

Calendar No. 511

116TH CONGRESS
2D SESSION

S. 3418

[Report No. 116–249]

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to allow the Administrator of the Federal Emergency Management Agency to provide capitalization grants to States to establish revolving funds to provide hazard mitigation assistance to reduce risks from disasters and natural hazards, and other related environmental harm.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2020

Mr. PETERS (for himself, Mr. JOHNSON, Mr. LANKFORD, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

AUGUST 10, 2020

Reported by Mr. JOHNSON, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to allow the Administrator of the Federal Emergency Management Agency to provide capitalization grants to States to establish revolving funds to provide hazard mitigation assistance to reduce risks from disasters and natural hazards, and other related environmental harm.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safeguarding Tomor-
 5 row through Ongoing Risk Mitigation Act of 2020” or the
 6 “STORM Act”.

7 **SEC. 2. GRANTS TO ENTITIES FOR ESTABLISHMENT OF**
 8 **HAZARD MITIGATION REVOLVING LOAN**
 9 **FUNDS.**

10 Title II of the Robert T. Stafford Disaster Relief and
 11 Emergency Assistance Act (42 U.S.C. 5131 et seq.) is
 12 amended by adding at the end the following:

13 **“SEC. 205. GRANTS TO ENTITIES FOR ESTABLISHMENT OF**
 14 **HAZARD MITIGATION REVOLVING LOAN**
 15 **FUNDS.**

16 “(a) GENERAL AUTHORITY.—

17 “(1) IN GENERAL.—The Administrator may
 18 enter into agreements with eligible entities to make
 19 capitalization grants to such entities for the estab-
 20 lishment of hazard mitigation revolving loan funds
 21 (referred to in this section as ‘entity loan funds’) for
 22 providing funding assistance to local governments to
 23 carry out eligible projects under this section to re-
 24 duce disaster risk in order to decrease—

25 “(A) the loss of life and property;

1 “(B) the cost of insurance; and

2 “(C) Federal disaster payments.

3 “(2) AGREEMENTS.—Any agreement entered
4 into under this section shall require the participating
5 entity to—

6 “(A) comply with the requirements of this
7 section; and

8 “(B) use accounting, audit, and fiscal pro-
9 cedures conforming to generally accepted ac-
10 counting standards.

11 “(b) APPLICATION.—

12 “(1) IN GENERAL.—To be eligible to receive a
13 capitalization grant under this section, an eligible
14 entity shall submit to the Administrator an applica-
15 tion that includes the following:

16 “(A) Project proposals comprised of local
17 government hazard mitigation projects, on the
18 condition that the entity provides public notice
19 not less than 6 weeks prior to the submission
20 of an application.

21 “(B) An assessment of recurring major
22 disaster vulnerabilities impacting the entity that
23 demonstrates a risk to life and property.

24 “(C) A description of how the hazard miti-
25 gation plan of the entity has or has not taken

1 the vulnerabilities described in subparagraph
2 (B) into account.

3 “(D) A description about how the projects
4 described in subparagraph (A) could conform
5 with the hazard mitigation plan of the entity
6 and of the unit of local government.

7 “(E) A proposal of the systematic and re-
8 gional approach to achieve resilience in a vul-
9 nerable area, including impacts to river basins,
10 river corridors, watersheds, estuaries, bays,
11 coastal regions, micro-basins, micro-watersheds,
12 ecosystems, and areas at risk of earthquakes,
13 tsunamis, droughts, and wildfires.

14 “(2) TECHNICAL ASSISTANCE.—The Adminis-
15 trator shall provide technical assistance to eligible
16 entities for applications under this section.

17 “(c) ENTITY LOAN FUND.—

18 “(1) ESTABLISHMENT OF FUND.—An entity
19 that receives a capitalization grant under this sec-
20 tion shall establish an entity loan fund that complies
21 with the requirements of this subsection.

22 “(2) FUND MANAGEMENT.—Except as provided
23 in paragraph (3), entity loan funds shall—

24 “(A) be administered by the agency re-
25 sponsible for emergency management; and

1 “(B) include only—

2 “(i) funds provided by a capitalization
3 grant under this section;

4 “(ii) repayments of loans under this
5 section to the entity loan fund; and

6 “(iii) interest earned on amounts in
7 the entity loan fund.

