

Calendar No. 737

115TH CONGRESS }
2d Session }

SENATE

{ REPORT
115-446

DISASTER RECOVERY REFORM ACT OF 2018

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 3041

TO AMEND THE ROBERT T. STAFFORD DISASTER RELIEF AND
EMERGENCY ASSISTANCE ACT TO PROVIDE FOR DISASTER
RECOVERY REFORMS, AND FOR OTHER PURPOSES



DECEMBER 19, 2018.—Ordered to be printed

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DECEMBER 19, 2018.—Ordered to be printed

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

R E P O R T

[To accompany S. 3041]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3041) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for disaster recovery reforms, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 3041 is to improve the way the nation prepares for and responds to disasters. It improves our nation’s resilience by providing financial resources for pre-disaster mitigation and incentivizing jurisdictions to adopt up-to-date building codes. The bill enables improved Federal disaster response by providing the Federal Emergency Management Agency (FEMA) with more ways to augment its permanent workforce. It emphasizes the need for and provides tools to execute an effective local response to disasters. It does so by empowering states to administer housing assistance efforts, and increasing allowable management costs for re-

sponse and recovery. The bill also requires FEMA to review and update its method for evaluating requests for major disaster declarations, answering longstanding recommendations by the Government Accountability Office. Finally, the bill ensures the effective administration of Federal funds obligated towards emergency response and grant programs through transparency and reporting requirements.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Background

In 1979, President Carter issued Executive Order 12127 to merge several Federal disaster-related agencies and create FEMA.¹ The statutory authority for the majority of Federal disaster response activities draw from the Robert T. Stafford Disaster Relief and Emergency Assistance Act,² which was signed into law November 23, 1988, and amended the Disaster Relief Act of 1974.³ The law tasked FEMA with coordinating government-wide relief efforts.⁴ FEMA operated as an independent agency for more than twenty years until the Homeland Security Act of 2002 merged the agency into the newly-created Department of Homeland Security (DHS or the Department).⁵ Since then, Congress has enacted several major pieces of legislation to improve FEMA's organization, external interaction, and mission execution, particularly in the wake of catastrophic events. These include the 2006 Post-Katrina Emergency Management Reform Act and the 2013 Sandy Recovery Improvement Act, which both drew lessons from the disasters that immediately preceded their enactment.⁶

In 2017, multiple major hurricanes and devastating wildfires affected nearly 15 percent of the nation's population.⁷ The local and Federal efforts to address these catastrophic events provided valuable lessons-learned regarding the need for improved pre-disaster mitigation efforts, the limitations of state and Federal response resources, and FEMA's overall role in the disaster response and recovery process.⁸ The Committee held two hearings to address the historic disaster response in October 2017 and April 2018.⁹ Witness testimony from FEMA Administrator Brock Long and Army Corps of Engineers Major General Donald Jackson specifically highlighted two areas for improvement: the need to better prepare jurisdictions to respond at a state and local level, and the need to better target

¹ Exec. Order No. 12127, 43 F.R. 41943 (1979).

² Pub. L. No. 100-707 (1988).

³ Pub. L. No. 93-288 (1974); H.R. 2707, 100th Cong. Major Disaster Relief and Emergency Assistance Amendments of 1987.

⁴ *Id.*

⁵ Pub. L. No. 107-296 (2002); H.R. 5005, 107th Cong. Homeland Security Act of 2002.

⁶ Post-Katrina Emergency Management Reform Act, Pub. L. No. 109-295; Sandy Recovery Improvement Act, Pub. L. No. 113-2.

⁷ *FEMA: Prioritizing a Culture of Preparedness: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018) (statement of Brock Long, Administrator, Fed. Emergency Mgmt. Agency), available at <https://www.hsgac.senate.gov/imo/media/doc/Testimony-Long-2018-04-11.pdf>.

⁸ *Id.*

⁹ *2017 Hurricane Season: Oversight of the Federal Response: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017); *FEMA: Prioritizing a Culture of Preparedness: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018).

pre-disaster mitigation efforts, as evidenced by the recovery challenges their agencies faced in Puerto Rico and Texas.¹⁰

Congress provided an additional \$136 billion through three separate supplemental appropriations, including \$120 billion in budget authority and \$16 billion in debt held by the National Flood Insurance Fund, to facilitate the Federal response to the 2017 disasters.¹¹ Such a spending rate is unsustainable. In January 2018, the congressionally-authorized National Institute of Building Sciences released report findings that “society saves \$6 for every \$1 spent through mitigation grants.”¹² The under-utilized method of disaster management through mitigation offers the potential to minimize the impact of disasters on citizens while decreasing Federal spending.

A Focus on Mitigation

This bill addresses state and local preparedness and pre-disaster mitigation on several fronts. In 2015, the Government Accountability Office (GAO) found that the federal government placed far too great an emphasis on post-disaster mitigation funding versus pre-disaster resilience efforts and recommended that a greater balance be established between pre- and post-disaster resilience investments.¹³ Section 32 creates a mechanism through which the President can prioritize pre-disaster mitigation efforts. By drawing funds equal to six percent of specific grant funds associated with major disasters from the Disaster Relief Fund and directing those funds towards national priorities on a competitive basis, FEMA will invest in high-return mitigation efforts that will save lives and Federal tax dollars. The legislation specifically emphasizes that a jurisdiction’s proposed direct improvement in resiliency and its efforts towards adoption of up-to-date building codes will be considered as a basis for competition when deciding which projects FEMA will fund. In doing so, the Committee seeks to incentivize the adoption of current, applicable building codes, and does not seek to prohibit a jurisdiction’s authority to amend codes based on unique local considerations.

Additionally, Section 38 addresses the impact on recovery when under-insured, state-owned facilities are damaged or destroyed by a disaster by requiring FEMA to report on the federal cost of insufficient state self-insurance strategies.

Furthermore, in 2016, GAO found there is limited federal assistance available to states for the purpose of seismic risk mitigation efforts and made several recommendations to strengthen federal

¹⁰ *2017 Hurricane Season: Oversight of the Federal Response: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017) (statement of Brock Long, Administrator, Fed. Emergency Mgmt. Agency), available at <https://www.hsgac.senate.gov/imo/media/doc/Testimony-Long-2017-10-31.pdf>; (statement of Major Gen. Donald Jackson, Deputy Commanding Gen. for Civil and Emergency Operations: U.S. Army Corps of Engineers), available at <https://www.hsgac.senate.gov/imo/media/doc/Testimony-Robinson%20and%20Jackson-2017-10-312.pdf>.

¹¹ Congressional Research Serv., *2017 Disaster Supplemental Appropriations: Overview*, CRS R45084 (Jan. 25, 2018).

¹² Nat’l Inst. of Building Sciences, *Natural Hazard Mitigation Saves: 2017 Interim Report* (December 2017), available at http://www.wbdg.org/files/pdfs/MS2_2017Interim%20Report.pdf.

¹³ Gov’t Accountability Office, *GAO-15-515, Hurricane Sandy: An Investment Strategy Could Help the Federal Government Enhance National Resilience for Future Disasters* (2015), available at <https://www.gao.gov/products/GAO-15-515>.

mitigation earthquake efforts.¹⁴ Section 31 authorizes FEMA to provide assistance under the Hazard Mitigation Grant Program and Pre-Disaster Mitigation program for activities that help reduce the risk of future damage in areas affected by earthquake hazards.

Enabling Local Response and Responsibility

The insights drawn from 2017 also informed FEMA’s 2018 Strategic Plan, which focused on building a culture of preparedness, readying the nation for catastrophic disasters, and reducing the complexity of FEMA.¹⁵ The plan placed specific emphasis on empowering local communities to serve the primary role in disaster response, citing that “success is best delivered through a system that is Federally supported, state managed, and locally executed.”¹⁶ Refocusing efforts primarily at the local level requires FEMA to accurately determine a jurisdiction’s capability to respond and recover without Federal intervention. While the Committee supports FEMA’s plans to empower local communities to respond to disasters, it is vital that those communities be prepared and develop actionable plans to conduct and coordinate such a response effectively.

Since the 1980s, the Federal Government has become increasingly involved in funding and providing disaster assistance, in part to the outdated formula that FEMA has used to recommend to the President to declare a disaster. Under the Stafford Act, the President may declare an emergency declaration or major disaster declaration when the situation is beyond the capabilities of state, local, and/or tribal governments to respond.¹⁷ However, the formula that FEMA has used to assess when to recommend to the President to declare a disaster, currently known as the Per Capita Impact Indicator, has resulted in an increasing number of disasters being declared compared to prior decades, due to FEMA’s failure to regularly update the formula for inflation.¹⁸ As a result, FEMA has been recommending to the President to make declarations under the Stafford Act for events that would not have qualified during the 1980s. In this way, FEMA’s current approach to recommending when to declare disasters is not consistent with original congressional intent under the Stafford Act, requiring Federal assistance to be provided when state, local, or tribal capabilities had been overwhelmed. As Chairman Ron Johnson explained at a hearing, “. . . more and more often States are looking to the Federal Government to do what I believe was probably more suited toward State and local response. As a result, it puts a great deal of stress on Federal disaster resources and certainly FEMA.”¹⁹

GAO has recommended that FEMA update its process for assessing state capacity since its 2012 report: *Federal Disaster Assistance: Improved Criteria Needed to Assess a Jurisdiction’s Capability to*

¹⁴ Gov’t Accountability Office, GAO–16–680, Earthquakes: Additional Actions Needed to Identify and Mitigate Risks to Federal Buildings and Implement an Early Warning System (2016), available at <https://www.gao.gov/products/GAO-16-680>.

¹⁵ Fed. Emergency Mgmt. Agency, 2018–2022 Strategic Plan (2018), available at <https://www.fema.gov/media-library/assets/documents/96981>.

¹⁶ *Id.*

¹⁷ 44 USC § 206.36.

