As a result of states trying to manage these disasters, the National Governors Association and others made a proposal to streamline and cut the number of agencies states were required to work with following a disaster. Prior to the creation of FEMA, the federal government’s emergency response mechanisms were scattered among many agencies throughout government. The creation of FEMA helped to centralize these authorities and the coordination of the federal government’s response to a disaster. The Disaster Relief Act of 1974 (Public Law 93–288), which constituted the statutory authority for most federal disaster response activities, especially of FEMA, was later amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, also known as the Stafford Act (Public Law 100–707). Following more than two decades as an independent agency, the Homeland Security Act of 2002 (Public Law 107–296) created the Department of Homeland Security (DHS), placed FEMA within DHS, and FEMA’s functions were dispersed among various offices and directorates within DHS.

##### *Post-Katrina Emergency Management Reform Act of 2006*

In 2005, Hurricanes Katrina and Rita devastated the Gulf Coast. Following the poor response that occurred, several investigations and congressional hearings took place to examine the preparation for, response to, and later recovery from these hurricanes. In particular, the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina was formed and culminated in the issuance of a report entitled, “*A Failure of Initiative: The Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*” on February 15, 2006.

Not long after the issuance of this report, Congress enacted the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295) (PKEMRA), which gave FEMA clear guidance on its

mission and priorities, and provided it with the authorities and tools needed to become a more effective and efficient agency and a better partner to state, local, territorial, and tribal governments. PKEMRA authorized FEMA for the first time in legislation.

#### *Sandy Recovery Improvement Act of 2013*

On October 29, 2012, Hurricane Sandy made landfall at New Jersey as a “post-tropical cyclone” with hurricane-force winds of up to 80 mph, colliding with a nor’easter and creating “Superstorm Sandy.” The superstorm brought with it storm surges of more than 11 feet, killing more than 100 people, destroying or damaging thousands of homes, and leaving more than eight million people without power.

In the aftermath of Superstorm Sandy, Congress enacted reforms to the disaster recovery process as part of the Sandy Recovery Improvement Act of 2013 (Public Law 113–2) (SRIA). The reforms included in SRIA were based on previous Committee hearings and investigations related to streamlining, speeding up and reducing the costs of rebuilding following major disasters. These reforms had also been incorporated into H.R. 2903, the FEMA Reauthorization Act of 2012, which passed the House on September 19, 2012.

The intent of SRIA, enacted on January 29, 2013, was to speed up and streamline Superstorm Sandy recovery efforts, reduce costs, and improve the effectiveness of several disaster assistance programs authorized by the Stafford Act: the Public Assistance Program, the Individual Assistance Program, and the Hazard Mitigation Grant Program. SRIA grants FEMA greater flexibility to speed up recovery efforts, reduce overall costs of projects, and reduce the administrative burden and costs.

Major reforms in SRIA included: expediting debris removal and public assistance procedures; expediting hazard mitigation funding to ensure mitigation is effectively incorporated in the rebuilding process; establishing a limited dispute resolution pilot program to resolve disputes over assistance more quickly and drive projects to closure and avoid cost overruns; simplifying the review for environmental and historic requirements for rebuilding damaged infrastructure; and providing for disaster declarations for tribal governments.

#### *FEMA Disaster Assistance Reform Act of 2015*

H.R. 1471, the FEMA Disaster Assistance Reform Act of 2015, establishes a comprehensive study to assess disaster costs and develop recommendations for reducing those costs, reauthorizes FEMA’s overall management and administration through fiscal year 2018, and reauthorizes and authorizes other programs important to disaster preparedness, response, recovery and mitigation.

#### *Comprehensive Study for Disaster Costs and Losses*

Disaster costs and losses continue to increase and H.R. 1471 would require a complete assessment of those losses, what is driving those losses, what federal disaster assistance is available to individuals and the public and private sectors, the appropriate roles of each of those parties, and what public policy changes would result in fewer disaster losses and lower disaster costs.

The study will be undertaken through the existing National Advisory Council established by FEMA pursuant to section 508 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 318). The Administrator is required to appoint additional members for the purpose of the study to ensure that the full array of public and private sector stakeholders are involved and contributing. The Committee does not intend for these additional members to become permanent members of the National Advisory Council, but are to participate fully until the completion of the study and recommendations.

FEMA is to be wholly transparent throughout the study by posting data, findings and other materials on their website, to the extent that the data and information does not include private, sensitive or secure information. Periodic updates should be given to the Committee.

#### *Urban Search and Rescue (USAR) System*

Currently, there are 28 FEMA USAR Task Forces located throughout the continental United States that are trained and equipped by FEMA. These teams are comprised of firefighters, engineers, medical professionals, canine/handler teams, and emergency managers with special training in urban search and rescue. These teams serve as a national resource for disaster response and represent partnerships between state fire departments and law enforcement agencies, federal and local governmental entities and private companies.

Typically, the teams are trained to conduct physical search and rescue missions in collapsed buildings, provide emergency medical care to trapped victims, assess and control gas, electric service and hazardous materials, and evaluate and stabilize damaged structures. If a disaster event warrants national USAR support, FEMA will deploy the three closest task forces within six hours of notification and additional teams as necessary. The role of these task forces is to support state and local emergency responders' efforts to locate victims and manage response operations.

#### *Emergency Management Assistance Compact (EMAC)*

EMAC is a national interstate agreement approved by Congress that provides an effective avenue by which states can provide one another mutual aid in the event of a disaster. Through EMAC, a state impacted by a disaster can request and receive assistance from other member states more quickly and efficiently, by addressing concerns with regard to liability and reimbursement.

#### *Statute of Limitations*

H.R. 1471 re-institutes a three year statute of limitations and establishes that this statute shall begin to toll when each project has been concluded. FEMA's existing regulations for "payment of claims" requires that each subgrantee notify the state when all projects have been completed. The Committee understands FEMA does not have a consistent form for how this notification is provided. Therefore, FEMA should accept reasonable notifications submitted to meet this requirement as satisfaction of meeting the requirement to submit an "expenditure report for project completion as certified by the grantee." This can include a final letter indi-

cating completion or other written communication that funds have been expended and the project is complete. The Committee urges FEMA to work closely with grantees to encourage the timely close-out of projects. The Committee also encourages FEMA to develop a uniform process and clear guidance for grantees and subgrantees to meet this requirement.

This legislative change should be applied to any action FEMA has pending against a state, local or tribal government to recover disaster assistance payments where the grantee has not received a final agency determination (e.g., the applicant has not exhausted all administrative remedies and their appeals have not concluded).

#### *Action Plan to Improve Field Transition*

Even after the Hurricane Katrina investigations, multiple Office of Inspector General and General Accountability Office reports, and amended legislative authorities, the Committee continues to hear about challenges with FEMA's disaster workforce. State and local emergency managers raise concerns about frequent turnover, the loss of paperwork, and inconsistent guidance which results in project delays, increased administrative expenses, frustration, and, in the worst-cases, the loss of recovery funds that are ultimately recouped by FEMA.

FEMA has implemented several new technologies for its full-time managers and staff, but it does not appear that the same efforts have been undertaken for field and temporary disaster response personnel. The Committee requires the Administrator to develop an action plan for issuing consistent guidance to applicants, ensuring the maintenance of appropriate records, and easing the administrative burden of obtaining and monitoring assistance from FEMA. FEMA must articulate an action plan for implementing proper operating procedures and document retention requirements in the field to ensure the maintenance of appropriate records throughout the lifecycle of the disaster. Finally, FEMA must identify new technologies that would further aid the disaster workforce in partnering with state, local and tribal governments and private non-profits in the wake of a disaster or emergency.

#### *Simplified Procedures*

In order to lower the cost of administering small repair projects, Congress granted FEMA the authority to expedite assistance based on estimates for certain projects through simplified procedures in the Disaster Mitigation Act of 2000 (P.L. 106-390). FEMA testified on January 27, 2015, that increasing the simplified procedures threshold would result in lower administrative costs, faster project completions, and eliminate federal responsibility for project cost overruns.<sup>1</sup>

The Committee expects that FEMA will continue to report on cost-effectiveness, speed of recovery, capacity of grantees, past performance and accountability measures, as currently required by statute.

<sup>1</sup> Committee on Transportation and Infrastructure. "Rebuilding after the Storm: Lessening Impacts and Speeding Recovery," January 27, 2015.

### *Management Costs*

The Committee expects this change to result in lower federal costs to administer disaster programs. The Committee requests FEMA provide periodic updates as savings are realized.

### *Debts Owed to the United States Related to Disaster Assistance*

In the wake of a Presidential major disaster declaration, FEMA may provide financial assistance to individuals who have necessary expenses and serious needs they are unable to meet by other means through the individual and households program. To date, FEMA has provided \$1.4 billion to Hurricane Sandy disaster survivors. While FEMA has implemented controls to avoid improper payments, errors are made. The current error rate for Hurricane Sandy is two percent.

H.R. 1471 grants the Administrator authority to waive debts incurred as a result of improper payments where there is no evidence of fraud. However, if FEMA's error rate exceeds four percent in a 12-month period, the Administrator will no longer have the discretion to waive the debts and they must be enforced on a disaster by disaster basis. The Committee expects the error rate calculation to be based on the calendar year and that the authority to waive debts to be reinstated once the error rate for that calendar year has been reduced below four percent. H.R. 1471 also institutes a three year statute of limitation ensuring that any collection actions are initiated as quickly as possible.

### *Technical Assistance and Recommendations*

The bill includes language to address long-standing ambiguities in eligibility for FEMA assistance, specifically for housing cooperatives, condominium associations, and community associations. The Stafford Act does not include a definition of condo or co-op. This ambiguity has led to significant confusion about their eligibility for assistance and made it nearly impossible for residents of condos and co-ops to make the common areas of their buildings habitable. Language was included in the fiscal year 2014 Homeland Security Appropriations bill directing FEMA to advise Congress on the eligibility of condos and co-ops for disaster assistance, including recommendations for how Congress could change the statute to make condos and co-ops eligible. In their response, FEMA failed to provide Congress with any concrete recommendations. Their response stated they were "exploring the program implications surrounding Stafford Act changes that would authorize FEMA" to assist condos and co-ops with repairs to common areas and would need to "explore the challenges such a change would likely present." That answer was unresponsive to Congress' question.

H.R. 1471 directs FEMA to update the House and Senate committees on the status of those explorations and the recommendations they have for providing FEMA assistance to condos and co-ops for common areas after a disaster. FEMA's answer should focus on proposed statutory changes to the Stafford Act but also discuss administrative or regulatory changes and guidance or internal recommendations the agency could make to address the gap. This report will continue our discussions with FEMA in a constructive way.

### *Localized Impact*

In recent years, there has been more evidence of devastated small and rural communities not receiving disaster assistance in a fair and equitable manner compared to other, larger communities and neighboring states.

For example, on November 17, 2013, 15 counties in Illinois were hit by the fourth largest November tornado outbreak in the history of the United States. The storm system produced 67 tornadoes throughout the Midwest, 24 of which touched down in Illinois, causing widespread destruction throughout the state. Six fatalities and at least 180 injuries resulted. The damage in neighboring states of Missouri and Kentucky received federal disaster assistance, but Illinois did not.

