



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 27, 2018

### **S. 3041**

### **Disaster Recovery Reform Act of 2018**

*As ordered reported by the Senate Committee on Homeland Security  
and Governmental Affairs on June 13, 2018*

#### **SUMMARY**

S. 3041 would amend and authorize appropriations for several programs administered by the Federal Emergency Management Agency (FEMA). CBO estimates that implementing the bill would cost \$2.4 billion over the 2019-2023 period, assuming appropriation of the authorized and necessary amounts.

CBO estimates that enacting S. 3041 would increase direct spending by \$45 million over the 2019-2028 period and would decrease revenues by an insignificant amount in each year. Therefore, pay-as-you-go procedures apply.

CBO estimates that enacting S. 3041 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 3041 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 S. 3041 is shown in the following table. The costs of the legislation fall within budget function 450 (community and regional development).

By Fiscal Year, in Millions of Dollars

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019- 2023	2019- 2028
<b>INCREASES IN SPENDING SUBJECT TO APPROPRIATION</b>													
Emergency Management Grants													
Authorization Level	0	954	954	954	954	0	0	0	0	0	0	3,816	3,816
Estimated Outlays	0	70	213	403	622	742	741	551	333	143	0	2,049	3,816
Predisaster Mitigation Fund													
Estimated Authorization Level	0	120	24	24	24	24	24	24	24	24	24	216	336
Estimated Outlays	0	6	25	54	40	32	29	24	24	24	24	157	282
In-Lieu Public Assistance													
Contributions													
Estimated Authorization Level	0	21	21	21	21	21	21	21	21	21	21	105	210
Estimated Outlays	0	21	21	21	21	21	21	21	21	21	21	105	210
Assistance for Properties without Flood Insurance													
Estimated Authorization Level	0	12	12	12	12	12	12	12	12	12	12	60	120
Estimated Outlays	0	7	11	12	12	12	12	12	12	12	12	54	114
Forgone Recoveries of Improper Payment													
Estimated Authorization Level	0	8	6	6	4	3	0	0	0	0	0	27	27
Estimated Outlays	0	5	6	6	5	4	1	0	0	0	0	26	27
Wildfire Mitigation													
Estimated Authorization Level	0	6	6	6	6	6	6	6	6	6	6	24	54
Estimated Outlays	0	*	2	3	5	6	6	6	6	6	6	16	46
Disaster Assistance Arbitration													
Estimated Authorization Level	0	1	1	1	1	1	1	1	1	1	1	5	10
Estimated Outlays	0	*	1	1	1	1	1	1	1	1	1	4	9
Additional Reporting Requirements													
Estimated Authorization Level	0	2	*	*	*	*	*	*	*	*	*	2	3
Estimated Outlays	0	2	*	*	*	*	*	*	*	*	*	2	3
Total Increases													
Estimated Authorization Level	0	1,124	1,024	1,024	1,022	67	64	64	64	64	64	4,261	4,582
Estimated Outlays	9	111	279	500	705	818	811	615	397	207	64	2,413	4,507

(Continued)

**TABLE CONTINUED**

	By Fiscal Year, in Millions of Dollars											2019-	2019-
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2023	2028
<b>INCREASES OR DECREASES (-) IN DIRECT SPENDING</b>													
Disaster Unemployment Assistance Extension													
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	30	0	0	0	0	0	0	0	0	0	30	30
Assistance for Properties without Flood Insurance													
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	10	4	1	0	0	0	0	0	0	0	15	15
Foregone Recoveries of Improper Payment													
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	3	0	0	-1	-1	-1	0	0	0	0	1	0
Total Change													
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	43	4	1	-1	-1	-1	0	0	0	0	46	45

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

**BASIS OF ESTIMATE**

CBO assumes that S. 3041 will be enacted during fiscal year 2018 and that the authorized and necessary amounts will be appropriated for each year beginning in 2019. Estimated outlays are based on historical spending patterns.

