

RESILIENT ASSISTANCE FOR MITIGATION FOR ENVIRONMENTALLY RESILIENT INFRASTRUCTURE AND CONSTRUCTION BY AMERICANS ACT

MARCH 24, 2022.—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. 5689]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5689) to improve the provision of Federal resources to help build capacity and fund risk-reducing, cost-effective mitigation projects for eligible State, local, Tribal, and territorial governments and certain private nonprofit organizations, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Resilient Assistance for Mitigation for Environmentally Resilient Infrastructure and Construction by Americans Act” or the “Resilient AMERICA Act”.

**SEC. 2. UNSPENT FUNDS.**

(a) REDISTRIBUTION OF UNCLAIMED AMOUNTS.—Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

“(f) REDISTRIBUTION OF UNCLAIMED OR UNOBLIGATED AMOUNTS.—The President may—

“(1) withdraw any portion of financial assistance made available to a State or Indian tribal government under subsection (a) for which the State or Indian tribal government has failed to submit an application upon the expiration of the application submission time limit or that remains unobligated for a major disaster or event eligible for assistance pursuant to section 420 upon the expiration of 84 months or the closeout of the grant, whichever is sooner; and

“(2) transfer the financial assistance withdrawn under paragraph (1) to any other amounts otherwise available to be awarded under section 203.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act on or after November 23, 1988.

**SEC. 3. PREDISASTER HAZARD MITIGATION.**

Section 203(i) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) is amended by striking “6 percent” and inserting “15 percent”.

**SEC. 4. NONPROFIT FACILITIES.**

Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) is amended—

(1) in subsection (b) by striking “and local governments” and inserting “, local governments, and private nonprofit facilities”;

(2) in subsection (c) by striking “or local government” in each place it appears and inserting “, local government, or private nonprofit facility”;

(3) in subsection (d)—

(A) in paragraph (1)(A) by striking “local governments” and inserting “local governments and private nonprofit facilities”;

(B) in paragraph (2)—

(i) by striking “local governments” in each place it appears and inserting “local governments or private nonprofit facilities”; and

(ii) in subparagraph (B) by striking “local government” and inserting “local government or private nonprofit facility”; and

(C) in paragraph (3) by inserting “or private nonprofit facilities” after “any local governments of the State”.

(4) in subsection (e)—

(A) in paragraph (1)(A) by striking “and local governments” and inserting “, local governments, and private nonprofit facilities”; and

(B) in paragraph (2) by striking “or local government” in each place it appears and inserting “, local government, or private nonprofit facility”;

(5) in subsection (f)—

(A) in paragraph (2) by inserting “or private nonprofit facilities located in the State” after “local governments of the State”; and

(B) in paragraph (3)(A) by inserting “or private nonprofit facilities located in the State” after “local governments of a State”; and

(6) in subsection (g) by striking “or local government” in each place it appears and inserting “, local government, or private nonprofit facility”.

**SEC. 5. BUILDING CODE IMPLEMENTATION AND ENFORCEMENT SET ASIDE.**

(a) IN GENERAL.—Section 203(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

“(3) BUILDING CODE IMPLEMENTATION AND ENFORCEMENT SET-ASIDE.—Of the amounts made available under this section for any given year, the Administrator may use not less than 10 percent to carry out eligible activities that further the implementation and enforcement of the latest published editions of relevant consensus-based codes, specifications, and standards, including any

amendments made by State, local, Tribal, or territorial governments to such codes, specifications, and standards, that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of facilities and residential structures that may be eligible for assistance under this Act. In any fiscal year in which requests for assistance for such activities do not total at least 10 percent of assistance under this section, any remaining funds may be used as additional assistance for the purposes of paragraph (1).”

(b) LATEST PUBLISHED EDITIONS.—Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by inserting “, (f)(3),” after “subsections (e)(1)(B)(iv)”.

(c) CONFORMING AMENDMENT.—Section 1234 of the Disaster Recovery Reform Act of 2018 (42 U.S.C. 5133 note) is amended by striking subsection (d).

#### SEC. 6. RESILIENT INFRASTRUCTURE.

(a) USE OF ASSISTANCE.—Subsection (g) of section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(g)) (as redesignated by section 2) is amended—

(1) in paragraph (12)—

(A) by inserting “, wildfire, and ice storm” after “windstorm”;

(B) by striking “including replacing” and inserting the following: “including—

“(A) replacing”;

(C) in subparagraph (A) (as so designated)—

(i) by inserting “, wildfire,” after “extreme wind”; and

(ii) by adding “and” after the semicolon at the end; and

(D) by adding at the end the following:

“(B) the installation of fire-resistant wires and infrastructure and the undergrounding of wires;”;

(2) in paragraph (13) by striking “and”; and

(3) by striking paragraph (14) and inserting the following:

“(14) replacing water systems that have been burned, caused contamination, or are at risk from wildfire impacts with resilient, non-combustible materials;

“(15) repairing, replacing, or retrofitting infrastructure damaged by ice storms to be resilient to the impacts of such storms;

“(16) retrofitting or hardening electric grid infrastructure to comply with the latest published strength standards or industry best practices for resiliency, including standards and practices relating to the strength of utility poles in high wind areas, regardless of height; and

“(17) implementing technologies to improve infrastructure monitoring and distribution for the purpose of reducing risk and avoiding future disaster impacts and, notwithstanding other requirements related to cost-effectiveness, to avoid any unintended consequences under this section and section 203.”

(b) USE OF ASSISTANCE FOR EARTHQUAKE HAZARDS.—Subsection (h) of section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(h)) (as redesignated by section 2) is amended—

(1) by inserting “and tsunami” after “earthquake” each place it appears (including in the subsection heading);

(2) in paragraph (2) by striking “and” at the end;

(3) in paragraph (3) by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(4) planning, design, or construction of vertical evacuation structures in designated and mapped tsunami danger areas or hazard zones.”.

#### SEC. 7. RESIDENTIAL RETROFIT AND RESILIENCE PILOT PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Federal Emergency Management Agency shall carry out a residential resilience pilot program through the program established under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) to make available assistance to State and local governments for the purpose of providing grants to individuals for residential resilience retrofits.

(b) AMOUNT OF FUNDS.—The Administrator may use not more than 10 percent of the assistance made available to applicants on an annual basis under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) to provide assistance under this section.