¹⁸ Gov’t Accountability Office, GAO–12–838, Federal Disaster Assistance, Improved Criteria Needed to Assess a Jurisdiction’s Capability to Respond and Recover on Its Own (2012), available at <https://www.gao.gov/assets/650/648162.pdf>.

¹⁹ FEMA: *Prioritizing a Culture of Preparedness: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018).

*Respond and Recover on Its Own.*²⁰ Specifically, GAO recommended that FEMA adjust its “primary factor” for determining disaster eligibility, the per capita impact indicator, to properly account for inflationary changes since its inception in 1986.²¹ GAO noted that FEMA’s failure to do so from 1986–1999 had left the indicator “artificially low,” and led to a significant increase in the annual number of major disaster declarations since 1953.²²

In 2014, then-Committee Ranking Member Tom Coburn released a minority staff report on the disaster declaration process, finding that “nearly half of all recently declared ‘disasters’ would not have qualified for federal assistance in the 1980s and 1990s.”²³ The report also called on FEMA to “reform the process for recommending disaster declarations and approving federal disaster aid,” encouraging DHS and FEMA to “move swiftly to update the per-capita indicator for inflation to cover all years since 1986.”²⁴ Senator Coburn also stated, “Congress should enact legislation to ensure disaster funding is focused on the most serious disasters . . . those that truly overwhelm state and local capabilities.”²⁵

Importantly, the current process for deciding when to recommend the President issue a declaration results in fewer resources available to provide assistance during major emergencies. For example, on the day that Hurricane Harvey made landfall in Texas in 2017, FEMA was actively responding to 30 different disasters across the nation.²⁶ Section 37 of this bill addresses this issue by requiring FEMA to initiate a rulemaking to update the factors it considers when evaluating a jurisdiction’s request for a major disaster declaration, specifically considering its method for estimating the cost of major disaster assistance. When updating these methods, FEMA should take into account the states’ ability to reprioritize, and consider a phased-in approach when rebalancing state and Federal responsibilities in a manner consistent with original congressional intent under the Stafford Act.

Similarly, this bill enables FEMA to better support state-managed disaster efforts. It does so by reducing the number of impediments to efficient execution of disaster response and recovery plans and giving FEMA and its state and local partners the tools to execute their missions. Sections 11 and 15 address direct requests from the FEMA Administrator, presented during its April 2018 hearing.²⁷ Section 11 enables states to administer direct housing solutions, and is intended to expedite the acquisition and delivery of housing solutions by leveraging state autonomy, while still maintaining accountability for Federal dollars. Temporary and long-term housing challenges are unique in every disaster, and the Committee encourages the consideration of innovative housing solutions, including the use of peer-to-peer lodging rentals for responders and disaster victims as part of both state and Federal

²⁰ Gov’t Accountability Office, GAO–12–838, *Federal Disaster Assistance, Improved Criteria Needed to Assess a Jurisdiction’s Capability to Respond and Recover on Its Own* (2012).

²¹ *Id.*

²² *Id.*

²³ Ranking Member Tom Coburn, *An Imperfect Storm*, S. Comm. on Homeland Sec. & Governmental Affairs, available at <https://www.hsgac.senate.gov/download/?id=5518F153-BBB6-4AFF-BCDB-F700A58479DD>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *FEMA: Prioritizing a Culture of Preparedness: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018).

²⁷ *Id.*

strategies. Section 15 increases allowable management costs for state and local administration of Federal disaster relief efforts. FEMA and the Committee recognize the challenge states face in surging capacity to manage post-disaster activities, and intend for this investment to enable a more effective administration of disaster response programs.²⁸

Lastly, Section 22 assists FEMA in expanding and maintaining a skilled and experienced workforce, enabling the transition of temporary employees to career-conditional status after three years of continuous service.

Streamlining FEMA processes

FEMA's 2018 Strategic Plan includes an objective focused on reducing the complexity of FEMA.²⁹ The Committee shares this intention. Section 23 of the Act requires FEMA to conduct a joint study with other applicable agencies aimed at streamlining the post-disaster data collection process. This study is intended to create efficiencies for disaster victims, developing simpler, faster, and more easily understandable processes for applying for assistance from multiple Federal agencies. Section 21 authorizes FEMA to develop incentive strategies to encourage jurisdictions to expeditiously closeout their mission assignments in order to provide quicker relief to victims and cost savings to taxpayers. Section 19 also aims to create a more efficient process for both victims and FEMA, by preserving the right to arbitration in lieu of appeal for victims whose claims are estimated to be above \$500,000.

Special considerations

Because every disaster presents unique challenges, this legislation includes provisions to enable FEMA, along with its state and local partners, to better address the unique needs that may arise during disaster response and recovery. Section 18 allows FEMA to establish veterinary emergency teams, which will address the unique needs of FEMA canine search teams, as well as those animals affected by disasters.

Section 36 adds private nonprofit center-based childcare to the list of "critical services" eligible for federal assistance. The language in this section is intended to narrowly include such facilities that support a jurisdiction's overall ability to recover from an emergency or disaster, and exclude those that do not necessarily contribute to broader community response and recovery—home-based childcare for example. Section 12 expands financial assistance eligibility for accessibility-related rental housing and infrastructure improvements for individuals and households with disabilities.

Section 10 preserves the President's authority to waive the general prohibition on persons or entities from receiving financial assistance from another program, also known as "duplication of benefits." The Committee adopted language to ensure that the default application of law is to prohibit such duplication, and placed a 45-day time limit on the President's ability to provide such a waiver in order to preserve the intended progression of need-based assistance options: encouraging individuals to utilize insurance as a pri-

²⁸ *Id.*

²⁹ Fed. Emergency Mgmt. Agency, 2018–2022 Strategic Plan (2018), available at <https://www.fema.gov/media-library/assets/documents/96981>.

mary means of personal protection, to take small business loans if they are uninsured, and to seek federal individual assistance grants only as a last resort.

Section 40 requires FEMA to provide Congress with a progress update on a National Preparedness Assessment, which GAO recommended FEMA develop in 2010, but FEMA has yet to complete.³⁰ The assessment is intended to review security risks and capabilities to prioritize grant dollars to needed localities.

Eliminating waste

The significant Federal financial investment that disaster response missions require warrants an equally significant level of accountability. Toward that end, this bill includes several provisions aimed at ensuring that Federal dollars are trackable at the grantee and sub-grantee level. Section 24 increases transparency and accountability by requiring FEMA to document specific information on public assistance and mission assignment expenditures and submit a report on public assistance recipient and sub-recipient contracts. The Committee intends for this reporting requirement to encourage FEMA to integrate improved sub-grantee accounting capabilities into its accountability database software and lead to the availability of near real-time information on sub-grantee spending. By requiring FEMA to begin tracking this data, Congress, DHS's Inspector General, and GAO will be able to provide greater oversight of sub-grantee spending.

Finally, in 2012, GAO identified multiple factors that contribute to the risk of duplication among four FEMA disaster preparedness grant programs. As a result, GAO recommended that, to help reduce the risk of unnecessary duplication and strengthen the administration and oversight of these programs, the FEMA Administrator should take steps "to ensure that FEMA collects project information with the level of detail needed to better position the agency to identify any potential unnecessary duplication within and across the four grant programs, weighing any additional costs of collecting these data."³¹ GAO included this recommendation in its annual report to Congress on duplication, overlap, and fragmentation. Section 41 requires FEMA to provide Congress with a progress update on FEMA's identification of ways to reduce funding duplications within non-natural disaster preparedness grants, as recommended by GAO.

III. LEGISLATIVE HISTORY

Chairman Johnson introduced S. 3041, the Disaster Recovery Reform Act of 2018 on June 11, 2018. The bill was referred to the Committee on Homeland Security and Governmental Affairs. Ranking Member Claire McCaskill joined as a cosponsor on June 26, 2018, and Senator John Kennedy joined as a cosponsor on June 29, 2018.

³⁰ Gov't Accountability Office, GAO-11-318SP, Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue (2011), available at <https://www.gao.gov/products/GAO-11-318SP>.

³¹ Gov't Accountability Office, GAO-12-303, Homeland Security: DHS Needs Better Project Information and Coordination among Four Overlapping Grant Programs (2012), available at <https://www.gao.gov/products/GAO-12-303>.

The Committee considered S. 3041 at a business meeting on June 13, 2018. Chairman Johnson offered a modified substitute amendment that the Committee adopted by unanimous consent.

Chairman Johnson offered Johnson Amendment 1 as twice modified. The amendment adjusts the effective date for multiple sections of the bill to avoid unintentional retro-activity, and requires FEMA to assess its methods for reviewing Federal disaster declaration requests and modernize those processes through rulemaking. That amendment was adopted by voice vote with Senators Johnson, Portman, Lankford, Enzi, McCaskill, Carper, Peters, Hassan, Harris, and Jones present.

Senator Peters offered Peters Amendment 1. The amendment strikes a provision that would prohibit the President from determining that a Small Business Administration loan is a duplication of assistance, and precludes an individual from receiving FEMA Individual Assistance. That amendment was adopted by voice vote with Senators Johnson, Portman, Lankford, Enzi, McCaskill, Carper, Peters, Hassan, Harris, and Jones present. Senator Hassan voted “no” for the record.

Senators Harris and Carper offered Harris-Carper Amendment 1. The amendment would require FEMA to enter into a contract with the National Academy of Medicine to conduct a study on identifying best practices in determining mortality counts as a result of major disasters. Chairman Johnson offered a second-degree amendment to Harris-Carper Amendment 1, which would preclude the authorization of any additional funds to conduct the study. The Johnson second-degree amendment was adopted by a roll call vote of 8 yeas to 7 nays. Senators Johnson, Portman, Lankford, and Enzi voted for the amendment. Senators McCain, Paul, Hoeven, and Daines voted in favor of the amendment by proxy. Senators McCaskill, Carper, Peters, Hassan, Harris, and Jones voted against the amendment. Senator Heitkamp voted against the amendment by proxy. Harris-Carper Amendment 1 as modified by the Johnson second-degree amendment was adopted by a voice vote with Senators Johnson, Portman, Lankford, Enzi, McCaskill, Carper, Peters, Hassan, Harris, and Jones present.