8 “(3) ADMINISTRATION.—A participating entity
9 may combine the financial administration of the en-
10 tity loan fund of such entity with the financial ad-
11 ministration of any other revolving fund established
12 by such entity if the Administrator determines
13 that—

14 “(A) the capitalization grant, entity share,
15 repayments of loans, and interest earned on
16 amounts in the entity loan fund are accounted
17 for separately from other amounts in the revolv-
18 ing fund; and

19 “(B) the authority to establish assistance
20 priorities and carry out oversight activities re-
21 mains in the control of the entity agency re-
22 sponsible for emergency management.

23 “(4) ENTITY SHARE OF FUNDS.—

24 “(A) IN GENERAL.—On or before the date
25 on which a participating entity receives a cap-

italization grant under this section, the entity shall deposit into the entity loan fund of such entity, an amount equal to not less than 10 percent of the amount of the capitalization grant.

“(B) REDUCED GRANT.—If, with respect to a capitalization grant under this section, a participating entity deposits in the entity loan fund of the entity an amount that is less than 10 percent of the total amount of the capitalization grant that the participating entity would otherwise receive, the Administrator shall reduce the amount of the capitalization grant received by the entity to the amount that is 10 times the amount so deposited.

“(d) APPORTIONMENT.—

“(1) IN GENERAL.—Except as otherwise provided by this subsection, the Administrator shall apportion funds made available to carry out this section to entities that have entered into an agreement under subsection (a)(2) in amounts as determined by the Administrator.

“(2) RESERVATION OF FUNDS.—The Administrator shall reserve not more than 2.5 percent of the amount made available to carry out this section for the ~~Federal Emergency Management Agency~~ for—

1 “(A) administrative costs incurred in car-
2 rying out this section;

3 “(B) providing technical assistance to par-
4 ticipating entities under subsection (b)(2); and

5 “(C) capitalization grants to insular areas
6 under paragraph (4).

7 “(3) PRIORITY.—In the apportionment of cap-
8 italization grants under this subsection, the Admin-
9 istrator shall give priority to entity applications
10 under subsection (b) that—

11 “(A) propose projects increasing resilience
12 and reducing risk of harm to natural and built
13 infrastructure;

14 “(B) involve a partnership between two or
15 more eligible entities to carry out a project or
16 similar projects;

17 “(C) take into account regional impacts of
18 hazards on river basins, river corridors, micro-
19 watersheds, macro-watersheds, estuaries, lakes,
20 bays, and coastal regions and areas at risk of
21 earthquakes, tsunamis, droughts, and wildfires;
22 or

23 “(D) propose projects for the resilience of
24 major economic sectors or critical national in-
25 frastructure, including ports, global commodity

supply chain assets (located within an entity or within the jurisdiction of local governments, insular areas, and ~~tribal~~ *Tribal* governments), power and water production and distribution centers, and bridges and waterways essential to interstate commerce.

“(4) INSULAR AREAS.—

“(A) APPORTIONMENT.—From any amount remaining of funds reserved under paragraph (2), the Administrator may enter into agreements to provide capitalization grants to insular areas.

“(B) REQUIREMENTS.—An insular area receiving a capitalization grant under this section shall comply with the requirements of this section as applied to participating entities.

“(e) ENVIRONMENTAL REVIEW OF REVOLVING LOAN FUND PROJECTS.—The Administrator may delegate to a participating entity all of the responsibilities for environmental review, decision making, and action pursuant the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable Federal environmental laws including the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and the National Historic Preservation Act of 1966 (~~16 U.S.C. 470 et seq.~~) (*54 U.S.C.*

1 300101 *et seq.*) that would apply to the Administrator were
 2 the Administrator to undertake projects under this section
 3 as Federal projects so long as the participating entity
 4 ~~carry~~ *carries* out such responsibilities in the same manner
 5 and subject to the same requirements as if the Adminis-
 6 trator carried out such responsibilities.