(c) TIMELINE.—The Administrator shall establish the demonstration program under this section not later than 1 year after the date of enactment of this Act and the program shall terminate on September 30, 2025.

(d) REPORT.—Not later than 4 years after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that includes—

(1) a summary of the grant awards and projects carried out under this section;

(2) a detailed compilation of results achieved by the grant awards and projects carried out under this section, including the number of homes receiving retrofits, the types and average costs of retrofits, demographic information for participants in the program, and estimate avoidance in disaster impacts and Federal disaster payments as a result of the grant investments; and

(3) any identified implementation challenges and recommendations for improvements to the pilot program.

(e) RESIDENTIAL RESILIENT RETROFITS DEFINED.—

(1) IN GENERAL.—In this section, the term “residential resilient retrofits” means a project that—

(A) is designed to increase the resilience of an existing home or residence using mitigation measures which the administrator determines reduce damage and impacts from natural disaster hazards and risks that are most likely to occur in the area where the home is located; and

(B) to the extent applicable, are consistent with the 2 most recently published editions of relevant consensus-based codes, specifications, and standards, including any amendments made by State, local, tribal, or territorial governments to such 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 the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for the purpose of protecting the health, safety, and general welfare of the buildings’ users against disasters.

(2) INCLUSION.—In this section, the term “residential resilient retrofits” includes—

(A) elevations of homes and elevations of utilities within and around structures to mitigate damages;

(B) floodproofing measures;

(C) the construction of tornado safe rooms;

(D) seismic retrofits;

(E) wildfire retrofit and mitigation measures;

(F) wind retrofits, including roof replacements, hurricane straps, and tie-downs; and

(G) any other measures that meet the requirements of paragraph (1), as determined by the Administrator.

#### SEC. 8. BUY AMERICA FOR NONEMERGENCY PROJECTS.

(a) IN GENERAL.—For the purposes of this rulemaking, to ensure that the United States has the productive capability to respond quickly to emergencies and natural disasters with a strong domestic industrial base being in the public interest, the Administrator of the Federal Emergency Management Agency shall require, as a condition of any financial assistance provided by the Agency on a nonemergency basis after promulgation of regulations pursuant to subsection (c) for a construction project with a cost of at least \$1,000,000, that the steel and iron used in the project be produced in the United States.

(b) WAIVER.—

(1) IN GENERAL.—The Administrator may provide a waiver of the requirements in subsection (a) if the Administrator finds—

(A) that the application of such subsection would be inconsistent with the public interest, including causing unreasonable project delays;

(B) that such steel and iron are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(C) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

(2) PUBLIC INPUT.—If the Administrator receives a request for a waiver under this subsection, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request.

(3) PUBLICATION OF REQUEST.—The Administrator shall make the request and accompanying information available by electronic means, including on the official public website of the Federal Emergency Management Agency.

(c) RULEMAKING.—Not later than 18 months after the date of enactment of this Act, the President, acting through the Administrator of the Federal Emergency Management Agency, shall conduct and complete a rulemaking to establish what considerations shall be used by the Administrator to assess whether a waiver request made pursuant to subsection (b)(1)(A) is in the public interest. Such criteria shall include both a calculation considering domestically produced steel and iron and a calculation with non-domestically produced steel and iron for construction projects which require a Benefit-Cost Analysis in order to qualify for financial assistance.

(d) ADJUSTMENT.—The amount in subsection (a) shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

**SEC. 9. REIMBURSEMENT OF INTEREST PAYMENTS RELATED TO PUBLIC ASSISTANCE.**

(a) IN GENERAL.—Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by adding at the end the following:

**“SEC. 431. REIMBURSEMENT OF INTEREST PAYMENTS RELATED TO PUBLIC ASSISTANCE.**

“(a) IN GENERAL.—For purposes of assistance under this title, the President shall provide financial assistance at the applicable Federal share to a State or local government, electric cooperative, or nonprofit organization as reimbursement for qualifying interest.

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

“(1) QUALIFYING INTEREST.—The term ‘qualifying interest’ means, with respect to a qualifying loan, the lesser of—

“(A) the actual interest paid to a lender for such qualifying loan; and

“(B) the interest that would have been paid to a lender if such qualifying loan had an interest rate equal to the prime rate most recently published on the Federal Reserve Statistical Release on selected interest rates.

“(2) QUALIFYING LOAN.—The term ‘qualifying loan’ means a loan—

“(A) obtained by a State or local government, electric cooperative, or nonprofit organization; and

“(B) of which not less than 90 percent of the proceeds are used to fund activities for which such State or local government, electric cooperative, or nonprofit organization receives assistance under this Act after the date on which such loan is disbursed.”.

(b) RULE OF APPLICABILITY.—Any qualifying interest (as such term is defined in section 431 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as added by this section) incurred by a State or local government, electric cooperative, or nonprofit organization in the 5 years preceding the date of enactment of this Act shall be treated as eligible for financial assistance for purposes of such section 431.

**SEC. 10. FUNDING OF A FEDERALLY AUTHORIZED WATER RESOURCES DEVELOPMENT PROJECT.**

Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) is further amended by adding at the end the following:

“(n) FUNDING OF A FEDERALLY AUTHORIZED WATER RESOURCES DEVELOPMENT PROJECT.—

“(1) IN GENERAL.—Notwithstanding section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) and its implementing regulations, assistance provided under this section may be used to fund activities authorized for construction within the scope of a federally authorized water resources development project of the Army Corps of Engineers if such activities are also eligible activities under this section.

“(2) FEDERAL FUNDING.—All Federal funding provided pursuant to this section shall be applied toward the Federal share of a federally authorized water resources development project described in paragraph (1).

“(3) NON-FEDERAL MATCH.—All non-Federal matching funds required pursuant to this section shall be applied toward the non-Federal share of a federally authorized water resources development project described in paragraph (1).

“(4) TOTAL FEDERAL SHARE.—Funding provided pursuant to this section may not exceed the total Federal share for a federally authorized water resources development project described in paragraph (1).

“(5) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect—

“(A) the cost-share requirement of a hazard mitigation measure under this section;

“(B) the eligibility criteria for a hazard mitigation measure under this section;

“(C) the cost share requirements of a federally authorized water resources development project described in paragraph (1); and

“(D) the responsibilities of a non-Federal interest with respect to such project, including those related to the provision of lands, easements, rights-of-way, dredge material disposal areas, and necessary relocations.