Seven amendments were adopted by voice vote *en bloc* with Senators Johnson, Portman, Lankford, Enzi, McCaskill, Carper, Peters, Hassan, Harris, and Jones present. Those amendments were: Portman Amendment 1 as modified, which requires FEMA to coordinate with state and local architect and engineer organizations on post-disaster building safety assessment best practices; Enzi Amendment 1, which requires the FEMA Administrator to complete a national preparedness assessment and report to Congress on capabilities gaps and their costs; Enzi Amendment 2 as modified, which requires the FEMA Administrator to report on the agency’s efforts to identify and prevent unnecessary duplication within and across the non-natural disaster preparedness grant programs; McCaskill Amendment 1 as amended by a Johnson Second Degree Amendment, which extends unemployment assistance to eligible residents of Puerto Rico and the U.S. Virgin Islands until 52 weeks after the date of disaster declarations for Hurricanes Irma and Maria; McCaskill Amendment 2, which required FEMA to collect information on FEMA grant recipients and sub-recipients prior to disaster closeouts; Harris Amendment 2, which requires FEMA

to conduct a review of the public assistance eligibility process for underground water infrastructure associated with major disaster declarations; and Jones Amendment 1, which suggests FEMA conduct a study to assess the effectiveness of evacuation routes to accommodate anticipated traffic flows in cooperation with the Federal Highway Administration and state and local governments.

The bill, as amended, was ordered reported favorably by a voice vote. Senators Johnson, Portman, Lankford, Enzi, McCaskill, Carper, Peters, Hassan, Harris, and Jones were present.

Consistent with Committee Rule 11, the Committee reports the bill with a technical amendment by mutual agreement of the Chairman and Ranking Member.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title; Table of contents

This section designates the title of the bill as the “Disaster Recovery Reform Act of 2018” and lists the table of contents.

Section 2. Applicability

This section sets the default application of the bill to August 1, 2017, for all sections not otherwise noted.

Section 3. Definitions

This section establishes definitions of the terms “administrator,” “agency,” and “state.”

Section 4. Wildfire prevention

This section permits the President to provide hazard mitigation aid to states affected by wildfires, even when a major disaster is not declared. A report is due within one year of enactment summarizing projects funded under the new section.

Section 5. Additional activities

This section qualifies what activities hazard mitigation aid recipients can conduct to mitigate against wildfire or windstorm damage. The list of examples includes, among other things, constructing erosion barriers, spillways, and dams.

Section 6. Code implementation enforcement

This section includes building code and floodplain enforcement in the general Federal assistance the President may provide during a major disaster response. In addition, the President may contribute to wages for code implementation and enforcement for up to six months after a major disaster.

Section 7. Program improvements

This section removes the cap on large in-lieu contributions to public facilities (formerly 90 percent of cost-share) and private facilities (formerly 75 percent of cost-share). This section also prohibits FEMA from conditioning assistance on the adoption of alternative procedures. Additionally, this section establishes a presumption that costs incurred for a grant project are reasonable and eligible if the project estimate was certified by a professional engineer and accepted by FEMA.

Section 8. Prioritization of facilities

This section requires FEMA to provide annual training to state, tribal, and local government first responders and utility companies on providing assistance to health care facilities during an emergency, preparing for potential power outages, and coordinating emergency response plans.

Section 9. Guidance on evacuation routes

This section requires FEMA, in conjunction with the Federal Highway Administration (FHA), to issue guidance to assist states in the planning and maintenance of evacuation routes. This section also establishes criteria FEMA should use when creating evacuation route guidance and criteria FHA should consider in the design and maintenance of evacuation route guidance. Additionally, FEMA, in conjunction with the FHA, may conduct studies to determine the capability of evacuation routes and to assist in the creation of evacuation route guidance.

Section 10. Duplication of benefits

After a request from a Governor on behalf of a state or other entity or person that suffered a loss in a major disaster, this section permits the President to waive the general prohibition on Federal assistance being provided to a party that has received financial assistance from another program or source. The President must decide whether to issue the waiver within 45 days of submission. This section is applicable only to disaster or emergency assistance provided on or after the date of enactment of this Act.

Section 11. State administration for direct temporary housing and permanent housing construction

This section allows FEMA to provide block grants (100 percent cost share) to states for disaster housing assistance, provided a state housing strategy is submitted to and approved by the President. The strategy must outline how the state will work with Federal organizations, local entities, and individual survivors to meet housing needs. The strategy must also include the creation of a State Disaster Housing Task Force to bring national and local parties together to evaluate housing requirements and determine solutions. Prior to approving an application for housing assistance, the President must conduct a quality assessment and ensure there are sufficient controls in place to prevent waste within the requested housing programs. Additionally, the DHS Inspector General (IG) will periodically audit the programs. Within 18 months of enactment, the DHS IG must submit a report to Congress regarding the role state or tribal governments play in providing housing assistance, their ability to provide such assistance, and the efficacy of the assistance provided. Furthermore, within 12 months of enactment, FEMA must submit a report to Congress on possible incentive awards to offer to state and tribal governments to encourage participation. Finally, FEMA must issue final regulations regarding this section within two years of enactment.

Section 12. Assistance to individuals and households

This section clarifies that financial assistance to rent alternative housing after a disaster will not count towards the maximum

amount of assistance available to an individual or household, and eliminates the cap on individual financial assistance in regards to accessibility-related expenses for individuals with disabilities. This section is applicable only to disaster or emergency assistance provided on or after the date of enactment of this legislation.

Section 13. Multifamily lease repair assistance

This section allows FEMA to lease multifamily rental properties impacted by or located in a major disaster area. It allows FEMA to repair the rental properties in order to make them available to meet emergency housing needs, and to deduct the cost of repairs from the value of the lease agreement, even if the total is greater than the value of the lease agreement.

Section 14. Private nonprofit facility

This section adds food banks to the list of private nonprofit facilities eligible for FEMA assistance. The applicability of this section extends to disaster or emergency assistance provided on or after February 9, 2018.

Section 15. Management costs

This section changes the definition of management cost to include indirect costs, direct administrative costs, and other administrative costs. It also establishes reimbursement limits to grantees for management costs for hazard mitigation and public assistance programs. A grantee under the hazard mitigation section 404 may be reimbursed up to 15 percent of the total grant, and a grantee under public assistance sections 403, 406, 407, or 502 may be reimbursed up to 12 percent of the total grant award.

Section 16. Flexibility

This section allows certain disaster assistance debts to be waived if such assistance was distributed based on an error by FEMA; there was no fault on behalf of the debtor; and the collection of the debt would be against equity and good conscience. The debt may not be waived if the debt involves fraud or misrepresentation. This section also places the DHS IG in charge of determining what percentage of assistance was distributed based on an error. Additionally, this section establishes a statute of limitations requiring the process of recouping any assistance to begin within 3 years of the date the assistance was received. The section applies to disaster or emergency assistance provided on or after January 1, 2004.

Section 17. Additional disaster assistance

When providing economic development grants after a disaster or emergency under the Public Works and Economic Development Act, this section allows the Secretary of Commerce to encourage grantees to use assistance on hazard mitigation. This section also extends the Emergency Management Assistance Compact grants and Emergency Management Performance Grant Program through 2022.

Section 18. National veterinary emergency teams

This section establishes a pilot program allowing the creation of veterinary emergency teams at one or more colleges. This section

also outlines the responsibilities of national veterinary emergency teams, to include assistance for FEMA canine search teams, care for impacted domestic and livestock animals, and treatment of zoonotic diseases.

Section 19. Right of arbitration

This section allows applicants to request arbitration for a dispute over \$500,000 after the initiation of their first appeal. Those applicants requesting arbitration forfeit their right to further appeal. FEMA must issue regulations within two years to implement this section.

Section 20. Unified federal environmental and historic preservation review

This section requires the FEMA Administrator to review and submit a report to Congress on the expedited interagency environmental and historic preservation review process and survey other agencies' categorical exclusions. This section also requires the Administrator to issue regulations to implement any recommendations, including categorical exclusions, identified in the report and survey.

Section 21. Closeout incentives

This section allows the FEMA Administrator to develop incentives that would encourage state, local, and tribal governments to close out expenditures and activities related to disaster or emergency assistance in a timely manner. Additionally, FEMA must work to reduce the time to close out disaster program awards.

Section 22. Performance of services

This section allows the FEMA Administrator to appoint temporary employees, who have served continuously for at least three years, to positions within FEMA in the same manner as competitive service employees. Appointed employees become career-conditional employees, unless they have already completed the career tenure service requirements.

Section 23. Study to streamline & consolidate information collection

This section directs the FEMA Administrator, in conjunction with other appropriate Federal agencies, to conduct a study and develop a plan to make the collection of information from disaster assistance applicants more efficient and less burdensome. It also requires FEMA to regularly report information on Federal disaster assistance awards to the public via a website. FEMA, coordinating with the other appropriate agencies, must submit the plans to comply with these requirements to Congress within one year of enactment.

Section 24. Agency accountability

This section creates transparency in grant funding and directs FEMA to provide regular reports on its website regarding grant awards, disaster spending, disaster contracts, and other related disaster activities. Within five days of an award over \$1 million being granted, FEMA is required to publish information regarding the specifics of the award. FEMA must also publish information on

any mission assignment orders for over \$1 million. FEMA is required to update the cost estimate of mission assignments within ten days of the end of each month until completion of a project. Additionally, FEMA must publish Disaster Relief Monthly Reports within ten days of the beginning of each month, including the method and data used to obtain the results displayed in the report. Furthermore, FEMA must publish information, within ten days of the end of each month, regarding contracts awarded with a value over \$1 million and provide Congress with a summary report of contracts awarded within ten days of the end of each fiscal year. Finally, within 180 days of enactment FEMA is required to begin collecting information on all contracts awarded for greater than \$500,000 and provide a report on this information to Congress within 365 days of enactment.