In another example from the year before, a tornado outbreak hit the Midwest on February 28–29, 2012 causing substantial damage in Indiana, Kentucky, Ohio and Illinois. The most powerful tornado during this outbreak hit Harrisburg, IL which was especially devastated after an EF-4 Tornado killed 8 people and destroyed hundreds of buildings and homes. In this case, FEMA declared Indiana and Kentucky federal disaster areas, while denying disaster assistance for Ohio and Illinois.

FEMA takes into account several factors when determining the recommendation for a major disaster declaration to the President. However, there is currently no standard to determine which factor is more important than another. FEMA is prohibited by law from using a mathematical formula to determine eligibility for a major disaster declaration.

H.R. 1471 directs the Administrator to give greater weight and consideration to severe localized impact in making recommendations to the President for public and individual assistance through a major disaster declaration.

### *Proof of Insurance*

Recipients of FEMA hazard mitigation assistance to mitigate structures are required to obtain and maintain flood insurance to protect the federal investment in that property. Each state is required to show FEMA evidence that the required insurance has been obtained and maintained by the grant recipients. H.R. 1471 allows for the state to use an encumbered title in satisfaction of the required documentation to illustrate that the insurance requirement is being enforced. The title for property receiving the benefit of the hazard mitigation grant must carry a requirement that flood insurance be purchased and maintained in perpetuity.

H.R. 1471 in no way reduces or removes the flood insurance requirement. FEMA will continue to reduce or eliminate future disaster assistance for specific properties that have failed to meet the requirement to purchase and maintain flood insurance.

### *Wildfire Prevention, Suppression and Mitigation*

The Predictive Services of the National Interagency Fire Center predicts many areas of the Nation will experience above normal wildland fire potential in 2015. At the beginning of 2015, the Center noted that some areas of the country remain in states of extreme to exceptional drought. In addition, many areas experienced low snowfall during the winter of 2014–2015. Combining the low

snowpack and extreme drought with the higher than average temperatures predicted for April through June and a likely result is increased wildfires this season.

According to data from federal and state agencies, in 2014 there were 63,212 wildfires that burned approximately 3.6 million acres. In 2013, approximately 47,579 wildfires on state and federal lands burned over 4.3 million acres of land, sixty-eight percent (approximately 2.9 million acres) of which were federal lands. Data indicates that during 1983 to 2014, the number of reported wildfires has remained constant while the number of acres burned has steadily increased.

FEMA's Fire Management Assistance Grant (FMAG) program provides a tool to help states and local governments respond to wildfires and prevent them from becoming major disasters. FMAG provides aid in responding to the fire, but does not fund mitigation or recovery operations. After a fire has been extinguished, the after-effects can still threaten a community. For example, wildfires make communities more vulnerable to flash floods and mudslides caused by rainstorms. State and local jurisdictions can take actions to prevent flooding, mudslides and future wildfires, such as installing erosion and flood barriers, re-seeding burned ground, re-planting trees, and creating defensible space to protect chronically at-risk structures. Unfortunately, states that receive grants from FMAG do not receive increased hazard mitigation assistance to help communities protect themselves from the threat of post-wildfire flooding, mudslides, or future fires. The Committee believes that States should receive hazard mitigation assistance from FEMA when a fire triggers FMAG assistance. The Committee urges FEMA to encourage states receiving increased hazard mitigation assistance, because it received a FMAG, to allocate this assistance to help communities that were affected by the wildfires that were covered by the grant.

In addition, the Committee notes that in many states located in the western part of the Nation, the federal government is often one of the largest landowners. For example, in the State of Oregon forty-eight percent, or thirty million acres, of the State's sixty-three million acres are forest lands. Of the thirty million acres of forest lands, sixty percent are owned by the federal government. The federal government, through the Forest Service at the Department of Agriculture and the Department of the Interior, is responsible for suppressing wildfires on federal lands while states are responsible for fighting fires on state and private lands.

Wildfire suppression on Federal lands is funded through wildfire management accounts at both the Forest Service within the Department of Agriculture and the Department of Interior. For fiscal years 2011 through 2015, the combined amount appropriated by Congress to these two agencies for wildfire management averaged \$3.3 billion per year. These suppression accounts fund activities, such as firefighter salaries, aviation asset operations, incident support functions, temporary emergency firefighters, and aircraft flight operations that help to suppress fires that threaten lives and property. Between fiscal years 2012 to 2014, suppression obligations accounted for 22 percent to 30 percent of the Forest Service's total obligations.

Both agencies use a ten-year suppression average to estimate the amount requested annually. Although the estimates have fallen short in some years, the estimates are used by Congress to determine how much to fund wildfire suppression. When all wildfire suppression funds have been used, both agencies are authorized to transfer funds from other programs and accounts if necessary to continue funding wildfire suppression. Typically, the accounts borrowed from are replenished in the following fiscal year's appropriations act. But the borrowing that occurs when wildfire suppression funds have been depleted impacts the agencies' other programs, as well as affects local governments and tribes. In a 2004 report, GAO noted the negative impact transferring funds from other accounts has on the ability of the agencies to fulfill their other mission as well as on the agencies' relationships with State, local, and tribal governments.

#### *Earthquake Hazard Mitigation*

Over the last five years, there have been at least six catastrophic earthquakes globally. On May 12 and April 25, 2015, just two weeks apart, a 7.3 magnitude earthquake and a 7.8 magnitude earthquake struck Nepal. On March 11, 2011, a 9.0 magnitude earthquake jolted Honshu, Japan. In 2010, there were two powerful earthquakes within a month of each other—the January 12 earthquake in Haiti and the February 27, 8.8 magnitude earthquake in Chile. Combined, these earthquakes caused hundreds of thousands of deaths and injuries and a tremendous amount of property damage. Some caused tsunamis that washed away towns and resulted in damage in other countries. Here in the United States, the most recent devastating earthquakes were over 20 years ago in California: the October 17, 1989, Loma Prieta 6.9 earthquake, which resulted in 63 deaths and thousands of injuries and the January 17, 1994, Northridge 6.7 earthquake, which resulted in 57 deaths, more than 5,000 injured, and an estimated \$20 billion in property damage.

Every state has the potential for earthquakes, and the Geological Survey estimates that “42 of the 50 states have a reasonable chance of experiencing damaging ground shaking from an earthquake in 50 years (the typical lifetime of a building).”<sup>2</sup> Earthquakes pose a national challenge because 75 million Americans live in areas of significant seismic risk. Unlike hurricanes, tornados, and other storms, earthquakes strike without warning and may trigger devastating secondary effects, such as landslides, fires, tsunamis, and nuclear meltdowns. The damage wrought by earthquakes has a significant impact on people, infrastructure, and the economy.

H.R. 1471 clarifies that activities to help reduce the risk of future damage, hardship, loss or suffering in an area affected by earthquake hazards are eligible for hazard mitigation grant program assistance from FEMA. The Committee urges FEMA to encourage states at high risk from earthquake hazards to allocate hazard mitigation assistance to communities to conduct activities to reduce potential earthquake damage and loss. More specifically,

<sup>2</sup> [http://www.usgs.gov/blogs/features/usgs\\_top\\_story/new-insight-on-the-nations-earthquake-hazards/](http://www.usgs.gov/blogs/features/usgs_top_story/new-insight-on-the-nations-earthquake-hazards/)

the Committee clarifies that hazard mitigation assistance may be used to improve regional seismic and geodetic networks in support of building a capability for earthquake early warning, include seismometers, GPS receivers, and associated infrastructure.

*Other issues*

*Fuel Delivery in the Wake of Disasters*

The lack of accessible aviation, diesel and unleaded fuel in the first hours of disasters, such as Hurricane Katrina and Superstorm Sandy, results in delayed response times for first responders and other critical resources. After action reports from each of these incidents identify the lack of uncontaminated mobile fuel as one of the biggest challenges throughout the entire disaster response, yet little has been done to address the issue in a substantive manner.

FEMA's current model of providing bulk fuel to its regions to meet fuel demands during disasters has proved woefully inadequate. To address this shortfall, the 2006 White House Report on "Hurricane Katrina Lessons Learned" specifically stated: "FEMA's pre-positioned supplies proved inadequate to meet these demands throughout the region after landfall." The same report highlighted the consequence: "Emergency responders conducting life-saving operations demanded additional supplies and fuel." The situation during Hurricane Sandy was no better as multiple C-130 aircraft were used to fly fuel supplies into the region when FEMA efforts proved insufficient.

The Committee requests a briefing from FEMA on the policies and procedures enacted, or progress made, to address these critical shortcomings in its preparedness and how it intends to make mobile aviation, diesel and unleaded fuel available during disasters within the first 72-hours and throughout the duration of the response and recovery period. The Committee would also like to hear the specific steps FEMA is taking to develop doctrine that will, among other things, aid in the development of policies and procedures that allow for the effective accountability of mobile fuel distribution assets including real-time tracking and monitoring of fuel levels and distribution rates as well as how contaminated fuel in the affected area can be filtered, transported and distributed within affected areas throughout disaster recovery.

*Office of National Capital Region Coordination*

The Committee finds that unlike other parts of the country, a disaster in the National Capital Region affects not a city or a region, but the Nation itself because the National Capital Region is the seat of the federal government, including the Capitol, the Supreme Court, the White House, the headquarters of its agencies, and many secure facilities and iconic monuments. Even after the terrorist attacks of September 11, 2001, which targeted the National Capital Region, the region has faced several unprecedented emergencies, including the so-called "snowmageddon" in 2010 that shut down the region for days, the earthquake of 2011, Hurricane Sandy, the Navy Yard shooting on September 16, 2013, and other emergencies that have affected the federal government as a whole. These emergencies have also impacted public and private entities in Maryland, the District of Columbia, and Virginia, including resi-

dents and visitors. Major natural disasters and terrorist attacks occurring anywhere in the National Capital Region require a significant coordinated response.

The Committee recognizes that for this reason, Congress, in the wake of 9/11, created the Office of National Capital Region Coordination (ONCRC), now located under FEMA. The ONCRC helps develop and coordinate strategic plans to improve the National Capital Region's ability to prevent, prepare for, respond to, and recover from natural disasters and terrorist attacks. The term "National Capital Region" is defined in section 2674(f)(2) of title 10 of the United States Code as the geographic area located within the boundaries of the District of Columbia; Montgomery and Prince George's Counties in the State of Maryland; Arlington, Fairfax, Loudon, and Prince William Counties and the City of Alexandria in the Commonwealth of Virginia; and all cities and local units of government in these geographic areas.

The Committee is concerned that on July 2, 2013, FEMA announced that it would realign the ONCRC and relocate the office to the FEMA Region 3 office in Philadelphia, PA, hundreds of miles away. Not only was this decision wholly inconsistent with legislative direction provided by Congress, but the proposed realignment was developed without any stakeholder input. The realignment also proposed to reduce ONCRC staff and budget by over 30 percent. This move would weaken this office, which has been under scrutiny for years for failing to meet its mission of assisting emergency management officials in the National Capital Region. For example, a recent GAO report found that the ONCRC failed to assist regional officials in developing performance measures or in identifying funding for preparedness investments.

Congress was so concerned by this proposal that it directed FEMA to cease all realignment activities, assess the office, and develop a plan for meeting the statutory mandate of the ONCRC, as laid out in the Homeland Security Act. The Committee requests FEMA fully inform it of any proposed restructuring before the office is relocated.

