

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
118-30

FIRE SUPPRESSION AND RESPONSE
FUNDING ASSURANCE ACT

REPORT

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 479

TO MODIFY THE FIRE MANAGEMENT ASSISTANCE
COST SHARE, AND FOR OTHER PURPOSES



MAY 16, 2023.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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FIRE SUPPRESSION AND RESPONSE FUNDING ASSURANCE ACT

MAY 16, 2023.—Ordered to be printed

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

R E P O R T

[To accompany S. 479]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 479) to modify the fire management assistance cost share, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 479, the *Fire Suppression and Response Funding Assurance Act*, would set the federal cost share of the Fire Management Assistance Grant (FMAG) program at no less than 75% of the eligible cost of such assistance and would permit a state or local government to use such assistance for the pre-deployment of assets and resources. Additionally, the bill would require the Federal Emergency Management Agency (FEMA) to complete a rulemaking to provide criteria for the circumstances under which it may rec-

commend that the President increase the federal cost share. The bill also incorporates technical drafting assistance from FEMA.¹

II. BACKGROUND AND NEED FOR THE LEGISLATION

Wildfires remain a persistent threat in the United States. From 2012 to 2021, there were an average of 61,289 wildfires annually, impacting an average of 7.4 million acres across the nation. Of the nearly 6,000 structures burned in 2021, 60% were residences. A state experiencing a wildfire can request assistance from FEMA for fires beginning on state or private lands. The most frequent assistance FEMA provides for fires is through the FMAG program. An FMAG declaration authorizes various forms of federal assistance to support fire suppression activities for fires that threaten to become major disasters, such as equipment, personnel, emergency work, and items for firefighter health and safety. The support provided through FMAGs aids state and local responders in containing fires before they cause significant harm to communities. The grants under this program are currently reimbursed at 75% of eligible suppression costs for eligible fires.²

This legislation sets the federal cost share of the FMAG program at not less than 75%, allowing the federal government to raise the federal share to more than 75%, in alignment with other FEMA disaster assistance program cost shares,³ possibly reducing the financial burden that communities face in the wake of worsening wildfires.

III. LEGISLATIVE HISTORY

Senator Alex Padilla (D–CA) introduced S. 479 on February 16, 2023, with original cosponsor Senator Dan Sullivan (R–AK). The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senator Dianne Feinstein (D–CA) joined as an additional cosponsor on March 22, 2023, and Senators Jacky Rosen (D–NV) and Ben Ray Lujan (D–NM) joined as additional cosponsors on March 28, 2023.

The Committee considered S. 479 at a business meeting on March 29, 2023. At the business meeting, Senator Padilla offered an amendment to the bill that incorporated technical drafting assistance from FEMA regarding the pre-deployment of assets. The Committee adopted the amendment by voice vote, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Paul, Lankford, Romney, Scott, and Hawley present. Senator Paul offered an amendment to the Padilla amendment that would have added a two-year sunset to the bill and required the Government Accountability Office to publish a report within 18 months of enactment on the effectiveness of the bill. The Committee did not adopt the Paul amendment, by voice vote, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Paul, Lankford, Romney, Scott, and Hawley present. The bill, as amended by the Padilla amendment, was ordered reported favorably by roll call

¹ On September 28, 2022, the Committee approved S. 4328, the Fire Suppression Improvement Act, with an amendment. That bill is substantially similar to S. 479. Accordingly, this committee report is, in many respects, similar to the committee report for S. 4328. See S. Rept. 117–263.

² Congressional Research Service, *Federal Assistance for Wildfire Response and Recovery* (IF10732) (May 2, 2022).

³ *Id.*

vote of 11 yeas to 1 nay, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Lankford, Romney, Scott, and Hawley voting in the affirmative, and with Senator Paul voting in the negative. Senators Carper, Johnson, and Marshall voted yea by proxy, for the record only.

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

Section 1. Short title

This section establishes the short title of the bill as the “Fire Suppression and Response Funding Assurance Act.”

Section 2. Fire Management Assistance cost share

This section provides that the Federal cost share of the FMAG program cannot be less than 75% of the eligible cost of assistance. Additionally, this section states that the 75% cost share only applies to amounts appropriated on or after enactment.

Section 3. Rulemaking

This section requires the FEMA Administrator to complete a rulemaking to provide criteria for the circumstances under which it may recommend that the President increase the federal cost share above 75%.

Section 4. Policy update

This section directs the FEMA Administrator to update FMAG policy so that state, local, and tribal governments may use such assistance for the pre-deployment of assets and resources, consistent with the treatment of pre-deployment assistance under emergency or major disaster declarations.