“(6) LIMITATION.—If a federally authorized water resources development project of the Army Corps of Engineers is constructed with funding provided under this subsection, no further Federal funding shall be provided for construction of such a project.”

**SEC. 11. GAO REPORT TO CONGRESS ON CHALLENGES UNDER PUBLIC ASSISTANCE ALTERNATIVE PROCEDURES.**

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study on the challenges to States and Territories of the United States in obtaining assistance under section 428 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189f).

(b) **CONTENTS.**—In conducting the study described in subsection (a), the Comptroller General shall study the challenges for assistance described in subsection (a) faced by the following:

(1) Rural areas, as such term is defined in section 423 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189a).

(2) Small impoverished communities, as such term is defined in section 203 of such Act.

(3) Other communities, areas, or individuals that the Comptroller General determines pertinent.

(c) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report describing the results of the study required under subsection (a).

**PURPOSE OF LEGISLATION**

The purpose of H.R. 5689, as amended, is to help build capacity and fund risk-reducing, cost-effective mitigation projects for eligible state, local, tribal, and territorial governments, and certain private nonprofit organizations.

**BACKGROUND AND NEED FOR LEGISLATION**

On a bipartisan basis and over the 116th and 117th Congresses, the Committee has received testimony from federal, state, local, tribal, and territorial officials regarding the need for—and return on investment from—increased investment in mitigation-focused activities.<sup>1</sup> This legislation reflects recommendations made by these witnesses and builds upon reforms enacted as part of the *Disaster Recovery Reform Act (DRRA)*, Div. D of P.L. 115–254).

While *DRRA* provides a more consistent source of funds for the Federal Emergency Management Agency’s (FEMA) Pre-disaster Mitigation (PDM) program and allows for additional projects to receive federal assistance, the outstanding need for pre-disaster mitigation projects still surpasses current authorities and funding.<sup>2</sup> Strengthening mitigation practices is critical to reducing the future costs of disasters for the taxpayer; studies have shown for every \$1 spent in mitigation, between \$4 and \$8 is saved in avoided disaster

<sup>1</sup> See Subcommittee on Economic Development, Public Buildings, and Emergency Management Hearing titled, “Building Smarter: The Benefits of Investing in Resilience and Mitigation,” March 18, 2021 (117th Congress); Subcommittee on Economic Development, Public Buildings, and Emergency Management Hearing titled, “An Assessment of Federal Efforts from Recent Disasters,” October 22, 2019 (116th Congress); and Subcommittee on Economic Development, Public Buildings, and Emergency Management Hearing titled, “Disaster Preparedness: DRRRA Implementation and FEMA Readiness,” May 22, 2019 (116th Congress).

<sup>2</sup> See Congressional Research Service, “FEMA Pre-Disaster Mitigation: The Building Resilient Communities (BRIC) Program,” September 2021, available at <https://crsreports.congress.gov/product/pdf/IN/IN11515>.

recovery costs.<sup>3</sup> Providing additional resources and solutions to help communities mitigate against disasters will reduce costs and save lives.

Investing in mitigation projects and activities has a significant and measurable return on investment in reducing recovery costs following hazard events. To reduce the rising costs associated with disaster response and recovery, additional federal funding streams dedicated to pre-disaster mitigation are necessary.<sup>4</sup> H.R. 5689, as amended, would make several amendments to the *Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, P.L. 93–288, as amended)* to expand FEMA’s capacity to conduct mitigation and resilience activity.

H.R. 5689, as amended, mandates that expiring and unspent Hazard Mitigation Grant Program (HMGP) funds, which would traditionally be returned to the Disaster Relief Fund (DRF), instead be reinvested into future mitigation and resilience projects by redesignating them for the nationally competitive PDM, also known as FEMA’s Building Resilient Infrastructure and Communities (BRIC) program (*Stafford Act, Sec. 203*). This provision is not intended to permit clawback of HMGP funds that have not been expended within 84 months due to delays in FEMA’s application review process or a lengthy environmental and historic preservation process.

H.R. 5689, as amended, increases the amount of mitigation funding available to states through the PDM program and makes non-profits eligible recipients of these funds. *DRRA* established a formula to deliberately fund FEMA’s PDM program, ensuring federal resources to bolster resilience and mitigation ahead of disaster. Pre-disaster mitigation and resilience investments drive down insured losses and federal disaster response costs.<sup>5</sup> This bill more than doubles the funding stream from the 6 percent established in *DRRA* to 15 percent, establishing parity between pre-PDM and post-HMGP disaster mitigation programs administered by FEMA.

H.R. 5689, as amended, extends eligibility for PDM to include private non-profits (PNPs), aligning PDM with Public Assistance eligibility for PNPs. PNPs are key disaster recovery partners. Making PNPs eligible for mitigation funds will reduce disaster impact to PNP facilities and boost resilience in the communities they serve.

H.R. 5689, as amended, also establishes a 10 percent set aside of PDM assistance (*Stafford Act Sec. 203*) to fund implementation and enforcement of the latest consensus-based building codes and standards. The language recognizes that the latest two editions of such building codes allow flexibility to ensure states and locals can modify such codes to their specific hazards. Eligible activities include training of code-enforcement officials.

<sup>3</sup>See Congressional Budget Office, “Potential Cost Savings from the Pre-Disaster Mitigation Program,” September 2007; University of Pennsylvania, Wharton School Risk Center, “Economic Effectiveness of Implementing a Statewide Building Code: The Case of Florida,” May 2016; National Institute of Building Sciences (NIBS), “Natural Hazard Mitigation Saves: 2017 Interim Report Summary of Findings,” available at [https://www.nibs.org/page/ms2\\_download](https://www.nibs.org/page/ms2_download).

<sup>4</sup>See National Institute of Building Sciences, “Natural Hazard Mitigation Saves,” December 2019; available at <https://www.nibs.org/projects/natural-hazard-mitigation-saves-2019-report>.

<sup>5</sup>See University of Pennsylvania, Wharton School Risk Center, “The Role of Natural Disaster Insurance in Recovery and Risk Reduction,” May 2019; available at <https://riskcenter.wharton.upenn.edu/lab-notes/the-role-of-natural-disaster-insurance-in-recovery-and-risk-reduction/>.