#### *Flooding on Agricultural lands*

The Committee understands that some areas of the Wallkill River in New York are subject to frequent and severe flooding, resulting in billions of dollars in damage. Orange County, New York has sought to use hazard mitigation funds, made available through the Disaster Relief Appropriations Act, to mitigate this flood issue. The Committee requests FEMA to determine which funds may be used to assist these communities in their mitigation efforts, including but not limited to the funds available through the Disaster Relief Appropriations Act.

#### *Issues in Indian country*

Disasters that occur in Indian country often involve lands administered by the Department of the Interior (DOI). Many DOI agencies may have resources available that could be used to assist in disaster response and recovery. The Committee has received testimony indicating that better coordination between FEMA and DOI agencies, specifically the Bureau of Indian Affairs, could improve response and immediate recovery operations to future disasters in

Indian country, specifically coordination in acquisition of response and recovery supplies and resources. The Committee encourages FEMA to enter into Memoranda of Agreements or revisit existing protocols with DOI to ensure that appropriate accounting, reimbursement mechanisms, and other issues are in place for Indian tribes to obtain the necessary supplies they may need in future disasters.

The Committee has also received testimony indicating that confusion exists among regional FEMA personnel regarding disaster that occur on tribal lands. Specifically, when FEMA calculates initial damage thresholds to determine whether a disaster declaration should be made or the type of assistance to provide improvements and structures on lands held in trust for Indian tribes are being excluded. The Committee urges FEMA to provide guidance to regional FEMA personnel clarifying that improvements and structures on Indian trust land should be included in calculating all applicable damages thresholds.

#### *Disaster Declarations*

The Committee understands that when the regional administrators of FEMA recommend disapproval of a major disaster declaration request (pursuant to 44 CFR 206.37) the rationale behind such recommendation may not be available to the requesting Governor. The Committee urges FEMA to provide such rationale to the relevant Governor(s) for the purposes of ensuring there is appropriate transparency in the process and an understanding on the part of the Governor in making determinations associated with future disasters.

#### *Guidance to States on Emergency Declaration*

The Stafford Act, as originally drafted and carefully amended to maintain, ensures that FEMA has broad authority and flexibility to assist state, tribal and local governments in the wake of a disaster or emergency, when necessary. In the past year, the Nation has seen multiple scenarios that are poised to challenge the federal government's traditional definitions of disasters and emergencies, as well as the assistance that might be eligible under the Stafford Act programs. The Committee recommends that FEMA develop clear guidance to inform states on how to work with FEMA in these "nontraditional" events and, when necessary, what information should be included in a disaster or emergency request. FEMA should also include in that guidance information on specific assistance that may be available or eligible for reimbursement, as lessons are learned from these responses.

For example, in January 2014, a chemical leaked into the Elk River near Charleston, West Virginia. While the President issued an emergency declaration, it was limited to direct federal assistance. It was clear from the response that this was a unique situation for FEMA. Over time, FEMA has developed its rules, regulations and guidance based on other "traditional" types of incidents requiring emergency declarations, and, as a result FEMA interpreted its rules, regulations and guidance during the Elk River chemical leak in a limited and narrow manner. The Committee recommends FEMA ensure that its rules, regulations, and guidance are interpreted in manner that makes it possible to provide dis-

aster assistance to local governments who are addressing the unique challenges of something like a chemical spill. For example, the State of West Virginia is very concerned that they were unable to obtain reimbursements for the costs to test the water to ensure the safety of local residents. This sort of assistance would likely have been viewed as an eligible, reimbursable expense under other declarations. The unique nature of the Elk River chemical spill should also be viewed by FEMA as a case study in how to respond to future chemical spills nationwide, whether intentional or otherwise.

#### *Report on Disaster Resistant Construction*

The Committee requests FEMA report to the Committee on specific guidance for disaster resistant construction techniques intended to reduce the impact of major disasters or hazards. The report should focus on the methods that can be employed to create disaster resistant communities to reduce loss of life and property and should include a summary of existing guidance and policies, the hazards against which they are intended to mitigate, and, FEMA's process for reviewing and updating its guidance. In addition, the report should make use of existing Building Science Branch guidance and identify any gaps that exist. The Committee further believes it is important to ensure such guidance is readily available to key stakeholders. The Committee requests that the report be made available to all state governments to ensure such guidance can be considered and applied where appropriate.

#### *Pre-Disaster Mitigation*

The Committee continues to support the Pre-Disaster Mitigation (PDM) program to reduce the costs of future disasters. The Congressional Budget Office and the National Institute of Building Sciences concluded in separate studies that mitigation projects significantly reduce disaster losses and future federal disaster spending. Pre-disaster Mitigation grant projects are particularly cost effective because they are selected through a national competitive process. As a result, PDM projects are most likely to result in the largest reductions in federal flood insurance and disaster payments.

#### *Mitigation Policies and Planning*

The Committee remains committed to smart mitigation policies. The Committee expects FEMA to require mitigation plans based on cost-beneficial projects that are established through measurable, reliable, empirical data. The amount of available mitigation funding is significantly less than the number of potential projects and should be directed towards projects with the highest cost benefit rates.

The Committee is concerned about FEMA's recently issued policy, "Limits on Subsurface Uses of Hazard Mitigation Assistance Acquired Lands" (FP 302-405-46-1). This policy limits the ability of owners of repetitive flood loss properties to participate in home buyout programs. Home buyouts have the highest cost to benefit ratio because FEMA's program completely and permanently removes structures from harm's way to eliminate future disaster payments for those properties.

*Disaster Resilient Universities Network*

Colleges and universities are critical to the economic health of their surrounding communities. Often serving as regional if not national hubs for innovation and research, their ability to resume operations quickly following a disaster greatly speeds the recovery of the entire community. In 2000, six schools participated in the FEMA Disaster Resistant Universities pilot initiative. The intent of FEMA's initiative was to support university efforts to reduce and manage vulnerability to hazards. The pilot initiative yielded a grant program and a how-to guide focused on mitigation and risk reduction. The grant program was short-lived—there was only one funding cycle, and fewer than 20 schools received grant funding for campus mitigation planning.

Several institutions of higher education kept the core concept of the Disaster Resilient Universities (DRU) alive. They saw the need for a practical, peer-to-peer network to support emergency management and disaster planning on their campuses. In 2005, the University of Oregon started the Disaster Resilient Universities (DRU) listserv with 35 members. The listserv quickly became the cornerstone of the DRU Network and served as a multidisciplinary, practitioner-based communication resource. The goal was simple: facilitate open communication, discussion, and resource sharing among university and college practitioners charged with making the Nation's campuses more disaster resilient. As of 2015, there are over 1,200 members on the DRU listserv.

The DRU concept has continued to evolve over time. Key to the evolution was the formation of the University and College Caucus (UCC) under the International Association of Emergency Managers. The DRU Network and UCC have developed a number of tools and resources on a peer-to-peer multidisciplinary basis. These include: DRU listserv and repository; Annual University and College Caucus workshop; regional DRU summits; practitioner-based training and course development in partnership with FEMA Emergency Management Institute; standards and resilience crosswalk tool; higher education guidance for the Emergency Management Accreditation Program, and DRU incident tracking system.

Over the past year, the International Association of Emergency Managers—Universities and College Caucus and Disaster Resilient Universities network has been working to develop the first National Intercollegiate Mutual Aid Agreement. The National Intercollegiate Mutual Aid Agreement among colleges and universities will provide a peer-to-peer network for institutions of higher education to coordinate assistance and share resources during emergencies. The Committee recognizes this as a positive step forward to protecting the mission of our nation's universities and colleges and commends the DRU and UCC for advancing disaster resilience on our nation's campuses.

## HEARINGS

The Subcommittee on Economic Development, Public Buildings, and Emergency Management, held the following hearings and roundtable discussions on subjects related to matters contained in H.R. 1471 during the 112th, 113th, and 114th Congresses:

*“Improving the Nation’s Response to Catastrophic Disasters: How to Minimize Costs and Streamline our Emergency Management Programs”* held on March 30, 2011. The purpose of the hearing was to examine preparedness and response as it related to catastrophic disasters in the wake of the earthquake in Japan and how costs could be minimized and the process streamlined.

*“FEMA Reauthorization and Cutting the Red Tape in Recovery”* held on July 14, 2011. The purpose of the hearing was to examine the issues of communities recovering from a disaster in the context of FEMA reauthorization.

*“FEMA Reauthorization: Recovering Quicker and Smarter”* held on September 18, 2013. The purpose of the hearing was to review recovery efforts to Hurricane Sandy, the tornadoes in Oklahoma and other disasters to ensure effective coordination among federal, state, tribal, and local agencies in helping communities to recover in a quicker and smarter way.

*“FEMA Reauthorization: Ensuring the Nation is Prepared”* held on October 2, 2013. The purpose of the hearing was to examine FEMA’s IPAWS and USAR System to evaluate the need for reform legislation in the context of a proposed reauthorization of FEMA.

*“Disaster Mitigation: Reducing Costs and Saving Lives”* held on April 3, 2014. The purpose of the hearing was to review how disaster mitigation programs can save lives, reduce damage to property, and reduce costs at all levels, including costs to communities and individual property owners, and focus on how the federal government can encourage the utilization of these mitigation efforts at the state and local levels.

*“Rebuilding after the Storm: Lessening Impacts and Speeding Recovery”* held on January 27, 2015. The purpose of the hearing was to launch an assessment of the rising costs of disasters, the cost effectiveness of disaster assistance, strategies to reduce disaster losses, and the appropriate roles of government and the private sector, and to consider reforms to save lives through improved alerts and warning systems and search and rescue.

*“What is Driving the Increasing Costs and Rising Losses from Disasters?”* held on March 18, 2015. The purpose of the roundtable was to examine and discuss data related to disaster costs, the trends observed over time, and the projections for the future given the policies in place today.

*“Pacific Northwest Seismic Hazards: Planning and Preparing for the Next Disaster”* held on May 19, 2015. The purpose of the hearing was to assess FEMA’s role in earthquake hazard preparedness, mitigation, response, and recovery, and to examine the efforts of the Pacific Northwest and seismic hazard experts to reduce disaster impacts and build stronger communities.

*“The State of Pennsylvania and FEMA Region III are Leaders in Mitigating Disaster Costs and Losses”* held on May 28, 2015. The purpose of the roundtable was to examine disaster costs and losses, focus on hazards impacting Pennsylvania and the region, and identify best practices for mitigating and avoiding disaster impacts.

*“Federal Disaster Assistance: Roles, Programs and Coordination”* held on June 17, 2015. The purpose of the roundtable was to examine and discuss federal disaster assistance programs, the requirements and effectiveness of those programs, and coordination among various agencies and stakeholders.

## LEGISLATIVE HISTORY AND CONSIDERATION

On March 19, 2015, Subcommittee on Economic Development, Public Buildings, and Emergency Management Chairman Lou Barletta (R-PA) introduced H.R. 1471, a bill to reauthorize the programs and activities of the FEMA, along with Subcommittee Ranking Member André Carson (D-IN), Chairman Bill Shuster (R-PA) and Ranking Member Peter DeFazio (D-OR).

On April 15, 2015, the Committee on Transportation and Infrastructure met in open session to consider H.R. 1471. The Committee considered two amendments—the amendment offered by Jeff Denham (R-CA) was offered and withdrawn. The Committee adopted one amendment by voice vote—a manager’s amendment offered by Subcommittee Chairman Lou Barletta (R-PA). The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 1471, as amended, or ordering the measure reported. A motion to order H.R. 1471, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

## COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1471, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
 Washington, DC, July 9, 2015.

