

TO AMEND THE ROBERT T. STAFFORD DISASTER RELIEF  
 AND EMERGENCY ASSISTANCE ACT TO INCLUDE CER-  
 TAIN SERVICES IN THE DEFINITION OF CRITICAL  
 SERVICES, AND FOR OTHER PURPOSES

SEPTEMBER 4, 2020.—Committed to the Committee of the Whole House on the State  
 of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 2242]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom  
 was referred the bill (H.R. 2242) to amend the Robert T. Stafford  
 Disaster Relief and Emergency Assistance Act to include certain  
 services in the definition of critical services, and for other purposes,  
 having considered the same, reports favorably thereon with amend-  
 ments and recommends that the bill as amended do pass.

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The amendments are as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.**

Section 20601 of the Bipartisan Budget Act of 2018 (Public Law 115–123) is amended by inserting “, and including, for purposes of this section, solid waste management, stormwater management, public housing, transportation infrastructure, and medical care,” before “for the duration”.

Amend the title so as to read:

A bill to amend the Bipartisan Budget Act of 2018 to include certain services in the definition of critical services for purposes of repair, restoration, and replacement of damaged facilities.

PURPOSE OF LEGISLATION

The purpose of H.R. 2242, as amended, is to amend the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Stafford Act, Pub. L. 93–288, as amended) to include additional services in the Act’s definition of critical services.

BACKGROUND AND NEED FOR LEGISLATION

Section 406(a) of the *Stafford Act* allows the President to make contributions to private non-profit facilities and infrastructure for the repair of damage caused by disasters if those facilities provide “critical services” as defined by the act. The Stafford Act currently includes power, water, sewer, wastewater treatment, communications, education, and emergency medical care within the Section 406 definition of “critical services.”

H.R. 2242, as amended, would expand the definition of critical services under Section 406 of the Stafford Act for the purposes of Section 20601 of the *Bipartisan Budget Act of 2018 (Pub. L. 115–123)* authorizing assistance for public infrastructure pursuant to Section 428 of the Stafford Act for certain disasters declared in Puerto Rico and the U.S. Virgin Islands. This expansion includes: solid waste management, stormwater management, emergency supply transportation, nonemergency medical, first response, and security.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress the following hearing was used to develop or consider H.R. 2242, as amended:

On May 22, 2019, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing titled “Disaster Preparedness: DRRA Implementation and FEMA Readiness.” Dr. Daniel Kaniewski, Deputy Administrator for Resilience, Federal Emergency Management Agency, U.S. Department of Homeland Security; Ms. Sima Merick, Executive Director, Ohio Emergency Management Agency, *testifying on behalf of the National Emergency Management Association*; Mr. Nicholas L. Crossley, Director, Emergency Management and Homeland Security Agency, Hamilton County, Ohio, *testifying on behalf of the International Association of Emergency Managers*; Hon. James Gore, Supervisor, 4th District, Sonoma County, California, *testifying on behalf of the National Association of Counties*, Ms. Pamela S. Williams, Executive Director, BuildStrong Coalition; Mr. Al-

phouse Davis, Deputy Director, Engineering Extension Service, Texas A&M, *testifying on behalf of the National Domestic Preparedness Consortium*; and Mr. Randy Noel, President, Reve, Inc., *testifying on behalf of the National Association of Home Builders*. Topics discussed included the state of federal disaster preparedness programs since the enactment of the Disaster Recovery Reform Act of 2018, the status of federal disaster recovery assistance funding appropriated in the wake of major disaster declarations granted by the President from 2017–2019, and the increasing frequency of extreme weather-related hazards.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On April 10, 2019, Resident Commissioner/Representative González-Colón introduced H.R. 2242. Within the Committee, H.R. 2242 was referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management.

The Chair discharged the Subcommittee on Economic Development, Public Buildings, and Emergency Management from further consideration of H.R. 2242 on September 19, 2019.

The Committee considered H.R. 2242 on September 19, 2019, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote, a quorum being present.

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by Miss González-Colón (#1); was AGREED TO by voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

There were no recorded votes taken in connection with consideration of H.R. 2242, as amended.

