

DISASTER RECOVERY REFORM ACT

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DECEMBER 21, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 4460]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4460) to improve the provision of disaster and mitigation assistance to eligible individuals and households and to eligible State, local, Tribal, and territorial governments and certain private nonprofit organizations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend 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; TABLE OF CONTENTS.**

- (a) **SHORT TITLE.**—This Act may be cited as the “Disaster Recovery Reform Act”.
- (b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—DISASTER MITIGATION**

- Sec. 101. National public infrastructure predisaster hazard mitigation.  
 Sec. 102. Additional mitigation activities.  
 Sec. 103. Wildfire prevention.  
 Sec. 104. Additional activities.

**TITLE II—DISASTER RESPONSE AND RECOVERY**

- Sec. 201. Federal cost-share adjustments for repair, restoration, and replacement of damaged facilities.  
 Sec. 202. Eligibility for code implementation and enforcement.  
 Sec. 203. Program improvements.  
 Sec. 204. Prioritization of facilities.  
 Sec. 205. Guidance on evacuation routes.  
 Sec. 206. Proof of insurance.  
 Sec. 207. Duplication of benefits.  
 Sec. 208. State administration of assistance for direct temporary housing and permanent housing construction.  
 Sec. 209. Assistance to individuals and households.  
 Sec. 210. Multifamily lease and repair assistance.  
 Sec. 211. Federal disaster assistance nonprofit fairness.  
 Sec. 212. Management costs.  
 Sec. 213. Flexibility.  
 Sec. 214. Additional disaster assistance.  
 Sec. 215. National veterinary emergency teams.  
 Sec. 216. Dispute resolution pilot program.  
 Sec. 217. Emergency relief.

**TITLE III—AGENCY MANAGEMENT, OVERSIGHT, AND ACCOUNTABILITY**

- Sec. 301. Unified Federal environmental and historic preservation review.  
 Sec. 302. Closeout incentives.  
 Sec. 303. Performance of services.  
 Sec. 304. Study to streamline and consolidate information collection.  
 Sec. 305. Agency accountability.  
 Sec. 306. Audit of contracts.  
 Sec. 307. Inspector general audit of FEMA contracts for tarps and plastic sheeting.  
 Sec. 308. Relief organizations.  
 Sec. 309. Guidance on inundated and submerged roads.

**TITLE I—DISASTER MITIGATION****SEC. 101. NATIONAL PUBLIC INFRASTRUCTURE 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” 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 to implement the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this Act for the purpose of protecting the health, safety, and general welfare of the buildings’ users against disasters.”;
- (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 shall—
- “(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) in paragraph (9) by striking “and” at the end;
- (B) by redesignating paragraph (10) as paragraph (12); and

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

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

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

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

“(i) NATIONAL PUBLIC INFRASTRUCTURE PREDISASTER MITIGATION FUND.—

“(1) ESTABLISHMENT.—The President shall establish in the Treasury of the United States a separate account called the National Public Infrastructure Predisaster Mitigation Fund (in this section referred to as the ‘Predisaster Mitigation Fund’), which shall be used exclusively to carry out this section, with amounts in such account to be available until expended unless otherwise provided.

“(2) TRANSFERS TO PREDISASTER MITIGATION FUND.—

“(A) IN GENERAL.—There shall be deposited in the Predisaster Mitigation Fund with respect to each disaster declared on or after August 1, 2017, an additional amount equal to 6 percent of the estimated aggregate amount of grants to be made pursuant to sections 403, 406, 407, 408, 410, and 416.

“(B) ESTIMATED AGGREGATE AMOUNT.—Not later than 180 days after each major disaster declaration, the estimated aggregate amount of grants on which the amount calculated in subparagraph (A) is based shall be determined and need not be reduced, increased, or changed due to variations in estimates.”; and

(6) by striking subsection (m) and redesignating subsection (n) as subsection (m).

#### SEC. 102. ADDITIONAL MITIGATION ACTIVITIES.

(a) HAZARD MITIGATION CLARIFICATION.—Section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) is amended by striking the first sentence and inserting the following: “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.”.

(b) ELIGIBLE COST.—Section 406(e)(1)(A) of such Act (42 U.S.C. 5172(e)(1)(A)) is amended—

(1) in the matter preceding clause (i), by inserting after “section,” the following: “for disasters declared on or after August 1, 2017, or a disaster in which a cost estimate has not yet been finalized for a project.”;

(2) in clause (i), by striking “and”;

(3) in clause (ii)—

(A) by striking “codes, specifications, and standards” and inserting “the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this Act for the purposes of protecting the health, safety, and general welfare of a facility’s users against disasters”;

(B) by striking “applicable at the time at which the disaster occurred”;

and

(C) by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

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

(c) NEW RULES.—Section 406(e) of such Act (42 U.S.C. 5172(e)) is further amended by adding at the end the following:

“(5) NEW RULES.—

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

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

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

(d) CONFORMING AMENDMENT.—Section 205(d)(2) of the Disaster Mitigation Act of 2000 (Public Law 106–390) is amended by inserting “(B)” after “except that paragraph (1)”.

#### SEC. 103. WILDFIRE PREVENTION.

(a) MITIGATION ASSISTANCE.—Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5187) is amended—

(1) by redesignating subsection (d) as subsection (e); and

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

“(d) HAZARD MITIGATION ASSISTANCE.—Whether or not a major disaster is declared, the President may provide hazard mitigation assistance in accordance with section 404 in any area affected by a fire for which assistance was provided under this section.”

(b) CONFORMING AMENDMENTS.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) in section 404(a) (42 U.S.C. 5170c(a)) (as amended by section 102(a) of this Act)—

(A) by inserting before the first period “, or any area affected by a fire for which assistance was provided under section 420”; and

(B) in the third sentence by inserting “or event under section 420” after “major disaster” each place it appears; and

(2) in section 322(e)(1) (42 U.S.C. 5165(e)(1)), by inserting “or event under section 420” after “major disaster” each place it appears.

(c) REPORTING REQUIREMENT.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Administrator of the Federal Emergency Management Agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Appropriations Committees of the Senate and the House of Representatives a report containing a summary of any projects carried out, and any funding provided to those projects, under subsection (d) of section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5187) (as amended by this section).

#### SEC. 104. ADDITIONAL ACTIVITIES.

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

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

“(1) reseeding ground cover with quick-growing or native species;

“(2) mulching with straw or chipped wood;

“(3) constructing straw, rock, or log dams in small tributaries to prevent flooding;

“(4) placing logs and other erosion barriers to catch sediment on hill slopes;

“(5) installing debris traps to modify road and trail drainage mechanisms;

“(6) modifying or removing culverts to allow drainage to flow freely;

“(7) adding drainage dips and constructing emergency spillways to keep roads and bridges from washing out during floods;

“(8) planting grass to prevent the spread of noxious weeds;

“(9) installing warning signs;

“(10) establishing defensible space measures;

“(11) reducing hazardous fuels; and

“(12) windstorm damage, including replacing or installing electrical transmission or distribution utility pole structures with poles that are resilient to extreme wind and combined ice and wind loadings for the basic wind speeds and ice conditions associated with the relevant location.”

## TITLE II—DISASTER RESPONSE AND RECOVERY

### SEC. 201. FEDERAL COST-SHARE ADJUSTMENTS FOR REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.

Section 406(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(b)) is amended by inserting after paragraph (2) the following:

“(3) INCREASED FEDERAL SHARE.—

“(A) INCENTIVE MEASURES.—The President may provide incentives to a State or Tribal government to invest in measures that increase readiness for, and resilience from, a major disaster by recognizing such investments through a sliding scale that increases the minimum Federal share to 85 percent. Such measures may include—

“(i) the adoption of a mitigation plan approved under section 322;

“(ii) investments in disaster relief, insurance, and emergency management programs;

“(iii) encouraging the adoption and enforcement of the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish 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;

“(iv) facilitating participation in the community rating system; and

“(v) funding mitigation projects or granting tax incentives for projects that reduce risk.

“(B) COMPREHENSIVE GUIDANCE.—Not later than 1 year after the date of enactment of this paragraph, the President, acting through the Administrator, shall issue comprehensive guidance to State and Tribal governments regarding the measures and investments that will be recognized for the purpose of increasing the Federal share under this section.

“(C) REPORT.—One year after the issuance of the guidance required by subparagraph (B), 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 regarding the analysis of the Federal cost shares paid under this section.

“(D) SAVINGS CLAUSE.—Nothing in this paragraph prevents the President from increasing the Federal cost share above 85 percent.”.

### SEC. 202. ELIGIBILITY FOR CODE IMPLEMENTATION AND ENFORCEMENT.

Section 406(a)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(a)(2)) is amended—

(1) by striking “and” at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting “; and”; and

(3) by adding at the end the following:

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

### SEC. 203. PROGRAM IMPROVEMENTS.

(a) HAZARD MITIGATION.—Section 406(c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)) is amended—

(1) in paragraph (1)(A), by striking “90 percent of”; and

(2) in paragraph (2)(A), by striking “75 percent of”.

(b) PARTICIPATION.—Section 428(d) of such Act (42 U.S.C. 5189f) is amended—

(1) by inserting “(1) IN GENERAL.—” before “Participation in”; and

(2) by adding at the end the following:

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

(c) CERTIFICATION.—Section 428(e)(1) of such Act (42 U.S.C. 5189f(e)(1)) is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

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

**SEC. 204. PRIORITIZATION OF FACILITIES.**

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall provide guidance and training on an annual basis to State, Tribal, and local governments, first responders, and utility companies on—

- (1) the need to prioritize assistance to hospitals, nursing homes, and other long-term care facilities to ensure that such health care facilities remain functioning or return to functioning as soon as practicable during power outages caused by natural hazards, including severe weather events; and
- (2) how hospitals, nursing homes and other long-term care facilities should adequately prepare for power outages during a major disaster or emergency.

**SEC. 205. GUIDANCE ON EVACUATION ROUTES.**

(a) IN GENERAL.—

(1) IDENTIFICATION.—The Administrator of the Federal Emergency Management Agency, in coordination with the Administrator of the Federal Highway Administration, shall develop and issue guidance for State, local, and Tribal governments regarding the identification of evacuation routes.

(2) GUIDANCE.—The Administrator of the Federal Highway Administration, in coordination with the Administrator of the Federal Emergency Management Agency, shall revise existing guidance or issue new guidance as appropriate for State, local, and Tribal governments regarding the design, construction, maintenance, and repair of evacuation routes.

(b) CONSIDERATIONS.—

(1) IDENTIFICATION.—In developing the guidance under subsection (a)(1), the Administrator of the Federal Emergency Management Agency shall consider—

- (A) whether evacuation routes have resisted impacts and recovered quickly from disasters, regardless of cause;
- (B) the need to evacuate special needs populations, including—
  - (i) individuals with a physical or mental disability;
  - (ii) individuals in schools, daycare centers, mobile home parks, prisons, nursing homes and other long-term care facilities, and detention centers;
  - (iii) individuals with limited-English proficiency;
  - (iv) the elderly; and
  - (v) individuals who are tourists, seasonal workers, or homeless;
- (C) the sharing of information and other public communications with evacuees during evacuations;
- (D) the sheltering of evacuees, including the care, protection, and sheltering of animals;
- (E) the return of evacuees to their homes; and
- (F) such other items the Administrator considers appropriate.

(2) DESIGN, CONSTRUCTION, MAINTENANCE, AND REPAIR.—In revising or issuing guidance under (a)(2), the Administrator of the Federal Highway Administration shall consider—

- (A) methods that assist evacuation routes to—
  - (i) withstand likely risks to viability, including flammability and hydrostatic forces;
  - (ii) improve durability, strength (including the ability to withstand tensile stresses and compressive stresses), and sustainability; and
  - (iii) provide for long-term cost savings;
- (B) the ability of evacuation routes to effectively manage contraflow operations;
- (C) for evacuation routes on public lands, the viewpoints of the applicable Federal Land Management Agency regarding emergency operations, sustainability, and resource protection; and
- (D) such other items the Administrator considers appropriate.

**SEC. 206. PROOF OF INSURANCE.**

A State shall be deemed to have proven that an applicant has satisfied the purchase of insurance requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) when an encumbrance requiring the purchase and maintenance of insurance has been placed on the title of the property receiving the benefit of the grant or assistance. This section in no way removes or reduces the insurance requirements on an applicant under the Act and in no way

limits the requirement that assistance provided under such Act be reduced or eliminated when the requirements are not met.

**SEC. 207. DUPLICATION OF BENEFITS.**

(a) **IN GENERAL.**—Section 312(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155(b)) is amended by adding at the end the following:

“(4) **WAIVER OF GENERAL PROHIBITION.**—

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

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

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

“(iii) Equity and good conscience.

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

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

“(C) **PROHIBITION ON DETERMINATION THAT LOAN IS A DUPLICATION.**—Notwithstanding subsection (c), in carrying out subparagraph (A), the President may not determine that a loan is a duplication of assistance, provided that all Federal assistance is used toward a loss suffered as a result of the major disaster or emergency.”.

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

(1) **ELIGIBLE ACTIVITIES.**—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 pursuant to section 404 of such Act 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 such section.

(2) **FEDERAL FUNDING.**—All Federal funding provided under section 404 pursuant to this subsection shall be applied toward the Federal share of such project.

(3) **NON-FEDERAL MATCH.**—All non-Federal matching funds required under section 404 pursuant to this subsection shall be applied toward the non-Federal share of such project.

(4) **TOTAL FEDERAL SHARE.**—Funding provided under section 404 pursuant to this subsection may not exceed the total Federal share for such project.

(5) **NO EFFECT.**—Nothing in this subsection shall—

(A) affect the cost share requirement of a hazard mitigation measure under section 404;

(B) affect the eligibility criteria for a hazard mitigation measure under section 404;

(C) affect the cost share requirements of a federally authorized water resources development project; and

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

**SEC. 208. STATE ADMINISTRATION OF ASSISTANCE FOR DIRECT TEMPORARY HOUSING AND PERMANENT HOUSING CONSTRUCTION.**

Section 408(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(f)) is amended—

(1) in paragraph (1), by striking the paragraph heading and inserting “STATE-ADMINISTERED ASSISTANCE AND OTHER NEEDS ASSISTANCE.—”;

(2) in paragraph (1)(A)—

(A) by striking “financial”; and

(B) by striking “subsection (e)” and inserting “subsections (c)(1)(B), (c)(4), and (e) if the President and the State comply, as determined by the Administrator, with paragraph (3)”;

(3) in paragraph (1)(B)—

(A) by striking “financial”; and

(B) by striking “subsection (e)” and inserting “subsections (c)(1)(B), (c)(4), and (e)”; and  
 (4) by adding at the end the following:

“(3) IN GENERAL.—

“(A) APPLICATION.—A State desiring to provide assistance under subsections (c)(1)(B) and (c)(4) shall submit to the President an application for the delegation of the authority to administer the program.

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

“(i) the demonstrated ability of the State to manage the program under this section;

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

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

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

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

“(D) AUDITS.—The Office of the inspector general shall provide for periodic audits of the programs administered by States under this subsection.

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

“(F) REPORT.—Not later than 1 year after the date of enactment of this paragraph, the inspector general of the Department of Homeland Security shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the State role to provide assistance under this section. The report shall contain an assessment of the effectiveness of the State’s role to provide assistance under this section, including—

“(i) whether the State’s role helped to improve the general speed of disaster recovery;

“(ii) whether the States providing assistance under this section had the capacity to administer this section; and

“(iii) recommendations for changes to improve the program if the State’s role to administer the programs should be continued.

“(G) PROHIBITION.—The President may not condition the provision of Federal assistance under this Act by a State, Tribal, or local government requesting a grant under this section.

“(H) MISCELLANEOUS.—

“(i) NOTICE AND COMMENT.—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 until such regulations are promulgated.

