

DISASTER MANAGEMENT COSTS
MODERNIZATION ACT

REPORT

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4654

TO AMEND SECTION 324 OF THE ROBERT T. STAFFORD
DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT
TO INCENTIVIZE STATES, INDIAN TRIBES, AND
TERRITORIES TO CLOSE DISASTER RECOVERY PROJECTS
BY AUTHORIZING THE USE OF EXCESS FUNDS FOR
MANAGEMENT COSTS FOR OTHER DISASTER RECOVERY PROJECTS



DECEMBER 14, 2022.—Ordered to be printed

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DISASTER MANAGEMENT COSTS MODERNIZATION ACT

DECEMBER 14, 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 S. 4654]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4654) to amend section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to incentivize States, Indian Tribes, and Territories to close disaster recovery projects by authorizing the use of excess funds for management costs for other disaster recovery projects, having considered the same, reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 4654, *the Disaster Management Costs Modernization Act*, would allow excess management funds authorized by the Federal Emergency Management Agency (FEMA) after a disaster or emergency to be rolled over after the close out of an incident. The excess funds can be used for disaster response and recovery capacity building or for management costs of other open disasters. Any excess management funds are still subject to the caps set in law and only available for a period of 5 years. Under this bill, excess costs

are defined as the difference between management costs authorized by law and the actual amount expended by the recipient.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Financial management is a crucial component of successful disaster response and recovery. Under the Stafford Act, management costs are defined to include any indirect cost, any 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.¹ Eligible expenses for management costs can include conducting preliminary damage assessments, trainings, site inspections, closeout reviews and more.²

Signed in 2018, as part of the Federal Aviation Administration Reauthorization Act, the Disaster Recovery Reform Act authorized a robust increase in management costs provided for disasters and emergencies across the country.³ According to the National Emergency Management Association (NEMA), despite an increase in emergency management funding, a major shortcoming is “the inability for grantees to utilize this allowance across all open disasters.”⁴ NEMA recommends for FEMA to allow grantees to utilize management funds across different open disasters which will, in turn, strengthen recovery and mitigation efforts.⁵ Allowing this flexibility was also proposed in a recent Government Accountability Office report as an option for FEMA to simplify federal disaster recovery program requirements.⁶

This legislation would allow for the excess management funds authorized by FEMA to a grantee after a disaster or emergency to be rolled over after the close out of an incident. The bill specifies that the excess funds may be used for activities associated with disaster recovery and preparedness. By allowing this flexibility, recipients of management costs will be able to help ensure that they have the necessary resources to manage future disasters and sustain response and recovery capabilities between disasters.

III. LEGISLATIVE HISTORY

S. 4654 was introduced on July 28, 2022 by Senators Hassan (D-NH) and Lankford (R-OK). The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs. The Committee considered this bill at a business meeting on August 3, 2022. An amendment in the nature of a substitute was filed by Senator Hassan and later modified. The modified substitute amendment incorporated technical drafting assistance from FEMA and made technical edits to the bill. The Hassan substitute amendment, as modified, was adopted by voice vote *en bloc* with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney,

¹ 42 U.S.C. § 5165(b).

² Federal Emergency Management Agency, *Public Assistance Management Costs (Interim): FEMA Recovery Policy* (FP-104-11-2) (Nov. 12, 2018).

³ Pub. L. No. 115-254 (2018).

⁴ National Emergency Management Association, *NEMA 2021 Policy Priorities* (2019) (<https://www.nemaweb.org/index.php/files/113/2021-Meeting-of-the-States/295/NEMA-2021-Policy-Priorities.pdf>).

⁵ *Id.*

⁶ Government Accountability Office, *Disaster Recovery: Actions Needed to Improve the Federal Approach* (GAO-23-104956) (Nov. 2022).

Scott, and Hawley present. The Committee ordered the bill, as amended by the modified Hassan substitute amendment, to be reported favorably by voice vote *en bloc*. Senators present for the vote 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 “Disaster Management Costs Modernization Act.”

Section 2. Use of excess funds for management costs

Subsection (a) amends section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by creating a new subsection within titled “Use of Excess Funds for Management Costs.” This subsection defines the term “excess funds for management costs” as the difference between management costs authorized by law and the actual amount expended by the recipient. The subsection also states that the rolled-over excess funds can be used for disaster response and recovery capacity building or for management costs of other open disasters. Additionally, this subsection provides that any excess management funds are still subject to the caps set in law and only available for a period of 5 years.

Subsection (b) clarifies this legislation applies to grants rewarded in relation to a declared major disaster or emergency that is open on, or made on or after enactment of this Act.

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. 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 III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

* * * * *

SEC. 324. MANAGEMENT COSTS.

(a) * * *

(b) * * *

(c) *USE OF EXCESS FUNDS FOR MANAGEMENT COSTS.—*

(1) DEFINITION.—In this subsection, the term ‘excess funds for management costs’ means the difference between—

(A) the amount of the applicable specific management costs authorized under subsection (b); and

(B) as of the date on which the incident is closed, the amount of funding for management costs activities expended by the grantee or subgrantee receiving the financial assistance for costs described in subparagraph (A).

(2) AVAILABILITY OF EXCESS FUNDS FOR MANAGEMENT COSTS.—The President may make available to a grantee or subgrantee receiving financial assistance under section 403, 404, 406, 407, or 502 any excess funds for management costs.

(3) USE OF FUNDS.—Excess funds for management costs made available to a grantee or subgrantee under paragraph (2) may be used for activities associated with building capacity to respond to or recover from the types of incidents for which assistance may be made available under section 403, 404, 406, 407, or 502 and to provide such assistance, including for providing training and other activities associated with any major disaster or emergency declaration, or to otherwise prepare for such an incident.

(4) AVAILABILITY.—Excess funds for management costs made available to a grantee or subgrantee under paragraph (2) shall remain available to the grantee or subgrantee until the date that is 5 years after the date on which the excess funds for management costs are made available under paragraph (2).

[(c)] (d) 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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