

SMALL PROJECT EFFICIENT AND
EFFECTIVE DISASTER RECOVERY ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 5641

TO AMEND THE ROBERT T. STAFFORD DISASTER RELIEF
AND EMERGENCY ASSISTANCE ACT TO INCREASE THE
THRESHOLD FOR ELIGIBILITY FOR ASSISTANCE UNDER
SECTIONS 403, 406, 407, AND 502 OF SUCH ACT, AND FOR OTHER
PURPOSES



SEPTEMBER 12, 2022.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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**SMALL PROJECT EFFICIENT AND EFFECTIVE DISASTER
RECOVERY ACT**

SEPTEMBER 12, 2022.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 5641]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 5641) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to increase the threshold for eligibility for assistance under sections 403, 406, 407, and 502 of such Act, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	2
IV. Section-by-Section Analysis of the Bill, as Reported	3
V. Evaluation of Regulatory Impact	3
VI. Congressional Budget Office Cost Estimate	4
VII. Changes in Existing Law Made by the Bill, as Reported	5

I. PURPOSE AND SUMMARY

H.R. 5641, the *SPEED Recovery Act*, sets the Federal Emergency Management Agency’s (FEMA) small project threshold to \$1 million, thereby allowing more projects to proceed under simplified procedures for FEMA’s Public Assistance (PA) response and recovery grant programs. Simplified procedures allow FEMA to obligate funding based on cost estimates. The Fiscal Year 2022 threshold was \$139,800. Analysis provided by FEMA shows that when the small project threshold was implemented in 1988, it accounted for

95% of PA projects and 32% of funding. Using the FY 2022 threshold, it covered only 75% of projects and 2.3% of funding. The FEMA analysis indicates that raising the threshold to \$1 million would cover 93% of projects and 8.4% of funding in the current fiscal year, which is closer to the original intent. While FEMA recently used its own authority provided through the *Sandy Recovery Improvement Act of 2013* (Division B, Pub. L. 112–3) to increase the small project threshold to \$1 million, this bill codifies that decision and expresses congressional support for the change.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Section 422 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) was enacted by Congress to increase the administrative efficiency of FEMA’s PA program, which funds emergency response and long-term recovery work for certain entities after a presidential disaster declaration.¹ Within this section of the Stafford Act, a threshold is established to separate projects into small and large projects, while authorizing FEMA to apply “simplified procedures” to small PA projects.² The simplified procedures apply to projects that fall under the small project threshold to eliminate much of the administrative burden required for larger projects.³

Originally, Congress set the small project threshold at \$35,000, which represented 95% of FEMA’s projects under the PA grant program at the time, with the threshold increasing over time both by adjusting for inflation and by FEMA’s own authority to change the threshold.⁴ However, according to a report from FEMA, the small project threshold has not kept pace with the rate of increased spending under the PA program.⁵ Analysis by FEMA shows that when the small project threshold was implemented, it accounted for 95% PA response and recovery projects and 32% of funding. Using the FY 2022 threshold, it covered only 75% of projects and 2.3% of funding—much less than the original intent when Congress enacted simplified procedures. FEMA determined that the small project threshold should be increased to \$1,000,000, which would cover 93% of projects and 8.4% of funding.⁶ This change would allow FEMA to process the majority of smaller dollar projects on an expedited basis while focusing its limited resources on larger, more complex projects that encompass the majority of FEMA PA funding and warrant additional review and oversight.

III. LEGISLATIVE HISTORY

H.R. 5641 was introduced on October 20, 2021, by Representatives Graves (R–MO), DeFazio (D–OR), Webster (R–FL), and Titus (D–NV) and referred to the House Committee on Transportation and Infrastructure. The House passed the bill under suspension of the rules, as amended, by a vote of 414–11, on April 5, 2022.

¹ Federal Emergency Management Agency, *Public Assistance Simplified Procedures Threshold Determination: Fiscal Year 2020 Report to Congress* (July 28, 2022).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

H.R. 5641 was referred to the Senate Committee on Homeland Security and Governmental Affairs on April 6, 2022. The Committee considered the bill at a business meeting on August 3, 2022. During the meeting, Senator Scott offered an amendment that included a sunset after 4 years and required the Department of Homeland Security Office of the Inspector General (OIG) to audit and issue a report to Congress 3 years after enactment on whether the new \$1 million simplified procedure small project threshold resulted in any increased waste and abuse. Senator Portman offered a second-degree amendment that would strike the sunset required in Scott Amendment 1 but leave in place the audit by the OIG.