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

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



**SEC. 209. ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.**

Section 408(h) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(h)) is amended—

(1) in paragraph (1), by inserting “, excluding financial assistance to rent alternate housing accommodations under subsection (c)(1)(A)(i) and financial assistance to address other needs under subsection (e)” after “disaster”;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

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

(4) in paragraph (3) (as so redesignated), by striking “paragraph (1)” and inserting “paragraphs (1) and (2)”; and

(5) by inserting after paragraph (3) (as so redesignated) the following:

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

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

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

**SEC. 210. MULTIFAMILY LEASE AND REPAIR ASSISTANCE.**

(a) LEASE AND REPAIR OF RENTAL UNITS FOR TEMPORARY HOUSING.—Section 408(c)(1)(B)(ii)(II) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)(1)(B)(ii)(II)) is amended to read as follows:

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

(b) RENTAL PROPERTIES IMPACTED.—Section 408(c)(1)(B)(ii)(I)(aa) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)(1)(B)(ii)(I)(aa)) is amended to read as follows:

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

(c) INSPECTOR GENERAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the inspector general of the Department of Homeland Security shall assess the use of the authority provided under section 408(c)(1)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)(1)(B)), including the adequacy of any benefit-cost analysis done to justify the use of this alternative, and submit a report on the results of that review to the appropriate committees of Congress.

**SEC. 211. FEDERAL DISASTER ASSISTANCE NONPROFIT FAIRNESS.**

(a) DEFINITION OF PRIVATE NONPROFIT FACILITY.—Section 102(11)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(11)(B)) is amended to read as follows:

“(B) ADDITIONAL FACILITIES.—In addition to the facilities described in subparagraph (A), the term ‘private nonprofit facility’ includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, community centers, houses of worship exempt from taxation under section 501(c) of the Internal Revenue Code of 1986, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, food banks, and facilities that provide health and safety services of a governmental nature), as defined by the President.”.

(b) REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.—Section 406(a)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(a)(3)) is amended by adding at the end the following:

“(C) HOUSES OF WORSHIP.—A church, synagogue, mosque, temple, or other house of worship, and a private nonprofit facility operated by a religious organization, shall be eligible for contributions under paragraph (1)(B), without regard to the religious character of the facility or the primary religious use of the facility.”.

(c) APPLICABILITY.—This section and the amendments made by this section shall apply to the provision of assistance in response to a major disaster or emergency declared on or after October 28, 2012.

**SEC. 212. MANAGEMENT COSTS.**

Section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165b) is amended—

(1) in subsection (a) by striking “any administrative expense, and any other expense not directly chargeable to” and inserting “direct administrative cost, and any other administrative expense associated with”; and

(2) in subsection (b)—

(A) by striking “Notwithstanding” and inserting the following:

“(1) IN GENERAL.—Notwithstanding”;

(B) by striking “establish” and inserting the following: “implement”; and

(C) by adding at the end the following:

“(2) SPECIFIC MANAGEMENT COSTS.—The Administrator shall provide the following percentage rates, in addition to the eligible project costs, to cover direct and indirect costs of administering the following programs:

“(A) HAZARD MITIGATION.—A grantee under section 404 may be reimbursed not more than 15 percent of the total amount of the grant award under such section of which not more than 10 percent may be used by the grantee and 5 percent by the subgrantee for such costs.

“(B) PUBLIC ASSISTANCE.—A grantee under sections 403, 406, 407, and 502 may be reimbursed not more than 12 percent of the total award amount under such sections, of which not more than 7 percent may be used by the grantee and 5 percent by the subgrantee for such costs.”.

**SEC. 213. FLEXIBILITY.**

(a) DEFINITION.—In this section, the term “covered assistance” means assistance provided—

(1) under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174); and

(2) in relation to a major disaster or emergency declared by the President under section 401 or 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170; 42 U.S.C. 5191) on or after October 28, 2012.

(b) WAIVER AUTHORITY.—Notwithstanding section 3716(e) of title 31, United States Code, the Administrator of the Federal Emergency Management Agency—

(1) subject to paragraph (2), may waive a debt owed to the United States related to covered assistance provided to an individual or household if—

(A) the covered assistance was distributed based on an error by the Federal Emergency Management Agency;

(B) there was no fault on behalf of the debtor; and

(C) the collection of the debt would be against equity and good conscience; and

(2) may not waive a debt under paragraph (1) if the debt involves fraud, the presentation of a false claim, or misrepresentation by the debtor or any party having an interest in the claim.

(c) MONITORING OF COVERED ASSISTANCE DISTRIBUTED BASED ON ERROR.—

(1) IN GENERAL.—The inspector general of the Department of Homeland Security shall monitor the distribution of covered assistance to individuals and households to determine the percentage of such assistance distributed based on an error.

(2) REMOVAL OF WAIVER AUTHORITY BASED ON EXCESSIVE ERROR RATE.—If the inspector general determines, with respect to any 12-month period, that the amount of covered assistance distributed based on an error by the Federal Emergency Management Agency exceeds 4 percent of the total amount of covered assistance distributed—

(A) the inspector general shall notify the Administrator and publish the determination in the Federal Register; and

(B) with respect to any major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) after the date of the determination, the authority of the Administrator to waive debt under subsection (b) shall no longer be effective.

**SEC. 214. ADDITIONAL DISASTER ASSISTANCE.**

(a) DISASTER MITIGATION.—Section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149) is amended by adding at the end the following:

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

(b) EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.—Section 661(d) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 761(d)) is amended by striking “for fiscal year 2008” and inserting “for each of fiscal years 2018 through 2022”.

(c) EMERGENCY MANAGEMENT PERFORMANCE GRANTS PROGRAM.—Section 662(f) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 762(f)) is amended by striking “the program” and all that follows through “2012” and inserting “the program, for each of fiscal years 2018 through 2022”.

(d) TECHNICAL AMENDMENT.—Section 403(a)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a) is amended by striking the second subparagraph (J).

**SEC. 215. NATIONAL VETERINARY EMERGENCY TEAMS.**

(a) IN GENERAL.—The Administrator of the Federal Emergency Management Agency may establish one or more national veterinary emergency teams at accredited colleges of veterinary medicine.

(b) RESPONSIBILITIES.—A national veterinary emergency team shall—

(1) deploy with a team of the National Urban Search and Rescue Response System to assist with—

- (A) veterinary care of canine search teams;
- (B) locating and treating companion animals, service animals, livestock, and other animals; and
- (C) surveillance and treatment of zoonotic diseases;

(2) recruit, train, and certify veterinary professionals, including veterinary students, in accordance with an established set of plans and standard operating guidelines to carry out the duties associated with planning for and responding to emergencies as described in paragraph (1);

(3) assist State, Tribal, and local governments and nonprofit organizations in developing emergency management and evacuation plans that account for the care and rescue of animals and in improving local readiness for providing veterinary medical response during a disaster; and

(4) coordinate with the Department of Homeland Security, the Department of Health and Human Services, the Department of Agriculture, State, Tribal, and local governments (including State departments of animal and human health), veterinary and health care professionals, and volunteers.

**SEC. 216. DISPUTE RESOLUTION PILOT PROGRAM.**

Section 1105(c) of the Sandy Recovery Improvement Act of 2013 (42 U.S.C. 5189a note) is amended by striking “2015” and inserting “2022”.

**SEC. 217. EMERGENCY RELIEF.**

Notwithstanding section 125(d)(4) of title 23, United States Code, no limitation on the total obligations for projects under section 125 of such title shall apply to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands with respect to fiscal years 2018 and 2019.

## **TITLE III—AGENCY MANAGEMENT, OVERSIGHT, AND ACCOUNTABILITY**

**SEC. 301. UNIFIED FEDERAL ENVIRONMENTAL AND HISTORIC PRESERVATION REVIEW.**

(a) REVIEW AND ANALYSIS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall review the Unified Federal Environmental and Historic Preservation review process established pursuant to section 429 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189g), and submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that includes the following:

(1) An analysis of whether and how the unified process has expedited the interagency review process to ensure compliance with the environmental and historic requirements under Federal law relating to disaster recovery projects.

(2) A survey and analysis of categorical exclusions used by other Federal agencies that may be applicable to any activity related to a Presidentially declared major disaster or emergency under such Act.

(3) Recommendations on any further actions, including any legislative proposals, needed to expedite and streamline the review process.

(b) REGULATIONS.—After completing the review, survey, and analyses under subsection (a), but not later than 2 years after the date of enactment of this Act, and after providing notice and opportunity for public comment, the Administrator shall issue regulations to implement any regulatory recommendations, including any categorical exclusions identified under subsection (a), to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations, and section II of DHS Instruction Manual 023–01–001–01.

**SEC. 302. CLOSEOUT INCENTIVES.**

(a) FACILITATING CLOSEOUT.—Section 705 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5205) is amended by adding at the end the following:

“(d) FACILITATING CLOSEOUT.—

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

“(2) AGENCY REQUIREMENTS.—The Agency shall, consistent with applicable regulations and required procedures, meet its responsibilities to improve close-out practices and reduce the time to close disaster program awards.”.

(b) REGULATIONS.—The Administrator shall issue regulations to implement this section.

**SEC. 303. PERFORMANCE OF SERVICES.**

Section 306 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5149) is amended by adding at the end the following:

“(c) The Administrator of the Federal Emergency Management Agency is authorized to appoint temporary personnel, after serving continuously for 1 year, to positions in the Agency in the same manner that competitive service employees are considered for transfer, reassignment, or promotion to such positions. An individual appointed under this subsection shall become a career-conditional employee, unless the employee has already completed the service requirements for career tenure.”.

**SEC. 304. STUDY TO STREAMLINE AND CONSOLIDATE INFORMATION COLLECTION.**

Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall—

(1) in coordination with the Small Business Administration, the Department of Housing and Urban Development, and other appropriate agencies, conduct a study and develop a plan, consistent with law, under which the collection of information from disaster assistance applicants and grantees will be modified, streamlined, expedited, efficient, flexible, consolidated, and simplified to be less burdensome, duplicative, and time consuming for applicants and grantees;

(2) in coordination with the Small Business Administration, the Department of Housing and Urban Development, and other appropriate agencies, develop a plan for the regular collection and reporting of information on provided Federal disaster assistance, including the establishment and maintenance of a website for presenting the information to the public; and

(3) submit the plans to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

**SEC. 305. AGENCY ACCOUNTABILITY.**

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is amended by adding at the end the following:

**“SEC. 430. AGENCY ACCOUNTABILITY.**

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

“(1) identifying the Federal Emergency Management Agency Region;

“(2) the disaster or emergency declaration number;

“(3) the State, county, and applicant name;

“(4) if the applicant is a private nonprofit;

“(5) the damage category code;

“(6) the amount of the Federal share obligated; and

“(7) the date of the award.

“(b) MISSION ASSIGNMENTS.—

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

- “(A) the name of the impacted State or Tribe;
- “(B) the disaster declaration for such State or Tribe;
- “(C) the assigned agency;
- “(D) the assistance requested;
- “(E) a description of the disaster;
- “(F) the total cost estimate;
- “(G) the amount obligated;
- “(H) the State or Tribal cost share, if applicable;
- “(I) the authority under which the mission assignment or mission assignment task order was directed; and
- “(J) if applicable, the date a State or Tribe requested the mission assignment.

“(2) RECORDING CHANGES.—Not later than 10 days after the last day of each month until a mission assignment or mission assignment task order described in paragraph (1) is completed and closed out, the Administrator shall update any changes to the total cost estimate and the amount obligated.

“(c) DISASTER RELIEF MONTHLY REPORT.—Not later than 10 days after the first day of each month, the Administrator shall publish on the Agency’s website reports, including a specific description of the methodology and the source data used in developing such reports, including—

“(1) an estimate of the amounts for the fiscal year covered by the President’s most recent budget pursuant to section 1105(a) of title 31, United States Code, including—

- “(A) the unobligated balance of funds to be carried over from the prior fiscal year to the budget year;
- “(B) the unobligated balance of funds to be carried over from the budget year to the budget year plus 1;
- “(C) the amount of obligations for non-catastrophic events for the budget year;
- “(D) the amount of obligations for the budget year for catastrophic events delineated by event and by State;
- “(E) the total amount that has been previously obligated or will be required for catastrophic events delineated by event and by State for all prior years, the current fiscal year, the budget year, and each fiscal year thereafter;
- “(F) the amount of previously obligated funds that will be recovered for the budget year;
- “(G) the amount that will be required for obligations for emergencies, as described in section 102(1), major disasters, as described in section 102(2), fire management assistance grants, as described in section 420, surge activities, and disaster readiness and support activities; and
- “(H) the amount required for activities not covered under section 251(b)(2)(D)(iii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(iii)); and

“(2) an estimate or actual amounts, if available, of the following for the current fiscal year shall be submitted not later than the fifth day of each month, published by the Administrator on the Agency’s website not later than the fifth day of each month:

- “(A) A summary of the amount of appropriations made available by source, the transfers executed, the previously allocated funds recovered, and the commitments, allocations, and obligations made.
- “(B) A table of disaster relief activity delineated by month, including—
  - “(i) the beginning and ending balances;
  - “(ii) the total obligations to include amounts obligated for fire assistance, emergencies, surge, and disaster support activities;
  - “(iii) the obligations for catastrophic events delineated by event and by State; and
  - “(iv) the amount of previously obligated funds that are recovered.
- “(C) A summary of allocations, obligations, and expenditures for catastrophic events delineated by event.
- “(D) The cost of the following categories of spending:
  - “(i) Public assistance.
  - “(ii) Individual assistance.
  - “(iii) Mitigation.

“(iv) Administrative.

“(v) Operations.

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

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

“(d) CONTRACTS.—

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

“(A) the name of the party;

“(B) the date the contract was awarded;

“(C) the amount of the contract, the scope of the contract;

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

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

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

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

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

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

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

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

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

#### **SEC. 306. AUDIT OF CONTRACTS.**

Notwithstanding any other provision of law, the Administrator of the Federal Emergency Management Agency shall not reimburse a State, Tribe, or local government or the owner or operator of a private nonprofit facility for any activities made pursuant to a contract entered into after August 1, 2017, that prohibits the Administrator or the Comptroller General of the United States from auditing or otherwise reviewing all aspects relating to the contract.

#### **SEC. 307. INSPECTOR GENERAL AUDIT OF FEMA CONTRACTS FOR TARPS AND PLASTIC SHEETING.**

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the inspector general of the Department of Homeland Security shall initiate an audit of the contracts awarded by the Federal Emergency Management Agency (in this section referred to as “FEMA”) for tarps and plastic sheeting for the Commonwealth of Puerto Rico and the Virgin Islands of the United States in response to Hurricane Irma and Hurricane Maria.

(b) CONSIDERATIONS.—In carrying out the audit under subsection (a), the inspector general shall review—

(1) the contracting process used by FEMA to evaluate offerors and award the relevant contracts to contractors;

(2) FEMA’s assessment of the past performance of the contractors, including any historical information showing that the contractors had supported large-scale delivery quantities in the past;

(3) FEMA’s assessment of the capacity of the contractors to carry out the relevant contracts, including with respect to inventory, production, and financial capabilities;

(4) how FEMA ensured that the contractors met the terms of the relevant contracts; and

(5) whether the failure of the contractors to meet the terms of the relevant contracts and FEMA’s subsequent cancellation of the relevant contracts affected the provision of tarps and plastic sheeting to the Commonwealth of Puerto Rico and the Virgin Islands of the United States.

(c) REPORT.—Not later than 180 days after the date of initiation of the audit under subsection (a), the inspector general 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 on the results of the audit, including findings and recommendations.

#### **SEC. 308. RELIEF ORGANIZATIONS.**

Section 309 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5152) is amended—

(1) in subsection (a), by striking “and other relief or” and inserting “long-term recovery groups, and other relief, domestic hunger relief, or”; and

(2) in subsection (b), by striking “and other relief or” and inserting “long-term recovery groups, and other relief, domestic hunger relief, or”.

