

115TH CONGRESS
2D SESSION

S. 2767

To make improvements to certain wildfire and disaster recovery programs
of the Federal Government, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2018

Mrs. MURRAY introduced the following bill; which was read twice and referred
to the Committee on Homeland Security and Governmental Affairs

A BILL

To make improvements to certain wildfire and disaster recovery
programs of the Federal Government, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural Disaster Recov-
5 ery Act of 2018”.

6 **SEC. 2. STATE INDIVIDUAL ASSISTANCE PROGRAMS.**

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

1 **“SEC. 328. STATE INDIVIDUAL ASSISTANCE PROGRAMS.**

2 “(a) INCENTIVE FOR INDIVIDUAL ASSISTANCE PRO-
3 GRAMS.—A State may receive an increased Federal share
4 for financial assistance under subsection (c) if the State
5 develops and implements an individual assistance program
6 that authorizes the State government to provide financial
7 assistance, and if necessary, direct services, to individuals
8 and households in the State who, as a direct result of a
9 major disaster or an event that does not trigger a major
10 disaster declaration, have necessary expenses and serious
11 needs in cases in which the individuals and households are
12 unable to meet such expenses through other means.

13 “(b) ELIGIBILITY CRITERIA.—

14 “(1) IN GENERAL.—The Administrator of the
15 Federal Emergency Management Agency shall pub-
16 lish minimum eligibility criteria for a State indi-
17 vidual assistance program established under sub-
18 section (a) that receives an increased Federal share
19 for financial assistance under subsection (c).

20 “(2) CONSIDERATIONS.—In formulating the
21 minimum eligibility criteria required under para-
22 graph (1), the Administrator of the Federal Emer-
23 gency Management Agency shall consider—

24 “(A) the total taxable resources of the in-
25 dividual State or other measure of fiscal capac-
26 ity, as appropriate;

1 “(B) the variation of total taxable re-
2 sources, or other measures of fiscal capacity,
3 among the individual State; and

4 “(C) the historical frequency of declara-
5 tions made pursuant to sections 401 and 501.

6 “(3) PUBLICATION DEADLINE.—The Adminis-
7 trator of the Federal Emergency Management Agen-
8 cy shall publish—

9 “(A) interim minimum eligibility criteria
10 required under paragraph (1) not later than
11 180 days after the date of enactment of this
12 section; and

13 “(B) final minimum eligibility criteria re-
14 quired under paragraph (1) not later than 1
15 year after the date of enactment of this section.

16 “(c) INCREASED FEDERAL SHARE FOR FINANCIAL
17 ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.—If, at
18 the time of the declaration of a major disaster, a State
19 has in effect an individual assistance program that meets
20 the criteria published under subsection (b), the President
21 may increase to 100 percent, with respect to the major
22 disaster, the percentage described in section
23 408(g)(2)(A).”.

1 **SEC. 3. COMMUNITY SHELTER ASSISTANCE PROGRAM.**

2 (a) IN GENERAL.—Title III of the McKinney-Vento
3 Homeless Assistance Act (42 U.S.C. 11331 et seq.) is
4 amended—

5 (1) by striking section 322 and inserting the
6 following:

7 **“SEC. 322. AUTHORIZATION OF APPROPRIATIONS.**

8 “(a) EMERGENCY FOOD AND SHELTER GRANTS.—
9 There is authorized to be appropriated to carry out sub-
10 title B \$180,000,000 for fiscal year 2019.

11 “(b) DISASTER SUPPLEMENTAL FOOD AND SHELTER
12 GRANTS.—There is authorized to be appropriated to carry
13 out subtitle D \$180,000,000 for fiscal year 2019.”; and

14 (2) by adding at the end the following:

15 **“Subtitle D—Disaster Supplemen-**
16 **tal Food and Shelter Grants**

17 **“SEC. 331. GRANTS BY THE ADMINISTRATOR.**

18 “Not later than 30 days after the date on which
19 amounts become available to carry out this subtitle, the
20 Administrator of the Federal Emergency Management
21 Agency (referred to in this subtitle as the ‘Administrator’)
22 shall award a grant for the full amount that Congress
23 makes available for the program under this subtitle to the
24 National Board for the purpose of providing disaster sup-
25 plemental food and shelter grants to needy individuals

1 through private nonprofit organizations and local govern-
2 ments in accordance with section 333.

