

**Calendar No. 440**

111TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
111-215

PREDISASTER HAZARD MITIGATION  
ACT OF 2010

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 3249

TO AMEND THE ROBERT T. STAFFORD DISASTER RELIEF AND  
EMERGENCY ASSISTANCE ACT TO REAUTHORIZE THE  
PREDISASTER HAZARD MITIGATION PROGRAM AND FOR OTHER  
PURPOSES



JUNE 23, 2010.—Ordered to be printed

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# CONTENTS

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



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### PREDISASTER HAZARD MITIGATION ACT OF 2010

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

### R E P O R T

[To accompany S. 3249]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3249) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster hazard mitigation program and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

#### I. PURPOSE AND SUMMARY

The Federal Emergency Management Agency's (FEMA's) Predisaster Mitigation (PDM) program offers state, local and tribal governments technical and financial assistance to implement predisaster hazard mitigation measures that will reduce injuries, loss of life and property damage in the event of a disaster. The purpose of this legislation is to enable FEMA to continue this important work by reauthorizing the PDM program for five years. The bill also authorizes a process for awarding PDM grants, one which is competitive, but operates in the context of statutory minimum and maximum per-state funding amounts.

#### II. BACKGROUND AND NEED FOR LEGISLATION

The PDM program provides technical and financial assistance to state, local and tribal governments for projects to mitigate the risk from future disasters. Administered by FEMA, the PDM program seeks to reduce injuries, loss of life and property damage and destruction, and thereby lessen the harmful impact of disasters on the individuals affected and decrease the cost to government at all

levels.<sup>1</sup> The PDM program offers funding for both predisaster mitigation planning and the implementation of mitigation projects. Planning assistance helps local communities recognize hazards and determine priorities for risk reduction. Assistance for mitigation projects enables communities to, among other things, acquire and relocate structures outside of floodplains, retrofit buildings to better withstand storms and earthquakes and implement protective measures for gas and electric utilities, water and sewer systems, and roads and bridges.<sup>2</sup>

The PDM program has been successful and cost-effective. Funding from PDM has successfully reduced loss of life, personal injuries, damage to and destruction of property and disruption of communities from disasters. By doing so, it has saved the federal taxpayer from spending significant sums on disaster recovery and relief that would have been otherwise incurred had the community not successfully applied mitigation techniques. A 2007 Congressional Budget Office (CBO) report, for example, found that the PDM program reduced future losses by roughly three dollars (measured in 2007 dollars) for each dollar spent on PDM-funded mitigation efforts supported under the program. Moreover, CBO found that PDM-funded projects could lower the need for federal post-disaster assistance so that the federal PDM investment would actually save taxpayer money.<sup>3</sup>

A 2005 report by the Multihazard Mitigation Council<sup>4</sup> also showed substantial benefits and cost savings from FEMA's hazard mitigation programs generally.<sup>5</sup> Looking at a range of FEMA mitigation programs,<sup>6</sup> the study found that, on average, one dollar spent by FEMA on predisaster mitigation provided the nation with roughly four dollars in future benefits. Moreover, the report projected that FEMA mitigation grants awarded between 1993 and 2003 would save more than 220 lives and prevent nearly 4,700 injuries over approximately 50 years.<sup>7</sup> Significantly, the study found

<sup>1</sup>The program is authorized under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act") (42 U.S.C. §§ 5133, et seq.). For a discussion of the program, see FEMA, FY 2009 Pre-Disaster Mitigation Program Guidance, available at <http://www.fema.gov/library/viewRecord.do?id=3029>.

<sup>2</sup>*Id.*

<sup>3</sup>"Potential Cost Savings from the Pre-Disaster Mitigation Program" (September 2007) p. VII, available at [www.cbo.gov/ftpdocs/86xx/doc8653/09-28-Disaster.pdf](http://www.cbo.gov/ftpdocs/86xx/doc8653/09-28-Disaster.pdf). CBO conducted this assessment to satisfy a statutory mandate under section 209 of the Disaster Mitigation Act of 2000, P.L. 106-390 (42 U.S.C. § 5121 note), which is the Act that authorized the current PDM program.

<sup>4</sup>The Multihazard Mitigation Council is a council of the National Institute of Building Sciences, which is a non-profit organization authorized by the U.S. Congress in 1974. The National Institute of Building Sciences is a public/private partnership with a mission to serve the public interest by supporting advances in building science and technology to improve the built environment.