The Committee adopted Scott Amendment 1, as amended by the Portman Second Degree Amendment, and reported the bill favorably by voice vote, as amended. The Senators present were Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley.

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

Section 1. Short title

This section designates the name of the bill as the “Small Project Efficient and Effective Disaster Recovery Act, or SPEED Recovery Act.”

Section 2. Simplified procedure

This section updates the threshold to qualify as a “small project” under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, P.L. 93–288, as amended) to cover projects under \$1,000,000.

Section 3. Audit and review

This section creates new language that requires the Inspector General of the Department of Homeland Security to conduct and submit an audit and submit a report to Congress, within three years of enactment, on whether any additional waste and abuse occurred as a result of the amendment in section 2(a)(1).

V. EVALUATION OF REGULATORY IMPACT

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

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 22, 2022.

Hon. GARY PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5641, the SPEED Recovery Act.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 5641, SPEED Recovery Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on August 3, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	1	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 5641 would codify a final rule issued by the Federal Emergency Management Agency (FEMA) in August 2022 that allows more disaster relief projects to qualify as small projects and thus be approved for federal assistance under a simplified review process. That rule increased the upper monetary threshold for small projects from \$139,800 to \$1 million.¹ Projects under the threshold are approved for assistance based on estimated costs rather than on the actual costs of projects and are typically approved for assistance more quickly.

Because H.R. 5641 would codify an existing regulation, CBO estimates that enacting the provision related to a higher threshold for small projects would not affect the budget, relative to current law.

In addition, within three years of enactment, H.R. 5641 would require the inspector general of the Department of Homeland Security to audit projects that have received assistance under the higher threshold for the simplified review process to determine whether

¹ 1. Federal Emergency Management Agency, Public Assistance Program's Simplified Procedures Large Project Threshold, 44 C.F.R. §206.203 (2022).

there has been waste or abuse. Using information from FEMA and the Government Accountability Office about the cost of similar audits, CBO estimates that implementing that requirement would cost about \$1 million over the 2022–2027 period. Any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

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

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

ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

* * * * *

TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS

* * * * *

SEC. 422. SIMPLIFIED PROCEDURE.

(a) **IN GENERAL.**—If the Federal estimate of the cost of—

(1) repairing, restoring, reconstructing, or replacing under section 406 any damaged or destroyed public facility or private nonprofit facility,

(2) emergency assistance under section 403 or 502, or

(3) debris removed under section 407, is less than **[\$35,000] \$1,000,000** (or, if the Administrator has established a threshold under subsection (b), the amount established under subsection (b)), the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 403, 406, 407, or 502, as the case may be, on the basis of such Federal estimate. Such **[\$35,000] \$1,000,000** amount or, if applicable, the amount established under subsection (b), shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(b) **THRESHOLD.**—

(1) **REPORT.**—Not later than 1 year after the date of enactment of this subsection, the President, acting through the Administrator of the Federal Emergency Management Agency (in this section referred to as the “Administrator”), shall—

(A) complete an analysis to determine whether an increase in the threshold for eligibility under subsection (a) is appropriate, which shall include consideration of cost effectiveness, speed of recovery, capacity of grantees, past performance, and accountability measures; and

(B) 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 conducted under subparagraph (A).

(2) AMOUNT.—After the Administrator submits the report required under paragraph (1), the President shall direct the Administrator to—

(A) immediately establish a threshold for under this section in an appropriate amount, without regard to chapter 5 title 5, United States Code; and

(B) adjust the threshold annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor.

(3) REVIEW AND REPORT.—Not later than 3 years after the date on which the Administrator establishes a threshold under paragraph (2), and every 3 years thereafter, the President, acting through the Administrator, shall review the threshold for eligibility under this section *and 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 such review, including any recommendations developed pursuant to such review.*

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