**SEC. 309. GUIDANCE ON INUNDATED AND SUBMERGED ROADS.**

The Administrator of the Federal Emergency Management Agency, in coordination with the Administrator of the Federal Highway Administration, shall develop and issue guidance for State, local, and Tribal governments regarding repair, restoration, and replacement of inundated and submerged roads damaged or destroyed by a major disaster, and for associated expenses incurred by the Government, with respect to roads eligible for assistance under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172).

**PURPOSE OF LEGISLATION**

H.R. 4460, as amended, the Disaster Recovery Reform Act (DRRA), improves the provision of disaster and mitigation assistance to eligible individuals and households and eligible State, local, Tribal, and territorial governments and certain nonprofits.

**BACKGROUND AND NEED FOR LEGISLATION**

In 2017, it was an historic year for disasters that cost the country an unprecedented \$306 billion in damages.<sup>1</sup> According to the National Oceanic and Atmospheric Administration (NOAA), 2017 exceeded the previous record for extreme weather damages by over \$91 billion. In addition to Hurricanes Harvey, Irma, and Maria, wildfires in western States burned almost 10 million acres of land.<sup>2</sup> The cumulative costs associated with wildfire damages last year was almost \$18 billion, tripling the previous record.<sup>3</sup>

According to the Federal Emergency Management Agency (FEMA), only three years since 2000 have seen less than 100 disaster declarations.<sup>4</sup> In 2011, there were 242 such declarations, as well as 1,096 deaths linked to natural catastrophes and \$24.1 billion in damage.<sup>5</sup> In 2016, there were 458 deaths with over \$18.4 billion in damages.<sup>6</sup>

These impacts highlight the importance of the Federal government’s role in coordinating and informing efforts related to preparing for, mitigating against, responding to, and recovering from disasters. Enhancing resilience through hazard mitigation will also help reduce costs and impacts.

*The Disaster Recovery Reform Act*

H.R. 4460, as amended, addresses the rising costs of disasters in the United States, and reforms Federal disaster programs to ensure communities are better prepared for future hurricanes, flooding, earthquakes, wildfires, and other disasters. This legislation improves predisaster planning and mitigation, in order to reduce the future loss of life and the rising costs of disasters throughout America. Furthermore, DRRA incentivizes building and rebuilding better and smarter to facilitate recovery efforts whenever and

<sup>1</sup>“2017 U.S. billion-dollar weather and climate disasters: a historic year in context,” Adam B. Smith, January 8, 2018. Available at <https://www.climate.gov/news-features/blogs/beyond-data/2017-us-billion-dollar-weather-and-climate-disasters-historic-year>.

<sup>2</sup>Id.

<sup>3</sup>Id.

<sup>4</sup>Federal Emergency Management Agency, “Disaster Declarations by Year.” Available at <https://www.fema.gov/disasters/year>.

<sup>5</sup>National Weather Service, “Summary of Natural Hazard Statistics for 2011 in the United States.” Available at <http://www.nws.noaa.gov/om/hazstats/sum11.pdf>.

<sup>6</sup>National Weather Service, “Summary of Natural Hazard Statistics for 2016 in the United States.” Available at <http://www.nws.noaa.gov/os/hazstats/sum16.pdf>.

wherever disaster strikes. Strengthening mitigation practices is also a wise use of taxpayer dollars; studies have shown for every \$1 spent in mitigation, between \$4 and \$8 is saved in avoided disaster recovery costs.<sup>7</sup>

According to numerous studies, disaster losses and Federal disaster spending increased over the last 50 years. For example, one report found that between 1980 and 2011, North America suffered \$1.06 trillion in total losses.<sup>8</sup> Another study found that since 1952, the cost of natural disasters to the Federal government more than tripled as a function of gross domestic product.<sup>9</sup> As the 2017 hurricane season demonstrated, the toll in both human lives and economic impacts can be devastating.

The 2017 disaster season provided a wealth of data that could be used to improve Federal disaster programs. DRRRA takes lessons learned from 2017 and other disasters to give American communities the tools to better prepare for, withstand, and recover from the next disaster. By encouraging more cost-effective and smart investment of taxpayer dollars before disaster strikes, the authorities in DRRRA will help save lives and reduce Federal, State, and local costs in the long run.

#### *The Importance of Mitigation*

A major focus of DRRRA is strengthening disaster mitigation—actions taken proactively to reduce loss of life and property by lessening the impact of future disasters. Effective mitigation minimizes the potential loss of life and property from a disaster based on identifying and understanding the risks in a given area or community. Mitigation can encompass a wide variety of activities, including preparation and planning, elevating or moving structures prone to flooding, and hardening structures to mitigate effects of hurricanes or earthquakes.

DRRRA:

- Incentivizes States and Tribal governments to take steps that increase resilience to disasters and to invest in mitigation;
- Amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to require that a percentage of assistance provided in the wake of disasters is invested in predisaster hazard mitigation;
- Speeds recovery by getting structures inspected faster;
- Addresses other critical issues such as wildfire prevention, eligibility for disaster assistance, and agency efficiency and accountability; and
- Streamlines and clarifies the assistance process for recipients of FEMA aid and further promotes mitigation by clarifying eligible uses under FEMA’s hazard mitigation grant programs to address windstorm, wildfire, and earthquake hazards.

While H.R. 4460, as amended, allows recipients to use hazard mitigation assistance to replace utility poles with more resilient

<sup>7</sup> 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; and National Institute of Building Sciences (NIBS), “Natural Hazard Mitigation Saves: 2017 Interim Report Summary of Findings.” Available here: [https://www.nibs.org/page/ms2\\_download](https://www.nibs.org/page/ms2_download).

<sup>8</sup> Munich Re, *Severe weather in North America—Perils Risk Insurance*. Munich, Germany: Muchener Ruckversicherungs-Gesellschaft (2012).

<sup>9</sup> The Princeton University Geoscience 499 Class, *The Increasing Costs of U.S. Natural Disasters*. Geotimes, November 2005.



poles in areas affected by windstorms, it does not mandate any specific material. This will facilitate the ability for communities to replace poles with ones that are more resilient to hurricane force winds, ice storms, fire, or other hazards.

#### *Nursing home preparedness*

H.R. 4460, as amended, includes provisions to improve nursing home emergency preparedness. The provisions require FEMA to provide needed disaster response guidance and assistance to ensure that nursing homes and other long-term care facilities are better prioritized and can function or return to functioning status as soon as possible during an emergency or disaster, including a power outage. Further, H.R. 4460, as amended, requires that special populations like the elderly, the homeless, and the disabled are considered when States and communities plan evacuation routes.

In 2017, a power outage in a rehabilitation center in Hollywood Hills, Florida, resulted in the heat-related deaths of 14 individuals, mostly seniors, who resided there. The authorities provided in this legislation will improve nursing homes' emergency preparedness to help save lives across the nation.

#### *Duplication of benefits*

H.R. 4460, as amended, amends existing law by clarifying the President's authority to waive the general prohibition of section 312 of the Stafford Act upon the request of a Governor of a State subject to a major disaster. This section establishes that the President may not determine that a loan (such as a Small Business Administration disaster loan) is a duplication of assistance when providing Federal disaster assistance. After a disaster, FEMA urges disaster survivors to participate in certain disaster assistance programs. Application of section 312 then results in denied access to supplemental assistance if appropriated by the Congress. As disaster victims may wait to determine if supplemental recovery grants become available, the Committee is concerned that the current application of section 312 undermines important and necessary recovery efforts and may delay and increase expenses of disaster recovery. The Committee believes the authority established in H.R. 4460, as amended, would result in improved recovery conditions on existing disasters and intends that FEMA will implement immediately for all eligible major disasters.

Further, H.R. 4460, as amended, clarifies the use of FEMA hazard mitigation assistance on certain Army Corps of Engineers (the Corp) projects to mitigate against future hazards and risk. This provision is not intended to make projects that are not otherwise eligible for hazard mitigation assistance eligible, rather the provision is intended to simply allow for FEMA funding of eligible projects even if such project is within the scope of a Federally authorized water resources development project of the Corps. Many Corps projects may be authorized but never receive funding. Consequently, the risk of damage from disaster exists until the approved Corps project is complete. The Committee believes ensuring such projects are completed will help reduce costs in the future.

*State Administration of Housing Assistance*

H.R. 4460, as amended, authorizes States to lead a temporary sheltering program for disaster victims, utilizing the full breadth of FEMA's disaster assistance and tools to tailor a solution that specifically addresses the needs of disaster victims. Historically, FEMA has utilized several temporary sheltering programs to assist disaster survivors, including spending up to \$150,000 for mobile housing units to house families temporarily and spending money for temporary repairs to homes to allow disaster victims to shelter at home while permanent repairs are made.

This new authority will give States flexibility to secure housing options in a cost-effective manner and devise a more robust, temporary sheltering program.

*De-obligation and recoupment of disaster assistance*

In the wake of a Presidential major disaster declaration, FEMA may provide financial assistance to individuals who have necessary expenses and serious needs they are unable to meet by other means through the Individual and Households Program. While FEMA has implemented controls to avoid improper payments, errors are made. FEMA's current error rate for improper payments to individuals is less than two percent. H.R. 4460, as amended, institutes a three-year statute of limitations, which will prohibit FEMA from recouping assistance three years after the individual received the assistance when there is no evidence of fraud. This will help ensure that FEMA initiates any collection actions as quickly as possible, reduce administrative costs, and provide more certainty to individuals recovering from disasters.

*Dispute resolution pilot program*

H.R. 4460, as amended, extends the authorization for the arbitration panel that was established to resolve recovery assistance disputes in the wake of Hurricane Katrina. This panel gives States and municipalities a faster resolution to conflicts that arise related to the eligibility of projects and project elements under FEMA's public assistance program. This was a resolution tool following Hurricane Katrina, and was similarly authorized following Hurricane Sandy, to facilitate recovery.

*Disaster recovery contracts*

One of the challenges presented in the 2017 disaster season response and recovery related to contracting, and ensuring contracts issued in the wake of a disaster are transparent. H.R. 4460, as amended, includes provisions to require FEMA to include contract information on FEMA's website, and notify Congress so as to ensure greater transparency in the future relating to Federal government disaster contracting activities.

H.R. 4460, as amended, calls for a review of these contracts by the Inspector General of the Department of Homeland Security.

*Relief organizations*

H.R. 4460, as amended, clarifies that the term "private nonprofit facility" includes food banks as any private nonprofit facility that provides essential services of a governmental nature to the general public. This clarification ensures that food banks are eligible to re-

ceive assistance when providing food to disaster victims following a disaster. In many cases, these organizations are already equipped and situated to provide for mass feeding operations and should be a resource in the wake of a disaster.

H.R. 4460, as amended, also clarifies the President's authority to utilize, with their consent, the personnel and facilities of food banks and the President's authority to enter into agreements under which the disaster relief activities may be coordinated by the Federal government whenever such entities are engaged in providing relief during and after a major disaster or emergency.

#### *Inundated and submerged roads*

H.R. 4460, as amended, instructs FEMA to coordinate with the Administrator of the Federal Highway Administration to develop and issue guidance to State, local and Tribal governments regarding repair, restoration and replacement of inundated and submerged roads damaged or destroyed by a major disaster, and for associated expenses, with respect to activities described under section 406 of the Stafford Act (42 U.S.C. 5172). Current policy on submerged and inundated roads is a collection of complex and often confusing FEMA guidelines, doctrine and interpretations. The Committee applauds FEMA's diligence to responsibly manage public resources in this regard, but the Committee believes this diligence can be achieved with clear, fair and consistent guidance. In developing the guidelines described in this section the Committee intends that FEMA will consider (a) minimizing the applicant's potential cost of engineering, testing and analysis to qualify for assistance; (b) developing a simplified process that recognizes the applicant's limited technical capabilities in road engineering, testing and analysis; and (c) establishing a consistent process that identifies roads and segments of roads that were damaged, thereby reducing service life, which may consist of the use of FEMA's inundation maps, surveyed high watermarks, aerial video and photography, river gauges, construction and maintenance records, geotechnical investigation, and other methods.

#### *Peer-to-peer lodging*

It is essential to ensure that all available means of housing are available for survivors as they begin the process to rebuild their communities. The Committee has observed that often the transitional shelter needs in the initial weeks of a disaster far exceed the availability of traditional lodging providers like hotels and motels. In the wake of the 2017 and 2018 hurricanes, FEMA worked to provide non-traditional lodging options to displaced survivors and disaster workers in Florida and Texas, allowing lodging providers to register to provide transitional housing for eligible applicants.

The Committee encourages FEMA to continue this practice by allowing non-traditional lodging providers, such as condos and short-term vacation rentals, to register as transitional sheltering assistance. Doing so will help meet the critical housing needs of our constituents while allowing them to remain within their communities. Furthermore, peer-to-peer lodging provided by short-term-rentals can also meet the lodging and sheltering needs of disaster workers.

## HEARINGS

The Subcommittee on Economic Development, Public Buildings, and Emergency Management, held the following hearings and roundtable discussions on subjects related to matters contained in H.R. 4460, as amended, during the 114th and 115th Congresses:

*Rebuilding after the Storm: Lessening Impacts and Speeding Recovery*, held on January 27, 2015. The purpose of the hearing was to launch an assessment of the rising costs of disasters, the cost effectiveness of disaster assistance, strategies to reduce disaster losses, and the appropriate roles of government and the private sector, and to discuss reforms that can save lives through improved alerts and warning systems and search and rescue.

*What is Driving the Increasing Costs and Rising Losses from Disasters?* held on March 18, 2015. The purpose of the roundtable was to examine and discuss data related to disaster costs, the trends observed over time, and the projections for the future given the policies in place today.

*Pacific Northwest Seismic Hazards: Planning and Preparing for the Next Disaster*, held on May 19, 2015. The purpose of the hearing was to assess FEMA's role in earthquake hazard preparedness, mitigation, response, and recovery; and to examine the efforts of the Pacific Northwest and seismic hazard experts to reduce disaster impacts and build stronger communities.

*The State of Pennsylvania and FEMA Region III are Leaders in Mitigating Disaster Costs and Losses*, held on May 28, 2015. The purpose of the roundtable was to examine disaster costs and losses, focus on hazards impacting Pennsylvania and the region, and identify best practices for mitigating and avoiding disaster impacts.

*Federal Disaster Assistance: Roles, Programs and Coordination*, held on June 17, 2015. The purpose of the roundtable was to examine and discuss Federal disaster assistance programs, the requirements and effectiveness of those programs, and coordination among various agencies and stakeholders.

*Controlling the Rising Cost of Federal Responses to Disaster*, held on May 12, 2016. The purpose of the hearing was to begin exploring potential solutions and the principles that should be driving solutions to lower the overall costs of disasters and to help avoid devastating losses.

*An Examination of FEMA's Limited Role in Local Land Use Development Decisions*, held on September 21, 2016. The purpose of the hearing was to examine FEMA's role and authorities under the National Flood Insurance Program (NFIP), their impact on local land-use development decisions, and the national implications of FEMA's implementation of the NFIP.

*Building a 21st Century Infrastructure for America: The National Preparedness System*, held on Thursday, March 16, 2017. The purpose of the hearing was to assess the development, successes, and challenges of the National Preparedness System and based on input from key stakeholders, understand how well the preparedness grant program is building national preparedness capabilities.

*Building a 21st Century Infrastructure for America: Mitigating Damage and Recovering Quickly from Disasters*, held on April 27, 2017. The purpose of the hearing was to examine how to protect infrastructure against future disaster damage, how to lower the overall disaster costs, and to identify challenges facing the FEMA in responding to, recovering from, and mitigating against disasters, both natural and manmade.

*Emergency Response and Recovery: Central Takeaways from the Unprecedented 2017 Hurricane Season*, held on November 2, 2017. The purpose of the hearing was to explore initial lessons learned from the 2017 hurricanes, and identify key challenges and obstacles that remain in the way of recovery. The discussions helped inform discussions regarding long-term solutions and legislative proposals with the goal of helping to speed smart recovery in the impacted communities.