<sup>5</sup>Multihazard Mitigation Council of the National Institute of Building Sciences, "Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities" (2005) available at [http://www.nibs.org/client/assets/files/mmc/Part1\\_final.pdf](http://www.nibs.org/client/assets/files/mmc/Part1_final.pdf). The Council conducted this assessment for FEMA, which was required to fund an independent study to assess the future savings from various types of mitigation activities. This was required in the Senate Appropriations Committee Report for the Departments of Veterans Affairs and Housing Development, and Independent Agencies Appropriations Bill for FY 2000 (Senate Report 106-161).

<sup>6</sup>The study looked at three major mitigation programs at FEMA: the Hazard Mitigation Grant Program (which assists in long-term hazard mitigation measures following presidentially declared disasters); Project Impact (which supported predisaster mitigation programs from 1997 to 2001); and the Flood Mitigation Assistance Program (which funds measures to reduce the risk of flood damage to structures insurable under the National Flood Insurance Program).

<sup>7</sup>Multihazard Mitigation Council, *supra* note 5, at iii.

that “a dollar spent from the federal treasury on FEMA mitigation grants potentially saves it about \$3.65.”<sup>8</sup>

Under section 203(m) of the Stafford Act (42 U.S.C. § 5133(m)), the authority to provide PDM assistance will terminate on September 30, 2010. In order to enable this highly valuable program to continue saving lives, property and taxpayer dollars, S. 3249 would remove the sunset provision and authorize annual appropriations through fiscal year (FY) 2015.

The bill requires grant applicants to compete for program funding, although it sets a minimum and maximum amount of funding for each state. The Committee disapproves of the earmarking of PDM program money in recent Homeland Security Appropriations legislation and believes that awarding funds competitively is far more likely to ensure assistance for the highest-priority and most cost-effective mitigation projects. To emphasize that point, the Committee adopted an amendment specifying that no PDM program funds could be used to carry out congressionally directed spending, as defined by rule XLIV of the Standing Rules of the Senate.

Also, given the substantial taxpayer savings generated by competitively awarded PDM grants, the Committee authorized additional funding for the program over recently appropriated levels; the bill authorizes appropriations for FY 2011 at \$180 million, FY 2012 at \$190 million, and \$200 million for each year from FY 2013 through FY 2015.

### III. LEGISLATIVE HISTORY

Chairman Lieberman and Ranking Minority Member Collins introduced S. 3249 on April 22, 2010. The bill was referred to the Homeland Security and Governmental Affairs Committee.

On April 28, 2010, the Committee considered S. 3249. The Committee adopted by voice vote one amendment offered by Senator Coburn. The amendment prohibited funds available to the PDM program from going to congressionally directed spending as defined by rule XLIV of the Standing Rules of the Senate. In addition, it required a report to Congress if any funds are awarded through the PDM program using non-competitive procedures. The Committee then ordered the bill, as amended, favorably reported by a voice vote. The Senators present for the voice votes were Senators Lieberman, Akaka, Carper, Pryor, Tester, Kaufman, Collins, Coburn, McCain, and Graham.

### IV. SECTION-BY-SECTION ANALYSIS

#### *Section 1. Short title*

This section of the bill states that the short title of the Act is the “Predisaster Hazard Mitigation Act of 2010.”

#### *Section 2. Predisaster hazard mitigation*

Subsection (a) amends section 203(f) of the Stafford Act (42 U.S.C. § 5133(f)) to require the President to award PDM grants by a competitive process, but to ensure that the amount of financial assistance made available to a state for a fiscal year does not fall

<sup>8</sup>Multihazard Mitigation Council, *supra* note 5, at 6.

below the lesser of \$575,000 or the amount that is equal to one percent of the total funds appropriated to carry out section 203. Additionally, the subsection requires that the amount of financial assistance available to a state may not exceed 15 percent of the total funds appropriated to carry out section 203 for the fiscal year.

Subsection (b) amends section 203(m) of the Stafford Act (42 U.S.C. §5133(m)) to repeal the provision sunsetting the PDM program as of September 30, 2010. It also authorizes appropriations of \$180 million for fiscal year 2011, \$190 million for fiscal year 2012, and \$200 million for fiscal years 2013 through 2015.

Subsection (c) makes technical and conforming amendments to the Stafford Act to change the term “Director” of FEMA to “Administrator” of FEMA, in accordance with the Post-Katrina Emergency Management Reform Act of 2006, P.L. 109–295.