3 **“SEC. 332. RETENTION OF INTEREST EARNED.**

4 “(a) IN GENERAL.—Interest accrued on the balance
5 of any grant to the National Board under this subtitle
6 shall be available to the National Board for reallocation.

7 “(b) DETERMINATION OF COSTS.—Total administra-
8 tive costs shall be determined based on the total amount
9 of funds available, including interest and any private con-
10 tributions that are made to the National Board.

11 **“SEC. 333. PURPOSES OF GRANTS.**

12 “(a) ELIGIBLE ACTIVITIES.—Grants to the National
13 Board under this subtitle may be used—

14 “(1) to supplement and expand ongoing efforts
15 to provide shelter, food, and supportive services for
16 any area for which the President declares a major
17 disaster under section 401 of the Robert T. Stafford
18 Disaster Relief and Emergency Assistance Act (42
19 U.S.C. 5170);

20 “(2) to strengthen efforts to create more effec-
21 tive and innovative local disaster response programs
22 by providing funding for those programs; and

23 “(3) to conduct minimum rehabilitation of ex-
24 isting mass shelter facilities, but only to the extent

1 necessary to make facilities safe, sanitary, and bring
2 facilities into compliance with local building codes.

3 “(b) LIMITATIONS ON ACTIVITIES.—

4 “(1) ELIGIBLE PROGRAMS.—The National
5 Board may only provide funding provided under this
6 subtitle for programs that are—

7 “(A) carried out by private nonprofit orga-
8 nizations and local governments;

9 “(B) consistent with the purposes of this
10 title; and

11 “(C) administered within an area for
12 which—

13 “(i) the President declared a major
14 disaster under section 401 of the Robert
15 T. Stafford Disaster Relief and Emergency
16 Assistance Act (42 U.S.C. 5170) during
17 the 12-month period immediately preceding
18 the grant; and

19 “(ii) assistance has not been provided
20 with respect to the major disaster under
21 section 408 of the Robert T. Stafford Dis-
22 aster Relief and Emergency Assistance Act
23 (42 U.S.C. 5174).

24 “(2) NATIONAL BOARD.—The National Board
25 may not carry out programs directly.

1 **“SEC. 334. LIMITATION ON CERTAIN COSTS.**

2 “Not more than 10 percent of the total amount made
3 available for the program under this subtitle for each fiscal
4 year may be expended for the costs of administration.

5 **“SEC. 335. DISBURSEMENT OF FUNDS.**

6 “Any amount made available by appropriation Acts
7 under this subtitle unobligated by the National Board be-
8 fore the expiration of the 12-month period beginning on
9 the date on which the amount becomes available shall be
10 transferred to the general fund of the Treasury.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
12 The table of contents in section 101(b) of the McKinney-
13 Vento Homeless Assistance Act (42 U.S.C. 11301 note)
14 is amended by inserting after the item relating to section
15 322 the following:

“Subtitle D—Disaster and Supplemental Food Shelter Grants

“Sec. 331. Grants by the Administrator.

“Sec. 332. Retention of interest earned.

“Sec. 333. Purposes of grants.

“Sec. 334. Limitation on certain costs.

“Sec. 335. Disbursement of funds.”.

16 **SEC. 4. EMERGENCY CONSERVATION PROGRAM.**

17 (a) MAXIMUM PAYMENTS PER PERSON OR LEGAL
18 ENTITY.—The Secretary of Agriculture, acting through
19 the Administrator of the Farm Service Agency, shall
20 amend the regulations promulgated pursuant to section
21 405 of the Agricultural Credit Act of 1978 (16 U.S.C.
22 2205) relating to the emergency conservation program to

1 provide that the maximum amount of payments made
2 under section 401 or 402 of that Act (16 U.S.C. 2201,
3 2202) per person or legal entity per natural disaster is
4 \$500,000.

5 (b) RULEMAKING.—Not later than 1 year after the
6 date of enactment of this Act, the Secretary of Agri-
7 culture, acting through the Administrator of the Farm
8 Service Agency, shall initiate a rulemaking to amend the
9 regulations promulgated pursuant to section 405 of the
10 Agricultural Credit Act of 1978 (16 U.S.C. 2205) relating
11 to the emergency conservation program to account for the
12 challenges posed by the increase in frequency and intensity
13 of wildland fire.