#### COMMITTEE OVERSIGHT FINDINGS

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

Several Committee members and staff have visited the Commonwealth of Puerto Rico and the U.S. Virgin Islands to meet with local and Federal officials and review the status of recovery from Hurricanes Irma and Maria since the storms struck in 2017. Limitations in Federal disaster recovery program authorities identified by officials tasked with recovery have resulted in this legislative effort to further expand language enacted as part of the *Bipartisan Budget Act of 2018* (Pub. L. 115–123).

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under sec-

tion 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 2242 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 26, 2020.*

PETER A. DEFAZIO,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2242, a bill to amend the Bipartisan Budget Act of 2018 to include certain services in the definition of critical services for purposes of repair, restoration, and replacement of damaged facilities.

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

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

| At a Glance                                                                                                                                                                                                       |      |                                     |           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-------------------------------------|-----------|
| <b>H.R. 2242, a bill to amend the Bipartisan Budget Act of 2018 to include certain services in the definition of critical services for purposes of repair, restoration, and replacement of damaged facilities</b> |      |                                     |           |
| As ordered reported by the House Committee on Transportation and Infrastructure on September 19, 2019                                                                                                             |      |                                     |           |
| By Fiscal Year, Millions of Dollars                                                                                                                                                                               | 2020 | 2020-2025                           | 2020-2030 |
| Direct Spending (Outlays)                                                                                                                                                                                         | *    | 1,370                               | 1,730     |
| Revenues                                                                                                                                                                                                          | 0    | 0                                   | 0         |
| Increase or Decrease (-) in the Deficit                                                                                                                                                                           | *    | 1,370                               | 1,730     |
| Spending Subject to Appropriation (Outlays)                                                                                                                                                                       | *    | 7                                   | 9         |
| Statutory pay-as-you-go procedures apply?                                                                                                                                                                         | Yes  | Mandate Effects                     |           |
| Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?                                                                                                                    | No   | Contains intergovernmental mandate? | No        |
|                                                                                                                                                                                                                   |      | Contains private-sector mandate?    | No        |
| * = between zero and \$500,000.                                                                                                                                                                                   |      |                                     |           |

The bill would

- Authorize the Federal Emergency Management Agency to provide additional disaster recovery assistance to Puerto Rico and the U.S. Virgin Islands for critical services projects
- Estimated budgetary effects would primarily stem from

- Spending for critical services projects
- Areas of significant uncertainty include
- Estimating the amount of assistance that will be provided to Puerto Rico and the U.S. Virgin Islands under current law
  - Determining the number and type of projects that would qualify as critical services projects
  - Projecting the amount of assistance critical services projects would receive

Bill summary: H.R. 2242 would make certain recovery projects eligible for increased assistance from the Federal Emergency Management Agency (FEMA) in Puerto Rico and the U.S. Virgin Islands in the aftermath of Hurricanes Irma and Maria. The bill would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to expand the list of project types that qualify as critical services projects under the Bipartisan Budget Act of 2018 (Public Law 115–123).

Estimated Federal cost: The estimated budgetary effect of H.R. 2242 is shown in Table 1. The costs of the legislation fall within budget function 450 (community and regional development).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 2242

|                                  | By fiscal year, millions of dollars—           |      |      |      |      |      |      |      |      |      |      |           |           |
|----------------------------------|------------------------------------------------|------|------|------|------|------|------|------|------|------|------|-----------|-----------|
|                                  | 2020                                           | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2020–2025 | 2020–2030 |
|                                  | Increases in Direct Spending                   |      |      |      |      |      |      |      |      |      |      |           |           |
| Estimated Budget Authority ..... | 0                                              | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0         | 0         |
| Estimated Outlays .....          | *                                              | 380  | 360  | 330  | 300  | 190  | 90   | 40   | 20   | 10   | 10   | 1,560     | 1,730     |
|                                  | Increases in Spending Subject to Appropriation |      |      |      |      |      |      |      |      |      |      |           |           |
| Estimated Authorization .....    | *                                              | 2    | 2    | 1    | *    | *    | *    | *    | *    | *    | *    | 7         | 9         |
| Estimated Outlays .....          | *                                              | 2    | 2    | 1    | *    | *    | *    | *    | *    | *    | *    | 7         | 9         |

Components may not sum to totals because of rounding; \* = between zero and \$500,000.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted in fiscal year 2020. Under that assumption, the agency could incur some costs in 2020, but CBO expects that most of the costs would be incurred in 2021 and later.