Section 25. Audit of contracts

This section prohibits FEMA from reimbursing any contract that prohibits the FEMA Administrator or the Comptroller General of the United States from performing oversight or auditing over the contract.

Section 26. Inspector general audit of FEMA contracts for tarps and plastic sheeting

This section requires the DHS IG to audit FEMA contracts for tarps and plastic sheeting in response to Hurricanes Irma and Maria in Puerto Rico and the U.S. Virgin Islands, beginning no later than 30 days after enactment. This section also outlines what considerations the DHS IG should review during the audit. Within 270 of commencement of the audit, the DHS IG must provide Congress a report on his findings.

Section 27. Relief organizations

This section clarifies long-term recovery groups and domestic hunger relief organizations as eligible organizations that can be used to provide relief and assistance under the Stafford Act.

Section 28. Guidance on inundated and submerged roads

This section directs FEMA to provide state, local, and tribal governments guidance on assessing and repairing or replacing submerged roads that were damaged or destroyed by a disaster.

Section 29. Guidance and recommendations

This section requires FEMA to provide guidance on Federal assistance application processes to community associations that are providing essential services of a governmental nature. FEMA must provide a proposal to Congress within 90 days of enactment regarding the eligibility of community areas and cooperatives to receive disaster assistance.

Section 30. Guidance on hazard mitigation assistance

This section requires the FEMA Administrator to provide guidance regarding the acquisition and upkeep of properties purchased with FEMA funds as a mitigation measure. This action must take place within 180 days of enactment.

Section 31. Additional hazard mitigation activities

This section allows mitigation assistance funds to be spent on seismic detection equipment aimed at earthquake early warning.

Section 32. National public infrastructure predisaster hazard mitigation

This section clarifies how technical and financial assistance can be used, permitting assistance to be used to enforce the latest codes and standards. The President is permitted to reallocate any funds given to a state for this purpose that are not used within three years of the initial allocation. These reallocated funds are to be awarded to cost-effective mitigation activities on a competitive basis. This section allows the President to set aside funds equal to up to six percent of declared disaster estimates and place that amount in an account for national-level mitigation priority projects.

Section 33. Additional mitigation activities

This section allows the President to contribute up to 75 percent of the cost of mitigation activities that are deemed cost-effective and effective in mitigating hazards and potential damage. The section also establishes how eligible cost estimates are determined and clarifies code applicability for mitigation projects. The applicable code is the latest published codes or standards, even if they went into effect after the time the disaster occurred. Additionally, the section requires FEMA to issue a final rulemaking within 18 months of enactment over the definition of the terms “resilient” and “resiliency,” with interim guidance provided within 60 days of enactment. FEMA is required to report to Congress a summary of the guidance issued within two years of enactment.

Section 34. Flood insurance

This section provides an exception for educational, medical, correctional, and emergency services buildings from the reduction of federal assistance for flood damage. It restricts the reduction to apply only once per complex, vice multiple per-building penalties in a single, blanket-insured complex.

Section 35. Certain recoupment prohibited

This section requires FEMA to deem any covered disaster assistance provided to have been properly procured. It defines “covered disaster assistance” as assistance resulting from a situation in which the DHS IG determines that assistance was based on the inaccurate advice of a FEMA Technical Assistance contractor. This section also requires FEMA to provide funding for the covered disaster assistance if it was previously provided but subsequently withdrawn.

Section 36. Federal assistance to individuals and households and nonprofit facilities

This section grants fee waivers for documents lost during disasters, specific to passports and certain citizenship and employment documents. This section also adds private nonprofit center-based childcare to the list of critical facilities eligible for Federal assistance. Within 365 days of enactment, FEMA and other related agencies must provide Congress a report on the costs associated with

fee waivers. This section applies to disasters declared on or after enactment.

Section 37. Cost of assistance estimates

This section requires FEMA to review and adjust the method used in assessing eligibility for major disaster declarations and in determining the estimated cost of assistance. FEMA must provide a report on the matter to Congress within 270 days of enactment. Within two years of enactment, FEMA must review the factors considered in evaluating requests for disaster declarations and how FEMA calculates disaster assistance cost estimates and initiate rulemaking to update them.

Section 38. Report on insurance shortfalls

Starting within two years of enactment, this section requires FEMA to submit a report to Congress on an annual basis regarding instances where state self-insurance of state owned infrastructure was insufficient to cover the cost of flood damage.

Section 39. Post disaster building safety assessment

This section requires FEMA to work with state and local entities to establish guidance for building safety assessments by licensed architects and engineers post disaster. FEMA must publish the guidance within one year of enactment. FEMA is also required to update the National Incident Management System to include the functions of architects, in order to ensure those functions include assisting communities with mitigating activities, post disaster recovery, and participating on building safety assessment teams.

Section 40. FEMA updates on national preparedness assessment

This section requires FEMA to submit a report to Congress providing an update on FEMA's progress in completing a national preparedness assessment and identifying potential costs of establishing certain disaster response capabilities. The report must be provided within six months of enactment of this bill and every six months after until FEMA has completed the assessment.

Section 41. FEMA report on duplication in non-natural disaster preparedness grant programs

This section requires FEMA to submit a report within 180 days of enactment to Congress providing information on duplicative aspects of the non-natural disaster grant program and efforts to prevent such duplication.

Section 42. Extension of unemployment assistance for the Commonwealth of Puerto Rico and the United States Virgin Islands

This section requires the President to make individual unemployment assistance available for 52 weeks after the date of disaster declaration for the disasters declared for Hurricane Irma and Hurricane Maria in Puerto Rico and the U.S. Virgin Islands.

Section 43. Study and report

This section requires FEMA, in conjunction with the National Academy of Medicine, to conduct a study on best practices for mortality counts as a result of major disasters. This study will focus

on the timely and accurate count of mortality and accounting of causes and how this information can facilitate future disaster preparedness efforts. The report must be started within 90 days of enactment and completed within 2 years.

Section 44. Review of assistance for damaged underground water infrastructure

This section defines the term “public assistance grant program” based on sections from the bill. Within 60 days of enactment, FEMA is required to conduct a review of grants provided for damaged underground water infrastructure. FEMA must provide a report on this review within 180 days of enactment and implement any recommendations made in the report within 180 days of its release.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 27, 2018.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3041, the Disaster Recovery Reform Act of 2018.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 3041—Disaster Recovery Reform Act of 2018

Summary: S. 3041 would amend and authorize appropriations for several programs administered by the Federal Emergency Management Agency (FEMA). CBO estimates that implementing the bill would cost \$2.4 billion over the 2019–2023 period, assuming appropriation of the authorized and necessary amounts.

CBO estimates that enacting S. 3041 would increase direct spending by \$45 million over the 2019–2028 period and would decrease revenues by an insignificant amount in each year. Therefore, pay-as-you-go procedures apply.

CBO estimates that enacting S. 3041 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 3041 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 3041 is shown in the following table. The costs of the legislation fall within budget function 450 (community and regional development).

Foregone Recoveries of Improper Payment:												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	3	0	0	-1	-1	0	0	-1	-1	0	0
Total Change:												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	43	4	1	-1	-1	0	0	-1	-1	0	45

Components may not sum to totals because of rounding; * = less than \$500,000.

Basis of estimate: CBO assumes that S. 3041 will be enacted during fiscal year 2018 and that the authorized and necessary amounts will be appropriated for each year beginning in 2019. Estimated outlays are based on historical spending patterns.

Spending subject to appropriation

CBO estimates that implementing S. 3041 would cost \$2.4 billion over the 2019–2023 period.

Emergency Management Grants. S. 3041 would authorize the appropriation of \$950 million annually through 2022 for FEMA to provide grants to states through the Emergency Management Performance Grant program. That program helps state, local, and tribal governments prepare for future disasters. In 2018, FEMA allocated \$350 million for such grants. S. 3041 also would authorize the appropriation of \$4 million annually through 2022 for FEMA to provide grants to the Emergency Management Assistance Compact. The compact provides assistance when a governor declares a disaster through a system that allows member states to send personnel, equipment, and commodities to help with response and recovery efforts in other member states. In 2018, FEMA provided \$2 million in such grants.

CBO estimates that providing those grants would cost about \$2.0 billion over the 2019–2023 period and an additional \$1.8 billion after 2023.

Predisaster Mitigation Fund. S. 3041 would create the National Public Infrastructure Predisaster Mitigation Fund. For each major disaster declared after August 1, 2017, an amount equal to 6 percent of the total estimated funding FEMA expects to provide for certain disaster response grants would be transferred into the proposed fund from unobligated appropriated balances in the Disaster Relief Fund (DRF). The new fund would be used to provide technical and financial assistance to states and localities for hazard mitigation designed to reduce injury, loss of life, and damage and destruction of property.

After enactment, CBO estimates, about \$120 million—6 percent of the estimated \$2 billion in relevant disaster response grants expected to be made for disasters declared since August 1, 2017—would be transferred to the proposed fund in 2019. In recent years, FEMA has been provided an average of \$400 million a year for the relevant disaster response grants. Assuming that the Congress provides similar amounts in subsequent years, CBO estimates that \$24 million (6 percent of \$400 million) would be transferred to the fund each year.

Because the provision does not change any underlying authority to provide disaster relief, in CBOs view the legislation implicitly authorizes the appropriation of amounts equal to the amounts that would be transferred from the DRF to the new fund. Thus, CBO estimates that spending under this section would total \$157 million over the 2019–2023 period.

In-Lieu Public Assistance Contributions. Under current law, public or private nonprofit entities that own facilities that are substantially damaged during a major disaster have the option of receiving grants to repair the facility or a percentage of the grant amount as an in-lieu contribution for use on other restoration projects. The

total in-lieu contribution is 90 percent of repair costs for public facilities and 75 percent for private nonprofit facilities.