14 **SEC. 5. EMERGENCY WATERSHED PROTECTION PROGRAM**
15 **WILDFIRE PILOT.**

16 (a) FINDINGS.—Congress finds that additional con-
17 sideration of how the Federal Government supports and
18 expedites the recovery of rural areas affected by wildfires
19 is necessary because wildfires—

- 20 (1) pose unique mitigation, management, re-
21 sponse, and recovery challenges due to the unpre-
22 dictable size, location, and duration of wildfires; and
23 (2)(A) disproportionately impact rural areas;
24 and

1 (B) inflict long-term damage on the agricultural
2 systems rural areas economically rely on.

3 (b) DEFINITIONS.—In this section:

4 (1) ELIGIBLE JURISDICTION.—The term “eligi-
5 ble jurisdiction” means a jurisdiction within an area
6 for which the President declared a major disaster in
7 accordance with section 401 of the Robert T. Staf-
8 ford Disaster Relief and Emergency Assistance Act
9 (42 U.S.C. 5170) for wildfire.

10 (2) SECRETARY.—The term “Secretary” means
11 the Secretary of Agriculture, acting through the
12 Chief of the Natural Resources Conservation Serv-
13 ice.

14 (c) PILOT PROGRAM.—Not later than 1 year after the
15 date of enactment of this Act, the Secretary shall establish
16 a pilot program for the administration of the emergency
17 watershed protection program established under section
18 403 of the Agricultural Credit Act of 1978 (16 U.S.C.
19 2203) in eligible jurisdictions to extend deadlines for the
20 submission of applications and the provision of amounts
21 under the program in accordance with subsection (d).

22 (d) EXTENSION OF DEADLINES.—

23 (1) APPLICATIONS.—During the period de-
24 scribed in subsection (f), a sponsor may apply for
25 amounts under the emergency watershed protection

1 program for a project within an eligible jurisdiction
2 by submitting a request to the State conservationist
3 for the State in which the eligible jurisdiction is lo-
4 cated not later than—

5 (A) 180 days after the date on which the
6 President declared the major disaster for wild-
7 fire;

8 (B) 60 days after the date on which access
9 to site of the project becomes available, as de-
10 termined by the Secretary; or

11 (C) 60 days after the date of 100-percent
12 containment of a wildfire for which a major dis-
13 aster declaration is issued.

14 (2) AWARDS.—

15 (A) IN GENERAL.—During the period de-
16 scribed in subsection (f), except as provided in
17 subparagraph (B), not later than 360 days
18 after the date on which the Secretary commits
19 amounts to the applicable State conservationist
20 for the provision of amounts under the emer-
21 gency watershed protection program for a
22 project within an eligible jurisdiction—

23 (i) the State conservationist shall pro-
24 vide the amounts to the sponsor of the
25 project; and

1 (ii) the project shall be completed.

2 (B) EMERGENCY SITUATIONS.—During the
3 period described in subsection (f), in an emer-
4 gency situation (as determined by the Sec-
5 retary), not later than 10 days after the date
6 on which the Secretary commits amounts to the
7 applicable State conservationist for the provi-
8 sion of amounts under the emergency watershed
9 protection program for a project within an eligi-
10 ble jurisdiction, the project shall be completed.

11 (e) REPORTS TO CONGRESS.—

12 (1) IN GENERAL.—Not later than 1 year after
13 the date on which the pilot program is established
14 under subsection (c), and once the following year,
15 the Secretary shall prepare a report describing—

16 (A) the number of applications submitted
17 for a project under the pilot program during
18 the 60-day period beginning on the date on
19 which the pilot program is established;

20 (B) the number of applications described
21 in subparagraph (A) that were approved;

22 (C) the average time of construction of
23 projects for which applications described in sub-
24 paragraph (B) were submitted; and

1 (D) such other information as the Sec-
2 retary considers appropriate.

3 (2) SUBMISSION.—The Secretary shall submit
4 each report under paragraph (1) to each of the fol-
5 lowing:

6 (A) In the Senate:

7 (i) The Committee on Agriculture,
8 Nutrition, and Forestry.

9 (ii) The Committee on Homeland Se-
10 curity and Governmental Affairs.

11 (iii) The Committee on Appropria-
12 tions.

13 (B) In the House of Representatives:

14 (i) The Committee on Agriculture.

15 (ii) The Committee on Homeland Se-
16 curity.

17 (iii) The Committee on Appropria-
18 tions.

19 (f) DURATION.—The pilot program established under
20 subsection (e) shall be carried out during the 2-year period
21 beginning on the date on which the pilot program is estab-
22 lished.