Hon. BILL SHUSTER,  
 Chairman, Committee on Transportation and Infrastructure,  
 House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1471, the FEMA Disaster Assistance Reform Act of 2015.

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

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 1471—FEMA Disaster Assistance Reform Act of 2015*

Summary: H.R. 1471 would authorize appropriations totaling \$3.1 billion for the Federal Emergency Management Agency (FEMA) over the 2016–2018 period, CBO estimates. Those authorizations include about \$2.8 billion for FEMA salaries and expenses. H.R. 1471 also would expand the availability of assistance for mitigating hazards related to wildfires. Based on historical spending patterns, CBO estimates that implementing the legislation would cost about \$3 billion over the 2016–2020 period, assuming appropriation of the necessary amounts.

Enacting this legislation would affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that there would be no net effect on direct spending over the 2016–2025 period. Enacting the bill would not affect revenues.

H.R. 1471 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), by eliminating an existing right to seek compensation for damages and by requiring employers to allow members of the urban search and rescue (US&R) response system to reclaim their jobs upon completing a deployment to a disaster. Based on information from FEMA, CBO estimates that the cost to comply with the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million, respectively, in 2015, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1471 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—					
	2016	2017	2018	2019	2020	2016–2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
FEMA Salaries and Expenses						
Authorization Level .....	947	947	947	0	0	2,841
Estimated Outlays .....	758	947	947	189	0	2,841
US&R Response System						
Authorization Level .....	50	50	50	0	0	150
Estimated Outlays .....	35	50	50	15	0	150
EMAC Grants						
Authorization Level .....	2	2	2	0	0	6

	By fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
Estimated Outlays .....	2	2	2	*	0	6
Offset of Reduced Recoupment						
Estimated Authorization Level .....	12	8	5	0	0	25
Estimated Outlays .....	7	8	7	2	1	25
Wildfire Mitigation						
Estimated Authorization Level .....	6	6	6	6	6	30
Estimated Outlays .....	*	2	3	5	6	16
Total Changes						
Estimated Authorization Level .....	1,017	1,013	1,010	6	6	3,052
Estimated Outlays .....	802	1,009	1,009	212	6	3,038
CHANGES IN DIRECT SPENDING <sup>a</sup>						
Forgone Recoveries of Improper Payments						
Estimated Budget Authority .....	12	8	5	0	0	25
Estimated Outlays .....	12	8	5	0	0	25
Reduced Spending of Forgone Recoveries						
Estimated Budget Authority .....	–12	–8	–5	0	0	–25
Estimated Outlays .....	–7	–8	–7	–2	–1	–25
Net Change						
Estimated Budget Authority .....	0	0	0	0	0	0
Estimated Outlays .....	5	*	–2	–2	–1	0

<sup>a</sup> Enacting the bill would not affect direct spending in years after 2020.

Note: FEMA = Federal Emergency Management Agency; US&R = Urban Search and Rescue; EMAC = Emergency Management Assistance Compact; \* = less than \$500,000.

**Basis of estimate:** For this estimate, CBO assumes that the legislation will be enacted near the end of fiscal year 2015, that the specified and estimated amounts will be appropriated for each year, and that outlays will follow historical patterns for the affected programs.

#### *Changes in spending subject to appropriation*

In total, CBO estimates that implementing the bill would cost about \$3 billion over the 2016–2020 period, assuming appropriation of the authorized and estimated amounts.

**FEMA Salaries and Expenses.** FEMA is the federal government's lead agency in preparing for, protecting against, responding to, and recovering from all hazards, including natural disasters, acts of terrorism, and other man-made disasters. For fiscal year 2015, the Congress appropriated \$899 million for salaries and expenses of the agency. H.R. 1471 would authorize the appropriation of \$947 million for each of fiscal years 2016 through 2018 for those expenses. CBO estimates that total spending for FEMA's salaries and expenses would total about \$2.8 billion over the 2016–2020 period.

**Urban Search and Rescue Response System.** The legislation would authorize the appropriation of \$50 million in each of fiscal years 2016 through 2018 for the US&R Response System. In 2015 \$35 million was appropriated for this system. The US&R Response System consists of multiple task forces that assist local responders in the location, extrication, and initial medical stabilization of victims trapped in confined spaces. The funding authorized for those purposes would be used to staff and train the task forces and to maintain the equipment used in training and responding to a disaster. The bill also would direct FEMA to establish a national network of rescue and response resources and to enter into cooperative agreements with sponsoring agencies to reimburse costs incurred to operate the US&R Response System. CBO estimates that imple-

menting this provision would cost \$150 million over the next five years.

**Emergency Management Assistance Compact (EMAC) Grants.** H.R. 1471 would authorize the appropriation of \$2 million in each of fiscal years 2016 through 2018 for grants to administer and coordinate activities under EMAC; those amounts are similar to the funding provided in recent years. EMAC is an agreement for interstate mutual-aid that enables member states to share resources during a declared disaster and is currently administered by the National Emergency Management Association (NEMA), a private association representing state emergency management directors. CBO estimates that providing grants to NEMA and EMAC participants would cost \$6 million over 2016–2020 period.

**Additional Spending for Forgone Recoveries of Improper Payments.** H.R. 1471 would give FEMA the discretion to waive the repayment of improper payments provided through the Individuals and Households Program (IHP) in cases where the agency was at fault, but not in cases involving fraud or misrepresentation by the recipient. Under the bill, if the estimated rate of improper payments reaches 4 percent of IHP spending, the authority to waive those repayments would expire. The bill also would prevent FEMA from seeking to recoup improper payments provided through IHP after 3 years, unless there is evidence of fraud.

Based on information from FEMA about the rate of improper IHP payments, and amounts that FEMA is expected to recoup (and spend) from amounts appropriated for IHP in previous years, CBO estimates that offsetting receipts and related direct spending would decline by \$25 million over the 2016–2020 period. Because direct spending would decline by an estimated \$25 million over the next 3 years, an increase in appropriations of the same amount would be necessary to cover expected disaster relief payments.

**Wildfire Mitigation.** H.R. 1471 would authorize assistance for hazard mitigation in areas affected by wildfires. Under current law, FEMA may provide hazard mitigation funds to areas where the President has declared a major disaster. Under the bill, FEMA would be authorized to provide funds to areas affected by wildfires, regardless of whether the President has declared a major disaster. Based on information provided by FEMA, CBO estimates that providing additional funds would require about \$6 million annually, and would cost \$16 million over the 2016–2020 period.

#### *Changes in direct spending*

Under current law, FEMA is required to recoup any improper payments made during the course of providing disaster assistance. Improper payments can result from, among other things, duplication of benefits (for example, receipt of two insurance payments for the same damage), processing errors, or fraud. Upon notification from FEMA, recipients of improper payments must repay those amounts in full, set up a payment plan, or request that FEMA waive all or part of the repayment based on their ability to pay. If payment is not received, the Treasury Department assumes responsibility for collecting the debt (along with any applicable interest and fee charges) through federal and state payment deductions, administrative wage garnishment, or referral to a private collection agency. All payments received through the recoupment process are

deposited in FEMA’s Disaster Relief Fund (DRF); those funds are available to spend in response to future disasters without further appropriation.

H.R. 1471 would give FEMA the discretion to waive the repayment of improper payments provided through the Individuals and Households Program (IHP) in cases where the agency was at fault, but not in cases involving fraud or misrepresentation by the recipient. Under the bill, if the estimated rate of improper payments reaches 4 percent of IHP spending, then the authority to waive those repayments would expire. The bill also would prevent FEMA from seeking recoupment of improper payments provided through IHP after 3 years, unless there is evidence of fraud.

Based on information from FEMA about the rate of improper IHP payments, and amounts that FEMA is expected to recoup (and spend) from amounts appropriated for IHP in previous years, CBO estimates that enacting those provisions would reduce offsetting receipts by \$25 million over the 2016–2018 period. Those forgone receipts would be offset by a reduction in direct spending of the same amount; thus, there would be no net effect on direct spending over the 2016–2025 period.

H.R. 1471 also would affect the recoupment of payments from future appropriations for IHP. Based on information provided by FEMA, CBO estimates those amounts would total around \$5 million dollars annually and would be offset over time by equivalent reductions in spending. Recent historical rates of improper payments have averaged almost 2 percent of IHP payments; recent HIP payments, excluding large disasters such as Hurricane Sandy, have averaged about \$230 million a year. Any recouped amounts from improper IHP payments would be contingent on future appropriations, consequently no subsequent reductions in offsetting receipts or direct spending would be attributed to H.R. 1471.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1471 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 15, 2015

	By fiscal year, in millions of dollars—												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015–2020	2015–2025
NET INCREASE OR DECREASE (-) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact ...	0	5	0	-2	-2	-1	0	0	0	0	0	0	0

Intergovernmental and private-sector impact: H.R. 1471 would impose intergovernmental and private-sector mandates as defined in UMRA. CBO estimates that the cost to comply with the mandates by state, local, and tribal governments and the private sector would fall below the annual thresholds established in UMRA for such mandates (\$77 million and \$154 million, respectively, in 2015, adjusted annually for inflation).

Under current law, members of search and rescue task forces have protection from tort liability when participating in federal

preparedness activities. The bill would expand that protection to include training exercises. Such protection would impose a mandate because it would eliminate an existing right to seek compensation for damages. According to FEMA, no claims for damage have been filed regarding a training exercise, nor does the agency expect that any such claims would be filed under current law. Therefore, CBO estimates that the costs, if any, of this mandate would be minimal.

The bill also would require employers to allow task force members who are deployed to a disaster to reclaim their jobs upon completion of their service. According to FEMA, there are currently about 5,500 workers in the system; the duration of deployment is usually less than one month; and in general, most employers currently allow workers to reclaim their positions. Thus, CBO estimates that the cost for public and private-sector employers to comply with the mandate would fall below the annual thresholds.

Estimate prepared by: Federal costs: Martin von Gnechten; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation, as amended, is to reauthorize the programs and activities of FEMA.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill, as amended, includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 1471, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the GAO to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee finds that enacting H.R. 1471, as amended, does not direct the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

## FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

## PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 1471, as amended, does not preempt any state, local, or tribal law.

## ADVISORY COMMITTEE STATEMENT

H.R. 1471, as amended, requires a comprehensive study of disaster costs and losses through the existing National Advisory Council, as established pursuant to section 508 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 318). H.R. 1471, as amended, also codifies an existing advisory committee for the Urban Search and Rescue System within the meaning of section 5(b) of the Federal Advisory Committee Act (FACA) and provides for any costs associated with such committee be provided for from the amounts authorized in the legislation.

## APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

## SECTION-BY-SECTION ANALYSIS OF LEGISLATION

*Section 1: Short title; table of contents*

Section 1 designates the short title as the “FEMA Disaster Assistance Reform Act of 2015.”

## TITLE I—FEMA REAUTHORIZATION

*Section 101: Reauthorization of the Federal Emergency Management Agency (FEMA)*

This section reauthorizes FEMA through Fiscal Year 2018 at \$947 million each year, consistent with current funding levels.

## TITLE II—COMPREHENSIVE STUDY OF DISASTER COSTS AND LOSSES

*Section 201: Comprehensive study of disaster costs and losses*

This section directs the National Advisory Council to undertake a comprehensive study into the trends related to disaster assistance, costs and losses and provide recommendations to reduce the costs related to these events.