*Impacts of the 2017 Wildfires in the United States*, held on March 20, 2018. The purpose of the hearing was to explore the lessons learned from the catastrophic 2017 wildfires, inform long-term policy solutions, and highlight the importance of mitigation, including provisions contained in DRRA.

*Are We Ready? Recovering from the 2017 Disasters and Preparing for the 2018 Hurricane Season*, held July 18, 2018. The Purpose of the hearing was to better understand the status of the recovery from the 2017 disaster season, including hurricanes wildfires, as well as the efforts to prepare for the 2018 hurricane season.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On November 28, 2017, Congressman Lou Barletta (R-PA) and Congressman Henry C. “Hank,” Johnson, Jr. (D-GA) introduced H.R. 4460, the Disaster Recovery Reform Act, and it was referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management, with an additional referral to the Committee on Financial Services.

On November 30, 2017, the Committee on Transportation and Infrastructure met in open session to consider H.R. 4460. The Committee considered an amendment offered by Congressman Sean Maloney (D-NY) to require an independent review and report from the Inspector General of the Department of Homeland Security of disaster contracts in Puerto Rico, which was adopted by voice vote. Congressman Brian Mast (R-FL) offered an amendment related to algal blooms, which was withdrawn. An amendment was offered by Congressman Jared Huffman (D-CA) relating to wildfires, which failed by recorded vote. Congressman Duncan Hunter (R-CA), offered and withdrew an amendment relating to providing waivers to American-flagged ships. Congressman Garret Graves (R-LA) offered and withdrew two amendments, one related to disaster housing and the other related to rebuilding in the U.S. Virgin Islands and the Commonwealth of Puerto Rico. Finally, the Committee considered six amendments en bloc, which was adopted by voice vote.

The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

## 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. During Committee consideration of H.R. 4460, as amended, record votes were taken on the following amendment:

An amendment offered by Representative Huffman (D-CA) designated 116.

The Committee disposed of this vote as follows:



A motion to order H.R. 4460, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

#### 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

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such cost estimate is included in this report.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 4460, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 8, 2018.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4460, the Disaster Recovery Reform Act.

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

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

#### *H.R. 4460—Disaster Recovery Reform Act*

Summary: H.R. 4460 would amend and authorize appropriations for several programs within the Federal Emergency Management Agency (FEMA). CBO estimates that the bill would authorize appropriations totaling \$3.9 billion for FEMA over the 2019–2022 period. Based on historical spending patterns, CBO estimates that implementing the bill would cost \$1.4 billion over the 2019–2022 period and \$2.6 billion in years after 2022, assuming appropriation of the authorized and necessary amounts.

CBO estimates that enacting H.R. 4460 would increase direct spending by \$268 million over the 2019–2027 period. Therefore, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.



CBO estimates that enacting H.R. 4460 would not increase net direct spending or on-budget deficits by more than \$2.5 billion in any of the four consecutive 10-year periods beginning in 2028.

H.R. 4460 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 4460 is shown in the following table. The costs of this legislation fall within budget functions 400 (transportation) and 450 (community and regional development).

	By fiscal year, in millions of dollars—											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018–2022	2018–2027
INCREASES IN SPENDING SUBJECT TO APPROPRIATION												
Emergency Management Grants:												
Authorization Level .....	0	954	954	954	954	0	0	0	0	0	3,816	3,816
Estimated Outlays .....	0	70	213	403	622	742	741	551	333	143	1,308	3,816
In-Lieu Public Assistance Contributions:												
Estimated Authorization Level .....	0	21	21	21	21	21	21	21	21	21	84	189
Estimated Outlays .....	0	21	21	21	21	21	21	21	21	21	84	189
Forgone Recoveries of Improper Payments:												
Estimated Authorization Level .....	0	5	3	3	2	2	0	0	0	0	13	15
Estimated Outlays .....	0	3	4	3	2	2	1	0	0	0	12	15
Wildfire Mitigation:												
Estimated Authorization Level .....	0	6	6	6	6	6	6	6	6	6	24	54
Estimated Outlays .....	0	*	2	3	5	6	6	6	6	6	10	40
Dispute Resolution Pilot Program:												
Estimated Authorization Level .....	0	*	1	1	1	0	0	0	0	0	3	3
Estimated Outlays .....	0	*	1	1	1	0	0	0	0	0	3	3
Additional Reporting Requirements:												
Estimated Authorization Level .....	0	1	*	*	*	*	*	*	*	*	2	4
Estimated Outlays .....	0	1	*	*	*	*	*	*	*	*	2	4
Total Increases:												
Estimated Authorization Level .....	0	987	985	985	984	29	27	27	27	27	3,942	4,081
Estimated Outlays .....	0	95	241	431	451	771	769	578	360	170	1,419	4,068
INCREASES OR DECREASES (–) IN DIRECT SPENDING												
Predisaster Mitigation Fund:												
Estimated Budget Authority .....	0	120	24	24	24	24	24	24	24	24	192	312
Estimated Outlays .....	0	6	25	54	40	32	29	24	24	24	125	258
Emergency Relief for Highway Repair:												
Budget Authority .....	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays .....	0	0	3	3	2	1	0	0	0	0	9	10
Forgone Recoveries of Improper Payments:												
Estimated Budget Authority .....	0	0	0	0	0	0	0	0	0	0	1	0
Estimated Outlays .....	0	2	–1	0	0	1	–2	–1	0	0	1	0
Total Change:												
Estimated Budget Authority .....	0	120	24	24	24	24	24	24	24	24	192	312
Estimated Outlays .....	0	9	27	57	42	33	28	24	24	24	135	268

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

Basis of estimate: CBO assumes that H.R. 4460 will be enacted during fiscal year 2018 and that the authorized and necessary amounts will be appropriated for each year beginning in 2019.

*Spending subject to appropriation*

CBO estimates that implementing H.R. 4460 would cost \$1.4 billion over the 2019–2022 period, subject to appropriation of the necessary amounts.

Emergency Management Grants. H.R. 4460 would authorize the appropriation of \$950 million annually over the 2019–2022 period for FEMA to provide grants to states through the Emergency Management Performance Grant program. That program helps state,

local, and tribal governments prepare for future disasters. In 2017, FEMA allocated \$350 million to those grants.

H.R. 4460 also would authorize the appropriation of \$4 million annually over the 2019–2022 period for FEMA to provide grants to the Emergency Management Assistance Compact. The compact provides assistance during governor-declared disasters through a system that allows member states to send personnel, equipment, and commodities to help with response and recovery efforts in other member states. In 2017, FEMA provided \$2 million in such grants.

CBO estimates that grants for those emergency management programs would cost \$1.3 billion over the 2019–2022 period and \$2.5 billion after 2022.

**In-Lieu Public Assistance Contributions.** Under current law, public or private nonprofit entities that own facilities that are substantially damaged during a major disaster have the option of receiving grants to repair the facility or a fraction of the grant amount as an in-lieu contribution for use on other restoration projects. The total in-lieu contribution is 90 percent of repair costs for public facilities and 75 percent for private nonprofit facilities.

H.R. 4460 would increase the maximum in-lieu contributions for both public and private nonprofit entities to 100 percent of the total grant amount. Using historical data provided by FEMA on such in-lieu awards, CBO estimates that implementing the bill would cost \$84 million over the 2019–2022 period.

**Forgone Recoveries of Improper Payments.** CBO estimates that authorizing FEMA to waive recoupment of certain improper payments would reduce direct spending by \$15 million over the next 10 years. Under current law, recouped amounts are spent by the Disaster Relief Fund (DRF) for future disasters. (See the discussion under the heading Direct Spending.) Because the provision does not change any underlying authority to provide disaster relief, in CBO's view the bill implicitly authorizes the appropriation of amounts equal to the forgone funds. Thus, CBO estimates that implementing the provision would cost \$12 million over the 2019–2022 period, and \$3 million after.

**Wildfire Mitigation.** H.R. 4460 would authorize assistance for hazard mitigation in areas affected by wildfires. Under current law, FEMA may provide hazard mitigation funds to areas where the President has declared a major disaster. Under the bill, FEMA would be authorized to provide funds to areas affected by wildfires, regardless of whether the President has declared a major disaster. Using information provided by FEMA, CBO estimates that providing additional assistance would require the appropriation of \$6 million annually and would cost \$10 million over the 2019–2022 period.

**Dispute Resolution Pilot Program.** The bill would extend the authority for FEMA to operate the Dispute Resolution Pilot Program through calendar year 2022. Under the pilot program, applicants for DRF public assistance grants that did not receive the total amount requested may seek arbitration in lieu of submitting an appeal to FEMA for additional assistance. Using information from FEMA on expected staff and travel costs for the pilot program, CBO estimates that continuing the program would cost \$3 million over the 2019–2022 period.

**Additional Reporting Requirements.** H.R. 4460 would require FEMA to issue four new regulations, four new pieces of guidance, and to prepare 11 new reports to the Congress over the next five years. Based on the costs of preparing similar reports and regulations, CBO estimates that meeting those requirements would cost \$2 million over the 2019–2022 period.

*Direct spending*

CBO estimates that enacting H.R. 4460 would increase direct spending by \$268 million over the 2019–2027 period.

**Predisaster Mitigation Fund.** H.R. 4460 would create a new fund called the National Public Infrastructure Predisaster Mitigation Fund. For each major disaster declaration after August 1, 2017, an amount equal to 6 percent of the total estimated funding FEMA expects to provide for certain disaster response grants would be deposited into the proposed fund. The fund would be used to provide technical and financial assistance to states and localities to carry out hazard mitigation designed to reduce injury, loss of life, and damage and destruction of property. Amounts in the fund could be spent without further appropriation.

After enactment, CBO estimates, about \$120 million—6 percent of the estimated \$2 billion in relevant disaster response grants expected to be made for disasters that occurred since August 1, 2017—would be transferred to the proposed fund in 2019. In recent years, FEMA has been provided an average of \$400 million a year for the relevant disaster response grants. Assuming the Congress provides similar amounts for years after 2019, \$24 million a year (that is, 6 percent of \$400 million) would be transferred to the fund. On the basis of historical spending patterns for predisaster mitigation, CBO estimates that spending under this section would total \$258 million over the 2019–2027 period.

**Emergency Relief for Highway Repair.** For 2018 and 2019, H.R. 4660 would remove the current limitation on funds available for emergency highway repairs for certain U.S. territories. Obligations from the emergency relief program are limited to \$20 million per year. Without that cap, the territories could more quickly spend funds that were previously appropriated for the emergency relief program; CBO estimates that those funds would not otherwise be used before 2027. Using information about current demand for emergency relief funds, CBO estimates that enacting that provision would cost \$10 million over the 2019–2027 period.

**Forgone Recoveries of Improper Payments.** Under current law, FEMA must recoup improper payments made for disaster assistance. Improper payments can result from, among other things, duplication of benefits (for example, receipt of two insurance payments for the same damage), processing errors, or fraud. All payments received through the recovery process are deposited in FEMA’s DRF and may be spent on future disasters without further appropriation. Under H.R. 4460, FEMA could waive the recovery of improper payments made to individuals except in cases of fraud.

The Government Accountability Office reported that about 3 percent of the approximately \$1.6 billion in FEMA individual assistance payments disbursed between 2012 and 2014 for Hurricane Sandy relief were improper or fraudulent. Based on a review of that report, CBO estimates that few of those payments (less than

5 percent) were the result of fraud. Using information from FEMA about the recoupment rate for improper payments after previous major disasters, CBO expects that about 25 percent of those payments have been recovered. Thus, CBO estimates, upon enactment of H.R. 4460, \$30 million of improper payments for individual assistance that are in the process of being recouped would be eligible to be waived.

According to FEMA, waiving the recovery of improper payments would be on a case-by-case basis; therefore, there is little certainty about the amounts that would be collected. Because of how such waivers would be processed is uncertain, CBO assumes a 50 percent chance that collections of all estimated outstanding improper payments would be waived under the bill and a 50 percent chance that they would not, resulting in \$15 million in lost recoveries over the 2019–2027 period. However, because those amounts would have been available to FEMA for future disaster relief payments without further appropriation, fewer collections also would reduce outlays, resulting in no net effect on direct spending over the 2019–2027 period. However, because spending lags recoupments, there would be a \$1 million cost over the 2018–2022 period.

CBO has no basis to estimate the timing or magnitude of waivers that would be made under H.R. 4460 for recovery of improper payments that have not yet been disbursed.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 4460, THE DISASTER RECOVERY REFORM ACT, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON NOVEMBER 28, 2017

	By fiscal year, in millions of dollars—														2018–2022	2018–2027
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027						
NET INCREASE IN THE DEFICIT																
Statutory Pay-As-You-Go Impact .....	0	9	57	42	33	28	24	24	24	24	135	268				

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 4460 would not increase net direct spending or on-budget deficits by more than \$2.5 billion in any of the four consecutive 10-year periods beginning in 2028.

Mandates: H.R. 4460 contains no intergovernmental or private-sector mandates as defined in UMRA. Any costs incurred by public or private entities related to disaster assistance or grant programs under the Stafford Act would result from conditions of receiving federal assistance.

Estimate prepared by: Federal costs: Robert Reese (Federal Emergency Management Agency) and Sarah Puro (Department of Transportation); Mandates: Jon Sperl.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation, as amended, is to improve the provision of disaster and mitigation assistance to eligible individuals and households and to eligible State, local, Tribal, and territorial governments and certain private nonprofit organizations.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill, as amended, includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### 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. 4460, as amended, establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee finds that enacting H.R. 4460, as amended, does not direct the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

#### FEDERAL MANDATE STATEMENT

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

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or tribal law. The Committee states that H.R. 4460, 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 are created by this legislation.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation, as amended, 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 LEGISLATION

*Section 1. Short title; Table of contents*

This section designates the short title as the “Disaster Recovery Reform Act.”

TITLE I: DISASTER MITIGATION

*Section 101. National public infrastructure predisaster hazard mitigation*

This section amends the Stafford Act to modify the predisaster hazard mitigation grant program.

*Section 102. Additional mitigation activities*

This section requires Public Assistance projects to meet stronger standards and in a more resilient manner.

*Section 103. Wildfire prevention*

This section assists states affected by wildfires with hazard mitigation assistance.

*Section 104. Additional activities*

This section clarifies that activities that help reduce the risk of future damage, hardship, loss, or suffering in any area affected by a wildfire and windstorm damage are eligible for hazard mitigation assistance.

TITLE II: DISASTER RESPONSE AND RECOVERY

*Section 201. Federal cost-share adjustments for repair, restoration, and replacement of damaged facilities*

This section provides incentives to States and Tribal governments for investments that increase disaster resilience.

*Section 202. Eligibility for code implementation and enforcement*

This section clarifies the eligibility of surge code enforcers for disaster assistance to facilitate disaster recovery.

*Section 203. Program improvements*

This section clarifies that the President may not condition the provision of Federal assistance on the election by a recipient to use alternative procedures.

*Section 204. Prioritization of facilities*

This section requires FEMA to provide guidance and training on the need to prioritize assistance to hospitals, nursing homes, and other long-term care facilities.

*Section 205. Guidance on evacuation routes*

This section requires FEMA and FHWA to develop guidance on evacuation routes.

*Section 206. Proof of insurance*

This section allows for the encumbrance of a deed to qualify as meeting the proof of insurance requirement for States.

*Section 207. Duplication of benefits*

This section authorizes the President to waive the prohibition on duplication of benefits. It also allows hazard mitigation assistance, under certain circumstances, to be used for certain Federally authorized water resource development projects.

*Section 208. State administration of assistance for direct temporary housing and permanent housing construction*

This section authorizes States to use Federal disaster assistance to directly administer temporary and permanent housing assistance for disaster victims.

*Section 209. Assistance to individuals and households*

This section amends the Stafford Act to increase the amount of assistance available to individuals with disabilities.

*Section 210. Multifamily lease and repair assistance*

This section amends the Stafford Act to allow greater flexibility and options for housing disaster victims.