S. 3041 would increase the maximum in-lieu contributions for both public and private nonprofit entities to 100 percent of the total grant amount. Using historical data provided by FEMA on such in-lieu awards, CBO estimates that implementing this section would cost \$105 million over the 2019–2023 period.

Assistance for Properties without Flood Insurance. Under current law, a public or private nonprofit facility located within an area designated as having at least a 1 percent chance of being flooded in any year and that is not covered by flood insurance (either through FEMA's National Flood Insurance Program or through a private company) will see its assistance reduced in the event of flooding in a major disaster. In those cases, the assistance for each building of a multi-structure complex is reduced by the amount of insurance proceeds that FEMA estimates the public or nonprofit entity could have received if it were insured. Under S. 3041, that reduction in assistance would not be applied to more than one building of a multi-structure educational, law enforcement, correctional, fire, or medical campus.

Using historical data provided by FEMA, CBO estimates that implementing this section would cost \$54 million over the 2019–2023 period. The bill also would make that change retroactive to all flooding disasters since January 2016, which would increase direct spending as discussed below under the heading Direct Spending.

Forgone Recoveries of Improper Payments. CBO estimates that prohibiting FEMA from recouping certain improper payments would reduce direct spending by \$27 million over the next 10 years. (See the discussion under the heading Direct Spending.) Under current law, recouped amounts are deposited in the DRF and subsequently spent on recovery costs for future disasters. Because the provision does not change any underlying authority to provide disaster relief, in CBO's view the bill implicitly authorizes the appropriation of amounts equal to the forgone funds. Thus, CBO estimates that implementing the provision would cost \$26 million over the 2019–2023 period.

Wildfire Mitigation. S. 3041 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. Using information provided by FEMA, CBO estimates that providing additional assistance would require annual appropriations of \$6 million and would cost \$16 million over the 2019–2023 period.

Disaster Assistance Arbitration. The bill would authorize the Civilian Board of Contract Appeals to arbitrate a determination of disaster assistance made by FEMA if an applicant for disaster assistance requests such arbitration. Using information from FEMA on the expected number of arbitration requests, CBO estimates that implementing this provision would cost \$4 million over the 2019–2023 period.

Additional Reporting Requirements. S. 3041 would require FEMA to issue six new regulations, eight new guidance documents, and 26 new reports to the Congress over the next five years. Based

on the costs of preparing similar reports and regulations, CBO estimates that meeting those requirements would cost \$2 million over the 2019–2023 period.

Direct Spending

CBO estimates that enacting S. 3041 would increase direct spending by \$45 million over the 2019–2028 period.

Disaster Unemployment Assistance Extension. S. 3041 would direct FEMA to extend the period that people in Puerto Rico and the U.S. Virgin Islands who were affected by Hurricanes Irma and Maria can receive Disaster Unemployment Assistance (DUA). Under current law, DUA can be provided for up to 26 weeks from the date of the disaster declaration. Under the bill, that period would be extended to 52 weeks from the declaration date and would allow DUA to be provided retroactively to people who would have been eligible for such assistance beyond the 26-week period allowed under current law. Using information from FEMA and the Department of Labor on the number of people who would have been eligible for such assistance and the expected length of time they could have received that assistance, CBO estimates that enacting this provision would increase spending of previously appropriated DRF funds by \$30 million in 2019. (Under current law, CBO estimates that those amounts would otherwise outlay after 2028.)

Assistance for Properties without Flood Insurance. As described above under the heading Spending Subject to Appropriation, the bill would increase the amount of assistance that certain public or private nonprofit entities can receive if they suffer flood losses at multi-structure facilities that are not covered by flood insurance. That provision would be retroactive for flood losses that have occurred since January 2016.

Using data provided by FEMA on the amount of assistance that was reduced for the relevant types of structures between 2016 and 2018, CBO estimates that enacting this section would increase spending of previously appropriated DRF funds by \$15 million over the 2019–2028 period. (Under current law, CBO estimates that those amounts would otherwise outlay after 2028.)

Forgone Recoveries of Improper Payments. Under current law, FEMA must recoup any improper payments made for 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. All payments received through the recovery process are deposited in the DRF and may be spent on future disasters without further appropriation. Under S. 3041, improper payments made to individuals would have to be recouped within three years of their disbursement. That limitation would not apply where there is evidence of fraud.

The Government Accountability Office reported that about 3 percent of the approximately \$1.6 billion spent by FEMA for individual assistance between 2012 and 2014 for Hurricane Sandy relief were improper or fraudulent. Based on a review of that report, CBO estimates that few of those payments (less than 5 percent) were the result of fraud. Using information from FEMA about the recoupment rate for improper payments after previous major disas-

ters, CBO expects that about 35 percent of those payments have been recovered. Thus, CBO estimates that about \$27 million in improper payments for individual assistance that are in the process of being recouped would no longer be collected under S. 3041. However, because those amounts would have been available to FEMA for future disaster relief payments without further appropriation, fewer collections also would reduce outlays, resulting in no net effect on direct spending over the 2019–2028 period. However, because spending lags recoupments, there would be a \$1 million cost over the 2019–2023 period.

The bill also would allow FEMA to waive the recovery of improper individual assistance payments on a case-by-case basis, so long as the improper payment was not made as a result of fraud. As of July 2018, FEMA has not identified a significant amount of improper payments for individual assistance that were made within the last three years. (Improper payments made more than three years ago would be covered by the limitation discussed above.) Furthermore, CBO has no basis to estimate the timing or magnitude of waivers that would be made under S. 3041 for recovery of improper payments that have not yet been disbursed. Thus, CBO does not estimate any additional forgone recoupments associated with the waiver authority that would be provided under the bill.

Revenues

S. 3041 would authorize the Department of State to waive certain fees associated with applications for the replacement of passports if the person applying for such a document lost their original passport in a major disaster. Portions of the passport replacement application fee are remitted to the Treasury and recorded in the budget as revenues. Using information from FEMA on the number of individuals that would qualify for such waivers, CBO estimates that any loss of revenues from those waivers would not be significant in any year.

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. (The revenue effects are not significant and are not shown in the table.)

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 3041, THE DISASTER RECOVERY REFORM ACT OF 2018, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS ON JUNE 13, 2018

	By fiscal year, in millions of dollars—													2018–2023	2018–2028
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028				
	NET INCREASE IN THE DEFICIT														
Statutory Pay-As-You-Go Impact	0	43	4	1	–1	–1	–1	0	0	0	0	0	46	45	

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 3041 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: S. 3041 contains no intergovernmental or private-sector mandates as defined in UMRA.

Previous CBO estimate: On March 8, 2018, CBO transmitted an estimate for H.R. 4460, the Disaster Recovery Reform Act, as ordered reported by the House Committee on Transportation and Infrastructure on November 30, 2017. Several of the provisions in S. 3041 are similar to those in H.R. 4460. Differences in CBO’s estimates of the two pieces of legislation stem from differences in the text of the legislation and new information that CBO has obtained since we transmitted the estimate for H.R. 4460.

Estimate prepared by: Federal costs: Robert Reese; Federal revenues: Sunita D’Monte; Mandates: Rachel Austin.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

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

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

* * * * *

TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS

* * * * *

SEC. 102. DEFINITIONS.

As used in this Act—

(1) * * *

* * * * *

(11) PRIVATE NONPROFIT FACILITY.—

(A) * * *

(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 social services to the general public (including museums, zoos, performing arts facilities, community arts centers, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, *food banks*, broadcasting facilities, houses of worship, and facilities that provide health and safety services of a governmental nature), as defined by the President. No house of worship may be excluded from this definition because leadership or membership in the organiza-

tion operating the house of worship is limited to persons who share a religious faith or practice.

* * * * *

TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

* * * * *

SEC. 203. PREDISASTER HAZARD MITIGATION.

(a) * * *

(b) * * *

(c) APPROVAL BY PRESIDENT.—If the President determines that a State or local government has identified natural disaster hazards in areas under its jurisdiction and has demonstrated the ability to form effective public-private natural disaster hazard mitigation partnerships, the President, using amounts in the National *Public Infrastructure* Predisaster Mitigation Fund established under subsection (i) of this section (referred to in this section as the “Fund”), may provide technical and financial assistance to the State or local government to be used in accordance with subsection (e) of this section.

* * * * *

(e) USES OF TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Technical and financial assistance provided under this section—

(A) * * *

(B) may be used—

(i) to support effective public-private natural disaster hazard mitigation partnerships;

(ii) to improve the assessment of a community’s vulnerability to natural hazards; [or]

(iii) to establish hazard mitigation priorities, and an appropriate hazard mitigation plan, for a community[.]; or

(iv) to establish, adopt, and carry out enforcement activities to implement the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this Act for the purpose of protecting the health, safety, and general welfare of the buildings’ users against disasters.

(2) * * *

(f) ALLOCATION OF FUNDS.—

(1) IN GENERAL.— The President shall award financial assistance under this section on a competitive basis for mitigation activities that are cost effective and in accordance with the criteria in subsection (g).

* * * * *

(3) REDISTRIBUTION OF UNOBLIGATED AMOUNTS.—The President may—

(A) withdraw amounts of financial assistance made available to a State (including amounts made available to local governments of a State) under this subsection that remain unobligated by the end of the third fiscal year after the fiscal year for which the amounts were allocated; and
(B) in the fiscal year following a fiscal year in which amounts were withdrawn under subparagraph (A), add the amounts to any other amounts available to be awarded on a competitive basis pursuant to paragraph (1).

(g) CRITERIA FOR ASSISTANCE AWARDS.—In determining whether to provide technical and financial assistance to a State or local government under this section, the President shall take into account—

(1) * * *

* * * * *

(9) the extent to which assistance will fund mitigation activities in small impoverished communities; **and**

(10) the extent to which the State or local government has facilitated the adoption and enforcement of the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this Act for the purpose of protecting the health, safety, and general welfare of the buildings' users against disasters;

(11) the extent to which the assistance will fund activities that increase the level of resiliency; and

[(10)] (12) such other criteria as the President establishes in consultation with State and local governments.