Finally, H.R. 5689, as amended, creates a pilot program to fund resilience projects at private homes. It establishes a set aside of up to 10 percent of PDM assistance (*Stafford Act*, Sec. 203) to fund residential resilience retrofit block grants to states, tribes, and territories. This pilot program will create a federal grant program that allows homeowners to proactively implement mitigation projects.

#### HEARINGS

For the purposes of rule XIII, clause 3(c)(6)(A) of the 117th Congress, the following hearings were used to develop or consider H.R. 5689:

On March 18, 2021, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing titled “Building Smarter: The Benefits of Investing in Resilience and Mitigation.” The Subcommittee received testimony from Mr. Russell “Russ” Strickland, Executive Director, Maryland Emergency Management Agency, State of Maryland, *testifying on behalf of the National Emergency Management Association*; Mr. Roy E. Wright, President and Chief Executive Officer (CEO), Insurance Institute for Business and Home Safety; Ms. Velma Smith, Senior Government Relations Officer, Flood Prepared Communities Initiative, Pew Charitable Trusts; Mr. Ben Harper, Head of Corporate Sustainability, Zurich North America Insurance Company; and Mr. John “Chuck” Fowke, Chairman, National Association of Home Builders. This hearing examined the current and future capacities in emergency management, mitigation and resilience, insurance, and construction.

On June 23, 2021, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing titled “FEMA’s Priorities for FY22 and Beyond: Coordinating Mission, Vision, and Budget.” The Subcommittee received testimony from Hon. Deanne Criswell, Administrator, FEMA. This hearing provided Members an opportunity to examine the President’s FY 2022 budget requests for programs within FEMA.

#### LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 5689 was introduced in the House on October 22, 2021, by Mr. DeFazio, Mr. Graves of Missouri, Ms. Titus, and Mr. Webster of Florida and referred to the Committee on Transportation and Infrastructure. Within the Committee, H.R. 5689 was referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management.

The Subcommittee on Economic Development, Public Buildings, and Emergency Management was discharged from further consideration of H.R. 5689 on October 27, 2021.

The Committee considered H.R. 5689 on October 27, 2021 and ordered the measure to be reported to the House with a favorable recommendation, as amended, by a record vote of 63 yeas and 2 nays (Roll Call Vote No. 79).

The following amendments were offered:

An amendment offered by Mr. DeFazio (#1); was AGREED TO by voice vote.

At the end of the bill, add a new section entitled “Sec. 9. Buy America for Nonemergency Projects.”

An amendment offered by Mr. Perry (#2); was NOT AGREED TO by a record vote of 10 yeas and 51 nays (Roll Call Vote No. 77).

Page 3, strike line 6 and all that follows through the end of the bill.

An amendment offered by Mr. Graves of Louisiana (#3); was AGREED TO by voice vote.

At the end of the bill, add a new section entitled "Sec. \_\_\_\_ . Reimbursement of Interest Payments Related to Public Assistance."

An amendment offered by Mr. Graves of Louisiana (#4); was AGREED TO by voice vote.

At the end of the bill, add a new section entitled "Sec. \_\_\_\_ . Funding of a Federally Authorized Water Resources Development Project."

An amendment offered by Mr. Perry (#5); was NOT AGREED TO by a record vote of 16 yeas and 49 nays (Roll Call Vote No. 78).

Strike section 7 of the bill.

An amendment offered by Mr. Garamendi (#6); was WITHDRAWN.

At the end of the bill, add a new section entitled "Sec. \_\_\_\_ . Period of Performance."

An amendment offered by Mr. Garamendi (#7); was AGREED TO by voice vote.

At the end of the bill, add a new section entitled "Sec. \_\_\_\_ . GAO Report to Congress on Challenges Under Public Assistance Alternative Procedures."

#### 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.

An amendment offered by Mr. Perry (#2); was NOT AGREED TO by a record vote of 10 yeas and 51 nays (Roll Call Vote No. 77). The vote was as follows:

Vote: 77—Yea 10, Nay 51

On: Amendment 2 offered by Mr. Perry

Majority Members	Vote	Minority Members	Vote
Mr. DeFazio .....	Nay	Mr. Graves of MO .....	Nay
<i>Ms. Norton</i> .....	Nay	Mr. Young .....	.....
Ms. Johnson of TX .....	Nay	Mr. Crawford .....	Yea
Mr. Larsen of WA .....	Nay	Mr. Gibbs .....	Yea
Mrs. Napolitano .....	Nay	Mr. Webster .....	Yea
Mr. Cohen .....	Nay	Mr. Massie .....	Yea
Mr. Sires .....	.....	Mr. Perry .....	Yea
Mr. Garamendi .....	Nay	Mr. Rodney Davis of IL .....	Nay
Mr. Johnson of GA .....	Nay	Mr. Katko .....	Nay
Mr. Carson .....	Nay	Mr. Babin .....	Yea
Ms. Titus .....	Nay	Mr. Graves of LA .....	.....
Mr. Maloney of NY .....	Nay	Mr. Rouzer .....	Yea
Mr. Huffman .....	Nay	Mr. Bost .....	Nay
Ms. Brownley .....	Nay	Mr. Weber of TX .....	Yea
Ms. Wilson of FL .....	Nay	Mr. LaMalfa .....	Nay
Mr. Payne .....	Nay	Mr. Westerman .....	Nay
Mr. Lowenthal .....	Nay	Mr. Mast .....	.....
Mr. DeSaulnier .....	Nay	Mr. Gallagher .....	Nay
Mr. Lynch .....	Nay	Mr. Fitzpatrick .....	Nay
Mr. Carbajal .....	Nay	<i>Miss González-Colón</i> .....	.....