*Section 211. Federal disaster assistance nonprofit fairness*

This section clarifies the eligibility of community centers, including houses of worship, for federal disaster assistance.

*Section 212. Management costs*

This section amends the Stafford Act to establish fixed rates to reimburse States and local governments for direct and indirect administrative costs incurred to implement disaster recovery projects.

*Section 213. Flexibility*

This section allows FEMA to waive certain disaster assistance debts if such assistance was distributed based on an error by FEMA, there was no fault on behalf of the debtor, and the collection of the debt would be against equity and good conscience.

*Section 214. Additional disaster assistance*

This section will help improve the economic recovery of regions affected by hurricanes and other disasters.

*Section 215. National veterinary emergency teams*

This section establishes a pilot program for veterinarians to accompany urban search and rescue teams to take care of the search and rescue canines and to provide guidance to communities on pet care and sheltering during disasters.

*Section 216. Dispute resolution pilot program*

This section extended the dispute resolution program created in the Sandy Recovery Improvement Act of 2013 through 2022.

*Section 217. Emergency relief*

This section provides for a waiver of certain limitations on certain highway emergency funds for fiscal years 2018 and 2019.

TITLE III: AGENCY MANAGEMENT, OVERSIGHT, AND ACCOUNTABILITY

*Section 301. Unified Federal environmental and historic preservation review*

This section requires the FEMA Administrator to review the unified environmental and historic preservation review process and survey other agencies' categorical exclusions. It then requires the Administrator to issue regulations to implement any recommendations, including categorical exclusions, identified in the report and survey.

*Section 302. Closeout incentives*

This section allows the Administrator to develop incentives that would encourage State, local, and Tribal governments to closeout expenditures and activities on a timely basis related to disaster or emergency assistance. FEMA is required to meet its responsibilities to improve closeout practices and reduce the time to close disaster program awards.

*Section 303. Performance of services*

This section allows the Administrator to appoint temporary FEMA employees, after serving continuously for 1 year, to positions in the agency in the same manner as competitive service employees.

*Section 304. Study to streamline and consolidate information*

This section directs the Administrator, along with other appropriate agencies, to conduct a study and develop innovative means to simplify the collection of applicant and grantee information and the sharing of such information among disaster assistance agencies.

*Section 305. Agency accountability*

This section directs FEMA to provide regular reports on their website regarding disaster spending, disaster contracts, and other related disaster activities.

*Section 306. Audit of contracts*

This section prohibits FEMA from reimbursing any contract that prohibits oversight or auditing.

*Section 307. Inspector General audit of FEMA contracts for tarps and plastic sheeting*

This section requires the Department of Homeland Security Office of Inspector General to provide an audit report on the FEMA contracts to purchase tarps and plastic sheeting for Puerto Rico and the U.S. Virgin Islands after Hurricane Maria.



*Section 308. Relief organizations*

This section adds long-term recovery groups and domestic hunger relief to the list of organizations with which FEMA may coordinate.

*Section 309. Guidance on inundated and submerged roads*

This section requires FEMA, in coordination with the U.S. Federal Highway Administration, to issue guidance regarding the eligibility of inundated and submerged roads under the Public Assistance Grant program.

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 italic, 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 italic, and existing law in which no change is proposed is shown in roman):

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

\* \* \* \* \*

TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS

\* \* \* \* \*

DEFINITIONS

SEC. 102. As used in this Act—

(1) EMERGENCY.—“Emergency” means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

(2) MAJOR DISASTER.—“Major disaster” means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) “United States” means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) “State” means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(5) “Governor” means the chief executive of any State.

(6) INDIAN TRIBAL GOVERNMENT.—The term “Indian tribal government” means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a et seq.).

(7) INDIVIDUAL WITH A DISABILITY.—The term “individual with a disability” means an individual with a disability as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).

(8) LOCAL GOVERNMENT.—The term “local government” means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or Alaska Native village or organization, that is not an Indian tribal government as defined in paragraph (6); and

(C) a rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State.

(9) “Federal agency” means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(10) PUBLIC FACILITY.—“Public facility” means the following facilities owned by a State or local government:

(A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility.

(B) Any non-Federal-aid street, road, or highway.

(C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes.

(D) Any park.

(11) PRIVATE NONPROFIT FACILITY.—

(A) IN GENERAL.—The term “private nonprofit facility” means private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the

aged and disabled) and facilities on Indian reservations, as defined by the President.

[(B) ADDITIONAL FACILITIES.—In addition to the facilities described in subparagraph (A), the term “private nonprofit facility” includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, broadcasting facilities, and facilities that provide health and safety services of a governmental nature), as defined by the President.]

*(B) ADDITIONAL FACILITIES.—In addition to the facilities described in subparagraph (A), the term “private nonprofit facility” includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, community centers, houses of worship exempt from taxation under section 501(c) of the Internal Revenue Code of 1986, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, food banks, and facilities that provide health and safety services of a governmental nature), as defined by the President.*

(12) CHIEF EXECUTIVE.—The term “Chief Executive” means the person who is the Chief, Chairman, Governor, President, or similar executive official of an Indian tribal government.

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## TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

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### 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 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 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* 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 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 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 under this section, the President shall select from local governments recommended by the Governors under this subsection.

(B) EXTRAORDINARY CIRCUMSTANCES.—In providing assistance to local governments under this section, the President may select a local government 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 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 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; **[or]**

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

(iv) *to establish and carry out enforcement activities to implement the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assist-*

*ance 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 may use not more than 10 percent of the financial assistance received by the State or local government 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) 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) REDISTRIBUTION OF UNOBLIGATED AMOUNTS.—*The President shall—*

(A) *withdraw amounts of financial assistance made available to a State (including amounts made available to local governments of a State) under this subsection that remain unobligated by the end of the third fiscal year after the fiscal year for which the amounts were allocated; and*

(B) *in the fiscal year following a fiscal year in which amounts were withdrawn under subparagraph (A), add the amounts to any other amounts available to be awarded on a competitive basis pursuant to paragraph (1).*

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

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

(2) the degree of commitment of the State or local government to reduce damages from future natural disasters;

(3) the degree of commitment by the State or local government 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 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; **and**

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

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

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

**(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 PREDISASTER MITIGATION FUND.—**

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

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

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

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

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

**[(4) INVESTMENT OF AMOUNTS.—**

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

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

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

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

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

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

[(E) TRANSFERS OF AMOUNTS.—

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

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

(i) NATIONAL PUBLIC INFRASTRUCTURE PREDISASTER MITIGATION FUND.—

(1) ESTABLISHMENT.—*The President shall establish in the Treasury of the United States a separate account called the National Public Infrastructure Predisaster Mitigation Fund (in this section referred to as the “Predisaster Mitigation Fund”), which shall be used exclusively to carry out this section, with amounts in such account to be available until expended unless otherwise provided.*

(2) TRANSFERS TO PREDISASTER MITIGATION FUND.—

(A) IN GENERAL.—*There shall be deposited in the Predisaster Mitigation Fund with respect to each disaster declared on or after August 1, 2017, an additional amount equal to 6 percent of the estimated aggregate amount of grants to be made pursuant to sections 403, 406, 407, 408, 410, and 416.*

(B) ESTIMATED AGGREGATE AMOUNT.—*Not later than 180 days after each major disaster declaration, the estimated aggregate amount of grants on which the amount calculated in subparagraph (A) is based shall be determined and need not be reduced, increased, or changed due to variations in estimates.*

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

(k) 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.

(1) 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.

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

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

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

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

[(n) (m) 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.

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**TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION**

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PERFORMANCE OF SERVICES

SEC. 306. (a) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.

(b) In performing any services under this Act, any Federal agency is authorized—

(1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(3) to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(c) *The Administrator of the Federal Emergency Management Agency is authorized to appoint temporary personnel, after serving continuously for 1 year, to positions in the Agency in the same manner that competitive service employees are considered for transfer, reassignment, or promotion to such positions. An individual appointed under this subsection shall become a career-conditional employee, unless the employee has already completed the service requirements for career tenure.*

\* \* \* \* \*

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. 309. (a) In providing relief and assistance under this Act, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, [and other relief or] *long-term recovery groups, and other relief, domestic hunger relief, or* disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or re-

construction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.

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

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**SEC. 312. DUPLICATION OF BENEFITS.**

(a) **GENERAL PROHIBITION.**—The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

(b) **SPECIAL RULES.**—

(1) **LIMITATION.**—This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance.

(2) **PROCEDURES.**—The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits.

(3) **EFFECT OF PARTIAL BENEFITS.**—Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.

(4) **WAIVER OF GENERAL PROHIBITION.**—

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

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

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

(iii) *Equity and good conscience.*

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

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

(C) *PROHIBITION ON DETERMINATION THAT LOAN IS A DUPLICATION.*—*Notwithstanding subsection (c), in carrying out subparagraph (A), the President may not determine that a loan is a duplication of assistance, provided that all Federal assistance is used toward a loss suffered as a result of the major disaster or emergency.*

(c) **RECOVERY OF DUPLICATIVE BENEFITS.**—A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The agency which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with chapter 37 of title 31, United States Code, relating to debt collection, when the head of such agency considers it to be in the best interest of the Federal Government.

(d) **ASSISTANCE NOT INCOME.**—Federal major disaster and emergency assistance provided to individuals and families under this Act, and comparable disaster assistance provided by States, local governments, and disaster assistance organizations, shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.

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#### **SEC. 322. MITIGATION PLANNING.**

(a) **REQUIREMENT OF MITIGATION PLAN.**—As a condition of receipt of an increased Federal share for hazard mitigation measures under subsection (e), a State, local, or tribal government shall develop and submit for approval to the President a mitigation plan that outlines processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.

(b) **LOCAL AND TRIBAL PLANS.**—Each mitigation plan developed by a local or tribal government shall—

- (1) describe actions to mitigate hazards, risks, and vulnerabilities identified under the plan; and
- (2) establish a strategy to implement those actions.

(c) **STATE PLANS.**—The State process of development of a mitigation plan under this section shall—

- (1) identify the natural hazards, risks, and vulnerabilities of areas in the State;
- (2) support development of local mitigation plans;
- (3) provide for technical assistance to local and tribal governments for mitigation planning; and
- (4) identify and prioritize mitigation actions that the State will support, as resources become available.

(d) **FUNDING.**—

(1) IN GENERAL.—Federal contributions under section 404 may be used to fund the development and updating of mitigation plans under this section.

(2) MAXIMUM FEDERAL CONTRIBUTION.—With respect to any mitigation plan, a State, local, or tribal government may use an amount of Federal contributions under section 404 not to exceed 7 percent of the amount of such contributions available to the government as of a date determined by the government.

(e) INCREASED FEDERAL SHARE FOR HAZARD MITIGATION MEASURES.—

(1) IN GENERAL.—If, at the time of the declaration of a major disaster *or event under section 420*, a State has in effect an approved mitigation plan under this section, the President may increase to 20 percent, with respect to the major disaster *or event under section 420*, the maximum percentage specified in the last sentence of section 404(a).

(2) FACTORS FOR CONSIDERATION.—In determining whether to increase the maximum percentage under paragraph (1), the President shall consider whether the State has established—

(A) eligibility criteria for property acquisition and other types of mitigation measures;

(B) requirements for cost effectiveness that are related to the eligibility criteria;

(C) a system of priorities that is related to the eligibility criteria; and

(D) a process by which an assessment of the effectiveness of a mitigation action may be carried out after the mitigation action is complete.

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**SEC. 324. MANAGEMENT COSTS.**

(a) DEFINITION OF MANAGEMENT COST.—In this section, the term “management cost” includes any indirect cost, [any administrative expense, and any other expense not directly chargeable to] *direct administrative cost, and any other administrative expense associated with a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.*

(b) ESTABLISHMENT OF MANAGEMENT COST RATES.—[Notwithstanding]

(1) IN GENERAL.—*Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall by regulation [establish] implement management cost rates, for grantees and subgrantees, that shall be used to determine contributions under this Act for management costs.*

(2) SPECIFIC MANAGEMENT COSTS.—*The Administrator shall provide the following percentage rates, in addition to the eligible project costs, to cover direct and indirect costs of administering the following programs:*

(A) HAZARD MITIGATION.—*A grantee under section 404 may be reimbursed not more than 15 percent of the total amount of the grant award under such section of which not more than 10 percent may be used by the grantee and 5 percent by the subgrantee for such costs.*

(B) PUBLIC ASSISTANCE.—*A grantee under sections 403, 406, 407, and 502 may be reimbursed not more than 12*

*percent of the total award amount under such sections, of which not more than 7 percent may be used by the grantee and 5 percent by the subgrantee for such costs.*

(c) REVIEW.—The President shall review the management cost rates established under subsection (b) not later than 3 years after the date of establishment of the rates and periodically thereafter.

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**TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS**

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**SEC. 403. ESSENTIAL ASSISTANCE.**

(a) IN GENERAL.—Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:

(1) FEDERAL RESOURCES, GENERALLY.—Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this Act.

(2) MEDICINE, FOOD, AND OTHER CONSUMABLES.—Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine durable medical equipment,, food, and other consumable supplies, and other services and assistance to disaster victims.

(3) WORK AND SERVICES TO SAVE LIVES AND PROTECT PROPERTY.—Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including—

(A) debris removal;

(B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicinedurable medical equipment,, and other essential needs, including movement of supplies or persons;

(C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;

(D) provision of temporary facilities for schools and other essential community services;

(E) demolition of unsafe structures which endanger the public;

(F) warning of further risks and hazards;

(G) dissemination of public information and assistance regarding health and safety measures;

(H) provision of technical advice to State and local governments on disaster management and control;

(I) reduction of immediate threats to life, property, and public health and safety; and

(J) provision of rescue, care, shelter, and essential needs—

(i) to individuals with household pets and service animals; and

(ii) to such pets and animals.

[(J) provision of rescue, care, shelter, and essential needs—

[(i) to individuals with household pets and service animals; and

[(ii) to such pets and animals.]

(4) CONTRIBUTIONS.—Making contributions to State or local governments or owners or operators of private nonprofit facilities for the purpose of carrying out the provisions of this subsection.

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

(c) UTILIZATION OF DOD RESOURCES.—

(1) GENERAL RULE.—During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

(2) RULES APPLICABLE TO DEBRIS REMOVAL.—Any removal of debris and wreckage carried out under this subsection shall be subject to section 407(b), relating to unconditional authorization and indemnification for debris removal.

(3) EXPENDITURES OUT OF DISASTER RELIEF FUNDS.—The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this Act.

(4) FEDERAL SHARE.—The Federal share of assistance under this subsection shall be not less than 75 percent.

(5) GUIDELINES.—Not later than 180 days after the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, the President shall issue guidelines for carrying out this subsection. Such guidelines shall consider any likely effect assistance under this subsection will have on the availability of other forms of assistance under this Act.

(6) DEFINITIONS.—For purposes of this section—

(A) DEPARTMENT OF DEFENSE.—The term “Department of Defense” has the meaning the term “department” has under section 101 of title 10, United States Code.

(B) EMERGENCY WORK.—The term “emergency work” includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

(d) SALARIES AND BENEFITS.—

(1) IN GENERAL.—If the President declares a major disaster or emergency for an area within the jurisdiction of a State, tribal, or local government, the President may reimburse the State, tribal, or local government for costs relating to—

(A) basic pay and benefits for permanent employees of the State, tribal, or local government conducting emergency protective measures under this section, if—

(i) the work is not typically performed by the employees; and

(ii) the type of work may otherwise be carried out by contract or agreement with private organizations, firms, or individuals.; or

(B) overtime and hazardous duty compensation for permanent employees of the State, tribal, or local government conducting emergency protective measures under this section.

(2) OVERTIME.—The guidelines for reimbursement for costs under paragraph (1) shall ensure that no State, tribal, or local government is denied reimbursement for overtime payments that are required pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(3) NO EFFECT ON MUTUAL AID PACTS.—Nothing in this subsection shall affect the ability of the President to reimburse labor force expenses provided pursuant to an authorized mutual aid pact.