## TITLE III—STAFFORD ACT AND OTHER PROGRAMS

*Section 301: Reauthorization of Urban Search and Rescue Response System (USAR)*

This section reauthorizes the USAR Response System at \$50 million through fiscal year 2018. This section also codifies the current USAR Response System in statute and clarifies liabilities and compensation issues related to participants in the System.

This section is intended to codify workers' compensation and tort liability protections for the USAR system. It also provides protections under the Uniformed Services Employment and Reemployment Rights Act (USERRA) and establishes licensing protection.

*Section 302: Reauthorization of Emergency Management Assistance Compact Grants*

This section reauthorizes the Emergency Management Assistance Compacts (EMAC) Grants at \$2 million each year through fiscal year 2018, consistent with current funding levels.

*Section 303: Nonprofit facilities*

This section clarifies existing eligibility of certain facilities for disaster assistance, including towers, antennas, transmitters, translators, and the structures and buildings that house such facilities.

*Section 304: Statute of limitations*

This section reinstates the three-year statute of limitations on FEMA's ability to reclaim funds, based on a change in policy determination, after a state or local government has spent the funds on previously-determined eligible projects and when there is no evidence of fraud, waste or abuse.

*Section 305: Action plan to improve field transition*

This section directs the Administrator to provide a plan for the development of consistent guidance to applicants on FEMA disaster funding, the maintenance of records and transfer of information, relieving administrative burdens, and the implementation of new technology tools during disaster response and recovery operations in the field.

*Section 306: Simplified procedures*

This section raises the Public Assistance small projects threshold to \$1 million.

*Section 307: Management costs*

This section establishes fixed rates to reimburse states and local government for direct and indirect administrative costs incurred to implement disaster recovery projects.

*Section 308: Debts owed to the United States related to disaster assistance*

This section re-establishes the authority to waive the collection of certain debts from individuals where it was clear that the collection of those debts would be against equity and good conscience.

*Section 309: Statute of limitations for debts owed to the United States related to disaster assistance*

This section re-establishes a three-year statute of limitation for the identification and collection of funds from individuals that received disaster assistance, where there is no evidence of fraud, waste, or abuse.

*Section 310: Technical assistance and recommendations*

This section directs the Administrator of FEMA to provide technical assistance to common interest communities on actions the common interest community may take to be eligible for certain disaster assistance. This section also requires the Administrator of FEMA to provide recommendations on how common areas of condominiums and housing cooperatives may be eligible for disaster assistance.

*Section 311: Local impact*

This section directs the Administrator of FEMA to give greater weight and consideration to severe localized impacts when making major disaster declaration recommendations to the President.

*Section 312: Proof of insurance*

This section allows for a State to have met FEMA's proof of insurance requirements for an individual property owner when the title to that property has been encumbered requiring the purchase and maintenance of insurance.

TITLE IV—WILDFIRE PREVENTION AND MITIGATION

*Section 401: Wildfire assistance*

This section authorizes mitigation funds related to fire management assistance.

*Section 402: Additional activities*

This section clarifies the eligibility of certain mitigation activities related to wildfires and earthquakes.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**POST-KATRINA EMERGENCY MANAGEMENT REFORM  
ACT OF 2006**

\* \* \* \* \*

**TITLE VI—NATIONAL EMERGENCY  
MANAGEMENT**

\* \* \* \* \*

## Subtitle C—Comprehensive Preparedness System

\* \* \* \* \*

### CHAPTER 2—ADDITIONAL PREPAREDNESS

#### SEC. 661. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.

[(a) IN GENERAL.—The Administrator may make grants to administer the Emergency Management Assistance Compact consented to by the Joint Resolution entitled “Joint Resolution granting the consent of Congress to the Emergency Management Assistance Compact” (Public Law 104-321; 110 Stat. 3877).

[(b) USES.—A grant under this section shall be used—

[(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane season;

[(2) to administer compact operations on behalf of all member States and territories;

[(3) to continue coordination with the Agency and appropriate Federal agencies;

[(4) to continue coordination with State, local, and tribal government entities and their respective national organizations; and

[(5) to assist State and local governments, emergency response providers, and organizations representing such providers with credentialing emergency response providers and the typing of emergency response resources.

[(c) COORDINATION.—The Administrator shall consult with the Administrator of the Emergency Management Assistance Compact to ensure effective coordination of efforts in responding to requests for assistance.

[(d) AUTHORIZATION.—There is authorized to be appropriated to carry out this section \$4,000,000 for fiscal year 2008. Such sums shall remain available until expended.]

\* \* \* \* \*

## Subtitle G—Authorization of Appropriations

#### SEC. 699. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title and the amendments made by this title for the [administration and operations] *management and administration* of the Agency—

(1) for fiscal year 2008, an amount equal to the amount appropriated for fiscal year 2007 for [administration and operations] *management and administration* of the Agency, multiplied by 1.1;

(2) for fiscal year 2009, an amount equal to the amount described in paragraph (1), multiplied by 1.1[; and]

(3) for fiscal year 2010, an amount equal to the amount described in paragraph (2), multiplied by 1.1[.]; and

(4) for fiscal year 2016, \$946,982,000;  
(5) for fiscal year 2017, \$946,982,000; and  
(6) for fiscal year 2018, \$946,982,000.

\* \* \* \* \*

**ROBERT T. STAFFORD DISASTER RELIEF AND  
EMERGENCY ASSISTANCE ACT**

\* \* \* \* \*

**TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS**

\* \* \* \* \*

**DEFINITIONS**

**SEC. 102. As used in this Act—**

(1) **EMERGENCY.**— “Emergency” means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

(2) **MAJOR DISASTER.**— “Major disaster” means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) “United States” means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) “State” means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(5) “Governor” means the chief executive of any State.

(6) **INDIAN TRIBAL GOVERNMENT.**—The term “Indian tribal government” means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a et seq.).

(7) **INDIVIDUAL WITH A DISABILITY.**—The term “individual with a disability” means an individual with a disability as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).

(8) **LOCAL GOVERNMENT.**—The term “local government” means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or Alaska Native village or organization, that is not an Indian tribal government as defined in paragraph (6); and

(C) a rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State.

(9) “Federal agency” means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(10) PUBLIC FACILITY.— “Public facility” means the following facilities owned by a State or local government:

(A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility.

(B) Any non-Federal-aid street, road, or highway.

(C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes.

(D) Any park.

(11) PRIVATE NONPROFIT FACILITY.—

(A) IN GENERAL.—The term “private nonprofit facility” means private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations, as defined by the President.

【(B) ADDITIONAL FACILITIES.—In addition to the facilities described in subparagraph (A), the term “private nonprofit facility” includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, and facilities that provide health and safety services of a governmental nature), as defined by the President.】

(B) ADDITIONAL FACILITIES.—*In addition to the facilities described in subparagraph (A), the term “private nonprofit facility” includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, public broadcasting facilities, and facilities that pro-*

*vide health and safety services of a governmental nature), as defined by the President.*

(12) CHIEF EXECUTIVE.—The term “Chief Executive” means the person who is the Chief, Chairman, Governor, President, or similar executive official of an Indian tribal government.

\* \* \* \* \*

## TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINIS- TRATION

\* \* \* \* \*

### SEC. 322. MITIGATION PLANNING.

(a) REQUIREMENT OF MITIGATION PLAN.—As a condition of receipt of an increased Federal share for hazard mitigation measures under subsection (e), a State, local, or tribal government shall develop and submit for approval to the President a mitigation plan that outlines processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.

(b) LOCAL AND TRIBAL PLANS.—Each mitigation plan developed by a local or tribal government shall—

- (1) describe actions to mitigate hazards, risks, and vulnerabilities identified under the plan; and
- (2) establish a strategy to implement those actions.

(c) STATE PLANS.—The State process of development of a mitigation plan under this section shall—

- (1) identify the natural hazards, risks, and vulnerabilities of areas in the State;
- (2) support development of local mitigation plans;
- (3) provide for technical assistance to local and tribal governments for mitigation planning; and
- (4) identify and prioritize mitigation actions that the State will support, as resources become available.

(d) FUNDING.—

(1) IN GENERAL.—Federal contributions under section 404 may be used to fund the development and updating of mitigation plans under this section.

(2) MAXIMUM FEDERAL CONTRIBUTION.—With respect to any mitigation plan, a State, local, or tribal government may use an amount of Federal contributions under section 404 not to exceed 7 percent of the amount of such contributions available to the government as of a date determined by the government.

(e) INCREASED FEDERAL SHARE FOR HAZARD MITIGATION MEASURES.—

(1) IN GENERAL.—If, at the time of the declaration of a major disaster *or event under section 420*, a State has in effect an approved mitigation plan under this section, the President may increase to 20 percent, with respect to the major disaster *or event under section 420*, the maximum percentage specified in the last sentence of section 404(a).

(2) FACTORS FOR CONSIDERATION.—In determining whether to increase the maximum percentage under paragraph (1), the President shall consider whether the State has established—

(A) eligibility criteria for property acquisition and other types of mitigation measures;

(B) requirements for cost effectiveness that are related to the eligibility criteria;

(C) a system of priorities that is related to the eligibility criteria; and

(D) a process by which an assessment of the effectiveness of a mitigation action may be carried out after the mitigation action is complete.

\* \* \* \* \*

**SEC. 324. MANAGEMENT COSTS.**

(a) DEFINITION OF MANAGEMENT COST.—In this section, the term “management cost” includes any indirect cost, [any administrative expense, and any other expense not directly chargeable to] *direct administrative cost, and any other administrative expense associated with a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.*

(b) ESTABLISHMENT OF MANAGEMENT COST RATES.—[Notwithstanding]

(1) *IN GENERAL.*—*Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall by regulation [establish] implement the following: management cost rates, for grantees and subgrantees, that shall be used to determine contributions under this Act for management costs.*

(2) *SPECIFIC MANAGEMENT COSTS.*—*The Administrator shall provide the following percentage rates, in addition to the eligible project costs, to cover direct and indirect costs of administering the following programs:*

(A) *HAZARD MITIGATION.*—*A grantee under section 404 may be reimbursed not more than 15 percent of the total amount of the grant award under such section of which not more than 10 percent may be used by the grantee and 5 percent by the subgrantee for such costs.*

(B) *PUBLIC ASSISTANCE.*—*A grantee under sections 403, 406, 407, and 502, may be reimbursed not more than 10 percent of the total award amount under such sections, of which not more than 6 percent may be used by the grantee and 4 percent by the subgrantee for such costs.*

(c) REVIEW.—The President shall review the management cost rates established under subsection (b) not later than 3 years after the date of establishment of the rates and periodically thereafter.

\* \* \* \* \*

**SEC. 327. NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM.**

(a) DEFINITIONS.—*In this section, the following definitions apply:*

(1) *ADMINISTRATOR.*—*The term “Administrator” means the Administrator of the Federal Emergency Management Agency.*

(2) *AGENCY.*—*The term “Agency” means the Federal Emergency Management Agency.*

(3) *HAZARD.*—The term “hazard” has the meaning given that term by section 602.

(4) *NONEMPLOYEE SYSTEM MEMBER.*—The term “nonemployee System member” means a System member not employed by a sponsoring agency or participating agency.

(5) *PARTICIPATING AGENCY.*—The term “participating agency” means a State or local government, nonprofit organization, or private organization that has executed an agreement with a sponsoring agency to participate in the System.