Majority Members	Vote	Minority Members	Vote
Mr. Brown	Nay	Mr. Balderson	Nay
Mr. Malinowski	Nay	Mr. Stauber	Nay
Mr. Stanton	Nay	Mr. Burchett	Nay
Mr. Allred	Nay	Mr. Johnson of SD	Nay
Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. Garcia of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Nay
Mr. Lamb	Nay	Ms. Malliotakis	Nay
Mr. Moulton	Nay	Ms. Van Duynes	Nay
Mr. Auchincloss	Nay	Mr. Gimenez	Nay
Ms. Bourdeaux	Nay	Mrs. Steel	Nay
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

An amendment offered by Mr. Perry (#5); was NOT AGREED TO by a record vote of 16 yeas and 49 nays (Roll Call Vote No. 78).  
 The vote was as follows:  
 Vote: 78—Yea 16, Nay 40  
 On: Amendment #5 Offered by Mr. Perry

Majority Members	Vote	Minority Members	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Nay
Ms. Norton	Nay	Mr. Young	Nay
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Nay
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Nay
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Nay
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Nay
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Nay
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	Miss González-Colón	Nay
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Nay
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. Garcia of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Nay
Mr. Lamb	Nay	Ms. Malliotakis	Nay
Mr. Moulton	Nay	Ms. Van Duynes	Nay
Mr. Auchincloss	Nay	Mr. Gimenez	Nay
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

On ordering to be favorably reported to the House of Representatives, as amended, by a record vote of 63 yeas and 2 nays (Roll Call Vote No. 79). The vote was as follows:

Vote: 79—Yea 63, Nay 2

On: H.R. 5689 to be reported to the House, favorably, as amended.

Majority Members	Vote	Minority Members	Vote
Mr. DeFazio .....	Yea	Mr. Graves of MO .....	Yea
Ms. Norton .....	Yea	Mr. Young .....	.....
Ms. Johnson of TX .....	Yea	Mr. Crawford .....	Yea
Mr. Larsen of WA .....	Yea	Mr. Gibbs .....	Yea
Mrs. Napolitano .....	Yea	Mr. Webster .....	Yea
Mr. Cohen .....	Yea	Mr. Massie .....	Nay
Mr. Sires .....	.....	Mr. Perry .....	Nay
Mr. Garamendi .....	Yea	Mr. Rodney Davis of IL .....	Yea
Mr. Johnson of GA .....	Yea	Mr. Katko .....	Yea
Mr. Carson .....	Yea	Mr. Babin .....	Yea
Ms. Titus .....	Yea	Mr. Graves of LA .....	Yea
Mr. Maloney of NY .....	Yea	Mr. Rouzer .....	Yea
Mr. Huffman .....	Yea	Mr. Bost .....	Yea
Ms. Brownley .....	Yea	Mr. Weber of TX .....	Yea
Ms. Wilson of FL .....	Yea	Mr. LaMalfa .....	Yea
Mr. Payne .....	Yea	Mr. Westerman .....	Yea
Mr. Lowenthal .....	Yea	Mr. Mast .....	Yea
Mr. DeSaulnier .....	Yea	Mr. Gallagher .....	Yea
Mr. Lynch .....	Yea	Mr. Fitzpatrick .....	Yea
Mr. Carbajal .....	Yea	Miss González-Colón .....	Yea
Mr. Brown .....	Yea	Mr. Balderson .....	Yea
Mr. Malinowski .....	Yea	Mr. Stauber .....	Yea
Mr. Stanton .....	Yea	Mr. Burchett .....	Yea
Mr. Allred .....	Yea	Mr. Johnson of SD .....	Yea
Ms. Davids of KS .....	Yea	Mr. Van Drew .....	Yea
Mr. García of IL .....	Yea	Mr. Guest .....	Yea
Mr. Delgado .....	Yea	Mr. Nehls .....	Yea
Mr. Pappas .....	Yea	Ms. Mace .....	.....
Mr. Lamb .....	Yea	Ms. Malliotakis .....	Yea
Mr. Moulton .....	Yea	Ms. Van Duyn .....	.....
Mr. Auchincloss .....	Yea	Mr. Gimenez .....	Yea
Ms. Bourdeaux .....	Yea	Mrs. Steel .....	Yea
Mr. Kahele .....	Yea		
Ms. Strickland .....	Yea		
Ms. Williams of GA .....	Yea		
Ms. Newman .....	Yea		
Mr. Carter .....	Yea		

COMMITTEE OVERSIGHT FINDINGS

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

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements 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 requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill

contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

#### 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, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

#### 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 provide federal resources to help build capacity and fund risk-reducing, cost-effective mitigation projects for eligible State, local, Tribal, territorial governments, and certain nonprofit organizations.

#### 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. 5689 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 rule XXI.

#### FEDERAL MANDATES STATEMENT

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

#### 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. 5689, 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

##### *Section 1. Short title*

This section provides that this measure may be cited as the “Resilient Assistance for Mitigation for Environmentally Resilient Infrastructure and Construction by Americans Act” or the “Resilient AMERICA Act”.

##### *Sec. 2. Unspent funds*

Hazard Mitigation Grant Program (HMGP, *Stafford Act*, Sec. 404) funds are provided to states, tribes, and territories that request them as part of their major disaster declarations for post disaster mitigation projects. At the close of the 84-month period of performance, expiring and unspent HMGP funds are returned to the Disaster Relief Fund (DRF). This section ensures that these expiring and unspent funds will still be invested in mitigation and resilience projects by designating them instead to the set-aside in the DRF for the nationally competitive Pre-Disaster Mitigation (PDM) program (*Stafford Act*, Sec. 203).

##### *Sec. 3. Predisaster hazard mitigation*

The *Disaster Recovery Reform Act* (DRRA, Div. D of P.L. 115–254) established a formula to deliberately fund FEMA’s PDM program. This section more than doubles the funding stream from the 6 percent established in *DRRA* to 15 percent, establishing parity between pre- (PDM) and post- (HMGP) disaster mitigation programs administered by FEMA.

##### *Sec. 4. Nonprofit facilities*

This section extends eligibility for the PDM program to include private non-profits (PNPs), aligning PDM with Public Assistance eligibility for PNPs.

##### *Sec. 5. Building code implementation and enforcement set aside*

This section establishes a 10 percent set aside of PDM assistance (*Stafford Act*, Sec. 203) to fund implementation and enforcement of the latest consensus-based building codes and standards. In cases where applications for assistance do not meet the set aside amount, funds are able to be put toward other PDM assistance.

*Sec. 6. Resilient infrastructure*

This section expands eligibility of certain projects under the post-disaster HMGP to enhance resilience of utilities to risks from extreme wildfire, wind, tsunami, and ice events.