7 “(f) USE OF FUNDS.—

8 “(1) TYPES OF ASSISTANCE.—Amounts depos-
 9 ited in an entity loan fund, including loan repay-
 10 ments and interest earned on such amounts, may be
 11 used—

12 “(A) to make loans, on the condition
 13 that—

14 “(i) such loans are made at an inter-
 15 est rate of not more than 1 percent;

16 “(ii) annual principal and interest
 17 payments will commence not later than 1
 18 year after completion of any project and all
 19 loans made under this subparagraph will
 20 be fully amortized—

21 “(I) not later than 20 years after
 22 the date on which the project is com-
 23 pleted; or

24 “(II) for projects in a low-income
 25 geographic area, not later than 30

1 years after the date on which the
2 project is completed and not longer
3 than the expected design life of the
4 project;

5 “(iii) the loan recipient of a loan
6 under this subparagraph establishes a
7 dedicated source of revenue for repayment
8 of the loan;

9 “(iv) the loan recipient of a loan
10 under this subparagraph has a hazard
11 mitigation plan that has been approved by
12 the Administrator; and

13 “(v) the entity loan fund will be cred-
14 ited with all payments of principal and in-
15 terest on all loans made under this sub-
16 paragraph;

17 “(B) for mitigation efforts, in addition to
18 mitigation planning under section 322 not to
19 exceed 10 percent of the capitalization grants
20 made to the participating entity in a fiscal year;

21 “(C) for the reasonable costs of admin-
22 istering the fund and conducting activities
23 under this section, except that such amounts
24 shall not exceed \$100,000 per year, 2 percent
25 of the capitalization grants made to the partici-

1 pating entity in a fiscal year, or 1 percent of
2 the value of the entity loan fund, whichever
3 amount is greatest, plus the amount of any fees
4 collected by the entity for such purpose regard-
5 less of the source; and

6 “(D) to earn interest on the entity loan
7 fund.

8 “(2) PROHIBITION ON DETERMINATION THAT
9 LOAN IS A DUPLICATION.—In carrying out this sec-
10 tion, the Administrator may not determine that a
11 loan is a duplication of assistance or programs
12 under this Act.

13 “(3) PROJECTS AND ACTIVITIES ELIGIBLE FOR
14 ASSISTANCE.—Except as provided in this subsection,
15 a participating entity may use funds in the entity
16 loan fund to provide financial assistance for projects
17 or activities that mitigate the impacts of natural
18 hazards including—

19 “(A) drought and prolonged episodes of in-
20 tense heat;

21 “(B) severe storms, including hurricanes,
22 tornados, wind storms, cyclones, and severe
23 winter storms;

24 “(C) wildfires;

25 “(D) earthquakes;

- 1 “(E) flooding;
- 2 “(F) shoreline erosion;
- 3 “(G) high water levels; and
- 4 “(H) storm surges.

5 “(4) ZONING AND LAND USE PLANNING
6 CHANGES.—A participating entity may use not more
7 than 10 percent of a capitalization grant under this
8 section to enable units of local government to imple-
9 ment zoning and land use planning changes focused
10 on—

11 “(A) the development and improvement of
12 zoning and land use codes that incentivize and
13 encourage low-impact development, resilient
14 wildland-urban interface land management and
15 development, natural infrastructure, green
16 stormwater management, conservation areas
17 adjacent to floodplains, implementation of wa-
18 tershed or greenway master plans, and re-
19 connection of floodplains;

20 “(B) the study and creation of agricultural
21 risk compensation districts where there is a de-
22 sire to remove or set-back levees protecting
23 highly developed agricultural land to mitigate
24 for flooding, allowing agricultural producers to
25 receive compensation for assuming greater flood

1 risk that would alleviate flood exposure to popu-
2 lation s centers and areas with critical national
3 infrastructure;

4 “(C) the study and creation of land use in-
5 centives that reward developers for greater reli-
6 ance on low impact development stormwater
7 best management practices, exchange density
8 increases for increased open space and improve-
9 ment of neighborhood catch basins to mitigate
10 urban flooding, reward developers for including
11 and augmenting natural infrastructure adjacent
12 to and around building projects without reliance
13 on increased sprawl, and reward developers for
14 addressing wildfire ignition; and

15 “(D) the study and creation of an erosion
16 response plan that accommodates river, lake,
17 forest, plains, and ocean shoreline retreating or
18 bluff stabilization due to increased flooding and
19 disaster impacts.