(6) *SPONSORING AGENCY.*—The term “sponsoring agency” means a State or local government that is the sponsor of a task force designated by the Administrator to participate in the System.

(7) *SYSTEM.*—The term “System” means the National Urban Search and Rescue Response System to be administered under this section.

(8) *SYSTEM MEMBER.*—The term “System member” means an individual who is not a full-time employee of the Federal Government and who serves on a task force or on a System management or other technical team.

(9) *TASK FORCE.*—The term “task force” means an urban search and rescue team designated by the Administrator to participate in the System.

(b) *GENERAL AUTHORITY.*—Subject to the requirements of this section, the Administrator shall continue to administer the emergency response system known as the National Urban Search and Rescue Response System.

(c) *FUNCTIONS.*—In administering the System, the Administrator shall provide for a national network of standardized search and rescue resources to assist States and local governments in responding to hazards.

(d) *TASK FORCES.*—

(1) *DESIGNATION.*—The Administrator shall designate task forces to participate in the System. The Administration shall determine the criteria for such participation.

(2) *SPONSORING AGENCIES.*—Each task force shall have a sponsoring agency. The Administrator shall enter into an agreement with the sponsoring agency with respect to the participation of each task force in the System.

(3) *COMPOSITION.*—

(A) *PARTICIPATING AGENCIES.*—A task force may include, at the discretion of the sponsoring agency, one or more participating agencies. The sponsoring agency shall enter into an agreement with each participating agency with respect to the participation of the participating agency on the task force.

(B) *OTHER INDIVIDUALS.*—A task force may also include, at the discretion of the sponsoring agency, other individuals not otherwise associated with the sponsoring agency or a participating agency. The sponsoring agency of a task force may enter into a separate agreement with each such individual with respect to the participation of the individual on the task force.

(e) *MANAGEMENT AND TECHNICAL TEAMS.*—The Administrator shall maintain such management teams and other technical teams

as the Administrator determines are necessary to administer the System.

(f) **APPOINTMENT OF SYSTEM MEMBERS INTO FEDERAL SERVICE.**—

(1) **IN GENERAL.**—The Administrator may appoint a System member into Federal service for a period of service to provide for the participation of the System member in exercises, preincident staging, major disaster and emergency response activities, and training events sponsored or sanctioned by the Administrator.

(2) **NONAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The Administrator may make appointments under paragraph (1) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(3) **RELATIONSHIP TO OTHER AUTHORITIES.**—The authority of the Administrator to make appointments under this subsection shall not affect any other authority of the Administrator under this Act.

(4) **LIMITATION.**—A System member who is appointed into Federal service under paragraph (1) shall not be considered an employee of the United States for purposes other than those specifically set forth in this section.

(g) **COMPENSATION.**—

(1) **PAY OF SYSTEM MEMBERS.**—Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force—

(A) to reimburse each employer of a System member on the task force for compensation paid by the employer to the System member for any period during which the System member is appointed into Federal service under subsection (f)(1); and

(B) to make payments directly to a nonemployee System member on the task force for any period during which the non-employee System member is appointed into Federal service under subsection (f)(1).

(2) **REIMBURSEMENT FOR EMPLOYEES FILLING POSITIONS OF SYSTEM MEMBERS.**—

(A) **IN GENERAL.**—Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force to reimburse each employer of a System member on the task force for compensation paid by the employer to an employee filling a position normally filled by the System member for any period during which the System member is appointed into Federal service under subsection (f)(1).

(B) **LIMITATION.**—Costs incurred by an employer shall be eligible for reimbursement under subparagraph (A) only to the extent that the costs are in excess of the costs that would have been incurred by the employer had the System member not been appointed into Federal service under subsection (f)(1).

(3) **METHOD OF PAYMENT.**—A System member shall not be entitled to pay directly from the Agency for a period during which the System member is appointed into Federal service under subsection (f)(1).

*(h) PERSONAL INJURY, ILLNESS, DISABILITY, OR DEATH.—*

*(1) IN GENERAL.—A System member who is appointed into Federal service under subsection (f)(1) and who suffers personal injury, illness, disability, or death as a result of a personal injury sustained while acting in the scope of such appointment shall, for the purposes of subchapter I of chapter 81 of title 5, United States Code, be treated as though the member were an employee (as defined by section 8101 of that title) who had sustained the injury in the performance of duty.*

*(2) ELECTION OF BENEFITS.—*

*(A) IN GENERAL.—If a System member (or, in the case of the death of the System member, the System member's dependent) is entitled—*

*(i) under paragraph (1) to receive benefits under subchapter I of chapter 81 of title 5, United States Code, by reason of personal injury, illness, disability, or death, and*

*(ii) to receive benefits from a State or local government by reason of the same personal injury, illness, disability, or death,*

*the System member or dependent shall elect to receive either the benefits referred to in clause (i) or (ii).*

*(B) DEADLINE.—A System member or dependent shall make an election of benefits under subparagraph (A) not later than 1 year after the date of the personal injury, illness, disability, or death that is the reason for the benefits or until such later date as the Secretary of Labor may allow for reasonable cause shown.*

*(C) EFFECT OF ELECTION.—An election of benefits made under this paragraph is irrevocable unless otherwise provided by law.*

*(3) REIMBURSEMENT FOR STATE OR LOCAL BENEFITS.—Subject to such terms and conditions as the Administrator may impose by regulation, in the event that a System member or dependent elects benefits from a State or local government under paragraph (2)(A), the Administrator shall reimburse the State or local government for the value of those benefits.*

*(i) CERTAIN BENEFITS.—In the case of a death or disability, a System member (or in the case of the death of the System member, the System member's dependent) shall be able to apply for the Public Safety Officers' Benefits program (as described in subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. chapter 46, subchapter XII) if the System member meets the requirements of a "public safety officer" as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).*

*(j) LIABILITY.—A System member appointed into Federal service under subsection (f)(1), while acting within the scope of the appointment, is deemed an employee of the Federal Government under section 1346(b) of title 28, United States Code, and chapter 171 of that title, relating to tort claims procedure.*

*(k) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—With respect to a System member who is not a regular full-time employee of a sponsoring agency or participating agency, the following terms and conditions apply:*

(1) *SERVICE.*—Service as a System member is deemed “service in the uniformed services” for purposes of chapter 43 of title 38, United States Code, relating to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in such chapter.

(2) *PRECLUSION.*—Preclusion of giving notice of service by necessity of appointment under this section is deemed preclusion by “military necessity” for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Administrator and shall not be subject to judicial review.

(l) *LICENSES AND PERMITS.*—If a System member holds a valid license, certificate, or other permit issued by any State or other governmental jurisdiction evidencing the member’s qualifications in any professional, mechanical, or other skill or type of assistance required by the System, the System member is deemed to be performing a Federal activity when rendering aid involving such skill or assistance during a period of appointment into Federal service under subsection (f)(1).

(m) *ADVISORY COMMITTEE.*—

(1) *IN GENERAL.*—The Administrator shall establish and maintain an advisory committee to provide expert recommendations to the Administrator in order to assist the Administrator in administering the System.

(2) *COMPOSITION.*—The advisory committee shall be composed of members from geographically diverse areas, and shall include—

(A) the chief officer or senior executive from at least three sponsoring agencies;

(B) the senior emergency manager from at least two States that include sponsoring agencies; and

(C) at least one representative recommended by the leaders of the task forces.

(3) *INAPPLICABILITY OF TERMINATION REQUIREMENT.*—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee under this subsection.

(n) *PREPAREDNESS COOPERATIVE AGREEMENTS.*—

(1) *IN GENERAL.*—Subject to the availability of appropriations for such purpose, the Administrator shall enter into an annual preparedness cooperative agreement with each sponsoring agency. Amounts made available to a sponsoring agency under such a preparedness cooperative agreement shall be for the following purposes:

(A) Training and exercises, including training and exercises with other Federal, State, and local government response entities.

(B) Acquisition and maintenance of equipment, including interoperable communications and personal protective equipment.

(C) Medical monitoring required for responder safety and health in anticipation of and following a major disaster,

*emergency, or other hazard, as determined by the Administrator.*

(2) *AVAILABILITY OF APPROPRIATIONS.—Notwithstanding section 1552(b) of title 31, United States Code, amounts made available for cooperative agreements under this subsection that are not expended shall be deposited in an agency account and shall remain available for such agreements without fiscal year limitation.*

(o) *RESPONSE COOPERATIVE AGREEMENTS.—The Administrator shall enter into a response cooperative agreement with each sponsoring agency, as appropriate, under which the Administrator agrees to reimburse the sponsoring agency for costs incurred by the sponsoring agency in responding to a major disaster or emergency.*

(p) *OBLIGATIONS.—The Administrator may incur all necessary obligations consistent with this section in order to ensure the effectiveness of the System.*

(q) *AUTHORIZATION OF APPROPRIATIONS.—*

(1) *IN GENERAL.—There is authorized to be appropriated to carry out the System and the provisions of this section \$50,000,000 for each of fiscal years 2016, 2017, and 2018.*

(2) *ADMINISTRATIVE EXPENSES.—The Administrator may use not to exceed 6 percent of the funds appropriated for a fiscal year pursuant to paragraph (1) for salaries, expenses, and other administrative costs incurred by the Administrator in carrying out this section.*

## TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS

\* \* \* \* \*

### SEC. 404. HAZARD MITIGATION.

(a) *IN GENERAL.—The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster, or any area affected by a fire for which assistance was provided under section 420. Such measures shall be identified following the evaluation of natural hazards under section 322 and shall be subject to approval by the President. Subject to section 322, the total of contributions under this section for a major disaster or event under section 420 shall not exceed 15 percent for amounts not more than \$2,000,000,000, 10 percent for amounts of more than \$2,000,000,000 and not more than \$10,000,000,000, and 7.5 percent on amounts of more than \$10,000,000,000 and not more than \$35,333,000,000 of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster or event under section 420.*

(b) *PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.—*

(1) *GENERAL AUTHORITY.—In providing hazard mitigation assistance under this section in connection with flooding, the Administrator of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).*

(2) TERMS AND CONDITIONS.—An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

(A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and

(B) on or after the date of enactment of this subsection, the applicant for the assistance enters into an agreement with the Administrator that provides assurances that—

(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

(I) a public facility that is open on all sides and functionally related to a designated open space;

(II) a rest room; or

(III) a structure that the Administrator approves in writing before the commencement of the construction of the structure; and

(iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program—

(I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

(II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before the date of enactment of this subsection.

(c) PROGRAM ADMINISTRATION BY STATES.—

(1) IN GENERAL.—A State desiring to administer the hazard mitigation grant program established by this section with respect to hazard mitigation assistance in the State may submit to the President an application for the delegation of the authority to administer the program.