### *Section 3. Prohibition on earmarks*

This section amends section 203 of the Stafford Act (42 U.S.C. §5133) to create a new paragraph (n), which prohibits the use of PDM program funds for congressionally directed spending and requires the FEMA Administrator to submit a report to Congress should any grant be awarded using non-competitive procedures.

## V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirement of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and has determined that the bill would have no regulatory impact. Moreover, CBO states that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

## VI. ESTIMATED COST OF LEGISLATION

MAY 11, 2010.

Hon. JOSEPH I. LIEBERMAN,  
*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 S. 3249, the Predisaster Hazard Mitigation Act of 2010.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

### *S. 3249—Predisaster Hazard Mitigation Act of 2010*

Summary: S. 3249 would authorize appropriations to the Federal Emergency Management Agency (FEMA) for grants to states and localities for predisaster mitigation programs, such as constructing levies, relocating homes from flood-prone areas, and retrofitting buildings in earthquake zones. CBO estimates that implementing this legislation would cost \$630 million over the 2011–2015 period and \$340 million in later years, assuming appropriation of the specified amounts. Enacting S. 3249 would not affect direct spend-



ing or revenues; therefore, pay-as-you-go procedures would not apply.

S. 3249 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.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 3249 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level .....	180	190	200	200	200	970
Estimated Outlays .....	18	73	149	192	198	630

Basis of estimate: Under current law, FEMA is authorized, through 2010, to provide grants and technical assistance to states and localities to implement measures that prevent and mitigate damages in areas frequented by natural disasters. This legislation would extend this authority through 2015 and authorize the appropriation of \$970 million over the 2011–2015 period. The authorization level for 2011 would be an increase of \$80 million over the 2010 appropriation level of \$100 million (see Public Law 111–83). CBO’s estimate of outlays is based on historical spending patterns for such programs.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 3249 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Assuming appropriation of authorized amounts, those governments would benefit from \$630 million in grants over the 2011–2015 period for predisaster mitigation activities. Any costs to those governments, including matching funds, would be incurred voluntarily.

Previous CBO estimate: On April 16, 2009, CBO transmitted a cost estimate for H.R. 1746, the Pre-Disaster Mitigation Act of 2009, as ordered reported by the House Committee on Transportation and Infrastructure. The bills are similar; however, S. 3249 would authorize the appropriation of \$130 million less over the 2011–2012 period for predisaster mitigation grants. Additionally, S. 3249 would authorize the predisaster mitigation grant program through 2015, while H.R. 1746 would authorize it through 2012.

Estimate prepared by: Federal Costs: Daniel Hoople; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Sam Wice.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for 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, the following 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.

## TITLE 42—THE PUBLIC HEALTH AND WELFARE

### CHAPTER 68—DISASTER RELIEF

#### TITLE II. DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

##### SEC. 5133. PREDISASTER HAZARD MITIGATION.

(a) \* \* \*

\* \* \* \* \*

[(f) ALLOCATION OF FUNDS.—The amount of financial assistance made available to a State (including amounts made available to local governments of the State) under this section for a fiscal year—

[(1) shall be not less than the lesser of—

[(A) \$500,000; or

[(B) the amount that is equal to 1.0 percent of the total funds appropriated to carry out this section for the fiscal year;

[(2) shall not exceed 15 percent of the total funds described in paragraph (1)(B); and

[(3) shall be subject to the criteria specified in subsection (g).]

(f) ALLOCATION OF FUNDS.—

(1) *IN GENERAL.*—*The President shall award financial assistance under this section on a competitive basis 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.*

(g) \* \* \*

\* \* \* \* \*

[(m) TERMINATION OF AUTHORITY.—The authority provided by this section terminates September 30, 2010.] (m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

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

(2) *\$190,000,000 for fiscal year 2012;*

(3) *\$200,000,000 for fiscal year 2013;*

(4) *\$200,000,000 for fiscal year 2014; and*

(5) *\$200,000,000 for fiscal year 2015.*

(n) *PROHIBITION ON EARMARKS.*

(1) *IN GENERAL.*—None of the funds appropriated or otherwise made available to carry out this section may be used for congressionally directed spending, as defined under rule XLIV of the Standing Rules of the Senate.

(2) *REPORT TO CONGRESS.*—If grants are awarded under this section using procedures other than competitive procedures, the Administrator of the Federal Emergency Management Agency shall submit to Congress a report explaining why competitive procedures were not used.