1 **SEC. 6. EXPANDED ELIGIBILITY FOR HAZARD MITIGATION**
2 **ASSISTANCE.**

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

6 “(f) EXPANDED ELIGIBILITY.—Notwithstanding any
7 other provision of this section or section 420, the Presi-
8 dent may provide hazard mitigation assistance in accord-
9 ance with this section in any area in which assistance is
10 provided under section 420.”.

11 **SEC. 7. HAZARD MITIGATION PILOT PROGRAM.**

12 (a) DEFINITIONS.—In this section:

13 (1) ADMINISTRATOR.—The term “Adminis-
14 trator” means the Administrator of the Federal
15 Emergency Management Agency.

16 (2) ELIGIBLE JURISDICTION.—The term “eligi-
17 ble jurisdiction” means—

18 (A) a jurisdiction within an area for which
19 the President declared a major disaster in ac-
20 cordance with section 401 of the Robert T.
21 Stafford Disaster Relief and Emergency Assist-
22 ance Act (42 U.S.C. 5170); and

23 (B) an area in which assistance is provided
24 under section 420 of the Robert T. Stafford
25 Disaster Relief and Emergency Assistance Act
26 (42 U.S.C. 5187).

1 (b) PILOT PROGRAM.—Not later than 1 year after
2 the date of enactment of this Act, the Administrator shall
3 establish a pilot program for the administration of the
4 hazard mitigation grant program established under sec-
5 tion 404 of the Robert T. Stafford Disaster Relief and
6 Emergency Assistance Act (42 U.S.C. 5170c) in eligible
7 jurisdictions to—

8 (1) include additional wildfire-specific eligible
9 activities described in subsection (c); and

10 (2) facilitate the timely disbursement of awards
11 using new procedures adopted under subsection (d).

12 (c) ADDITIONAL ELIGIBLE ACTIVITIES.—An eligible
13 jurisdiction may use amounts received under this section
14 to—

15 (1) support the adoption and implementation of
16 fire-adapted community programs;

17 (2) create or expand defensible spaces that are
18 not more than 300 feet from a structure;

19 (3) develop emergency preparedness and com-
20 munications materials for individuals with limited
21 English proficiency;

22 (4) organize and plan for the deployment of
23 interagency, multi-jurisdictional burned area emer-
24 gency response teams on non-Federal lands; and

1 (5) carry out any other wildfire hazard mitiga-
2 tion project as determined appropriate by the Ad-
3 ministrator.

4 (d) NEW PROCEDURES.—

5 (1) APPROVAL OF PROJECTS.—Not later than
6 90 days after the date of enactment of this Act, the
7 Administrator may adopt new procedures to provide
8 assistance to eligible jurisdictions to carry out activi-
9 ties and projects under this section.

10 (2) GOALS OF PROCEDURES.—The new proce-
11 dures adopted under paragraph (1) shall further the
12 goals of—

13 (A) reducing the cost to the Federal Gov-
14 ernment of providing assistance;

15 (B) increasing the flexibility in the admin-
16 istration of assistance;

17 (C) expediting the provision of assistance
18 to eligible jurisdictions; and

19 (D) providing financial incentives and dis-
20 incentives for an eligible jurisdiction for the
21 timely and cost-effective completion of activities
22 and projects using assistance provided under
23 this section.

24 (3) PARTICIPATION.—Participation in the new
25 procedures adopted under paragraph (1) shall be at

1 the election of an eligible jurisdiction, consistent
2 with procedures determined by the Administrator.

3 (4) MINIMUM PROCEDURES.—The new proce-
4 dures adopted under paragraph (1) shall include the
5 following:

6 (A) Making grants on the basis of fixed es-
7 timates, if the eligible jurisdiction agrees to be
8 responsible for any actual costs that exceed the
9 estimate.

10 (B) Providing an option for an eligible ju-
11 risdiction to elect to receive an in-lieu contribu-
12 tion, without reduction, on the basis of esti-
13 mates of the costs and expenses associated with
14 executing and managing projects.

15 (C) Consolidating, to the extent deter-
16 mined appropriate by the Administrator, the fa-
17 cilities of an eligible jurisdiction as a single
18 project based upon the estimates adopted under
19 the procedures.

20 (D) If the actual costs of a project com-
21 pleted under the procedures are less than the
22 estimated costs thereof, permitting a grantee or
23 subgrantee to use all or part of the excess funds
24 for other activities allowed under section 404 of
25 the Robert T. Stafford Disaster Relief and

1 Emergency Assistance Act (42 U.S.C. 5170c)
2 or to improve future hazard mitigation grant
3 program operations or planning.