(2) CRITERIA.—The President, in consultation and coordination with States and local governments, shall establish criteria for the approval of applications submitted under paragraph (1). Until such time as the Administrator promulgates regulations to implement this paragraph, the Administrator may waive notice and comment rulemaking, if the Administrator determines doing so is necessary to expeditiously implement this section, and may carry out this section as a pilot program. The criteria shall include, at a minimum—

- (A) the demonstrated ability of the State to manage the grant program under this section;
  - (B) there being in effect an approved mitigation plan under section 322; and
  - (C) a demonstrated commitment to mitigation activities.
- (3) APPROVAL.—The President shall approve an application submitted under paragraph (1) that meets the criteria established under paragraph (2).
- (4) WITHDRAWAL OF APPROVAL.—If, after approving an application of a State submitted under paragraph (1), the President determines that the State is not administering the hazard mitigation grant program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.
- (5) AUDITS.—The President shall provide for periodic audits of the hazard mitigation grant programs administered by States under this subsection.
- (d) STREAMLINED PROCEDURES.—
- (1) IN GENERAL.—For the purpose of providing assistance under this section, the President shall ensure that—
    - (A) adequate resources are devoted to ensure that applicable environmental reviews under the National Environmental Policy Act of 1969 and historic preservation reviews under the National Historic Preservation Act are completed on an expeditious basis; and
    - (B) the shortest existing applicable process under the National Environmental Policy Act of 1969 and the National Historic Preservation Act is utilized.
  - (2) AUTHORITY FOR OTHER EXPEDITED PROCEDURES.—The President may utilize expedited procedures in addition to those required under paragraph (1) for the purpose of providing assistance under this section, such as procedures under the Prototype Programmatic Agreement of the Federal Emergency Management Agency, for the consideration of multiple structures as a group and for an analysis of the cost-effectiveness and fulfillment of cost-share requirements for proposed hazard mitigation measures.
- (e) ADVANCE ASSISTANCE.—The President may provide not more than 25 percent of the amount of the estimated cost of hazard mitigation measures to a State grantee eligible for a grant under this section before eligible costs are incurred.
- (f) USE OF ASSISTANCE.—*Recipients of hazard mitigation assistance provided under this section and section 203 may use the assistance to conduct the following activities to help reduce the risk of future damage, hardship, loss, or suffering in any area affected by—*
- (1) *a wildfire, including—*
    - (A) *reseeding ground cover with quick-growing or native species;*
    - (B) *mulching with straw or chipped wood;*
    - (C) *constructing straw, rock, or log dams in small tributaries to prevent flooding;*
    - (D) *placing logs and other erosion barriers to catch sediment on hill slopes;*
    - (E) *installing debris traps to modify road and trail drainage mechanisms;*

- (F) *modifying or removing culverts to allow drainage to flow freely;*
- (G) *adding drainage dips and constructing emergency spillways to keep roads and bridges from washing out during floods;*
- (H) *planting grass to prevent the spread of noxious weeds;*
- (I) *installing warning signs;*
- (J) *establishing defensible space measures; and*
- (K) *reducing hazardous fuels; and*
- (2) *earthquake hazards, including—*
  - (A) *improvements to regional seismic networks in support of building a capability for earthquake early warning;*
  - (B) *improvements to geodetic networks in support of building a capability for earthquake early warning; or*
  - (C) *seismometers, GPS receivers, and associated infrastructure in support of building a capability for earthquake early warning.*

\* \* \* \* \*

**SEC. 406. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.**

(a) CONTRIBUTIONS.—

(1) IN GENERAL.—The President may make contributions—

(A) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government; and

(B) subject to paragraph (3), to a person that owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for associated expenses incurred by the person.

(2) ASSOCIATED EXPENSES.—For the purposes of this section, associated expenses shall include—

(A) the costs of mobilizing and employing the National Guard for performance of eligible work;

(B) the costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging; and

(C) base and overtime wages for the employees and extra hires of a State, local government, or person described in paragraph (1) that perform eligible work, plus fringe benefits on such wages to the extent that such benefits were being paid before the major disaster.

(3) CONDITIONS FOR ASSISTANCE TO PRIVATE NONPROFIT FACILITIES.—

(A) IN GENERAL.—The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if—

- (i) the facility provides critical services (as defined by the President) in the event of a major disaster; or
- (ii) the owner or operator of the facility—

(I) has applied for a disaster loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)); and

(II)(aa) has been determined to be ineligible for such a loan; or

(bb) has obtained such a loan in the maximum amount for which the Small Business Administration determines the facility is eligible.

(B) DEFINITION OF CRITICAL SERVICES.—In this paragraph, the term “critical services” includes power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, **[communications,]** *communications (including public broadcasting)*, education, and emergency medical care.

(4) NOTIFICATION TO CONGRESS.—Before making any contribution under this section in an amount greater than \$20,000,000, the President shall notify—

(A) the Committee on Environment and Public Works of the Senate;

(B) the Committee on Transportation and Infrastructure of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(b) FEDERAL SHARE.—

(1) MINIMUM FEDERAL SHARE.—Except as provided in paragraph (2), the Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.

(2) REDUCED FEDERAL SHARE.—The President shall promulgate regulations to reduce the Federal share of assistance under this section to not less than 25 percent in the case of the repair, restoration, reconstruction, or replacement of any eligible public facility or private nonprofit facility following an event associated with a major disaster—

(A) that has been damaged, on more than one occasion within the preceding 10-year period, by the same type of event; and

(B) the owner of which has failed to implement appropriate mitigation measures to address the hazard that caused the damage to the facility.

(c) LARGE IN-LIEU CONTRIBUTIONS.—

(1) FOR PUBLIC FACILITIES.—

(A) IN GENERAL.—In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) USE OF FUNDS.—Funds contributed to a State or local government under this paragraph may be used—

- (i) to repair, restore, or expand other selected public facilities;
- (ii) to construct new facilities; or
- (iii) to fund hazard mitigation measures that the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

(C) LIMITATIONS.—Funds made available to a State or local government under this paragraph may not be used for—

- (i) any public facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or
- (ii) any uninsured public facility located in a special flood hazard area identified by the Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(2) FOR PRIVATE NONPROFIT FACILITIES.—

(A) IN GENERAL.—In any case in which a person that owns or operates a private nonprofit facility determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing the facility, the person may elect to receive, in lieu of a contribution under subsection (a)(1)(B), a contribution in an amount equal to 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) USE OF FUNDS.—Funds contributed to a person under this paragraph may be used—

- (i) to repair, restore, or expand other selected private nonprofit facilities owned or operated by the person;
- (ii) to construct new private nonprofit facilities to be owned or operated by the person; or
- (iii) to fund hazard mitigation measures that the person determines to be necessary to meet a need for the person's services and functions in the area affected by the major disaster.

(C) LIMITATIONS.—Funds made available to a person under this paragraph may not be used for—

- (i) any private nonprofit facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or
- (ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(d) FLOOD INSURANCE.—

(1) REDUCTION OF FEDERAL ASSISTANCE.—If a public facility or private nonprofit facility located in a special flood hazard

area identified for more than 1 year by the Administrator pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

(2) AMOUNT OF REDUCTION.—The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of—

(A) the value of such facility on the date of the flood damage or destruction, or

(B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.

(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to a private nonprofit facility which is not covered by flood insurance solely because of the local government's failure to participate in the flood insurance program established by the National Flood Insurance Act.

(4) DISSEMINATION OF INFORMATION.—The President shall disseminate information regarding the reduction in Federal assistance provided for by this subsection to State and local governments and the owners and operators of private nonprofit facilities who may be affected by such a reduction.

(e) ELIGIBLE COST.—

(1) DETERMINATION.—

(A) IN GENERAL.—For the purposes of this section, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility—

(i) on the basis of the design of the facility as the facility existed immediately before the major disaster; and

(ii) in conformity with codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) applicable at the time at which the disaster occurred.

(B) COST ESTIMATION PROCEDURES.—

(i) IN GENERAL.—Subject to paragraph (2), the President shall use the cost estimation procedures established under paragraph (3) to determine the eligible cost under this subsection.

(ii) APPLICABILITY.—The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 422.

(2) MODIFICATION OF ELIGIBLE COST.—

(A) ACTUAL COST GREATER THAN CEILING PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is greater than the ceiling percentage established under paragraph (3) of the cost estimated under paragraph (1), the President may determine that the eligible cost includes a portion of the actual cost of the repair, restoration, reconstruction, or replacement that exceeds the cost estimated under paragraph (1).

(B) ACTUAL COST LESS THAN ESTIMATED COST.—

(i) GREATER THAN OR EQUAL TO FLOOR PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than 100 percent of the cost estimated under paragraph (1), but is greater than or equal to the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving funds under this section shall use the excess funds to carry out cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster.

(ii) LESS THAN FLOOR PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving assistance under this section shall reimburse the President in the amount of the difference.

(C) NO EFFECT ON APPEALS PROCESS.—Nothing in this paragraph affects any right of appeal under section 423.

(3) EXPERT PANEL.—

(A) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this paragraph, the President, acting through the Administrator of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

(B) DUTIES.—The expert panel shall develop recommendations concerning—

(i) procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices; and

(ii) the ceiling and floor percentages referred to in paragraph (2).

(C) REGULATIONS.—Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations that establish—

(i) cost estimation procedures described in subparagraph (B)(i); and

(ii) the ceiling and floor percentages referred to in paragraph (2).

(D) REVIEW BY PRESIDENT.—Not later than 2 years after the date of promulgation of regulations under subparagraph (C) and periodically thereafter, the President shall review the cost estimation procedures and the ceiling and floor percentages established under this paragraph.

(E) REPORT TO CONGRESS.—Not later than 1 year after the date of promulgation of regulations under subparagraph (C), 3 years after that date, and at the end of each 2-year period thereafter, the expert panel shall submit to Congress a report on the appropriateness of the cost estimation procedures.

(4) SPECIAL RULE.—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only those costs that, under the contract for the construction, are the owner's responsibility and not the contractor's responsibility.

\* \* \* \* \*

**SEC. 420. FIRE MANAGEMENT ASSISTANCE.**

(a) IN GENERAL.—The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.

(b) COORDINATION WITH STATE AND TRIBAL DEPARTMENTS OF FORESTRY.—In providing assistance under this section, the President shall coordinate with State and tribal departments of forestry.

(c) ESSENTIAL ASSISTANCE.—In providing assistance under this section, the President may use the authority provided under section 403.

(d) HAZARD MITIGATION ASSISTANCE.—*Whether or not a major disaster is declared, the President may provide hazard mitigation assistance in accordance with section 404 in any area affected by a fire for which assistance was provided under this section.*

[(d)] (e) RULES AND REGULATIONS.—The President shall prescribe such rules and regulations as are necessary to carry out this section.

\* \* \* \* \*

**SEC. 422. SIMPLIFIED PROCEDURE.**

(a) IN GENERAL.—If the Federal estimate of the cost of—

- (1) repairing, restoring, reconstructing, or replacing under section 406 any damaged or destroyed public facility or private nonprofit facility,
- (2) emergency assistance under section 403 or 502, or
- (3) debris removed under section 407,

is less than **[\$35,000]** *\$1,000,000* (or, if the Administrator has established a threshold under subsection (b), the amount established under subsection (b)), the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 403, 406, 407, or 502, as the case may be, on the basis of such Federal estimate. **[Such**

\$35,000 amount or, if applicable, the amount established under subsection (b), shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.]

(b) THRESHOLD.—

(1) REPORT.—Not later than 1 year after the date of enactment of this subsection, the President, acting through the Administrator of the Federal Emergency Management Agency (in this section referred to as the “Administrator”), shall—

(A) complete an analysis to determine whether an increase in the threshold for eligibility under subsection (a) is appropriate, which shall include consideration of cost-effectiveness, speed of recovery, capacity of grantees, past performance, and accountability measures; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the analysis conducted under subparagraph (A).

(2) AMOUNT.—After the Administrator submits the report required under paragraph (1), the President shall direct the Administrator to—

(A) immediately establish a threshold for eligibility under this section in an appropriate amount, without regard to chapter 5 of title 5, United States Code; and

(B) adjust the threshold annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor.