**Spending Subject to Appropriation**

CBO estimates that implementing S. 3041 would cost \$2.4 billion over the 2019-2023 period.

**Emergency Management Grants.** S. 3041 would authorize the appropriation of \$950 million annually through 2022 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 2018, FEMA allocated \$350 million for such grants.

S. 3041 also would authorize the appropriation of \$4 million annually through 2022 for FEMA to provide grants to the Emergency Management Assistance Compact. The compact provides assistance when a governor declares a disaster 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 2018, FEMA provided \$2 million in such grants.

CBO estimates that providing those grants would cost about \$2.0 billion over the 2019-2023 period and an additional \$1.8 billion after 2023.

**Predisaster Mitigation Fund.** S. 3041 would create the National Public Infrastructure Predisaster Mitigation Fund. For each major disaster declared 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 transferred into the proposed fund from unobligated appropriated balances in the Disaster Relief Fund (DRF). The new fund would be used to provide technical and financial assistance to states and localities for hazard mitigation designed to reduce injury, loss of life, and damage and destruction of property.

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 declared 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 that the Congress provides similar amounts in subsequent years, CBO estimates that \$24 million (6 percent of \$400 million) would be transferred to the fund each year.

Because the provision does not change any underlying authority to provide disaster relief, in CBO's view the legislation implicitly authorizes the appropriation of amounts equal to the amounts that would be transferred from the DRF to the new fund. Thus, CBO estimates that spending under this section would total \$157 million over the 2019-2023 period.

**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 percentage 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.

S. 3041 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 this section would cost \$105 million over the 2019-2023 period.

**Assistance for Properties without Flood Insurance.** Under current law, a public or private nonprofit facility located within an area designated as having at least a 1 percent chance of being flooded in any year and that is not covered by flood insurance (either through FEMA's National Flood Insurance Program or through a private company) will see its assistance reduced in the event of flooding in a major disaster. In those cases, the assistance for each building of a multi-structure complex is reduced by the amount of insurance proceeds that FEMA estimates the public or nonprofit entity could have received if it were insured. Under S. 3041, that reduction in assistance would not be applied to more than one building of a multi-structure educational, law enforcement, correctional, fire, or medical campus.

Using historical data provided by FEMA, CBO estimates that implementing this section would cost \$54 million over the 2019-2023 period. The bill also would make that change retroactive to all flooding disasters since January 2016, which would increase direct spending as discussed below under the heading Direct Spending.

**Forgone Recoveries of Improper Payments.** CBO estimates that prohibiting FEMA from recouping certain improper payments would reduce direct spending by \$27 million over the next 10 years. (See the discussion under the heading Direct Spending.) Under current law, recouped amounts are deposited in the DRF and subsequently spent on recovery costs for future disasters. 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 \$26 million over the 2019-2023 period.

**Wildfire Mitigation.** S. 3041 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 annual appropriations of \$6 million and would cost \$16 million over the 2019-2023 period.

**Disaster Assistance Arbitration.** The bill would authorize the Civilian Board of Contract Appeals to arbitrate a determination of disaster assistance made by FEMA if an applicant for disaster assistance requests such arbitration. Using information from FEMA on the expected number of arbitration requests, CBO estimates that implementing this provision would cost \$4 million over the 2019-2023 period.

**Additional Reporting Requirements.** S. 3041 would require FEMA to issue six new regulations, eight new guidance documents, and 26 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 2019-2023 period.

### **Direct Spending**

CBO estimates that enacting S. 3041 would increase direct spending by \$45 million over the 2019-2028 period.