Background: In 2017, the U.S. territories of Puerto Rico and the Virgin Islands were struck by Hurricanes Irma and Maria. In response, the President declared major disasters under the Stafford Act, which authorizes FEMA, at its discretion for authorized purposes, to provide assistance through several programs from its Disaster Relief Fund (DRF). In that year, the Congress provided nearly \$50 billion in supplemental appropriations to the DRF, largely in response to Hurricanes Harvey, Irma, and Maria.<sup>1</sup> Using information from FEMA, CBO expects that a significant portion of the current balance of nearly \$60 billion (which includes supplemental and regular appropriations) ultimately will be spent on recovery efforts in Puerto Rico and the U.S. Virgin Islands related to Hurricanes Irma and Maria. CBO projects that most—but not all—that spending will occur over the 2020–2030 period under current law.

<sup>1</sup> Appropriations to the DRF over the 2011–2020 period averaged \$138 billion annually. About half of those amounts were provided in supplemental appropriations acts. In particular, Public Laws 115–56, 115–72, and 115–123 provided \$49.6 billion in supplemental funding to the DRF in response to several 2017 disasters, including Hurricanes Harvey, Irma, and Maria.

Since 2017, FEMA has spent about \$14 billion on disaster assistance for the two territories. Of that amount, CBO estimates that about \$6 billion has been spent on projects under the Public Assistance Program, which funds repairs to and replacements of public buildings, roads, bridges, and other infrastructure; removal of debris; and restoration of critical services, such as electricity and water.<sup>2</sup> Using information from FEMA about the agency's long-term projections for recovery spending in Puerto Rico and the U.S. Virgin Islands, CBO projects that, under current law, the agency will spend an additional \$38 billion from DRF balances on those types of projects over the 2020–2030 period.

**Direct spending:** H.R. 2242 would expand the eligible uses of existing, unobligated balances in the DRF by classifying additional types of projects as critical services projects. Under the Bipartisan Budget Act of 2018, FEMA is authorized to spend more for critical services in Puerto Rico and the U.S. Virgin Islands than is permitted under the Stafford Act for other disasters. As a result, CBO expects that enacting H.R. 2242 would lead to balances in the DRF being spent more quickly than under current law. That additional spending of amounts already appropriated is classified as direct spending. In total, CBO estimates that enacting the bill would increase direct spending by about \$1.7 billion over the 2020–2030 period; that increased spending would be offset by lower spending of the same amount in years after 2030.

**Total spending on Public Assistance projects in Puerto Rico and the U.S. Virgin Islands** would increase because both the number of projects that qualify as critical services and the amount of funding available for each one would increase. The expanded list of critical services would include transportation infrastructure (such as roads and bridges), public housing, and solid waste and stormwater management. CBO estimates that about 5 percent of total spending for those projects under current law is for critical services; the expansion under H.R. 2242 would make an additional 15 percent of total spending on Public Assistance qualify as critical services. Transportation projects—historically 10 percent of total Public Assistance spending—would account for most of that increase.

**Spending subject to appropriation:** FEMA uses contractors to review infrastructure projects. Because H.R. 2242 would expand both the number and the technical complexity of projects, CBO estimates that FEMA would need to spend about \$7 million over the 2021–2024 period and smaller amounts in subsequent years on additional contract services. In total, CBO estimates, FEMA would spend \$9 million over the 2020–2030 period. Such spending would be subject to the availability of appropriations to the DRF.

**Uncertainty:** The total amount of public assistance that FEMA will provide to Puerto Rico and the U.S. Virgin Islands over the 2020–2030 period—currently estimated at \$38 billion—is the largest area of uncertainty associated with H.R. 2242. CBO's estimate of the bill's costs is based on assumptions applied to that starting figure. If FEMA decides to increase or decrease the amount of spending allocated to storm recovery in those territories under cur-

<sup>2</sup>Section 406 of the Stafford Act defines critical services to include electricity, water (including water provided by an irrigation organization or facility) and sewer, wastewater treatment, communications, education, and emergency medical care.

rent law, then estimated spending under H.R. 2242 would change as well.