(3) REVIEW.—Not later than 3 years after the date on which the Administrator establishes a threshold under paragraph (2), and every 3 years thereafter, the President, acting through the Administrator, shall review the threshold for eligibility under this section.

\* \* \* \* \*

**TITLE VI—EMERGENCY PREPAREDNESS**

\* \* \* \* \*

**Subtitle A—Powers and Duties**

\* \* \* \* \*

**SEC. 617. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.**

(a) *IN GENERAL.*—The Administrator of the Federal Emergency Management Agency may make grants to provide for implementation of the Emergency Management Assistance Compact consented to by Congress in the joint resolution entitled “Joint resolution granting the consent of Congress to the Emergency Management Assistance Compact” (Public Law 104–321; 110 Stat. 3877).

(b) *ELIGIBLE GRANT RECIPIENTS.*—States and the Administrator of the Emergency Management Assistance Compact shall be eligible to receive grants under subsection (a).

(c) *USE OF FUNDS.*—A grant received under this section shall be used—

(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane seasons;

(2) to administer compact operations on behalf of States, as such term is defined in the compact, that have enacted the compact;

(3) to continue coordination with the Federal Emergency Management Agency and appropriate Federal agencies;

(4) to continue coordination with States and local governments and their respective national organizations; and

(5) to assist State and local governments, emergency response providers, and organizations representing such providers with credentialing the providers and the typing of emergency response resources.

(d) *COORDINATION.*—The Administrator of the Federal Emergency Management Agency shall consult with the Administrator of the Emergency Management Assistance Compact to ensure effective coordination of efforts in responding to requests for assistance.

(e) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this section \$2,000,000 for each of the fiscal years 2016, 2017, and 2018. Such sums shall remain available until expended.

\* \* \* \* \*

## TITLE VII—MISCELLANEOUS

\* \* \* \* \*

### SEC. 705. DISASTER GRANT CLOSEOUT PROCEDURES.

(a) *STATUTE OF LIMITATIONS.*—

(1) *IN GENERAL.*—**[Except]** *Notwithstanding section 3716(e) of title 31, United States Code, and except as provided in paragraph (2), no administrative action to recover any payment made to a State or local government for disaster or emergency assistance under this Act shall be initiated in any forum after the date that is 3 years after the date of transmission of the final expenditure [report for the disaster or emergency] report for project completion as certified by the grantee.*

(2) *FRAUD EXCEPTION.*—The limitation under paragraph (1) shall apply unless there is evidence of civil or criminal fraud.

(b) *REBUTTAL OF PRESUMPTION OF RECORD MAINTENANCE.*—

(1) *IN GENERAL.*—In any dispute arising under this section after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency, there shall be a presumption that accounting records were maintained that adequately identify the source and application of funds provided for financially assisted activities.

(2) *AFFIRMATIVE EVIDENCE.*—The presumption described in paragraph (1) may be rebutted only on production of affirmative evidence that the State or local government did not maintain documentation described in that paragraph.

(3) *INABILITY TO PRODUCE DOCUMENTATION.*—The inability of the Federal, State, or local government to produce source documentation supporting expenditure reports later than 3 years

after the date of transmission of the final expenditure report shall not constitute evidence to rebut the presumption described in paragraph (1).

(4) **RIGHT OF ACCESS.**—The period during which the Federal, State, or local government has the right to access source documentation shall not be limited to the required 3-year retention period referred to in paragraph (3), but shall last as long as the records are maintained.

(c) **BINDING NATURE OF GRANT REQUIREMENTS.**—A State or local government shall not be liable for reimbursement or any other penalty for any payment made under this Act if—

- (1) the payment was authorized by an approved agreement specifying the costs;
- (2) the costs were reasonable; and
- (3) the purpose of the grant was accomplished.

\* \* \* \* \*

**TITLE 5, UNITED STATES CODE**

\* \* \* \* \*

**PART III—EMPLOYEES**

\* \* \* \* \*

**Subpart G—INSURANCE AND ANNUITIES**

\* \* \* \* \*

**CHAPTER 81—COMPENSATION FOR WORK INJURIES**

\* \* \* \* \*

**Subchapter I—GENERALLY**

**§ 8101. Definitions**

For the purpose of this subchapter—

(1) “employee” means—

(A) a civil officer or employee in any branch of the Government of the United States, including an officer or employee of an instrumentality wholly owned by the United States;

(B) an individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service, or authorizes payment of travel or other expenses of the individual;

(C) an individual, other than an independent contractor or an individual employed by an independent contractor, employed on the Menominee Indian Reservation in Wisconsin in operations conducted under a statute relating to tribal timber and logging operations on that reservation;

(D) an individual employed by the government of the District of Columbia; **[and]**

(E) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

(F) an individual selected pursuant to chapter 121 of title 28, **[United States Code,]** and serving as a petit or grand juror; *and*

(G) *an individual who is a System member of the National Urban Search and Rescue Response System during a period of appointment into Federal service pursuant to section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act;*

but does not include—

(i) a commissioned officer of the Regular Corps of the Public Health Service;

(ii) a commissioned officer of the Reserve Corps of the Public Health Service on active duty;

(iii) a commissioned officer of the Environmental Science Services Administration; or

(iv) a member of the Metropolitan Police or the Fire Department of the District of Columbia who is pensioned or pensionable under sections 521-535 of title 4, District of Columbia Code; and

(2) “physician” includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. The term “physician” includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary;

(3) “medical, surgical, and hospital services and supplies” includes services and supplies by podiatrists, dentists, clinical psychologists, optometrists, chiropractors, osteopathic practitioners and hospitals within the scope of their practice as defined by State law. Reimbursable chiropractic services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary;

(4) “monthly pay” means the monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if the recurrence begins more than 6 months after the injured employee resumes regular full-time employment with the United States, whichever is greater, except when otherwise determined under section 8113 of this title with respect to any period;

(5) “injury” includes, in addition to injury by accident, a disease proximately caused by the employment, and damage to or destruction of medical braces, artificial limbs, and other prosthetic devices which shall be replaced or repaired, and such time lost while such device or appliance is being replaced or repaired; except that eyeglasses and hearing aids would not be replaced, repaired, or otherwise compensated for, unless the

damages or destruction is incident to a personal injury requiring medical services;

(6) “widow” means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion;

(7) “parent” includes stepparents and parents by adoption;

(8) “brother” and “sister” mean one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers or married sisters;

(9) “child” means one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and includes stepchildren, adopted children, and posthumous children, but does not include married children;

(10) “grandchild” means one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support;

(11) “widower” means the husband living with or dependent for support on the decedent at the time of her death, or living apart for reasonable cause or because of her desertion;

(12) “compensation” includes the money allowance payable to an employee or his dependents and any other benefits paid for from the Employees’ Compensation Fund, but this does not in any way reduce the amount of the monthly compensation payable for disability or death;

(13) “war-risk hazard” means a hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring in the country in which an individual to whom this subchapter applies is serving; from—

(A) the discharge of a missile, including liquids and gas, or the use of a weapon, explosive, or other noxious thing by a hostile force or individual or in combating an attack or an imagined attack by a hostile force or individual;

(B) action of a hostile force or individual, including rebellion or insurrection against the United States or any of its allies;

(C) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or individual;

(D) the collision of vessels on convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

(E) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities;

(14) “hostile force or individual” means a nation, a subject of a foreign nation, or an individual serving a foreign nation—

(A) engaged in a war against the United States or any of its allies;

(B) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies; or

(C) engaged in a war or armed conflict between military forces of any origin in a country in which an individual to whom this subchapter applies is serving;

(15) “allies” means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance;

(16) “war activities” includes activities directly relating to military operations;

(17) “student” means an individual under 23 years of age who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is—

(A) a school or college or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof;

(B) a school or college or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body;

(C) a school or college or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(D) an additional type of educational or training institution as defined by the Secretary of Labor.

Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 4 months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration during which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A student whose 23rd birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period;

(18) “price index” means the Consumer Price Index (all items - United States city average) published monthly by the Bureau of Labor Statistics; and

(19) “organ” means a part of the body that performs a special function, and for purposes of this subchapter excludes the brain, heart, and back; and

(20) “United States medical officers and hospitals” includes medical officers and hospitals of the Army, Navy, Air Force, Department of Veterans Affairs, and United States Public Health Service, and any other medical officer or hospital designated as a United States medical officer or hospital by the Secretary of Labor.

\* \* \* \* \*

**TITLE 38, UNITED STATES CODE**

\* \* \* \* \*

**PART III—READJUSTMENT AND RELATED  
BENEFITS**

\* \* \* \* \*

**CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT  
RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES**

**Subchapter I—GENERAL**

\* \* \* \* \*

**§ 4303. Definitions**

For the purposes of this chapter—

(1) The term “Attorney General” means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

(2) The term “benefit”, “benefit of employment”, or “rights and benefits” means the terms, conditions, or privileges of employment, including any advantage, profit, privilege, gain, status, account, or interest (including wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

(3) The term “employee” means any person employed by an employer. Such term includes any person who is a citizen, national, or permanent resident alien of the United States employed in a workplace in a foreign country by an employer that is an entity incorporated or otherwise organized in the United States or that is controlled by an entity organized in the United States, within the meaning of section 4319(c) of this title.

(4)(A) Except as provided in subparagraphs (B) and (C), the term “employer” means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

- (i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;
- (ii) the Federal Government;
- (iii) a State;
- (iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.

(B) In the case of a National Guard technician employed under section 709 of title 32, the term “employer” means the adjutant general of the State in which the technician is employed.

(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4318.

(D)(i) Whether the term “successor in interest” applies with respect to an entity described in subparagraph (A) for purposes of clause (iv) of such subparagraph shall be determined on a case-by-case basis using a multi-factor test that considers the following factors:

- (I) Substantial continuity of business operations.
- (II) Use of the same or similar facilities.
- (III) Continuity of work force.
- (IV) Similarity of jobs and working conditions.
- (V) Similarity of supervisory personnel.
- (VI) Similarity of machinery, equipment, and production methods.
- (VII) Similarity of products or services.

(ii) The entity’s lack of notice or awareness of a potential or pending claim under this chapter at the time of a merger, acquisition, or other form of succession shall not be considered when applying the multi-factor test under clause (i).

(5) The term “Federal executive agency” includes the United States Postal Service, the Postal Regulatory Commission, any nonappropriated fund instrumentality of the United States, any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5, and any military department (as that term is defined in section 102 of title 5) with respect to the civilian employees of that department.

(6) The term “Federal Government” includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

(7) The term “health plan” means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

(8) The term “notice” means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

(9) The term “qualified”, with respect to an employment position, means having the ability to perform the essential tasks of the position.

(10) The term “reasonable efforts”, in the case of actions required of an employer under this chapter, means actions, in-

cluding training provided by an employer, that do not place an undue hardship on the employer.

(11) Notwithstanding section 101, the term “Secretary” means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

(12) The term “seniority” means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

(13) The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, *a period for which a System member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act*, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

(14) The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

(15) The term “undue hardship”, in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

(A) the nature and cost of the action needed under this chapter;

(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

(16) The term “uniformed services” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, *System members of the National Urban Search and Rescue Response System during a period of appointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act*, and

any other category of persons designated by the President in  
time of war or national emergency.

\* \* \* \* \*

○