*Sec. 7. Residential retrofit and resilience pilot program*

This section establishes a set aside of up to 10 percent of PDM assistance to fund residential resilience retrofit block grants to states, tribes, and territories.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

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

\* \* \* \* \*

**TITLE II—DISASTER PREPAREDNESS  
AND MITIGATION ASSISTANCE**

\* \* \* \* \*

**SEC. 203. PREDISASTER HAZARD MITIGATION.**

(a) **DEFINITION OF SMALL IMPOVERISHED COMMUNITY.**—In this section, the term “small impoverished community” means a community of 3,000 or fewer individuals that is economically disadvantaged, as determined by the State in which the community is located and based on criteria established by the President.

(b) **ESTABLISHMENT OF PROGRAM.**—The President may establish a program to provide technical and financial assistance to States **[and local governments]**, *local governments, and private nonprofit facilities* to assist in the implementation of predisaster hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities under the jurisdiction of the States or local governments.

(c) **APPROVAL BY PRESIDENT.**—If the President determines that a State **[or local government]**, *local government, or private nonprofit facility* 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) (referred to in this section as the “Fund”), may provide technical and financial assistance to the State **[or local government]**, *local government*, or *private nonprofit facility* to be used in accordance with subsection (e).

(d) STATE RECOMMENDATIONS.—

(1) IN GENERAL.—

(A) RECOMMENDATIONS.—The Governor of each State may recommend to the President not fewer than five **[local governments]** *local governments and private nonprofit facilities* to receive assistance under this section.

(B) DEADLINE FOR SUBMISSION.—The recommendations under subparagraph (A) shall be submitted to the President not later than October 1, 2001, and each October 1st thereafter or such later date in the year as the President may establish.

(C) CRITERIA.—In making recommendations under subparagraph (A), a Governor shall consider the criteria specified in subsection (g).

(2) USE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in providing assistance to **[local governments]** *local governments or private nonprofit facilities* under this section, the President shall select from **[local governments]** *local governments or private nonprofit facilities* recommended by the Governors under this subsection.

(B) EXTRAORDINARY CIRCUMSTANCES.—In providing assistance to **[local governments]** *local governments or private nonprofit facilities* under this section, the President may select a **[local government]** *local government or private nonprofit facility* that has not been recommended by a Governor under this subsection if the President determines that extraordinary circumstances justify the selection and that making the selection will further the purpose of this section.

(3) EFFECT OF FAILURE TO NOMINATE.—If a Governor of a State fails to submit recommendations under this subsection in a timely manner, the President may select, subject to the criteria specified in subsection (g), any local governments of the State or *private nonprofit facilities* to receive assistance under this section.

(e) USES OF TECHNICAL AND FINANCIAL ASSISTANCE.—

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

(A) shall be used by States **[and local governments]**, *local governments*, and *private nonprofit facilities* principally to implement predisaster hazard mitigation measures that are cost-effective and are described in proposals approved by the President under this section; and

(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;

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

(iv) to establish and carry out enforcement activities and 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) DISSEMINATION.—A State **[or local government]**, *local government, or private nonprofit facility* may use not more than 10 percent of the financial assistance received by the State **[or local government]**, *local government, or private nonprofit facility* under this section for a fiscal year to fund activities to disseminate information regarding cost-effective mitigation technologies.

(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).

(2) MINIMUM AND MAXIMUM AMOUNTS.—In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State *or private nonprofit facilities located in the State*) for a fiscal year—

(A) is not less than the lesser of—

(i) \$575,000; or

(ii) the amount that is equal to 1 percent of the total funds appropriated to carry out this section for the fiscal year; and

(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.

(3) BUILDING CODE IMPLEMENTATION AND ENFORCEMENT SET-ASIDE.—*Of the amounts made available under this section for any given year, the Administrator may use not less than 10 percent to carry out eligible activities that further the implementation and enforcement of the latest published editions of relevant consensus-based codes, specifications, and standards, including any amendments made by State, local, Tribal, or territorial governments to such codes, specifications, and standards, that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of facilities and residential structures that may be eligible for assistance under this Act. In any fiscal year in which requests for assistance under this section, any remaining funds may be used as additional assistance for the purposes of paragraph (1).*

[(3)] (4) 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 or *private nonprofit facilities located in the 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], *local government*, or *private nonprofit facility* under this section, the President shall provide financial assistance only in States that have received a major disaster declaration in the previous 7 years, or to any Indian tribal government located partially or entirely within the boundaries of such States, and take into account—

(1) the extent and nature of the hazards to be mitigated;

(2) the degree of commitment of the State [or local government], *local government*, or *private nonprofit facility* to reduce damages from future natural disasters;

(3) the degree of commitment by the State [or local government], *local government*, or *private nonprofit facility* to support ongoing non-Federal support for the hazard mitigation measures to be carried out using the technical and financial assistance;

(4) the extent to which the hazard mitigation measures to be carried out using the technical and financial assistance contribute to the mitigation goals and priorities established by the State;

(5) the extent to which the technical and financial assistance is consistent with other assistance provided under this Act;

(6) the extent to which prioritized, cost-effective mitigation activities that produce meaningful and definable outcomes are clearly identified;

(7) if the State [or local government], *local government*, or *private nonprofit facility* has submitted a mitigation plan under section 322, the extent to which the activities identified under paragraph (6) are consistent with the mitigation plan;

(8) the opportunity to fund activities that maximize net benefits to society;

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

(10) the extent to which the State, local, Indian tribal, or territorial government has facilitated the adoption and enforcement of the latest published editions of relevant consensus-based codes, specifications, and standards, including amendments made by State, local, Indian tribal, or territorial governments during the adoption process 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

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

(h) FEDERAL SHARE.—

(1) IN GENERAL.—Financial assistance provided under this section may contribute up to 75 percent of the total cost of mitigation activities approved by the President.

(2) SMALL IMPOVERISHED COMMUNITIES.—Notwithstanding paragraph (1), the President may contribute up to 90 percent of the total cost of a mitigation activity carried out in a small impoverished community.

(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~~ *15 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 and such set aside shall be deemed to be related to activities carried out pursuant to major disasters under this Act.

(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) MULTHAZARD ADVISORY MAPS.—

(1) DEFINITION OF MULTHAZARD ADVISORY MAP.—In this subsection, the term “multihazard advisory map” means a map on which hazard data concerning each type of natural disaster is identified simultaneously for the purpose of showing areas of hazard overlap.