V. EVALUATION OF REGULATORY IMPACT

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

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

At a Glance			
S. 479, Fire Suppression and Response Funding Assurance Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 29, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	24	55
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would:

- Authorize the Federal Emergency Management Agency (FEMA) to cover up to 100 percent of total costs when providing fire management assistance grants to state and local governments

Estimated budgetary effects would mainly stem from:

- Increasing the share of costs that the federal government would cover for fire management assistance grants

Areas of significant uncertainty include:

- Estimating the total amount of assistance that FEMA and state and local governments will provide for fire management assistance grants
- Estimating how often FEMA would choose to increase the federal share of costs, and what percentage of costs the agency would cover

Bill summary: S. 479 would authorize the Federal Emergency Management Agency (FEMA) to use funds appropriated for disaster relief to increase the federal cost share from the current 75 percent up to 100 percent for fire management assistance grants, at the agency's discretion. Under the bill, FEMA also would be required to promulgate a rule establishing guidelines and thresholds for cases in which the federal cost share for such grants may be increased.

Estimated Federal cost: The estimated budgetary effect of S. 479 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 S. 479

	By fiscal year, millions of dollars—												
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023– 2028	2023– 2033
Increases in Spending Subject to Appropriation													
Estimated Authorization	0	3	5	5	6	6	6	6	6	7	7	25	57
Estimated Outlays	0	3	5	5	5	6	6	6	6	6	7	24	55

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted late in fiscal year 2023 and that FEMA would begin providing additional assistance in 2024. CBO's estimate of outlays in each year is based on historical patterns of spending under the fire management assistance grant program.

Spending subject to appropriation: CBO estimates that S. 479 would authorize the appropriation of \$57 million over the 2024–2033 period and implementing it would cost \$55 million over the same period, assuming appropriation of the estimated amounts.

Additional cost share: Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, FEMA awards fire management assistance grants to state and local governments to control fires when the President has declared that an uncontrolled fire would constitute a major disaster. Under current law, the federal cost share covers 75 percent of eligible expenses and state, local, and tribal governments are responsible for the remaining 25 percent. Over the 2018–2022 period, FEMA obligated a total of nearly \$1.1 billion for those grants; states paid an additional \$350 million—or 25 percent of total costs.

The President declared more than 125 major disasters in fiscal years 2019 and 2020. Under current law, FEMA has the discretion to increase the federal cost share under the Public Assistance Program to greater than 75 percent if the agency determines that the effects of a disaster are sufficiently severe—typically, if per capita damages in a jurisdiction exceed specified levels. Among those 125 declarations, FEMA covered 90 percent of costs for 7 percent of declarations and covered 100 percent of costs for 4 percent of declarations; FEMA paid 75 percent of costs for the remaining 89 percent of those declarations.¹ Using information from FEMA and in keeping with the agency's response to the broader set of recent disasters, CBO expects that the agency would cover a similar percentage of costs for fire management assistance grants under the bill.

Under current law, CBO estimates that federal and state spending on fire management assistance grants will total about \$3.1 billion over the 2023–2033 period, of which FEMA will pay \$2.3 billion. Under the expectation that FEMA would increase its share of costs from 75 percent to 90 percent or to 100 percent at the same frequency as prior disasters, CBO estimates that FEMA's costs would increase by \$3 million in 2024, with that cost rising to \$7 million in 2033. Assuming appropriation of the estimated amounts, CBO estimates that implementing the bill would increase spending by \$55 million over the 2023–2033 period.

Required rulemaking: S. 479 would require FEMA to complete a rulemaking to establish the criteria and thresholds—such as per capita damages in a jurisdiction—under which the agency would recommend that a higher federal share be provided. Under current law, FEMA principally uses per capita damage indicators, tailored to each state or local jurisdiction, to determine whether to increase cost shares. CBO expects that FEMA would complete that rulemaking in early 2024 and that related administrative costs would

¹The federal government paid 100 percent of costs for an additional 59 disaster declarations made for the coronavirus pandemic. Because of the unusual nature of the pandemic, for the purposes of this estimate, CBO excluded those declarations when projecting how often FEMA would increase cost shares for fire management assistance grants.

total less than \$500,000; any spending would be subject to the availability of appropriated funds.

Uncertainty: This estimate is subject to considerable uncertainty. Because S. 479 would increase how much the federal government could pay for disasters, the cost of the legislation would principally depend upon how much FEMA allocates in response to qualifying fire disasters. CBO's estimate of the bill's costs is informed by historical data about spending under the fire management assistance grant program and FEMA's actions in other types of disasters, but the ultimate amounts that FEMA will cover are difficult to predict. Those costs will be determined by the frequency and severity of future fires, as well as by decisions made by the agency about how much assistance to provide. Based on the needs of recipient communities in the future, if FEMA decided to increase or decrease the amounts allocated to the program—or the proportion of costs the federal government covers—spending under S. 479 would, in turn, be higher or lower than CBO estimates.

Pay-As-You-Go considerations: None.

Increase in long-term net direct spending and deficits: None.

Mandates: None.

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

Estimate reviewed by: Justin Humphrey, Chief, Finance, Housing, and Education Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

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

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

ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

* * * * *

SEC. 420. FIRE MANAGEMENT ASSISTANCE.

(a) * * *

(b) * * *

(c) * * *

(d) * * *

(e) *FEDERAL SHARE.*—*The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.*

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

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