**SEC. 5134. INTERAGENCY TASK FORCE.**

(a) \* \* \*

(b) **CHAIRPERSON.**—The **[Director]** Administrator of the Federal Emergency Management Agency shall serve as the chairperson of the task force.

(c) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

**SEC. 5144. EMERGENCY SUPPORT AND RESPONSE TEAMS.**

(a) \* \* \*

(b) **EMERGENCY RESPONSE TEAMS.**—

(1) **ESTABLISHMENT.**—In carrying out subsection (a), the President, acting through the **[Director]** Administrator of the Federal Emergency Management Agency, shall establish—

(A) \* \* \*

\* \* \* \* \*

(2) **TARGET CAPABILITY LEVEL.**—The **[Director]** Administrator shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006, are established for Federal emergency response teams.

(3) **PERSONNEL.**—The President, acting through the **[Director]** Administrator, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels. Each emergency response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident.

(4) **READINESS REPORTING.**—The **[Director]** Administrator shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006.

\* \* \* \* \*

**SEC. 5165d. DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.**

(a) \* \* \*

\* \* \* \* \*

(c) DUTIES.—The Small State and Rural Advocate shall—

(1) \* \* \*

\* \* \* \* \*

(3) conduct such other activities as the [Director] *Administrator* of the Federal Emergency Management Agency considers appropriate.

TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS

\* \* \* \* \*

SEC. 5170c. HAZARD MITIGATION.

(a) \* \* \*

(b) PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.—

(1) GENERAL AUTHORITY.—In providing hazard mitigation assistance under this section in connection with flooding, the [Director] *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) \* \* \*

(B) on or after the date of enactment of this subsection, the applicant for the assistance enters into an agreement with the [Director] *Administrator* that provides assurances that—

(i) \* \* \*

(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) \* \* \*

(II) \* \* \*

(III) a structure that the [Director] *Administrator* approves in writing before the commencement of the construction of the structure; and

(iii) \* \* \*

\* \* \* \* \*

SEC. 5172. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.

(a) \* \* \*

\* \* \* \* \*

(c) LARGE IN-LIEU CONTRIBUTIONS.—

(1) FOR PUBLIC FACILITIES.—

(A) \* \* \*

\* \* \* \* \*

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

(i) \* \* \*

(ii) any uninsured public facility located in a special flood hazard area identified by the [Director] *Admin-*

*istrator* 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) \* \* \*

\* \* \* \* \*

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

(i) \* \* \*

(ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the [Director] *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 [Director] *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 facility and associated expenses shall be reduced in accordance with paragraph (2).

(2) \* \* \*

\* \* \* \* \*

(e) ELIGIBLE COST.—

(1) \* \* \*

\* \* \* \* \*

(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] *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) \* \* \*

\* \* \* \* \*

TITLE VI—EMERGENCY PREPAREDNESS

\* \* \* \* \*

SEC. 5195a. DEFINITIONS.

(a) DEFINITIONS.—For purposes of this title only:

(1) \* \* \*

\* \* \* \* \*

(4) ORGANIZATIONAL EQUIPMENT.—The term “organizational equipment” means equipment determined by the [Director] *Administrator* to be necessary to an emergency preparedness

organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.

(5) \* \* \*

\* \* \* \* \*

[(7) DIRECTOR.—The term “Director” means the Director of the Federal Emergency Management Agency.]

(7) ADMINISTRATOR.—*The term “Administrator” means the Administrator of the Federal Emergency Management Agency.*

\* \* \* \* \*

**SEC. 5195b. ADMINISTRATION OF TITLE.**

This title shall be carried out by the [Director] *Administrator* of the Federal Emergency Management Agency.

**Subtitle A—Powers and Duties**

**SEC. 5196. DETAILED FUNCTIONS OF ADMINISTRATION.**

(a) IN GENERAL.—In order to carry out the policy described in section 601, the [Director] *Administrator* shall have the authorities provided in this section.

(b) FEDERAL EMERGENCY RESPONSE PLANS AND PROGRAMS.—The [Director] *Administrator* may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the [Director] *Administrator* may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.

(c) DELEGATION OF EMERGENCY PREPAREDNESS RESPONSIBILITIES.—With the approval of the President, the [Director] *Administrator* may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

(d) COMMUNICATIONS AND WARNINGS.—The [Director] *Administrator* may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.