* * * * *

[(i) NATIONAL PREDISASTER MITIGATION FUND.—

[(1) ESTABLISHMENT.—The President may establish in the Treasury of the United States a fund to be known as the “National Predisaster Mitigation Fund”, to be used in carrying out this section.

[(2) TRANSFERS TO FUND.—There shall be deposited in the Fund—

[(A)] amounts appropriated to carry out this section, which shall remain available until expended; and

[(B)] sums available from gifts, bequests, or donations of services or property received by the President for the purpose of predisaster hazard mitigation.

[(3) EXPENDITURES FROM FUND.—Upon request by the President, the Secretary of the Treasury shall transfer from the Fund to the President such amounts as the President determines are necessary to provide technical and financial assistance under this section.

[(4) INVESTMENT OF AMOUNTS.—

[(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

[(B) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under subparagraph (A), obligations may be acquired—

[(i) on original issue at the issue price; or

[(ii) by purchase of outstanding obligations at the market price.

[(C) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

[(D) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

[(E) TRANSFERS OF AMOUNTS.—

[(i) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

[(ii) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.]

(i) NATIONAL PUBLIC INFRASTRUCTURE PREDISASTER MITIGATION ASSISTANCE.—

(1) IN GENERAL.—*The President may set aside from the Disaster Relief Fund, with respect to each major disaster, an amount equal to 6 percent of the estimated aggregate amount of the grants to be made pursuant to sections 403, 406, 407, 408, 410, 416, and 428 for the major disaster in order to provide technical and financial assistance under this section.*

(2) ESTIMATED AGGREGATE AMOUNT.—*Not later than 180 days after each major disaster declaration pursuant to this Act, the estimated aggregate amount of grants for purposes of paragraph (1) shall be determined by the President and such estimated amount need not be reduced, increased, or changed due to variations in estimates.*

(3) NO REDUCTION IN AMOUNTS.—*The amount set aside pursuant to paragraph (1) shall not reduce the amounts otherwise made available for sections 403, 404, 406, 407, 408, 410, 416, and 428 under this Act.*

[(j) LIMITATION ON TOTAL AMOUNT OF FINANCIAL ASSISTANCE.—The President shall not provide financial assistance under this section in an amount greater than the amount available in the Fund.]

[(k)] (j) MULTHAZARD ADVISORY MAPS.—

* * * * *

[(1)] (k) REPORT ON FEDERAL AND STATE ADMINISTRATION.—
* * *

[(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

[(1) \$180,000,000 for fiscal year 2011;

[(2) \$200,000,000 for fiscal year 2012;

[(3) \$200,000,000 for fiscal year 2013.]

[(n)] (l) PROHIBITION ON EARMARKS.—

* * * * *

TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

* * * * *

SEC. 306. PERFORMANCE OF SERVICES.

(a) * * *

* * * * *

(c) *The Administrator of the Federal Emergency Management Agency is authorized to appoint temporary personnel, after serving continuously for 3 years, to positions in the Federal Emergency Management Agency in the same manner that competitive service employees with competitive status are considered for transfer, reassignment, or promotion to such positions. An individual appointed under this subsection shall become a career-conditional employee, unless the employee has already completed the service requirements for career tenure.*

* * * * *

SEC. 309. USE AND COORDINATION OF RELIEF ORGANIZATIONS.

(a) In providing relief and assistance under this Act, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and [other relief or] *long-term recovery groups, domestic hunger relief, and other relief*, or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.

(b) The President is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and [other relief or] *long-term recovery groups, domestic hunger relief, and other relief*, or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under this Act, and such other regulation as the President may require.

* * * * *

SEC. 311. INSURANCE.

* * * * *

(d) *REPORT ON INSURANCE SHORTFALLS.—Not later than 2 years after the date of enactment of this subsection, and each year thereafter, the Administrator of the Federal Emergency Management Agency shall submit a report to Congress on the number of instances and the estimated amounts involved, by State, for cases in*

which self-insurance amounts have been insufficient to address flood damages.

* * * * *

SEC. 312. DUPLICATION OF BENEFITS.

(a) * * *

(b) SPECIAL RULES.—

(1) * * *

(2) * * *

(3) * * *

(4) WAIVER OF GENERAL PROHIBITION.—

(A) *IN GENERAL.*—The President may waive the general prohibition provided in subsection (a) upon request of a Governor on behalf of the State or on behalf of a person, business concern, or any other entity suffering losses as a result of a major disaster or emergency, if the President finds such waiver is in the public interest and will not result in waste, fraud, or abuse. In making this decision, the President may consider the following:

(i) *The recommendations of the Administrator of the Federal Emergency Management Agency made in consultation with the Federal agency or agencies administering the duplicative program.*

(ii) *If a waiver is granted, the assistance to be funded is cost effective.*

(iii) *Equity and good conscience.*

(iv) *Other matters of public policy considered appropriate by the President.*

(B) *GRANT OR DENIAL OF WAIVER.*—A request under subparagraph (A) shall be granted or denied not later than 45 days after submission of such request.

* * * * *

SEC. 322. MITIGATION PLANNING.

* * * * *

(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).

* * * * *

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] any 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 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 of Federal Emergency Management Agency 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 12 percent of the total award amount under such sections, of which not more than 7 percent may be used by the grantee and 5 percent by the subgrantee for such costs.*

* * * * *

TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS

* * * * *

SEC. 402. GENERAL FEDERAL ASSISTANCE.

In any major disaster, the President may—

- (1) * * *
- (2) * * *
- (3) * * *

(4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; **[and]**

(5) *provide assistance to State and local governments for building code and floodplain management ordinance administration and enforcement, including inspections for substantial damage compliance; and*

[(5)] (6) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

- (A) * * *
- (B) * * *

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.]** *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, or increase resilience to, 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.

* * * * *

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

- (1) reseeding ground cover with quick-growing or native species;
- (2) mulching with straw or chipped wood;
- (3) constructing straw, rock, or log dams in small tributaries to prevent flooding;
- (4) placing logs and other erosion barriers to catch sediment on hill slopes;
- (5) installing debris traps to modify road and trail drainage mechanisms;
- (6) modifying or removing culverts to allow drainage to flow freely;
- (7) adding drainage dips and constructing emergency spillways to keep roads and bridges from washing out during floods;
- (8) planting grass to prevent the spread of noxious weeds;
- (9) installing warning signs;
- (10) establishing defensible space measures;
- (11) reducing hazardous fuels;
- (12) mitigating windstorm damage, including replacing or installing electrical transmission or distribution utility pole structures with poles that are resilient to extreme wind and combined ice and wind loadings for the basic wind speeds and ice conditions associated with the relevant location;
- (13) removing standing burned trees; and
- (14) replacing water systems that have been burned and have caused contamination.

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

- (1) improvements to regional seismic networks in support of building a capability for earthquake early warning;
- (2) improvements to geodetic networks in support of building a capability for earthquake early warning; and

(3) improvements to seismometers, Global Positioning System 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) * * *

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

(A) * * *

(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**[.]; and**

(D) base and overtime wages for extra hires to facilitate the implementation and enforcement of adopted building codes for a period of not more than 180 days after the major disaster is declared.

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

* * * * *

(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, education *(including private nonprofit center-based childcare)*, and emergency medical care.

* * * * *

(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.

* * * * *

(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.

* * * * *

(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 November 23, 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). *This section shall not apply to more than 1 building of a multi-structure educational, law enforcement, correctional, fire, or medical campus, effective January 1, 2016.*

* * * * *

(e) ELIGIBLE COST.—

(1) DETERMINATION.—

(A) IN GENERAL.—For the purposes of this section, *for disasters declared on or after August 1, 2017, or a disaster in which a cost estimate has not yet been finalized for a project*, 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]** *the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this Act for the purposes of protecting the health, safety, and general welfare of a facility's users against disasters* (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.]; and**

(iii) *in a manner that allows the facility to meet the definition of resilient developed pursuant to this subsection.*

* * * * *

(C) CONTRIBUTIONS.—Contributions for the eligible cost made under this section may be provided on an actual cost basis or on cost-estimation procedures.

* * * * *
 (5) NEW RULES.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this paragraph, the President, acting through the Administrator of the Federal Emergency Management Agency, and in consultation with the heads of relevant Federal departments and agencies, shall issue a final rulemaking that defines the terms ‘resilient’ and ‘resiliency’ for purposes of this subsection.

(B) INTERIM GUIDANCE.—Not later than 60 days after the date of enactment of this paragraph, the Administrator shall issue interim guidance to implement this subsection. Such interim guidance shall expire 18 months after the date of enactment of this paragraph or upon issuance of final regulations pursuant to subparagraph (A), whichever occurs first.

(C) GUIDANCE.—Not later than 90 days after the date on which the Administrator issues the final rulemaking under this paragraph, the Administrator shall issue any necessary guidance related to the rulemaking.

(D) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall submit to Congress a report summarizing the regulations and guidance issued pursuant to this paragraph.

* * * * *

SEC. 408. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

* * * * *

(c) TYPES OF HOUSING ASSISTANCE.—

(1) TEMPORARY HOUSING.—

(A) * * *

(i) * * *

(ii) * * *

(B) DIRECT ASSISTANCE.—

(i) * * *

(ii) LEASE AND REPAIR OF RENTAL UNITS FOR TEMPORARY HOUSING.—

(I) IN GENERAL.—The President, to the extent the President determines it would be a cost-effective alternative to other temporary housing options, may—

[(aa) enter into lease agreements with owners of multifamily rental property located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under this section; and]

(aa) enter into lease agreements with owners of multifamily rental property impacted by a major disaster or located in areas covered by a major disaster declaration to house individ-

uals and households eligible for assistance under this section; and

(bb) * * *

[(II) IMPROVEMENTS OR REPAIRS.—Under the terms of any lease agreement for property entered into under this subsection, the value of the improvements or repairs.—

[(aa) shall be deducted from the value of the lease agreement; and

[(bb) may not exceed the value of the lease agreement.]