20 “(5) ESTABLISHING AND CARRYING OUT
21 BUILDING CODE ENFORCEMENT.—A participating
22 entity may use capitalization grants under this sec-
23 tion to enable units of local government to establish
24 and carry out the latest published editions of rel-
25 evant building codes, specifications, and standards

1 for the purpose of protecting the health, safety, and
 2 general welfare of the building s users against disas-
 3 ters and natural hazards.

4 “(6) ADMINISTRATIVE AND TECHNICAL
 5 COSTS.—For each fiscal year, a participating entity
 6 may use the amount described in paragraph (1)(C)
 7 to—

8 “(A) pay the reasonable costs of admin-
 9 istering the programs under this section, includ-
 10 ing the cost of establishing an entity loan fund;
 11 and

12 “(B) provide technical assistance to recipi-
 13 ents of financial assistance from the entity loan
 14 fund, on the condition that such technical as-
 15 sistance does not exceed 5 percent of the cap-
 16 italization grant made to such entity.

17 “(7) LIMITATION FOR SINGLE PROJECTS.—A
 18 participating entity may not provide an amount
 19 equal to or more than \$5,000,000 to a single hazard
 20 mitigation project.

21 “(g) INTENDED USE PLANS.—

22 “(1) IN GENERAL.—After providing for public
 23 comment and review, and consultation with appro-
 24 priate government agencies of the State or Indian
 25 Tribe, Federal agencies, and interest groups, each

1 participating entity shall annually prepare and sub-
2 mit to the Administrator a plan identifying the in-
3 tended uses of the entity loan fund.

4 “(2) CONTENTS OF PLAN.—An entity intended
5 use plan prepared under paragraph (1) shall in-
6 clude—

7 “(A) the integration of entity planning ef-
8 forts, including entity hazard mitigation plans
9 and other programs and initiatives relating to
10 mitigation of major disasters carried out by
11 such entity;

12 “(B) an explanation of the mitigation and
13 resiliency benefits the entity intends to achieve
14 by—

15 “(i) reducing future damage and loss
16 associated with hazards;

17 “(ii) reducing the number of severe
18 repetitive loss structures and repetitive loss
19 structures in the entity;

20 “(iii) decreasing the number of insur-
21 ance claims in the entity from injuries re-
22 sulting from major disasters or other nat-
23 ural hazards; and

24 “(iv) increasing the rating under the
25 community rating system under section

1 1315(b) of the National Flood Insurance
 2 Act of 1968 (42 U.S.C. 4022(b)) for com-
 3 munities in the entity;

4 “(C) information on the availability of, and
 5 application process for, financial assistance
 6 from the entity loan fund of such entity;

7 “(D) the criteria and methods established
 8 for the distribution of funds;

9 “(E) the amount of financial assistance
 10 that the entity anticipates apportioning;

11 “(F) the expected terms of the assistance
 12 provided from the entity loan fund; and

13 “(G) a description of the financial status
 14 of the entity loan fund, including short-term
 15 and long-term goals for the fund.

16 “(h) AUDITS, REPORTS, PUBLICATIONS, AND OVER-
 17 SIGHT.—

18 “(1) BIENNIAL ENTITY AUDIT AND REPORT.—

19 Beginning not later than the last day of the second
 20 fiscal year after the receipt of payments under this
 21 section, and biennially thereafter, any participating
 22 entity shall—

23 “(A) conduct an audit of ~~such~~ *the entity*
 24 *loan* fund established under subsection ~~(b)~~ (c);
 25 and

1 “(B) provide to the Administrator a report
2 including—

3 “(i) the result of any such audit; and

4 “(ii) a review of the effectiveness of
5 the entity loan fund of the entity with re-
6 spect to meeting the goals and intended
7 benefits described in the intended use plan
8 submitted by the entity under subsection
9 ~~(f)~~ (g).