(e) EMERGENCY PREPAREDNESS MEASURES.—The [Director] *Administrator* may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including—

(1) \* \* \*

\* \* \* \* \*

(f) TRAINING PROGRAMS.—(1) The [Director] *Administrator* may—

(A) \* \* \*

\* \* \* \* \*

(2) The terms prescribed by the [Director] *Administrator* for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

(3) The [Director] *Administrator* may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

(g) PUBLIC DISSEMINATION OF EMERGENCY PREPAREDNESS INFORMATION.—The [Director] *Administrator* may publicly disseminate appropriate emergency preparedness information by all appropriate means.

(h) EMERGENCY PREPAREDNESS COMPACTS.—(1) The [Director] *Administrator* shall establish a program supporting the development of emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation, by—

(A) \* \* \*

\* \* \* \* \*

(2) The [Director] *Administrator* may—

(A) \* \* \*

\* \* \* \* \*

(i) MATERIALS AND FACILITIES.—(1) The [Director] *Administrator* may procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.

(2) \* \* \*

(3) The [Director] *Administrator* may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.

(4) The [Director] *Administrator* may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the [Director] *Administrator* shall prescribe.

(j) FINANACIAL CONTRIBUTIONS.—(1) The [Director] *Administrator* may make financial contributions, on the basis of programs or projects approved by the [Director] *Administrator*, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the [Director] *Administrator* shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.

(2) The [Director] *Administrator* may make financial contributions, on the basis of programs or projects approved by the [Director] *Administrator*, to the States and local authorities for animal emergency preparedness purposes, including the procurement, con-

struction, leasing, or renovating of emergency shelter facilities and materials that will accommodate people with pets and service animals.

(3) \* \* \*

(4) The amounts authorized to be contributed by the **[Director] Administrator** to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

(5) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the **[Director] Administrator** for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the **[Director] Administrator**) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.

(6) The amounts authorized to be contributed by the **[Director] Administrator** to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the **[Director] Administrator** may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.

(7) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the **[Director] Administrator**. The **[Director] Administrator** shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the **[Director] Administrator**, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the **[Director] Administrator** may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the **[Director] Administrator** determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the **[Director] Administrator** necessary for the use of such facility for emergency preparedness purposes.

(8) The **[Director] Administrator** shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.

(9) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the **[Director] Administrator** under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance



with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a–276a–5)), and every such employee shall receive compensation at a rate not less than one and 1/2 times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The **[Director]** *Administrator* shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276(c)).

(k) **SALE OR DISPOSAL OF CERTAIN MATERIALS AND FACILITIES.**—The **[Director]** *Administrator* may arrange for the sale or disposal of materials and facilities found by the **[Director]** *Administrator* to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

**SEC. 5196a. MUTUAL AID PACTS BETWEEN STATES AND NEIGHBORING COUNTRIES.**

The **[Director]** *Administrator* shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

**SEC. 5196b. CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES.**

(a) **GENERAL AUTHORITY.**—To further assist in carrying out the purposes of this title, the **[Director]** *Administrator* may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 611(h)) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

(b) **PLAN REQUIREMENTS.**—A plan submitted under this section shall—

(1) \* \* \*

\* \* \* \* \*

(3) provide for the development of State and local emergency preparedness operational plans, including a catastrophic incident annex, pursuant to standards approved by the **[Director]** *Administrator*;

(4) \* \* \*

(5) provide that the State shall make such reports in such form and content as the **[Director]** *Administrator* may require;

(6) make available to duly authorized representatives of the [Director] Administrator and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section; and

(7) \* \* \*

\* \* \* \* \*

(d) TERMS AND CONDITIONS.—The [Director] Administrator shall establish such other terms and conditions as the [Director] Administrator considers necessary and proper to carry out this section.

(e) \* \* \*

(f) ALLOCATION OF FUNDS.—For each fiscal year concerned, the [Director] Administrator shall allocate to each State, in accordance with regulations and the total sum appropriated under this title, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the [Director] Administrator shall prescribe. The [Director] Administrator may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

(g) STANDARDS FOR STATE AND LOCAL EMERGENCY PREPAREDNESS OPERATIONAL PLANS.—In approving standards for State and local emergency preparedness operational plans pursuant to subsection (b)(3), the [Director] Administrator shall ensure that such plans take into account the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency.

(h) SUBMISSION OF PLAN.—If a State fails to submit a plan for approval as required by this section within 60 days after the [Director] Administrator notifies the States of the allocations under this section, the [Director] Administrator may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the [Director] Administrator, will best assure the adequate development of the emergency preparedness capability of the United States.