(II) IMPROVEMENTS OR REPAIRS.—Under the terms of any lease agreement for property entered into under this subsection, the value of the improvements or repairs shall be deducted from the value of the lease agreement.

* * * * *

(e) FINANCIAL ASSISTANCE TO ADDRESS OTHER NEEDS.—

(1) * * *

(2) * * *

(3) CRITICAL DOCUMENT FEE WAIVER.—

(A) IN GENERAL.—Notwithstanding section 1 of the Passport Act of June 4, 1920 (22 U.S.C. 214) or any other provision of law, the President, in consultation with the Governor of a State, may provide a waiver under this section to an individual or household described in paragraph (1) of the following document replacement fees:

(i) The passport application fee for individuals who lost their United States passport.

(ii) The file search fee for a United States passport.

(iii) The Application for Waiver of Passport and/or Visa form (Form I-193) fee.

(iv) The Permanent Resident Card replacement form (Form I-90) filing fee.

(v) The Declaration of Intention form (Form N-300) filing fee.

(vi) The Naturalization/Citizenship Document replacement form (Form N-565) filing fee.

(vii) The Employment Authorization form (Form I-765) filing fee.

(viii) The biometric service fee.

(B) EXEMPTION FROM FORM REQUIREMENT.—The authority of the President to waive fees under clauses (iii) through (viii) of subparagraph (A) applies regardless of whether the individual or household qualifies for a Form I-912 Request for Fee Waiver, or any successor thereto.

(C) EXEMPTION FROM ASSISTANCE MAXIMUM.—The assistance limit in subsection (h) shall not apply to any fee waived under this paragraph.

(D) REPORT.—Not later than 365 days after the date of enactment of this paragraph, the Administrator of the Federal Emergency Management Agency and the head of any other agency given critical document fee waiver authority under this paragraph shall submit a report to the Committee on Homeland Security and Governmental Affairs of

the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the costs associated with providing critical document fee waivers as described in subparagraph (A).

(f) STATE ROLE.—

(1) **FINANCIAL ASSISTANCE TO ADDRESS OTHER NEEDS.] STATE- OR TRIBAL-ADMINISTERED ASSISTANCE AND OTHER NEEDS ASSISTANCE.—**

(A) GRANT TO STATE.—Subject to subsection (g), a Governor may request a grant from the President to provide **financial** assistance to individuals and households in the State under **subsection (e)] subsections (c)(1)(B), (c)(4), and (e) if the President and the State or Tribal government comply, as determined by the Administrator, with paragraph (3).**

(B) ADMINISTRATIVE COSTS.—A State that receives a grant under subparagraph (A) may expend not more than 5 percent of the amount of the grant for the administrative costs of providing **financial** assistance to individuals and households in the State under **subsection (e)] subsections (c)(1)(B), (c)(4), and (e).**

(2) * * *

(3) REQUIREMENTS.—

(A) APPLICATION.—A State or Tribal government desiring to provide assistance under subsection (c)(1)(B), (c)(4), or (e) shall submit to the President an application for a grant to provide financial assistance under the program.

(B) CRITERIA.—The President, in consultation and coordination with State and Tribal governments, shall establish criteria for the approval of applications submitted under subparagraph (A). The criteria shall include, at a minimum—

(i) a requirement that the State or Tribal government submit a housing strategy under subparagraph (C);

(ii) the demonstrated ability of the State or Tribal government to manage the program under this section;

(iii) there being in effect a plan approved by the President as to how the State or Tribal government will comply with applicable Federal laws and regulations and how the State or Tribal government will provide assistance under its plan;

(iv) a requirement that the State or Tribal government comply with rules and regulations established pursuant to subsection (j); and

(v) a requirement that the President, or the designee of the President, comply with subsection (i).

(C) REQUIREMENT OF HOUSING STRATEGY.—

(i) IN GENERAL.—A State or Tribal government submitting an application under this paragraph shall have an approved housing strategy, which shall be developed and submitted to the President for approval.

(ii) REQUIREMENTS.—The housing strategy required under clause (i) shall—

(I) outline the approach of the State in working with Federal partners, Tribal governments, local

communities, non-governmental organizations, and individual disaster survivors to meet disaster-related sheltering and housing needs; and

(II) include the establishment of an activation plan for a State Disaster Housing Task Force, as outlined in the National Disaster Housing Strategy, to bring together State, Tribal, local, Federal, non-governmental, and private sector expertise to evaluate housing requirements, consider potential solutions, recognize special needs populations, and propose recommendations.

(D) **QUALITY ASSURANCE.**—Before approving an application submitted under this section, the President, or the designee of the President, shall institute adequate policies, procedures, and internal controls to prevent waste, fraud, abuse, and program mismanagement for this program and for programs under subsections (c)(1)(B), (c)(4), and (e). The President shall monitor and conduct quality assurance activities on a State or Tribal government's implementation of programs under subsections (c)(1)(B), (c)(4), and (e). If, after approving an application of a State or Tribal government submitted under this paragraph, the President determines that the State or Tribal government is not administering the program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.

(E) **AUDITS.**—The Inspector General of the Department of Homeland Security shall provide for periodic audits of the programs administered by States and Tribal governments under this subsection.

(F) **APPLICABLE LAWS.**—All Federal laws applicable to the management, administration, or contracting of the programs by the Federal Emergency Management Agency under this section shall be applicable to the management, administration, or contracting by a non-Federal entity under this section.

(G) **REPORT ON EFFECTIVENESS.**—Not later than 18 months after the date of enactment of this paragraph, the Inspector General of the Department of Homeland Security shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the State or Tribal government's role to provide assistance under this section. The report shall contain an assessment of the effectiveness of the State or Tribal government's role in providing assistance under this section, including—

(i) whether the State or Tribal government's role helped to improve the general speed of disaster recovery;

(ii) whether the State or Tribal government providing assistance under this section had the capacity to administer this section; and

(iii) recommendations for changes to improve the program if the State or Tribal government's role to administer the programs should be continued.

(H) REPORT ON INCENTIVES.—Not later than 12 months after the date of enactment of this paragraph, the Administrator of the Federal Emergency Management Agency shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on a proposed incentive structure for awards made under this section to encourage participation by eligible States and Tribal governments and to potentially add cost-share requirements that are reasonable to support increased management by State and Tribal governments according to this section.

(I) PROHIBITION.—The President may not condition the provision of Federal assistance under this Act on a State or Tribal government requesting a grant under this section.

(J) MISCELLANEOUS.—

(i) NOTICE AND COMMENT.—The Administrator of the Federal Emergency Management Agency may waive notice and comment rulemaking with respect to rules to carry out this section, if the Administrator determines doing so is necessary to expeditiously implement this section, and may carry out this section as a pilot program until such regulations are promulgated.

(ii) FINAL RULE.—Not later than 2 years after the date of enactment of this paragraph, the Administrator of the Federal Emergency Management Agency shall issue final regulations to implement this subsection as amended by the Disaster Recovery Reform Act of 2018.

(iii) WAIVER AND EXPIRATION.—The authority under clause (i) and any pilot program implemented pursuant to such clause shall expire 2 years after the date of enactment of this paragraph or upon issuance of final regulations pursuant to clause (ii), whichever occurs sooner.

* * * * *

(h) MAXIMUM AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—No individual or household shall receive financial assistance greater than \$ 25,000 under this section with respect to a single major disaster, *excluding financial assistance to rent alternate housing accommodations under subsection (c)(1)(A)(i) and financial assistance to address other needs under subsection (e).*

(2) OTHER NEEDS ASSISTANCE.—*The maximum financial assistance any individual or household may receive under subsection (e) shall be equivalent to the amount set forth in paragraph (1) with respect to a single major disaster.*

[(2)] (3) ADJUSTMENT OF LIMIT.—The limit established under [paragraph (1)] paragraphs (1) and (2) shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(4) EXCLUSION OF NECESSARY EXPENSES FOR INDIVIDUALS WITH DISABILITIES.—

(A) *IN GENERAL.*—The maximum amount of assistance established under paragraph (1) shall exclude expenses to repair or replace damaged accessibility-related improvements under paragraphs (2), (3), and (4) of subsection (c) for individuals with disabilities.

(B) *OTHER NEEDS ASSISTANCE.*—The maximum amount of assistance established under paragraph (2) shall exclude expenses to repair or replace accessibility-related personal property under subsection (e)(2) for individuals with disabilities.

* * * * *

SEC. 420. FIRE MANAGEMENT ASSISTANCE.

- (a) * * *
- (b) * * *
- (c) * * *

(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. 423. APPEALS OF ASSISTANCE DECISIONS.

- (a) * * *
- (b) * * *
- (c) * * *

(d) *RIGHT OF ARBITRATION.*—

(1) *IN GENERAL.*—Notwithstanding subsections (a), (b), and (c), an applicant for assistance under this title may request arbitration to dispute the eligibility for assistance or repayment of assistance provided for a dispute of more than \$500,000. Such arbitration shall be conducted by the Civilian Board of Contract Appeals and the decision of such Board shall be binding.

(2) *ELIGIBILITY.*—To participate in arbitration under this subsection, an applicant may submit a request for arbitration after the completion of the first appeal under subsection (a) at any time before the Administrator of the Federal Emergency Management Agency has issued a final agency determination.

(3) *LIMITATION OF APPEAL.*—Upon the submission of a request for arbitration, an applicant shall forfeit all rights to further appeal.

* * * * *

SEC. 428. PUBLIC ASSISTANCE PROGRAM ALTERNATIVE PROCEDURES.

* * * * *

(d) **PARTICIPATION.**—**[Participation in]**

(1) *IN GENERAL.*—Participation in the alternative procedures adopted under this section shall be at the election of a State, tribal or local government, or owner or operator of a private nonprofit facility consistent with procedures determined by the Administrator.