**SEC. 404. HAZARD MITIGATION.**

(a) IN GENERAL.—[The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster.] *The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost effective and which substantially reduce the risk of, or increase resilience to, future damage, hardship, loss, or suffering in any area affected by a major disaster, or any area affected by a fire for which assistance was provided under section 420.* Such measures shall be identified following the evaluation of natural hazards under section 322 and shall be subject to approval by the President. Subject to section 322, the total of contributions under this section for a major disaster or event under section 420 shall not exceed 15 percent for amounts not more than \$2,000,000,000, 10 percent for amounts of more than \$2,000,000,000 and not more than \$10,000,000,000, and 7.5 percent on amounts of more than \$10,000,000,000 and not more than \$35,333,000,000 of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster or event under section 420.

(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) 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, including—*
- (1) *reseeding ground cover with quick-growing or native species;*
  - (2) *mulching with straw or chipped wood;*
  - (3) *constructing straw, rock, or log dams in small tributaries to prevent flooding;*
  - (4) *placing logs and other erosion barriers to catch sediment on hill slopes;*
  - (5) *installing debris traps to modify road and trail drainage mechanisms;*

(6) *modifying or removing culverts to allow drainage to flow freely;*

(7) *adding drainage dips and constructing emergency spillways to keep roads and bridges from washing out during floods;*

(8) *planting grass to prevent the spread of noxious weeds;*

(9) *installing warning signs;*

(10) *establishing defensible space measures;*

(11) *reducing hazardous fuels; and*

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

\* \* \* \* \*

**SEC. 406. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.**

(a) CONTRIBUTIONS.—

(1) IN GENERAL.—The President may make contributions—

(A) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government; and

(B) subject to paragraph (3), to a person that owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for associated expenses incurred by the person.

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

(A) the costs of mobilizing and employing the National Guard for performance of eligible work;

(B) the costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging; **[and]**

(C) base and overtime wages for the employees and extra hires of a State, local government, or person described in paragraph (1) that perform eligible work, plus fringe benefits on such wages to the extent that such benefits were being paid before the major disaster**【.】**; *and*

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

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

(A) IN GENERAL.—The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if—

- (i) the facility provides critical services (as defined by the President) in the event of a major disaster; or
- (ii) the owner or operator of the facility—

(I) has applied for a disaster loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)); and

(II)(aa) has been determined to be ineligible for such a loan; or

(bb) has obtained such a loan in the maximum amount for which the Small Business Administration determines the facility is eligible.

(B) DEFINITION OF CRITICAL SERVICES.—In this paragraph, the term “critical services” includes power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, communications (including broadcast and telecommunications), education, and emergency medical care.

(C) HOUSES OF WORSHIP.—*A church, synagogue, mosque, temple, or other house of worship, and a private nonprofit facility operated by a religious organization, shall be eligible for contributions under paragraph (1)(B), without regard to the religious character of the facility or the primary religious use of the facility.*

(4) NOTIFICATION TO CONGRESS.—Before making any contribution under this section in an amount greater than \$20,000,000, the President shall notify—

(A) the Committee on Environment and Public Works of the Senate;

(B) the Committee on Transportation and Infrastructure of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(b) FEDERAL SHARE.—

(1) MINIMUM FEDERAL SHARE.—Except as provided in paragraph (2), the Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.

(2) REDUCED FEDERAL SHARE.—The President shall promulgate regulations to reduce the Federal share of assistance under this section to not less than 25 percent in the case of the repair, restoration, reconstruction, or replacement of any eligible public facility or private nonprofit facility following an event associated with a major disaster—

(A) that has been damaged, on more than one occasion within the preceding 10-year period, by the same type of event; and

(B) the owner of which has failed to implement appropriate mitigation measures to address the hazard that caused the damage to the facility.

(3) INCREASED FEDERAL SHARE.—

(A) INCENTIVE MEASURES.—*The President may provide incentives to a State or Tribal government to invest in measures that increase readiness for, and resilience from, a major disaster by recognizing such investments through a sliding scale that increases the minimum Federal share to 85 percent. Such measures may include—*

(i) the adoption of a mitigation plan approved under section 322;

(ii) investments in disaster relief, insurance, and emergency management programs;

(iii) encouraging the adoption and enforcement of the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish 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;

(iv) facilitating participation in the community rating system; and

(v) funding mitigation projects or granting tax incentives for projects that reduce risk.

(B) *COMPREHENSIVE GUIDANCE.*—Not later than 1 year after the date of enactment of this paragraph, the President, acting through the Administrator, shall issue comprehensive guidance to State and Tribal governments regarding the measures and investments that will be recognized for the purpose of increasing the Federal share under this section.

(C) *REPORT.*—One year after the issuance of the guidance required by subparagraph (B), 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 regarding the analysis of the Federal cost shares paid under this section.

(D) *SAVINGS CLAUSE.*—Nothing in this paragraph prevents the President from increasing the Federal cost share above 85 percent.

(c) *LARGE IN-LIEU CONTRIBUTIONS.*—

(1) *FOR PUBLIC FACILITIES.*—

(A) *IN GENERAL.*—In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to **90 percent of** the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) *USE OF FUNDS.*—Funds contributed to a State or local government under this paragraph may be used—

(i) to repair, restore, or expand other selected public facilities;

(ii) to construct new facilities; or

(iii) to fund hazard mitigation measures that the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

(C) LIMITATIONS.—Funds made available to a State or local government under this paragraph may not be used for—

- (i) any public facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or
- (ii) any uninsured public facility located in a special flood hazard area identified by the Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(2) FOR PRIVATE NONPROFIT FACILITIES.—

(A) IN GENERAL.—In any case in which a person that owns or operates a private nonprofit facility determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing the facility, the person may elect to receive, in lieu of a contribution under subsection (a)(1)(B), a contribution in an amount equal to **[75 percent of]** the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) USE OF FUNDS.—Funds contributed to a person under this paragraph may be used—

- (i) to repair, restore, or expand other selected private nonprofit facilities owned or operated by the person;
- (ii) to construct new private nonprofit facilities to be owned or operated by the person; or
- (iii) to fund hazard mitigation measures that the person determines to be necessary to meet a need for the person's services and functions in the area affected by the major disaster.

(C) LIMITATIONS.—Funds made available to a person under this paragraph may not be used for—

- (i) any private nonprofit facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or
- (ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(d) FLOOD INSURANCE.—

(1) REDUCTION OF FEDERAL ASSISTANCE.—If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Administrator pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such fa-

cility and associated expenses shall be reduced in accordance with paragraph (2).

(2) AMOUNT OF REDUCTION.—The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of—

(A) the value of such facility on the date of the flood damage or destruction, or

(B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.

(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to a private nonprofit facility which is not covered by flood insurance solely because of the local government’s failure to participate in the flood insurance program established by the National Flood Insurance Act.

(4) DISSEMINATION OF INFORMATION.—The President shall disseminate information regarding the reduction in Federal assistance provided for by this subsection to State and local governments and the owners and operators of private nonprofit facilities who may be affected by such a reduction.

(e) ELIGIBLE COST.—

(1) DETERMINATION.—

(A) IN GENERAL.—For the purposes of this section, *for disasters declared on or after August 1, 2017, or a disaster in which a cost estimate has not yet been finalized for a project*, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility—

(i) on the basis of the design of the facility as the facility existed immediately before the major disaster; **[and]**

(ii) in conformity with **[codes, specifications, and standards]** *the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this Act for the purposes of protecting the health, safety, and general welfare of a facility’s users against disasters* (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) **[applicable at the time at which the disaster occurred.]; and**

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

(B) COST ESTIMATION PROCEDURES.—

(i) IN GENERAL.—Subject to paragraph (2), the President shall use the cost estimation procedures established under paragraph (3) to determine the eligible cost under this subsection.

(ii) APPLICABILITY.—The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 422.

(2) MODIFICATION OF ELIGIBLE COST.—

(A) ACTUAL COST GREATER THAN CEILING PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is greater than the ceiling percentage established under paragraph (3) of the cost estimated under paragraph (1), the President may determine that the eligible cost includes a portion of the actual cost of the repair, restoration, reconstruction, or replacement that exceeds the cost estimated under paragraph (1).

(B) ACTUAL COST LESS THAN ESTIMATED COST.—

(i) GREATER THAN OR EQUAL TO FLOOR PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than 100 percent of the cost estimated under paragraph (1), but is greater than or equal to the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving funds under this section shall use the excess funds to carry out cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster.

(ii) LESS THAN FLOOR PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving assistance under this section shall reimburse the President in the amount of the difference.

(C) NO EFFECT ON APPEALS PROCESS.—Nothing in this paragraph affects any right of appeal under section 423.

(3) EXPERT PANEL.—

(A) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this paragraph, the President, acting through the Administrator of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

(B) DUTIES.—The expert panel shall develop recommendations concerning—

(i) procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices; and

(ii) the ceiling and floor percentages referred to in paragraph (2).

(C) REGULATIONS.—Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations that establish—

(i) cost estimation procedures described in subparagraph (B)(i); and

(ii) the ceiling and floor percentages referred to in paragraph (2).

(D) REVIEW BY PRESIDENT.—Not later than 2 years after the date of promulgation of regulations under subparagraph (C) and periodically thereafter, the President shall review the cost estimation procedures and the ceiling and floor percentages established under this paragraph.

(E) REPORT TO CONGRESS.—Not later than 1 year after the date of promulgation of regulations under subparagraph (C), 3 years after that date, and at the end of each 2-year period thereafter, the expert panel shall submit to Congress a report on the appropriateness of the cost estimation procedures.

(4) SPECIAL RULE.—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only those costs that, under the contract for the construction, are the owner's responsibility and not the contractor's responsibility.

(5) NEW RULES.—

(A) IN GENERAL.—*Not later than 18 months after the date of enactment of this paragraph, the President, acting through the Administrator of the Federal Emergency Management Agency, shall issue a final rulemaking that defines the terms "resilient" and "resiliency" for purposes of this subsection.*

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

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

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**SEC. 408. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.**

(a) IN GENERAL.—

(1) PROVISION OF ASSISTANCE.—In accordance with this section, the President, in consultation with the Governor of a State, may provide financial assistance, and, if necessary, direct services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.

(2) RELATIONSHIP TO OTHER ASSISTANCE.—Under paragraph (1), an individual or household shall not be denied assistance under paragraph (1), (3), or (4) of subsection (c) solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration or any other Federal agency.



## (b) HOUSING ASSISTANCE.—

(1) ELIGIBILITY.—The President may provide financial or other assistance under this section to individuals and households to respond to the disaster-related housing needs of individuals and households who are displaced from their predisaster primary residences or whose predisaster primary residences are rendered uninhabitable, or with respect to individuals with disabilities, rendered inaccessible or uninhabitable, as a result of damage caused by a major disaster.

## (2) DETERMINATION OF APPROPRIATE TYPES OF ASSISTANCE.—

(A) IN GENERAL.—The President shall determine appropriate types of housing assistance to be provided under this section to individuals and households described in subsection (a)(1) based on considerations of cost effectiveness, convenience to the individuals and households, and such other factors as the President may consider appropriate.

(B) MULTIPLE TYPES OF ASSISTANCE.—One or more types of housing assistance may be made available under this section, based on the suitability and availability of the types of assistance, to meet the needs of individuals and households in the particular disaster situation.

## (c) TYPES OF HOUSING ASSISTANCE.—

## (1) TEMPORARY HOUSING.—

## (A) FINANCIAL ASSISTANCE.—

(i) IN GENERAL.—The President may provide financial assistance to individuals or households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings. Such assistance may include the payment of the cost of utilities, excluding telephone service.

(ii) AMOUNT.—The amount of assistance under clause (i) shall be based on the fair market rent for the accommodation provided plus the cost of any transportation, utility hookups, security deposits, or unit installation not provided directly by the President.

## (B) DIRECT ASSISTANCE.—

(i) IN GENERAL.—The President may provide temporary housing units, acquired by purchase or lease, directly to individuals or households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A).

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

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

[(aa) enter into lease agreements with owners of multifamily rental property located in areas covered by a major disaster declaration

to house individuals and households eligible for assistance under this section; and】

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

*(bb) make repairs or improvements to properties under such lease agreements, to the extent necessary to serve as safe and adequate temporary housing.*

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

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

【(bb) may not exceed the value of the lease agreement.】

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

(iii) PERIOD OF ASSISTANCE.—The President may not provide direct assistance under clause (i) with respect to a major disaster after the end of the 18-month period beginning on the date of the declaration of the major disaster by the President, except that the President may extend that period if the President determines that due to extraordinary circumstances an extension would be in the public interest.

(iv) COLLECTION OF RENTAL CHARGES.—After the end of the 18-month period referred to in clause (iii), the President may charge fair market rent for each temporary housing unit provided.

(2) REPAIRS.—

(A) IN GENERAL.—The President may provide financial assistance for—

(i) the repair of owner-occupied private residences, utilities, and residential infrastructure (such as a private access route) damaged by a major disaster to a safe and sanitary living or functioning condition; and

(ii) eligible hazard mitigation measures that reduce the likelihood of future damage to such residences, utilities, or infrastructure.

(B) RELATIONSHIP TO OTHER ASSISTANCE.—A recipient of assistance provided under this paragraph shall not be required to show that the assistance can be met through other means, except insurance proceeds.

(3) REPLACEMENT.—

(A) IN GENERAL.—The President may provide financial assistance for the replacement of owner-occupied private residences damaged by a major disaster.

- (B) APPLICABILITY OF FLOOD INSURANCE REQUIREMENT.—With respect to assistance provided under this paragraph, the President may not waive any provision of Federal law requiring the purchase of flood insurance as a condition of the receipt of Federal disaster assistance.
- (4) PERMANENT HOUSING CONSTRUCTION.—The President may provide financial assistance or direct assistance to individuals or households to construct permanent or semi-permanent housing in insular areas outside the continental United States and in other locations in cases in which—
- (A) no alternative housing resources are available; and
  - (B) the types of temporary housing assistance described in paragraph (1) are unavailable, infeasible, or not cost-effective.
- (d) TERMS AND CONDITIONS RELATING TO HOUSING ASSISTANCE.—
- (1) SITES.—
- (A) IN GENERAL.—Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that—
    - (i) is complete with utilities;
    - (ii) meets the physical accessibility requirements for individuals with disabilities; and
    - (iii) is provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.
  - (B) SITES PROVIDED BY THE PRESIDENT.—A readily fabricated dwelling may be located on a site provided by the President if the President determines that such a site would be more economical or accessible.
- (2) DISPOSAL OF UNITS.—
- (A) SALE TO OCCUPANTS.—
    - (i) IN GENERAL.—Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the individual or household who is occupying the unit if the individual or household lacks permanent housing.
    - (ii) SALE PRICE.—A sale of a temporary housing unit under clause (i) shall be at a price that is fair and equitable.
    - (iii) DEPOSIT OF PROCEEDS.—Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited in the appropriate Disaster Relief Fund account.
    - (iv) HAZARD AND FLOOD INSURANCE.—A sale of a temporary housing unit under clause (i) shall be made on the condition that the individual or household purchasing the housing unit agrees to obtain and maintain hazard and flood insurance on the housing unit.
    - (v) USE OF GSA SERVICES.—The President may use the services of the General Services Administration to accomplish a sale under clause (i).
  - (B) OTHER METHODS OF DISPOSAL.—If not disposed of under subparagraph (A), a temporary housing unit pur-

chased under this section by the President for the purpose of housing disaster victims—

(i) may be sold to any person; or

(ii) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, or donation, the State, other governmental agency, or voluntary organization agrees—

(I) to comply with the nondiscrimination provisions of section 308; and

(II) to obtain and maintain hazard and flood insurance on the housing unit.