(i) ANNUAL REPORTS.—The [Director] Administrator shall report annually to the Congress all contributions made pursuant to this section.

\* \* \* \* \*

**SEC. 5196f. DISASTER RELATED INFORMATION SERVICES.**

(a) IN GENERAL.—Consistent with section 308(a) of this title, the [Director] Administrator of Federal Emergency Management Agency shall—

(1) \* \* \*

\* \* \* \* \*

(b) GROUP SIZE.—For purposes of subsection (a), the [Director] Administrator of Federal Emergency Management Agency shall define the size of a population group.

## Subtitle B—General Provisions

### SEC. 5197. ADMINISTRATIVE AUTHORITY.

(a) IN GENERAL.—For the purpose of carrying out the powers and duties assigned to the [Director] *Administrator* under this title, the [Director] *Administrator* may exercise the administrative authorities provided under this section.

(b) ADVISORY PERSONNEL.—(1) The [Director] *Administrator* may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom or citizens of Canada) as the [Director] *Administrator* considers to be necessary in carrying out the provisions of this title.

(2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$180 for each day of service, plus authorized subsistence and travel, as determined by the [Director] *Administrator*.

(c) SERVICES OF OTHER AGENCY PERSONNEL AND VOLUNTEERS.—The [Director] *Administrator* may—

(1) \* \* \*

\* \* \* \* \*

(d) GIFTS.—Notwithstanding any other provision of law, the [Director] *Administrator* may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this title.

(e) REIMBURSEMENT.—The [Director] *Administrator* may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this title to the extent funds are available.

(f) PRINTING.—The [Director] *Administrator* may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the [Director] *Administrator* considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44, United States Code.

(g) RULES AND REGULATIONS.—The [Director] *Administrator* may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title and perform any of the powers and duties provided by this title. The [Director] *Administrator* may perform any of the powers and duties provided by this title through or with the aid of such officials of the Federal Emergency Management Agency as the [Director] *Administrator* may designate.

(h) FAILURE TO EXPEND CONTRIBUTIONS CORRECTLY.—(1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the [Director] *Administrator* finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title for approved emergency preparedness plans, programs, or projects, the [Director] *Administrator* may notify such State or person that further payments will not be made to the State or person from appro-

priations under this title (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the [Director] *Administrator* is satisfied that there will no longer be any such failure.

(2) Until so satisfied, the [Director] *Administrator* shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.

(3) \* \* \*

**SEC. 5197a. SECURITY REGULATIONS.**

(a) ESTABLISHMENT.—The [Director] *Administrator* shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the [Director] *Administrator* considers necessary.

(b) LIMITATIONS ON EMPLOYEE ACCESS TO INFORMATION.—No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the [Director] *Administrator*.

(c) NATIONAL SECURITY POSITIONS.—No employee of the Federal Emergency Management Agency shall occupy any position determined by the [Director] *Administrator* to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the [Director] *Administrator* of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the [Director] *Administrator* of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the [Director] *Administrator* of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the [Director] *Administrator* of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the [Director] *Administrator* of the Federal Emergency Management Agency for action.

(d) \* \* \*

**SEC. 5197b. USE OF EXISTING FACILITIES.**

In performing duties under this title, the **[Director]** *Administrator*—

(1) \* \* \*

\* \* \* \* \*

(3) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the **[Director]** *Administrator*, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this title.

**SEC. 5197c. ANNUAL REPORT TO CONGRESS.**

The **[Director]** *Administrator* shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this title, accompanied by such recommendations as the **[Director]** *Administrator* considers appropriate.

\* \* \* \* \*

**SEC. 5197h. MINORITY EMERGENCY PREPAREDNESS DEMONSTRATION PROGRAM.**

(a) **IN GENERAL.**—The **[Director]** *Administrator* shall establish a minority emergency preparedness demonstration program to research and promote the capacity of minority communities to provide data, information, and awareness education by providing grants to or executing contracts or cooperative agreements with eligible nonprofit organizations to establish and conduct such programs.

(b) \* \* \*

\* \* \* \* \*

(e) **APPLICATION AND REVIEW PROCEDURE.**—To be eligible to receive a grant, contract, or cooperative agreement under this section, an organization must submit an application to the **[Director]** *Administrator* at such time, in such manner, and accompanied by such information as the **[Director]** *Administrator* may reasonably require. The **[Director]** *Administrator* shall establish a procedure by which to accept such applications.

(f) \* \* \*

\* \* \* \* \*