(2) DEVELOPMENT OF MAPS.—In consultation with States, local governments, and appropriate Federal agencies, the President shall develop multihazard advisory maps for areas, in not fewer than five States, that are subject to commonly recurring natural hazards (including flooding, hurricanes and severe winds, and seismic events).

(3) USE OF TECHNOLOGY.—In developing multihazard advisory maps under this subsection, the President shall use, to the maximum extent practicable, the most cost-effective and efficient technology available.

(4) USE OF MAPS.—

(A) ADVISORY NATURE.—The multihazard advisory maps shall be considered to be advisory and shall not require the development of any new policy by, or impose any new policy on, any government or private entity.

(B) AVAILABILITY OF MAPS.—The multihazard advisory maps shall be made available to the appropriate State and local governments for the purposes of—

- (i) informing the general public about the risks of natural hazards in the areas described in paragraph (2);
- (ii) supporting the activities described in subsection (e); and
- (iii) other public uses.

(k) REPORT ON FEDERAL AND STATE ADMINISTRATION.—Not later than 18 months after the date of the enactment of this section, the President, in consultation with State and local governments, shall submit to Congress a report evaluating efforts to implement this section and recommending a process for transferring greater authority and responsibility for administering the assistance program established under this section to capable States.

(l) PROHIBITION ON EARMARKS.—

(1) DEFINITION.—In this subsection, the term “congressionally directed spending” means a statutory provision or report language included primarily at the request of a Senator or a Member, Delegate or Resident Commissioner of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

(2) PROHIBITION.—None of the funds appropriated or otherwise made available to carry out this section may be used for congressionally directed spending.

(3) CERTIFICATION TO CONGRESS.—The Administrator of the Federal Emergency Management Agency shall submit to Congress a certification regarding whether all financial assistance under this section was awarded in accordance with this section.

(m) LATEST PUBLISHED EDITIONS.—For purposes of subsections (e)(1)(B)(iv), (f)(3), and (g)(10), the term “latest published editions” means, with respect to relevant consensus-based codes, specifications, and standards, the 2 most recently published editions.

(n) *FUNDING OF A FEDERALLY AUTHORIZED WATER RESOURCES DEVELOPMENT PROJECT.*—

(1) *IN GENERAL.*—*Notwithstanding section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) and its implementing regulations, assistance provided under this section may be used to fund activities authorized for construction within the scope of a federally authorized water resources development project of the Army Corps of Engineers if such activities are also eligible activities under this section.*

(2) *FEDERAL FUNDING.*—*All Federal funding provided pursuant to this section shall be applied toward the Federal share of a federally authorized water resources development project described in paragraph (1).*

(3) *NON-FEDERAL MATCH.*—All non-Federal matching funds required pursuant to this section shall be applied toward the non-Federal share of a federally authorized water resources development project described in paragraph (1).

(4) *TOTAL FEDERAL SHARE.*—Funding provided pursuant to this section may not exceed the total Federal share for a federally authorized water resources development project described in paragraph (1).

(5) *RULE OF CONSTRUCTION.*—Nothing in this subsection may be construed to affect—

(A) the cost-share requirement of a hazard mitigation measure under this section;

(B) the eligibility criteria for a hazard mitigation measure under this section;

(C) the cost share requirements of a federally authorized water resources development project described in paragraph (1); and

(D) the responsibilities of a non-Federal interest with respect to such project, including those related to the provision of lands, easements, rights-of-way, dredge material disposal areas, and necessary relocations.

(6) *LIMITATION.*—If a federally authorized water resources development project of the Army Corps of Engineers is constructed with funding provided under this subsection, no further Federal funding shall be provided for construction of such a project.

\* \* \* \* \*

## TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS

\* \* \* \* \*

### SEC. 404. HAZARD MITIGATION.

(a) *IN GENERAL.*—The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost effective and which substantially reduce the risk of, 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.

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

(1) *GENERAL AUTHORITY.*—In providing hazard mitigation assistance under this section in connection with flooding, the Administrator of the Federal Emergency Management Agency

may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

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

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

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

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

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

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

(II) a rest room; or

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

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

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

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

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

(c) PROGRAM ADMINISTRATION BY STATES.—

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

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

and may carry out this section as a pilot program. The criteria shall include, at a minimum—

- (A) the demonstrated ability of the State to manage the grant program under this section;
  - (B) there being in effect an approved mitigation plan under section 322; and
  - (C) a demonstrated commitment to mitigation activities.
- (3) APPROVAL.—The President shall approve an application submitted under paragraph (1) that meets the criteria established under paragraph (2).
- (4) WITHDRAWAL OF APPROVAL.—If, after approving an application of a State submitted under paragraph (1), the President determines that the State is not administering the hazard mitigation grant program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.
- (5) AUDITS.—The President shall provide for periodic audits of the hazard mitigation grant programs administered by States under this subsection.

(d) STREAMLINED PROCEDURES.—

(1) IN GENERAL.—For the purpose of providing assistance under this section, the President shall ensure that—

- (A) adequate resources are devoted to ensure that applicable environmental reviews under the National Environmental Policy Act of 1969 and historic preservation reviews under the National Historic Preservation Act are completed on an expeditious basis; and
- (B) the shortest existing applicable process under the National Environmental Policy Act of 1969 and the National Historic Preservation Act is utilized.

(2) AUTHORITY FOR OTHER EXPEDITED PROCEDURES.—The President may utilize expedited procedures in addition to those required under paragraph (1) for the purpose of providing assistance under this section, such as procedures under the Prototype Programmatic Agreement of the Federal Emergency Management Agency, for the consideration of multiple structures as a group and for an analysis of the cost-effectiveness and fulfillment of cost-share requirements for proposed hazard mitigation measures.

(e) ADVANCE ASSISTANCE.—The President may provide not more than 25 percent of the amount of the estimated cost of hazard mitigation measures to a State grantee eligible for a grant under this section before eligible costs are incurred.