(e) FINANCIAL ASSISTANCE TO ADDRESS OTHER NEEDS.—

(1) MEDICAL, DENTAL, CHILD CARE, AND FUNERAL EXPENSES.—The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household in the State who is adversely affected by a major disaster to meet disaster-related medical, dental, child care, and funeral expenses.

(2) PERSONAL PROPERTY, TRANSPORTATION, AND OTHER EXPENSES.—The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household described in paragraph (1) to address personal property, transportation, and other necessary expenses or serious needs resulting from the major disaster.

(f) STATE ROLE.—

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

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

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

(2) ACCESS TO RECORDS.—In providing assistance to individuals and households under this section, the President shall provide for the substantial and ongoing involvement of the States in which the individuals and households are located, including by providing to the States access to the electronic records of individuals and households receiving assistance under this section in order for the States to make available any additional State and local assistance to the individuals and households.

(3) *IN GENERAL.*—

(A) *APPLICATION.*—A State desiring to provide assistance under subsections (c)(1)(B) and (c)(4) shall submit to the President an application for the delegation of the authority to administer the program.

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

(i) the demonstrated ability of the State to manage the program under this section;

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

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

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

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

(D) *AUDITS.*—The Office of the inspector general shall provide for periodic audits of the programs administered by States under this subsection.

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

(F) *REPORT.*—Not later than 1 year after the date of enactment of this paragraph, the inspector general of the Department of Homeland Security shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the State role to provide assistance under this section. The report shall contain an assessment of the effectiveness of the State's role to provide assistance under this section, including—

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

(ii) *whether the States providing assistance under this section had the capacity to administer this section; and*

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

(G) *PROHIBITION.—The President may not condition the provision of Federal assistance under this Act by a State, Tribal, or local government requesting a grant under this section.*

(H) *MISCELLANEOUS.—*

(i) *NOTICE AND COMMENT.—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 until such regulations are promulgated.*

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

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

(g) *COST SHARING.—*

(1) *FEDERAL SHARE.—Except as provided in paragraph (2), the Federal share of the costs eligible to be paid using assistance provided under this section shall be 100 percent.*

(2) *FINANCIAL ASSISTANCE TO ADDRESS OTHER NEEDS.—In the case of financial assistance provided under subsection (e)—*

(A) *the Federal share shall be 75 percent; and*

(B) *the non-Federal share shall be paid from funds made available by the State.*

(h) *MAXIMUM AMOUNT OF ASSISTANCE.—*

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

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

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

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

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

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

(i) VERIFICATION MEASURES.—In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to—

- (1) verify the identity and address of recipients of assistance under this section to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;
- (2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;
- (3) collect any duplicate payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;
- (4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and
- (5) conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.

(j) RULES AND REGULATIONS.—The President shall prescribe rules and regulations to carry out this section, including criteria, standards, and procedures for determining eligibility for assistance.

\* \* \* \* \*

**SEC. 420. FIRE MANAGEMENT ASSISTANCE.**

(a) IN GENERAL.—The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.

(b) COORDINATION WITH STATE AND TRIBAL DEPARTMENTS OF FORESTRY.—In providing assistance under this section, the President shall coordinate with State and tribal departments of forestry.

(c) ESSENTIAL ASSISTANCE.—In providing assistance under this section, the President may use the authority provided under section 403.

(d) HAZARD MITIGATION ASSISTANCE.—*Whether or not a major disaster is declared, the President may provide hazard mitigation assistance in accordance with section 404 in any area affected by a fire for which assistance was provided under this section.*

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

\* \* \* \* \*

**SEC. 428. PUBLIC ASSISTANCE PROGRAM ALTERNATIVE PROCEDURES.**

(a) **APPROVAL OF PROJECTS.**—The President, acting through the Administrator of the Federal Emergency Management Agency, may approve projects under the alternative procedures adopted under this section for any major disaster or emergency declared on or after the date of enactment of this section. The Administrator may also apply the alternate procedures adopted under this section to a major disaster or emergency declared before enactment of this Act for which construction has not begun as of the date of enactment of this Act.

(b) **ADOPTION.**—The Administrator, in coordination with States, tribal and local governments, and owners or operators of private nonprofit facilities, may adopt alternative procedures to administer assistance provided under sections 403(a)(3)(A), 406, 407, and 502(a)(5).

(c) **GOALS OF PROCEDURES.**—The alternative procedures adopted under subsection (a) shall further the goals of—

- (1) reducing the costs to the Federal Government of providing such assistance;
- (2) increasing flexibility in the administration of such assistance;
- (3) expediting the provision of such assistance to a State, tribal or local government, or owner or operator of a private nonprofit facility; and
- (4) providing financial incentives and disincentives for a State, tribal or local government, or owner or operator of a private nonprofit facility for the timely and cost-effective completion of projects with such assistance.

(d) **PARTICIPATION.**—

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

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

(e) **MINIMUM PROCEDURES.**—The alternative procedures adopted under this section shall include the following:

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

(A) making grants on the basis of fixed estimates, if the State, tribal or local government, or owner or operator of the private nonprofit facility agrees to be responsible for any actual costs that exceed the estimate;

(B) providing an option for a State, tribal or local government, or owner or operator of a private nonprofit facility to elect to receive an in-lieu contribution, without reduction, on the basis of estimates of—

- (i) the cost of repair, restoration, reconstruction, or replacement of a public facility owned or controlled by



the State, tribal or local government or owner or operator of a private nonprofit facility; and

(ii) management expenses;

(C) consolidating, to the extent determined appropriate by the Administrator, the facilities of a State, tribal or local government, or owner or operator of a private nonprofit facility as a single project based upon the estimates adopted under the procedures;

(D) if the actual costs of a project completed under the procedures are less than the estimated costs thereof, the Administrator may permit a grantee or subgrantee to use all or part of the excess funds for—

(i) cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster; and

(ii) other activities to improve future Public Assistance operations or planning;

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

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

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

(2) For debris removal under sections 403(a)(3)(A), 407, and 502(a)(5)—

(A) making grants on the basis of fixed estimates to provide financial incentives and disincentives for the timely or cost-effective completion if the State, tribal or local government, or owner or operator of the private nonprofit facility agrees to be responsible to pay for any actual costs that exceed the estimate;

(B) using a sliding scale for determining the Federal share for removal of debris and wreckage based on the time it takes to complete debris and wreckage removal;

(C) allowing use of program income from recycled debris without offset to the grant amount;

(D) reimbursing base and overtime wages for employees and extra hires of a State, tribal or local government, or owner or operator of a private nonprofit facility performing or administering debris and wreckage removal;

(E) providing incentives to a State or tribal or local government to have a debris management plan approved by the Administrator and have pre-qualified 1 or more debris and wreckage removal contractors before the date of declaration of the major disaster; and

(F) if the actual costs of projects under subparagraph (A) are less than the estimated costs of the project, the Administrator may permit a grantee or subgrantee to use all or part of the excess funds for—

- (i) debris management planning;
- (ii) acquisition of debris management equipment for current or future use; and
- (iii) other activities to improve future debris removal operations, as determined by the Administrator.

(f) WAIVER AUTHORITY.—Until such time as the Administrator promulgates regulations to implement this section, the Administrator may—

(1) waive notice and comment rulemaking, if the Administrator determines the waiver is necessary to expeditiously implement this section; and

(2) carry out the alternative procedures under this section as a pilot program.

(g) OVERTIME PAYMENTS.—The guidelines for reimbursement for costs under subsection (e)(2)(D) shall ensure that no State or local government is denied reimbursement for overtime payments that are required pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(h) REPORT.—

(1) IN GENERAL.—Not earlier than 3 years, and not later than 5 years, after the date of enactment of this section, the Inspector General of the Department of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the alternative procedures for the repair, restoration, and replacement of damaged facilities under section 406 authorized under this section.

(2) CONTENTS.—The report shall contain an assessment of the effectiveness of the alternative procedures, including—

(A) whether the alternative procedures helped to improve the general speed of disaster recovery;

(B) the accuracy of the estimates relied upon;

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

(D) whether the alternative procedures were cost effective;

(E) whether the independent expert panel described in subsection (e)(1)(E) was effective; and

(F) recommendations for whether the alternative procedures should be continued and any recommendations for changes to the alternative procedures.

\* \* \* \* \*

**SEC. 430. AGENCY ACCOUNTABILITY.**

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

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

(b) **MISSION ASSIGNMENTS.**—

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

- (A) the name of the impacted State or Tribe;
- (B) the disaster declaration for such State or Tribe;
- (C) the assigned agency;
- (D) the assistance requested;
- (E) a description of the disaster;
- (F) the total cost estimate;
- (G) the amount obligated;
- (H) the State or Tribal cost share, if applicable;
- (I) the authority under which the mission assignment or mission assignment task order was directed; and
- (J) if applicable, the date a State or Tribe requested the mission assignment.

(2) **RECORDING CHANGES.**—Not later than 10 days after the last day of each month until a mission assignment or mission assignment task order described in paragraph (1) is completed and closed out, the Administrator shall update any changes to the total cost estimate and the amount obligated.

(c) **DISASTER RELIEF MONTHLY REPORT.**—Not later than 10 days after the first day of each month, the Administrator shall publish on the Agency's website reports, including a specific description of the methodology and the source data used in developing such reports, including—

(1) an estimate of the amounts for the fiscal year covered by the President's most recent budget pursuant to section 1105(a) of title 31, United States Code, including—

- (A) the unobligated balance of funds to be carried over from the prior fiscal year to the budget year;
- (B) the unobligated balance of funds to be carried over from the budget year to the budget year plus 1;
- (C) the amount of obligations for non-catastrophic events for the budget year;
- (D) the amount of obligations for the budget year for catastrophic events delineated by event and by State;
- (E) the total amount that has been previously obligated or will be required for catastrophic events delineated by

event and by State for all prior years, the current fiscal year, the budget year, and each fiscal year thereafter;

(F) the amount of previously obligated funds that will be recovered for the budget year;

(G) the amount that will be required for obligations for emergencies, as described in section 102(1), major disasters, as described in section 102(2), fire management assistance grants, as described in section 420, surge activities, and disaster readiness and support activities; and

(H) the amount required for activities not covered under section 251(b)(2)(D)(iii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(iii)); and

(2) an estimate or actual amounts, if available, of the following for the current fiscal year shall be submitted not later than the fifth day of each month, published by the Administrator on the Agency's website not later than the fifth day of each month:

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

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

(i) the beginning and ending balances;

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

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

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

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

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

(i) Public assistance.

(ii) Individual assistance.

(iii) Mitigation.

(iv) Administrative.

(v) Operations.

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

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

(d) CONTRACTS.—

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

(A) the name of the party;

(B) the date the contract was awarded;

(C) the amount of the contract, the scope of the contract;

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

- (E) if no competitive bidding process was used, the reason why competitive bidding was not used; and
  - (F) the authority used to bypass the competitive bidding process.
- The information shall be delineated by disaster, if applicable, and specify the damage category code, if applicable.
- (2) REPORT.—Not later than 10 days after the last day of the fiscal year, the Administrator shall provide a report to the appropriate committees of Congress summarizing the following information for the preceding fiscal year:
- (A) The number of contracts awarded without competitive bidding.
  - (B) The reasons why a competitive bidding process was not used.
  - (C) The total amount of contracts awarded with no competitive bidding.
  - (D) The damage category codes, if applicable, for contracts awarded without competitive bidding.

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TITLE VII—MISCELLANEOUS

\* \* \* \* \*

**SEC. 705. DISASTER GRANT CLOSEOUT PROCEDURES.**

- (a) STATUTE OF LIMITATIONS.—
  - (1) IN GENERAL.—Except as provided in paragraph (2), no administrative action to recover any payment made to a State or local government for disaster or emergency assistance under this Act shall be initiated in any forum after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency.
  - (2) FRAUD EXCEPTION.—The limitation under paragraph (1) shall apply unless there is evidence of civil or criminal fraud.
- (b) REBUTTAL OF PRESUMPTION OF RECORD MAINTENANCE.—
  - (1) IN GENERAL.—In any dispute arising under this section after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency, there shall be a presumption that accounting records were maintained that adequately identify the source and application of funds provided for financially assisted activities.
  - (2) AFFIRMATIVE EVIDENCE.—The presumption described in paragraph (1) may be rebutted only on production of affirmative evidence that the State or local government did not maintain documentation described in that paragraph.
  - (3) INABILITY TO PRODUCE DOCUMENTATION.—The inability of the Federal, State, or local government to produce source documentation supporting expenditure reports later than 3 years after the date of transmission of the final expenditure report shall not constitute evidence to rebut the presumption described in paragraph (1).
  - (4) RIGHT OF ACCESS.—The period during which the Federal, State, or local government has the right to access source documentation shall not be limited to the required 3-year retention period referred to in paragraph (3), but shall last as long as the records are maintained.

(c) **BINDING NATURE OF GRANT REQUIREMENTS.**—A State or local government shall not be liable for reimbursement or any other penalty for any payment made under this Act if—

- (1) the payment was authorized by an approved agreement specifying the costs;
- (2) the costs were reasonable; and
- (3) the purpose of the grant was accomplished.

(d) **FACILITATING CLOSEOUT.**—

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

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

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**DISASTER MITIGATION ACT OF 2000**

\* \* \* \* \*

**TITLE II—STREAMLINING AND COST REDUCTION**

\* \* \* \* \*

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

(a) **CONTRIBUTIONS.**—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) is amended by striking subsection (a) and inserting the following:

“(a) **CONTRIBUTIONS.**—

“(1) **IN GENERAL.**—The President may make contributions—

“(A) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government; and

“(B) subject to paragraph (3), to a person that owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for associated expenses incurred by the person.

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

“(A) the costs of mobilizing and employing the National Guard for performance of eligible work;

“(B) the costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging; and

“(C) base and overtime wages for the employees and extra hires of a State, local government, or person described in paragraph (1) that perform eligible work, plus

fringe benefits on such wages to the extent that such benefits were being paid before the major disaster.

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

“(A) IN GENERAL.—The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if—

“(i) the facility provides critical services (as defined by the President) in the event of a major disaster; or

“(ii) the owner or operator of the facility—

“(I) has applied for a disaster loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)); and

“(II)(aa) has been determined to be ineligible for such a loan; or

“(bb) has obtained such a loan in the maximum amount for which the Small Business Administration determines the facility is eligible.

“(B) DEFINITION OF CRITICAL SERVICES.—In this paragraph, the term ‘critical services’ includes power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, communications, and emergency medical care.

“(4) NOTIFICATION TO CONGRESS.—Before making any contribution under this section in an amount greater than \$20,000,000, the President shall notify—

“(A) the Committee on Environment and Public Works of the Senate;

“(B) the Committee on Transportation and Infrastructure of the House of Representatives;

“(C) the Committee on Appropriations of the Senate; and

“(D) the Committee on Appropriations of the House of Representatives.”

(b) FEDERAL SHARE.—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) is amended by striking subsection (b) and inserting the following:

“(b) FEDERAL SHARE.—

“(1) MINIMUM FEDERAL SHARE.—Except as provided in paragraph (2), the Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.

“(2) REDUCED FEDERAL SHARE.—The President shall promulgate regulations to reduce the Federal share of assistance under this section to not less than 25 percent in the case of the repair, restoration, reconstruction, or replacement of any eligible public facility or private nonprofit facility following an event associated with a major disaster—

“(A) that has been damaged, on more than one occasion within the preceding 10-year period, by the same type of event; and

“(B) the owner of which has failed to implement appropriate mitigation measures to address the hazard that caused the damage to the facility.”