10 “(2) PUBLICATION.—A participating entity
11 shall publish and periodically update information
12 about all projects receiving funding from the entity
13 loan fund of such entity, including—

14 “(A) the location of the project;

15 “(B) the type and amount of assistance
16 provided from the entity loan fund;

17 “(C) the expected funding schedule; and

18 “(D) the anticipated date of completion of
19 the project.

20 “(3) OVERSIGHT.—

21 “(A) IN GENERAL.—The Administrator
22 shall, at least every 4 years, conduct reviews
23 and audits as may be determined necessary or
24 appropriate by the Administrator to carry out
25 the objectives of this section and determine the

1 effectiveness of the fund in reducing natural
2 hazard risk.

3 “(B) GAO REQUIREMENTS.—~~The~~ *A par-*
4 *ticipating* entity shall conduct audits under
5 paragraph (1) in accordance with the auditing
6 procedures of the Government Accountability
7 Office, including generally accepted government
8 auditing standards.

9 “(C) RECOMMENDATIONS BY ADMINIS-
10 TRATOR.—The Administrator may at any time
11 make recommendations for or require specific
12 changes to an entity loan fund in order to im-
13 prove the effectiveness of the fund.

14 “(i) REGULATIONS OR GUIDANCE.—The Adminis-
15 trator shall issue such regulations or guidance as are nec-
16 essary to—

17 “(1) ensure that each participating entity uses
18 funds as efficiently as possible;

19 “(2) reduce waste, fraud, and abuse to the
20 maximum extent possible; and

21 “(3) require any party that receives funds di-
22 rectly or indirectly under this section, including a
23 participating entity and a recipient of amounts from
24 an entity loan fund, to use procedures with respect

1 to the management of the funds that conform to
 2 generally accepted accounting standards.

3 “(j) LIABILITY PROTECTIONS.—The ~~Federal Emer-~~
 4 ~~gency Management~~ Agency shall not be liable for any
 5 claim based on the exercise or performance of, or the fail-
 6 ure to exercise or perform, a discretionary function or duty
 7 by the Agency, or an employee of the Agency in carrying
 8 out this section.

9 “(k) DEFINITIONS.—In this section, the following
 10 definitions apply:

11 “(1) ADMINISTRATOR.—The term ‘Adminis-
 12 trator’ means the Administrator of the Federal
 13 Emergency Management Agency.

14 “(2) AGENCY.—The term ‘Agency’ means the
 15 Federal Emergency Management Agency.

16 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-
 17 tity’ means—

18 “(A) a State; or

19 “(B) an Indian ~~tribal~~ *Tribal* government
 20 that has received a major disaster declaration
 21 during the 5-year period ending on the date of
 22 enactment of the STORM Act.

23 “(4) HAZARD MITIGATION PLAN.—The term
 24 ‘hazard mitigation plan’ means a mitigation plan
 25 submitted under section 322.

1 “(5) INSULAR AREA.—The term ‘insular area’
2 means Guam, American Samoa, the Commonwealth
3 of the Northern Mariana Islands, and the United
4 States Virgin Islands.

5 “(6) LOW-INCOME GEOGRAPHIC AREA.—The
6 term ‘low-income geographic area’ means an area
7 described in paragraph (1) or (2) of section 301(a)
8 of the Public Works and Economic Development Act
9 of 1965 (42 U.S.C. 3161(a)).

10 “(7) PARTICIPATING ENTITY.—The term ‘par-
11 ticipating entity’ means an eligible entity that has
12 entered into an agreement under this section.

13 “(8) REPETITIVE LOSS STRUCTURE.—The term
14 ‘repetitive loss structure’ has the meaning given the
15 term in section 1370 of the National Flood Insur-
16 ance Act of 1968 (42 U.S.C. 4121).

17 “(9) SEVERE REPETITIVE LOSS STRUCTURE.—
18 The term ‘severe repetitive loss structure’ has the
19 meaning given the term in section 1366(h) of the
20 National Flood Insurance Act of 1968 (42 U.S.C.
21 4104c(h)).

22 “(10) STATE.—The term ‘State’ means any
23 State of the United States, the District of Columbia,
24 and Puerto Rico.

1 “(l) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated \$100,000,000 for each
3 of fiscal years 2021 through 2023 to carry out this sec-
4 tion.”.

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