**Disaster Unemployment Assistance Extension.** S. 3041 would direct FEMA to extend the period that people in Puerto Rico and the U.S. Virgin Islands who were affected by Hurricanes Irma and Maria can receive Disaster Unemployment Assistance (DUA). Under current law, DUA can be provided for up to 26 weeks from the date of the disaster declaration. Under the bill, that period would be extended to 52 weeks from the declaration date and would allow DUA to be provided retroactively to people who would have been eligible for such assistance beyond the 26-week period allowed under current law. Using information from FEMA and the Department of Labor on the number of people who would have been eligible for such assistance and the expected length of time they could have received that assistance, CBO estimates that enacting this provision would increase spending of previously appropriated DRF funds by \$30 million in 2019. (Under current law, CBO estimates that those amounts would otherwise outlay after 2028.)

**Assistance for Properties without Flood Insurance.** As described above under the heading Spending Subject to Appropriation, the bill would increase the amount of assistance that certain public or private nonprofit entities can receive if they suffer flood losses at multi-structure facilities that are not covered by flood insurance. That provision would be retroactive for flood losses that have occurred since January 2016.

Using data provided by FEMA on the amount of assistance that was reduced for the relevant types of structures between 2016 and 2018, CBO estimates that enacting this section would increase spending of previously appropriated DRF funds by \$15 million over the 2019-2028 period. (Under current law, CBO estimates that those amounts would otherwise outlay after 2028.)

**Forgone Recoveries of Improper Payments.** Under current law, FEMA must recoup any 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 the DRF and may be spent on future disasters without further appropriation. Under S. 3041, improper payments made to

individuals would have to be recouped within three years of their disbursement. That limitation would not apply where there is evidence of fraud.

The Government Accountability Office reported that about 3 percent of the approximately \$1.6 billion spent by FEMA for individual assistance 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 35 percent of those payments have been recovered. Thus, CBO estimates that about \$27 million in improper payments for individual assistance that are in the process of being recouped would no longer be collected under S. 3041. 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 2019-2028 period. However, because spending lags recoupments, there would be a \$1 million cost over the 2019-2023 period.

The bill also would allow FEMA to waive the recovery of improper individual assistance payments on a case-by-case basis, so long as the improper payment was not made as a result of fraud. As of July 2018, FEMA has not identified a significant amount of improper payments for individual assistance that were made within the last three years. (Improper payments made more than three years ago would be covered by the limitation discussed above.) Furthermore, CBO has no basis to estimate the timing or magnitude of waivers that would be made under S. 3041 for recovery of improper payments that have not yet been disbursed. Thus, CBO does not estimate any additional forgone recoupments associated with the waiver authority that would be provided under the bill.

## **Revenues**

S. 3041 would authorize the Department of State to waive certain fees associated with applications for the replacement of passports if the person applying for such a document lost their original passport in a major disaster. Portions of the passport replacement application fee are remitted to the Treasury and recorded in the budget as revenues. Using information from FEMA on the number of individuals that would qualify for such waivers, CBO estimates that any loss of revenues from those waivers would not be significant in any year.

## **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. (The revenue effects are not significant and are not shown in the table.)

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**CBO Estimate of Pay-As-You-Go Effects for S. 3041, the Disaster Recovery Reform Act of 2018, as Ordered Reported by the Senate Committee on Homeland Security and Governmental Affairs on June 13, 2018.**

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	By Fiscal Year, in Millions of Dollars												
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2018-2023	2018-2028
<b>NET INCREASE IN THE DEFICIT</b>													
Statutory Pay-As-You-Go Impact	0	43	4	1	-1	-1	-1	0	0	0	0	46	45

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**INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS**

CBO estimates that enacting S. 3041 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

**MANDATES**

S. 3041 contains no intergovernmental or private-sector mandates as defined in UMRA.

**PREVIOUS CBO ESTIMATE**

On March 8, 2018, CBO transmitted an estimate for H.R. 4460, the Disaster Recovery Reform Act, as ordered reported by the House Committee on Transportation and Infrastructure on November 30, 2017. Several of the provisions in S. 3041 are similar to those in H.R. 4460. Differences in CBO’s estimates of the two pieces of legislation stem from differences in the text of the legislation and new information that CBO has obtained since we transmitted the estimate for H.R. 4460.

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