In addition, the proportion of spending under the Public Assistance Program that H.R. 2242 would make eligible for the enhanced authorities of Public Law 115–123, which CBO estimates is 15 percent, is uncertain. Further, the magnitude of the increase in the cost of projects that the bill would enable, which CBO estimates is 35 percent per project, is also uncertain. Because Public Law 115–123 was enacted in 2018, CBO has limited history to use in estimating its effects. The costs of H.R. 2242 could therefore be higher or lower than CBO estimates.

**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 Table 2.

TABLE 2.—H.R. 2242, A BILL TO AMEND THE BIPARTISAN BUDGET ACT OF 2018 TO INCLUDE CERTAIN SERVICES IN THE DEFINITION OF CRITICAL SERVICES FOR PURPOSES OF REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON SEPTEMBER 19, 2019

|                            | By fiscal year, millions of dollars— |      |      |      |      |      |      |      |      |      |      |               |               |  |
|----------------------------|--------------------------------------|------|------|------|------|------|------|------|------|------|------|---------------|---------------|--|
|                            | 2020                                 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2020–<br>2025 | 2020–<br>2030 |  |
|                            | Net Increase in the Deficit          |      |      |      |      |      |      |      |      |      |      |               |               |  |
| Pay-As-You-Go Effect ..... | 0                                    | 380  | 360  | 330  | 300  | 190  | 90   | 40   | 20   | 10   | 10   | 1,560         | 1,730         |  |

H.R. 2242 would affect the spending of balances from the Disaster Relief Fund (DRF). Most of those balances stem from appropriations designated in accordance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 as emergency requirements or for disaster relief. In particular, Public Laws 115–56, 115–72, and 115–123 (the Bipartisan Budget Act of 2018) designated the amounts appropriated to the DRF—totaling \$49.6 billion—as emergency requirements. H.R. 2242 would not designate funds as emergency requirements or for disaster relief, but to the extent that it would accelerate spending of DRF balances, it would increase spending of some funds that were originally designated as such.

**Increase in long-term deficits:** None.

**Mandates:** None.

**Estimate prepared by:** Federal costs: Jon Sperl; Mandates: Rachel Austin.

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

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to expand eligibility for facility and infrastructure repair funding for entities that provide critical services.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 2242, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of

Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

#### FEDERAL MANDATES STATEMENT

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

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 2242, as amended, does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

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

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Sec. 1. Repair, restoration, and replacement of damaged facilities*

This section strikes and replaces the original re-definition of “critical services” to include solid waste management, stormwater management, emergency supply transportation, nonemergency medical, first response, and security. Additionally, the title of the bill was amended to read, “A bill to amend the Bipartisan Budget Act of 2018 to include certain services in the definition of critical services for purposes of repair, restoration, and replacement of damaged facilities.”

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

BIPARTISAN BUDGET ACT OF 2018

\* \* \* \* \*

**DIVISION B—SUPPLEMENTAL APPROPRIATIONS, TAX RELIEF, AND MEDICAID CHANGES RELATING TO CERTAIN DISASTERS AND FURTHER EXTENSION OF CONTINUING APPROPRIATIONS**

**SUBDIVISION 1—FURTHER ADDITIONAL SUPPLEMENTAL APPROPRIATIONS FOR DISASTER RELIEF REQUIREMENTS ACT, 2018**

\* \* \* \* \*

**TITLE VI—DEPARTMENT OF HOMELAND SECURITY**

\* \* \* \* \*

**SEC. 20601. GENERAL PROVISIONS—THIS TITLE.**

The Administrator of the Federal Emergency Management Agency may provide assistance, pursuant to section 428 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), for critical services as defined in section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and including, for purposes of this section, solid waste management, stormwater management, public housing, transportation infrastructure, and medical care, for the duration of the recovery for incidents DR-4336-PR, DR-4339-PR, DR-4340-USVI, and DR-4335-USVI to—

- (1) replace or restore the function of a facility or system to industry standards without regard to the pre-disaster condition of the facility or system; and
- (2) replace or restore components of the facility or system not damaged by the disaster where necessary to fully effectuate the replacement or restoration of disaster-damaged components to restore the function of the facility or system to industry standards.

\* \* \* \* \*