(f) REDISTRIBUTION OF UNCLAIMED OR UNOBLIGATED AMOUNTS.—*The President may—*

- (1) *withdraw any portion of financial assistance made available to a State or Indian tribal government under subsection (a) for which the State or Indian tribal government has failed to submit an application upon the expiration of the application submission time limit or that remains unobligated for a major disaster or event eligible for assistance pursuant to section 420 upon the expiration of 84 months or the closeout of the grant, whichever is sooner; and*

(2) *transfer the financial assistance withdrawn under paragraph (1) to any other amounts otherwise available to be awarded under section 203.*

**[(f)] (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 a wildfire or windstorm, such as—

- (1) reseeded 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, *wildfire*, and *ice storm* damage,

**[including replacing] including—**

(A) *replacing or installing electrical transmission or distribution utility pole structures with poles that are resilient to extreme wind, wildfire, and combined ice and wind loadings for the basic wind speeds and ice conditions associated with the relevant location; and*

(B) *the installation of fire-resistant wires and infrastructure and the undergrounding of wires;*

- (13) removing standing burned trees; **[and]**

**[(14) replacing water systems that have been burned and have caused contamination.]**

(14) *replacing water systems that have been burned, caused contamination, or are at risk from wildfire impacts with resilient, non-combustible materials;*

(15) *repairing, replacing, or retrofitting infrastructure damaged by ice storms to be resilient to the impacts of such storms;*

(16) *retrofitting or hardening electric grid infrastructure to comply with the latest published strength standards or industry best practices for resiliency, including standards and practices relating to the strength of utility poles in high wind areas, regardless of height; and*

(17) *implementing technologies to improve infrastructure monitoring and distribution for the purpose of reducing risk and avoiding future disaster impacts and, notwithstanding other requirements related to cost-effectiveness, to avoid any unintended consequences under this section and section 203.*

**[(g)] (h) USE OF ASSISTANCE FOR EARTHQUAKE AND TSUNAMI HAZARDS.**—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 *and tsunami* hazards, including—

- (1) improvements to regional seismic networks in support of building a capability for earthquake *and tsunami* early warning;
- (2) improvements to geodetic networks in support of building a capability for earthquake *and tsunami* early warning; **[and]**
- (3) improvements to seismometers, Global Positioning System receivers, and associated infrastructure in support of building a capability for earthquake *and tsunami* early warning**[.]; and**
- (4) *planning, design, or construction of vertical evacuation structures in designated and mapped tsunami danger areas or hazard zones.*

\* \* \* \* \*

**SEC. 431. REIMBURSEMENT OF INTEREST PAYMENTS RELATED TO PUBLIC ASSISTANCE.**

(a) *IN GENERAL.*—For purposes of assistance under this title, the President shall provide financial assistance at the applicable Federal share to a State or local government, electric cooperative, or nonprofit organization as reimbursement for qualifying interest.

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

(1) *QUALIFYING INTEREST.*—The term “qualifying interest” means, with respect to a qualifying loan, the lesser of—

(A) the actual interest paid to a lender for such qualifying loan; and

(B) the interest that would have been paid to a lender if such qualifying loan had an interest rate equal to the prime rate most recently published on the Federal Reserve Statistical Release on selected interest rates.

(2) *QUALIFYING LOAN.*—The term “qualifying loan” means a loan—

(A) obtained by a State or local government, electric cooperative, or nonprofit organization; and

(B) of which not less than 90 percent of the proceeds are used to fund activities for which such State or local government, electric cooperative, or nonprofit organization receives assistance under this Act after the date on which such loan is disbursed.

\* \* \* \* \*



**DISASTER RECOVERY REFORM ACT OF 2018**

**DIVISION D—DISASTER RECOVERY  
REFORM**

**SEC. 1201. SHORT TITLE.**

This division may be cited as the “Disaster Recovery Reform Act of 2018”.

\* \* \* \* \*

**SEC. 1234. NATIONAL PUBLIC INFRASTRUCTURE PREDISASTER HAZARD MITIGATION.**

(a) PREDISASTER HAZARD MITIGATION.—Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) is amended—

(1) in subsection (c) by inserting “Public Infrastructure” after “the National”;

(2) in subsection (e)(1)(B)—

(A) by striking “or” at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting “; or”; and

(C) by adding at the end the following:

“(iv) to establish and carry out enforcement activities and 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.”;

(3) in subsection (f)—

(A) in paragraph (1) by inserting “for mitigation activities that are cost effective” after “competitive basis”; and

(B) by adding at the end the following:

“(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).”;

(4) in subsection (g)—

(A) by inserting “provide financial assistance only in States that have received a major disaster declaration in the previous 7 years, or to any Indian tribal government located partially or entirely within the boundaries of such States, and” after “the President shall”;

(B) in paragraph (9) by striking “and” at the end;

(C) by redesignating paragraph (10) as paragraph (12);  
and

(D) by adding after paragraph (9) the following:

“(10) the extent to which the State, local, Indian tribal, or territorial government has facilitated the adoption and enforcement of the latest published editions of relevant consensus-based codes, specifications, and standards, including amendments made by State, local, Indian tribal, or territorial governments during the adoption process 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”;

(5) by striking subsection (i) and inserting the following:

“(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 and such set aside shall be deemed to be related to activities carried out pursuant to major disasters under this Act.

“(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.”; and

(6) by striking subsections (j) and (m);

(7) by redesignating subsections (k), (l), and (n) as subsections (j), (k), and (l), respectively and

(8) by adding at the end the following:

“(m) LATEST PUBLISHED EDITIONS.—For purposes of subsections (e)(1)(B)(iv) and (g)(10), the term ‘latest published editions’ means, with respect to relevant consensus-based codes, specifications, and standards, the 2 most recently published editions.”.

(b) APPLICABILITY.—The amendments made to section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) by paragraphs (3) and (5) of subsection (a) shall apply to funds appropriated on or after the date of enactment of this Act.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all funding expended from the National Public Infrastructure Predisaster Mitigation Assistance created by Section 203(i)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133), as added by this sec-

tion, shall not be considered part of FEMA's regular appropriations for non-Stafford activities, also known as the Federal Emergency Management Agency's Disaster Relief Fund base; and

(2) the President should have the funds related to the National Public Infrastructure Predisaster Mitigation Assistance created by Section 203(i)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133), as added by this section, identified in and allocated from the Federal Emergency Management Agency's Disaster Relief Fund for major disasters declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**[(d) SUNSET.—On the date that is 5 years after the date of enactment of this Act, section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) is amended by striking subsection (m), as added by subsection (a)(8) of this section.]**

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