4 (E) In determining eligible costs under sec-
5 tion 404 of the Robert T. Stafford Disaster Re-
6 lief and Emergency Assistance Act (42 U.S.C.
7 5170c), the Administrator shall, at the request
8 of an eligible jurisdiction—

9 (i) make available, at the request of
10 an eligible jurisdiction and where the Ad-
11 ministrator, or the certified cost estimate
12 prepared by professionally licensed engi-
13 neers of the eligible jurisdiction, has esti-
14 mated an eligible Federal share for a
15 project of not less than \$5,000,000, an
16 independent expert panel to validate the
17 estimated eligible cost consistent with ap-
18 plicable regulations, policies, and guidance
19 implementing this section; and

20 (ii) consider properly conducted and
21 certified cost estimates prepared by profes-
22 sionally licensed engineers who are mutu-
23 ally agreed upon by the Administrator and
24 the eligible jurisdiction, to the extent that

1 those estimates comply with applicable reg-
2 ulations, policy, and guidance.

3 (e) RULEMAKING.—

4 (1) IN GENERAL.—The Administrator may pro-
5 mulgate regulations to carry out the pilot program
6 established under this section.

7 (2) APPLICABILITY OF NOTICE AND COMMENT
8 RULEMAKING.—Section 553 of title 5, United States
9 Code, shall not apply to regulations promulgated
10 under paragraph (1).

11 (f) REPORT.—

12 (1) IN GENERAL.—Not later than 2 years after
13 the date of enactment of this Act, the Inspector
14 General of the Department of Homeland Security
15 shall submit to the Committee on Homeland Secu-
16 rity and Governmental Affairs of the Senate and the
17 Committee on Transportation and Infrastructure of
18 the House of Representatives a report on the addi-
19 tional eligible activities and new procedures carried
20 out under the pilot program.

21 (2) CONTENTS.—The report shall contain an
22 assessment of the effectiveness of the additional eli-
23 gible activities and new procedures described in sub-
24 sections (c) and (d), respectively, including—

1 (A) whether the additional eligible activi-
 2 ties and new procedures helped to improve the
 3 general speed of recovery from wildfire;

4 (B) the accuracy of the estimated costs de-
 5 scribed in subsection (d)(4)(D);

6 (C) whether the financial incentives and
 7 disincentives were effective;

8 (D) whether the new procedures were cost
 9 effective;

10 (E) whether the independent expert panel
 11 described in subsection (d)(4)(E)(i) was effec-
 12 tive; and

13 (F) recommendations for whether the new
 14 procedures should be continued and any rec-
 15 ommendations for changes to the new proce-
 16 dures.

17 (g) DURATION.—The pilot program established under
 18 this section shall be carried out during the 3-year period
 19 beginning on the date on which the pilot program is estab-
 20 lished.

21 **SEC. 8. POST-WILDFIRE FLOOD ASSISTANCE PILOT PRO-**
 22 **GRAM.**

23 (a) DEFINITIONS.—In this section:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Federal
3 Emergency Management Agency.

4 (2) PUBLIC ASSISTANCE PROGRAM.—The term
5 “public assistance program” means the public assist-
6 ance grant program authorized under sections 402,
7 403, 406, 407, 418, 419, 421(d), 502, and 503 of
8 the Robert T. Stafford Disaster Relief and Emer-
9 gency Assistance Act (42 U.S.C. 5170a, 5170b,
10 5172, 5173, 5185, 5186, 5188(d), 5192, 5193).

11 (b) ESTABLISHMENT.—Not later than 1 year after
12 the date of enactment of this Act, the Administrator shall
13 establish a pilot program under which the Administrator
14 shall, in an area eligible for assistance under the public
15 assistance program as a result of a wildfire for which a
16 major disaster was declared under section 401 of the Rob-
17 ert T. Stafford Disaster Relief and Emergency Assistance
18 Act (42 U.S.C. 5170), consider damage resulting from
19 wildfire caused or exacerbated by flooding, mudslides, or
20 other subsidence events that occur during the 5-year pe-
21 riod beginning on the date on which the major disaster
22 was declared to be eligible for that assistance under the
23 original major disaster declaration.

24 (c) DURATION.—The pilot program established under
25 this section shall be carried out during the 5-year period

- 1 beginning on the date on which the pilot program is estab-
- 2 lished.