(c) LARGE IN-LIEU CONTRIBUTIONS.—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) is amended by striking subsection (c) and inserting the following:

“(c) LARGE IN-LIEU CONTRIBUTIONS.—

“(1) FOR PUBLIC FACILITIES.—

“(A) IN GENERAL.—In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

“(B) AREAS WITH UNSTABLE SOIL.—In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government because soil instability in the disaster area makes repair, restoration, reconstruction, or replacement infeasible, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

“(C) USE OF FUNDS.—Funds contributed to a State or local government under this paragraph may be used—

“(i) to repair, restore, or expand other selected public facilities;

“(ii) to construct new facilities; or

“(iii) to fund hazard mitigation measures that the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

“(D) LIMITATIONS.—Funds made available to a State or local government under this paragraph may not be used for—

“(i) any public facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or

“(ii) any uninsured public facility located in a special flood hazard area identified by the Director of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

“(2) FOR PRIVATE NONPROFIT FACILITIES.—

“(A) IN GENERAL.—In any case in which a person that owns or operates a private nonprofit facility determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing the facility, the person may elect to receive, in lieu of a contribution under subsection (a)(1)(B), a contribution in an amount equal to



75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

“(B) USE OF FUNDS.—Funds contributed to a person under this paragraph may be used—

“(i) to repair, restore, or expand other selected private nonprofit facilities owned or operated by the person;

“(ii) to construct new private nonprofit facilities to be owned or operated by the person; or

“(iii) to fund hazard mitigation measures that the person determines to be necessary to meet a need for the person’s services and functions in the area affected by the major disaster.

“(C) LIMITATIONS.—Funds made available to a person under this paragraph may not be used for—

“(i) any private nonprofit facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or

“(ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the Director of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).”.

(d) ELIGIBLE COST.—

(1) IN GENERAL.—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) is amended by striking subsection (e) and inserting the following:

“(e) ELIGIBLE COST.—

“(1) DETERMINATION.—

“(A) IN GENERAL.—For the purposes of this section, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility—

“(i) on the basis of the design of the facility as the facility existed immediately before the major disaster; and

“(ii) in conformity with codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) applicable at the time at which the disaster occurred.

“(B) COST ESTIMATION PROCEDURES.—

“(i) IN GENERAL.—Subject to paragraph (2), the President shall use the cost estimation procedures established under paragraph (3) to determine the eligible cost under this subsection.

“(ii) APPLICABILITY.—The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 422.

“(2) MODIFICATION OF ELIGIBLE COST.—

“(A) ACTUAL COST GREATER THAN CEILING PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is greater than the ceiling percentage established under paragraph (3) of the cost estimated under paragraph (1), the President may determine that the eligible cost includes a portion of the actual cost of the repair, restoration, reconstruction, or replacement that exceeds the cost estimated under paragraph (1).

“(B) ACTUAL COST LESS THAN ESTIMATED COST.—

“(i) GREATER THAN OR EQUAL TO FLOOR PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than 100 percent of the cost estimated under paragraph (1), but is greater than or equal to the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving funds under this section shall use the excess funds to carry out cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster.

“(ii) LESS THAN FLOOR PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving assistance under this section shall reimburse the President in the amount of the difference.

“(C) NO EFFECT ON APPEALS PROCESS.—Nothing in this paragraph affects any right of appeal under section 423.

“(3) EXPERT PANEL.—

“(A) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this paragraph, the President, acting through the Director of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

“(B) DUTIES.—The expert panel shall develop recommendations concerning—

“(i) procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices; and

“(ii) the ceiling and floor percentages referred to in paragraph (2).

“(C) REGULATIONS.—Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations that establish—

“(i) cost estimation procedures described in subparagraph (B)(i); and

“(ii) the ceiling and floor percentages referred to in paragraph (2).

“(D) REVIEW BY PRESIDENT.—Not later than 2 years after the date of promulgation of regulations under subparagraph (C) and periodically thereafter, the President shall review the cost estimation procedures and the ceiling and floor percentages established under this paragraph.

“(E) REPORT TO CONGRESS.—Not later than 1 year after the date of promulgation of regulations under subparagraph (C), 3 years after that date, and at the end of each 2-year period thereafter, the expert panel shall submit to Congress a report on the appropriateness of the cost estimation procedures.

“(4) SPECIAL RULE.—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only those costs that, under the contract for the construction, are the owner’s responsibility and not the contractor’s responsibility.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on the date of the enactment of this Act and applies to funds appropriated after the date of the enactment of this Act, except that paragraph (1)(B) of section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as amended by paragraph (1)) takes effect on the date on which the cost estimation procedures established under paragraph (3) of that section take effect.

(e) CONFORMING AMENDMENT.—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) is amended by striking subsection (f).

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**PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965**

\* \* \* \* \*

**TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT**

\* \* \* \* \*

**SEC. 209. GRANTS FOR ECONOMIC ADJUSTMENT.**

(a) IN GENERAL.—On the application of an eligible recipient, the Secretary may make grants for development of public facilities, public services, business development (including funding of a revolving loan fund), planning, technical assistance, training, and any other assistance to alleviate long-term economic deterioration and sudden and severe economic dislocation and further the economic adjustment objectives of this title.

(b) CRITERIA FOR ASSISTANCE.—The Secretary may provide assistance under this section only if the Secretary determines that—

(1) the project will help the area to meet a special need arising from—

(A) actual or threatened severe unemployment; or

- (B) economic adjustment problems resulting from severe changes in economic conditions; and
- (2) the area for which a project is to be carried out has a comprehensive economic development strategy and the project is consistent with the strategy, except that this paragraph shall not apply to planning projects.
- (c) PARTICULAR COMMUNITY ASSISTANCE.—Assistance under this section may include assistance provided for activities identified by communities, the economies of which are injured by—
- (1) military base closures or realignments, defense contractor reductions in force, or Department of Energy defense-related funding reductions, for help in diversifying their economies through projects to be carried out on Federal Government installations or elsewhere in the communities;
  - (2) disasters or emergencies, in areas with respect to which a major disaster or emergency has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), for post-disaster economic recovery;
  - (3) international trade, for help in economic restructuring of the communities;
  - (4) fishery failures, in areas with respect to which a determination that there is a commercial fishery failure has been made under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)); or
  - (5) the loss of manufacturing jobs, for reinvesting in and diversifying the economies of the communities.
- (d) SPECIAL PROVISIONS RELATING TO REVOLVING LOAN FUND GRANTS.—
- (1) IN GENERAL.—The Secretary shall promulgate regulations to maintain the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.
  - (2) EFFICIENT ADMINISTRATION.—The Secretary may—
    - (A) at the request of a grantee, amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria;
    - (B) assign or transfer assets of a revolving loan fund to third party for the purpose of liquidation, and the third party may retain assets of the fund to defray costs related to liquidation; and
    - (C) take such actions as are appropriate to enable revolving loan fund operators to sell or securitize loans (except that the actions may not include issuance of a Federal guaranty by the Secretary).
  - (3) TREATMENT OF ACTIONS.—An action taken by the Secretary under this subsection with respect to a revolving loan fund shall not constitute a new obligation if all grant funds associated with the original grant award have been disbursed to the recipient.
  - (4) PRESERVATION OF SECURITIES LAWS.—
    - (A) NOT TREATED AS EXEMPTED SECURITIES.—No securities issued pursuant to paragraph (2)(C) shall be treated as exempted securities for purposes of the Securities Act of

1933 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless exempted by rule or regulation of the Securities and Exchange Commission.

(B) PRESERVATION.—Except as provided in subparagraph (A), no provision of this subsection or any regulation promulgated by the Secretary under this subsection supersedes or otherwise affects the application of the securities laws (as the term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))) or the rules, regulations, or orders of the Securities and Exchange Commission or a self-regulatory organization under that Commission.

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

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**POST-KATRINA EMERGENCY MANAGEMENT REFORM  
ACT OF 2006**

\* \* \* \* \*

**TITLE VI—NATIONAL EMERGENCY  
MANAGEMENT**

\* \* \* \* \*

**Subtitle C—Comprehensive Preparedness  
System**

\* \* \* \* \*

**CHAPTER 2—ADDITIONAL PREPAREDNESS**

**SEC. 661. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.**

(a) IN GENERAL.—The Administrator may make grants to administer the Emergency Management Assistance Compact consented to by the Joint Resolution entitled “Joint Resolution granting the consent of Congress to the Emergency Management Assistance Compact” (Public Law 104-321; 110 Stat. 3877).

(b) USES.—A grant under this section shall be used—

(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane season;

(2) to administer compact operations on behalf of all member States and territories;

(3) to continue coordination with the Agency and appropriate Federal agencies;

(4) to continue coordination with State, local, and tribal government entities and their respective national organizations; and

(5) to assist State and local governments, emergency response providers, and organizations representing such providers with credentialing emergency response providers and the typing of emergency response resources.

(c) COORDINATION.—The Administrator shall consult with the Administrator of the Emergency Management Assistance Compact to ensure effective coordination of efforts in responding to requests for assistance.

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

**SEC. 662. EMERGENCY MANAGEMENT PERFORMANCE GRANTS PROGRAM**

(a) DEFINITIONS.—In this section—

(1) the term “program” means the emergency management performance grants program described in subsection (b); and

(2) the term “State” has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(b) IN GENERAL.—The Administrator of the Federal Emergency Management Agency shall continue implementation of an emergency management performance grants program, to make grants to States to assist State, local, and tribal governments in preparing for all hazards, as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(c) FEDERAL SHARE.—Except as otherwise specifically provided by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Federal share of the cost of an activity carried out using funds made available under the program shall not exceed 50 percent.

(d) APPORTIONMENT.—For fiscal year 2008, and each fiscal year thereafter, the Administrator shall apportion the amounts appropriated to carry out the program among the States as follows:

(1) BASELINE AMOUNT.—The Administrator shall first apportion 0.25 percent of such amounts to each of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands and 0.75 percent of such amounts to each of the remaining States.

(2) REMAINDER.—The Administrator shall apportion the remainder of such amounts in the ratio that—

(A) the population of each State; bears to

(B) the population of all States.

(e) CONSISTENCY IN ALLOCATION.—Notwithstanding subsection (d), in any fiscal year before fiscal year 2013 in which the appropriation for grants under this section is equal to or greater than the appropriation for emergency management performance grants in fiscal year 2007, no State shall receive an amount under this section for that fiscal year less than the amount that State received in fiscal year 2007.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out ~~the program—~~

~~[(1) for fiscal year 2008, \$400,000,000;~~

~~[(2) for fiscal year 2009, \$535,000,000;~~

~~[(3) for fiscal year 2010, \$680,000,000;~~

[(4) for fiscal year 2011, \$815,000,000; and  
[(5) for fiscal year 2012] *the program, for each of fiscal years  
2018 through 2022, \$950,000,000.*

\* \* \* \* \*

**SANDY RECOVERY IMPROVEMENT ACT OF 2013**

\* \* \* \* \*

**DIVISION B—SANDY RECOVERY  
IMPROVEMENT ACT OF 2013**

\* \* \* \* \*

**SEC. 1105. DISPUTE RESOLUTION PILOT PROGRAM.**

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

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(2) ELIGIBLE ASSISTANCE.—The term “eligible assistance” means assistance—

(A) under section 403, 406, or 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173);

(B) for which the legitimate amount in dispute is not less than \$1,000,000, which sum the Administrator shall adjust annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor;

(C) for which the applicant has a non-Federal share; and

(D) for which the applicant has received a decision on a first appeal.

(b) PROCEDURES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, and in order to facilitate an efficient recovery from major disasters, the Administrator shall establish procedures under which an applicant may request the use of alternative dispute resolution, including arbitration by an independent review panel, to resolve disputes relating to eligible assistance.

(2) BINDING EFFECT.—A decision by an independent review panel under this section shall be binding upon the parties to the dispute.

(3) CONSIDERATIONS.—The procedures established under this section shall—

(A) allow a party of a dispute relating to eligible assistance to request an independent review panel for the review;

(B) require a party requesting an independent review panel as described in subparagraph (A) to agree to forgo rights to any further appeal of the dispute relating to any eligible assistance;

(C) require that the sponsor of an independent review panel for any alternative dispute resolution under this section be—

(i) an individual or entity unaffiliated with the dispute (which may include a Federal agency, an administrative law judge, or a reemployed annuitant who was an employee of the Federal Government) selected by the Administrator; and

(ii) responsible for identifying and maintaining an adequate number of independent experts qualified to review and resolve disputes under this section;

(D) require an independent review panel to—

(i) resolve any remaining disputed issue in accordance with all applicable laws, regulations, and Agency interpretations of those laws through its published policies and guidance;

(ii) consider only evidence contained in the administrative record, as it existed at the time at which the Agency made its initial decision;

(iii) only set aside a decision of the Agency found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; and

(iv) in the case of a finding of material fact adverse to the claimant made on first appeal, only set aside or reverse such finding if the finding is clearly erroneous;

(E) require an independent review panel to expeditiously issue a written decision for any alternative dispute resolution under this section; and

(F) direct that if an independent review panel for any alternative dispute resolution under this section determines that the basis upon which a party submits a request for alternative dispute resolution is frivolous, the independent review panel shall direct the party to pay the reasonable costs to the Federal Emergency Management Agency relating to the review by the independent review panel. Any funds received by the Federal Emergency Management Agency under the authority of this section shall be deposited to the credit of the appropriation or appropriations available for the eligible assistance in dispute on the date on which the funds are received.

(c) SUNSET.—A request for review by an independent review panel under this section may not be made after December 31, **[2015] 2022.**

\* \* \* \* \*



COMMITTEE CORRESPONDENCE

JEB HENSARLING, TX, CHAIRMAN

United States House of Representatives  
Committee on Financial Services  
2139 Rayburn House Office Building  
Washington, DC 20515

MAXINE WATERS, CA, RANKING MEMBER

December 4, 2017

The Honorable Bill Shuster  
Chairman  
Committee on Transportation and Infrastructure  
2165 Rayburn House Office Building  
Washington, DC 20515


Dear Chairman Shuster:

I am writing concerning H.R. 4460, the "Disaster Recovery Reform Act".

As a result of your having consulted with the Committee on Financial Services concerning provisions in the bill that fall within our Rule X jurisdiction, specifically the bill's reference in section 214 to the Public Works and Economic Development Act of 1965, I agree to forgo action on the bill so that it may proceed expeditiously to the House Floor. The Committee on Financial Services takes this action with our mutual understanding that, by foregoing consideration of H.R. 4460 at this time, we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as this or similar legislation moves forward so that we may address any remaining issues that fall within our Rule X jurisdiction. Our Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and requests your support for any such request.

Finally, I would appreciate your response to this letter confirming this understanding with respect to H.R. 4460 and would ask that a copy of our exchange of letters on this matter be included in your committee's report to accompany the legislation, as well as in the *Congressional Record* during floor consideration thereof.

Sincerely,



JEB HENSARLING  
Chairman

cc: The Honorable Paul Ryan  
The Honorable Maxine Waters  
The Honorable Peter A. DeFazio  
Mr. Thomas Wickham, Jr.



Committee on Transportation and Infrastructure  
U.S. House of Representatives

Bill Shuster  
Chairman

Washington, DC 20515

Peter A. DeFazio  
Banking Member

December 4, 2017

Matthew M. Sturges, Staff Director

Katherine W. Dedrick, Democratic Staff Director

The Honorable Jeb Hensarling  
Chairman  
Committee on Financial Services  
2129 Rayburn HOB  
Washington, DC 20515

Dear Mr. Chairman:

On November 30, 2017, the Committee on Transportation and Infrastructure ordered reported H.R. 4460, *the Disaster Recover Reform Act of 2017*, with amendments by voice vote. The bill was referred primarily to the Committee on Transportation and Infrastructure, with an additional referral to the Committee on Financial Services. This referral is due to the bill's reference in section 214 to the Public Works and Economic Development Act of 1965.

I ask that you allow the Committee on Financial Services to be discharged from further consideration of the bill so that it may be scheduled by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on the Financial Services represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill report filed by the Committee on Transportation and Infrastructure, as well as in the *Congressional Record* during floor consideration, to memorialize our understanding.

Thank you for your consideration of my request.

Sincerely,

Bill Shuster  
Chairman

cc: The Honorable Paul D. Ryan, Speaker  
The Honorable Peter A. DeFazio  
The Honorable Maxine Waters  
The Honorable Thomas J. Wickham, Parliamentarian