(2) *NO CONDITIONS.*—*The President may not condition the provision of Federal assistance under this Act on the election by a State, Tribal, or local government, or owner or operator of a private nonprofit facility to participate in the alternative procedures adopted under this section.*

(e) *MINIMUM PROCEDURES.*—

(1) For repair, restoration, and replacement of damaged facilities under section 406—

* * * * *

(E) in determining eligible costs under section 406, the Administrator shall make available, at an applicant's request and where the Administrator or the certified cost estimate prepared by the applicant's professionally licensed engineers has estimated an eligible Federal share for a project of at least \$ 5,000,000, an independent expert panel to validate the estimated eligible cost consistent with applicable regulations and policies implementing this section; **[and]**

(F) in determining eligible costs under section 406, the Administrator shall, at the applicant's request, consider properly conducted and certified cost estimates prepared by professionally licensed engineers (mutually agreed upon by the Administrator and the applicant), to the extent that such estimates comply with applicable regulations, policy, and guidance**[.]**; *and*

(G) *once certified by a professionally licensed engineer and accepted by the Administrator, the estimates on which grants made pursuant to this section are based shall be presumed to be reasonable and eligible costs, as long as there is no evidence of fraud.*

* * * * *

SEC. 430. AGENCY ACCOUNTABILITY.

(a) *PUBLIC ASSISTANCE.*—*Not later than 5 days after an award of a public assistance grant is made under section 406 that is in excess of \$1,000,000, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency the specifics of each such grant award, including—*

- (1) *identifying the Federal Emergency Management Agency Region;*
- (2) *the disaster or emergency declaration number;*
- (3) *the State, county, and applicant name;*
- (4) *if the applicant is a private nonprofit organization;*
- (5) *the damage category code;*
- (6) *the amount of the Federal share obligated; and*
- (7) *the date of the award.*

(b) *MISSION ASSIGNMENTS.*—

(1) *IN GENERAL.*—*Not later than 5 days after the issuance of a mission assignment or mission assignment task order, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency any mission assignment or mission assignment task order to another Federal department or agency regarding a major disaster in excess of \$1,000,000, including—*

- (A) the name of the impacted State or Indian Tribe;
 - (B) the disaster declaration for such State or Indian Tribe;
 - (C) the assigned agency;
 - (D) the assistance requested;
 - (E) a description of the disaster;
 - (F) the total cost estimate;
 - (G) the amount obligated;
 - (H) the State or Tribal cost share, if applicable;
 - (I) the authority under which the mission assignment or mission assignment task order was directed; and
 - (J) if applicable, the date a State or Indian Tribe requested the mission assignment.
- (2) **RECORDING CHANGES.**—Not later than 10 days after the last day of each month until a mission assignment or mission assignment task order described in paragraph (1) is completed and closed out, the Administrator of the Federal Emergency Management Agency shall update any changes to the total cost estimate and the amount obligated.
- (c) **DISASTER RELIEF MONTHLY REPORT.**—Not later than 10 days after the first day of each month, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency reports, including a specific description of the methodology and the source data used in developing such reports, including—
- (1) an estimate of the amounts for the fiscal year covered by the President’s most recent budget pursuant to section 1105(a) of title 31, United States Code, including—
 - (A) the unobligated balance of funds to be carried over from the prior fiscal year to the budget year;
 - (B) the unobligated balance of funds to be carried over from the budget year to the budget year plus 1;
 - (C) the amount of obligations for noncatastrophic events for the budget year;
 - (D) the amount of obligations for the budget year for catastrophic events delineated by event and by State;
 - (E) the total amount that has been previously obligated or will be required for catastrophic events delineated by event and by State for all prior years, the current fiscal year, the budget year, and each fiscal year thereafter;
 - (F) the amount of previously obligated funds that will be recovered for the budget year;
 - (G) the amount that will be required for obligations for emergencies, as described in section 102(1), major disasters, as described in section 102(2), fire management assistance grants, as described in section 420, surge activities, and disaster readiness and support activities; and
 - (H) the amount required for activities not covered under section 251(b)(2)(D)(iii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(iii)); and
 - (2) an estimate or actual amounts, if available, of the following for the current fiscal year, which shall be submitted not later than the fifth day of each month, published by the Administrator of the Federal Emergency Management Agency on the

website of the Federal Emergency Management Agency not later than the fifth day of each month:

(A) A summary of the amount of appropriations made available by source, the transfers executed, the previously allocated funds recovered, and the commitments, allocations, and obligations made.

(B) A table of disaster relief activity delineated by month, including—

(i) the beginning and ending balances;

(ii) the total obligations to include amounts obligated for fire assistance, emergencies, surge, and disaster support activities;

(iii) the obligations for catastrophic events delineated by event and by State; and

(iv) the amount of previously obligated funds that are recovered.

(C) A summary of allocations, obligations, and expenditures for catastrophic events delineated by event.

(D) The cost of the following categories of spending:

(i) Public assistance.

(ii) Individual assistance.

(iii) Mitigation.

(iv) Administrative.

(v) Operations.

(vi) Any other relevant category (including emergency measures and disaster resources) delineated by disaster.

(E) The date on which funds appropriated will be exhausted.

(d) **CONTRACTS.**—

(1) **INFORMATION.**—Not later than 10 days after the first day of each month, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency the specifics of each contract in excess of \$1,000,000 that the Federal Emergency Management Agency enters into, including—

(A) the name of the party;

(B) the date the contract was awarded;

(C) the amount and scope of the contract;

(D) if the contract was awarded through a competitive bidding process;

(E) if no competitive bidding process was used, the reason why competitive bidding was not used; and

(F) the authority used to bypass the competitive bidding process.

The information shall be delineated by disaster, if applicable, and specify the damage category code, if applicable.

(2) **REPORT.**—Not later than 10 days after the last day of the fiscal year, the Administrator of the Federal Emergency Management Agency shall provide a report to the appropriate committees of Congress summarizing the following information for the preceding fiscal year:

(A) The number of contracts awarded without competitive bidding.

(B) *The reasons why a competitive bidding process was not used.*

(C) *The total amount of contracts awarded with no competitive bidding.*

(D) *The damage category codes, if applicable, for contracts awarded without competitive bidding.*

(e) **COLLECTION OF PUBLIC ASSISTANCE RECIPIENT AND SUB-RECIPIENT CONTRACTS.—**

(1) **IN GENERAL.**—*Not later than 180 days after the date of enactment of this subsection, the Administrator of the Federal Emergency Management Agency shall initiate efforts to begin collecting information prior to the project closeout phase on any contract for more than \$500,000 that a public assistance recipient or subrecipient enters into using grant monies under section 324, 403, 406, 407, 428, or 502, to improve oversight efforts by the Inspector General of the Department and others, including—*

(A) *the name of each party;*

(B) *the date the contract was awarded;*

(C) *the amount of the contract;*

(D) *the scope of the contract;*

(E) *the period of performance for the contract; and*

(F) *whether the contract was awarded through a competitive bidding process.*

(2) **REPORT.**—*Not later than 365 days after the date of enactment of this subsection, the Administrator of the Federal Emergency Management Agency shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the efforts of the Federal Emergency Management Agency to collect the information described in paragraph (1).*

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TITLE VII—MISCELLANEOUS

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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) * * *

(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] report for project completion as certified by the grantee, there shall be a presumption that accounting records were main-*

tained that adequately identify the source and application of funds provided for financially assisted activities.

(2) * * *

(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 for project completion as certified by the grantee shall not constitute evidence to rebut the presumption described in paragraph (1).

(4) * * *

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(d) FACILITATING CLOSEOUT.—

(1) INCENTIVES.—The Administrator of the Federal Emergency Management Agency may develop incentives and penalties that encourage State, Tribal, or local governments to close out expenditures and activities on a timely basis related to disaster or emergency assistance.

(2) AGENCY REQUIREMENTS.—The Federal Emergency Management Agency shall, consistent with applicable regulations and required procedures, meet its responsibilities to improve closeout practices and reduce the time to close disaster program awards.

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PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

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TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

* * * * *

SEC. 209. GRANTS FOR ECONOMIC ADJUSTMENT

(a) * * *

* * * * *

(e) DISASTER MITIGATION.—In providing assistance pursuant to subsection (c)(2), if appropriate and as applicable, the Secretary may encourage hazard mitigation in assistance provided pursuant to such subsection.

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POST-KATRINA EMERGENCY MANAGEMENT REFORM ACT OF 2006

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**TITLE VI—NATIONAL EMERGENCY
MANAGEMENT**

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Subtitle C—Comprehensive Preparedness System

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CHAPTER 2—ADDITIONAL PREPAREDNESS

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SEC. 661. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS

(a) * * *

* * * * *

(d) AUTHORIZATION.—There is authorized to be appropriated to carry out this section \$4,000,000 ~~for fiscal year 2008~~ for each of fiscal years 2018 through 2022. Such sums shall remain available until expended.

SEC. 662. EMERGENCY MANAGEMENT PERFORMANCE GRANTS PROGRAM

(a) * * *

* * * * *

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program, for each of fiscal years 2018 through 2022 the program—

- [(1) for fiscal year 2008, \$ 400,000,000;
- [(2) for fiscal year 2009, \$ 535,000,000;
- [(3) for fiscal year 2010, \$ 680,000,000;
- [(4) for fiscal year 2011, \$ 815,000,000; and
- [(5) for fiscal year 2012], \$ 950,000,000.

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DISASTER MITIGATION ACT OF 2000

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**TITLE II—STREAMLINING AND COST
REDUCTION**

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SEC. 205. ASSISTANCE TO REPAIR, RESTORE, RECONSTRUCT, OR REPLACE DAMAGED FACILITIES.

* * * * *

(d) * * *

(1) * * *

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on the date of the enactment of this Act and applies to funds appropriated after the date of the enactment of this Act, except that paragraph (1)(B) of section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance

Act (as amended by paragraph (1)) takes effect on the date on which the cost estimation procedures established under paragraph (3) of that section take effect.

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