

[Discussion Draft]
AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4557
OFFERED BY MRS. WAGNER OF MISSOURI

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Reforming Disaster
3 Recovery Act of 2018”.

4 **SEC. 2. COMMUNITY DEVELOPMENT BLOCK GRANT DIS-**
5 **ASTER RECOVERY PROGRAM.**

6 (a) IN GENERAL.—Title I of the Housing and Com-
7 munity Development Act of 1974 (42 U.S.C. 5301 et seq.)
8 is amended by adding at the end the following new section:

9 **“SEC. 123. CDBG-DISASTER RECOVERY ASSISTANCE.**

10 “(a) AUTHORITY; USE.—The Secretary may provide
11 assistance under this section to States, units of general
12 local government, and Indian tribes for necessary expenses
13 for activities authorized under this title related to disaster
14 relief, resiliency, long-term recovery, restoration of infra-
15 structure and housing, mitigation, and economic revital-
16 ization in the most impacted and distressed areas result-
17 ing from a major disaster declared pursuant to the Robert

1 T. Stafford Disaster Relief and Emergency Assistance Act
2 (42 U.S.C. 5121 et seq.).

3 “(b) TIMING.—

4 “(1) DEADLINES FOR ALLOCATION OF
5 AMOUNTS.—After the enactment of an Act making
6 funds available for assistance under this section, the
7 Secretary shall allocate for grantees, based on the
8 best available data—

9 “(A) not less than one-third of funds pro-
10 vided for assistance under this section, within
11 60 days of the date of the enactment of such
12 Act; and

13 “(B) all remaining unallocated funds to be
14 provided to grantees, within 180 days of such
15 date of enactment.

16 “(2) DISBURSEMENT OF AMOUNTS.—Subject to
17 subsection (c)(1), the Secretary shall provide for the
18 disbursement of the amounts allocated for a grantee
19 over time in accordance with obligations of the
20 grantee, but shall require the grantee to be in sub-
21 stantial compliance with the requirements of this
22 section before each such disbursement.

23 “(3) COORDINATION OF DISASTER BENEFITS
24 AND DATA WITH OTHER FEDERAL AGENCIES.—

1 “(A) COORDINATION OF DATA.—The Sec-
2 retary shall coordinate with other agencies to
3 obtain data on recovery needs. The Adminis-
4 trator of the Federal Emergency Management
5 Agency and the Administrator of the Small
6 Business Administration shall share data with
7 the Secretary to coordinate disaster benefits.

8 “(B) COORDINATION WITH FEMA.—The
9 Secretary and the Administrator of the Federal
10 Emergency Management Agency shall share
11 with each other, and make publicly available, all
12 data collected or analyzed during the course of
13 a disaster recovery for which assistance is pro-
14 vided under this section, including—

15 “(i) all data on damage caused by the
16 disaster;

17 “(ii) information on how any Federal
18 assistance provided in connection with the
19 disaster is expended;

20 “(iii) information regarding the effect
21 of the disaster on education, transportation
22 capabilities and dependence, housing needs
23 and displacement.

1 “(C) PROHIBITION AND REQUIREMENTS
2 REGARDING SMALL BUSINESS ADMINISTRATION
3 LOANS.—

4 “(i) PROHIBITION.—Funds made
5 available for use under this section may
6 not be used to repay Small Business Ad-
7 ministration loans.

8 “(ii) FAMILY ELIGIBILITY.— Any
9 family having an income exceeding 120
10 percent of the area median income shall
11 not be eligible for assistance provided from
12 funds made available for use under this
13 section unless (i) the family has applied for
14 a Small Business Administration loan for
15 such purpose, or (ii) such loans are not
16 available at the time of application for as-
17 sistance from funds made available for use
18 under this section; except that the Sec-
19 retary may establish income ceilings higher
20 or lower than 120 percent of the median
21 for the area on the basis of the Secretary’s
22 findings that such variations are necessary
23 because of unusually high or low family in-
24 comes.

1 “(D) TREATMENT OF DUPLICATIVE BENE-
2 FITS.—In any case in which a grantee provides
3 assistance that duplicates benefits available to a
4 person for the same purpose from another
5 source, the grantee shall collect any duplicative
6 assistance that it provides and return the
7 amount of duplicative assistance to the grantees
8 funds available for use under this section, or to
9 the Secretary, or be subject to remedies for
10 noncompliance under section 111, unless the
11 Secretary issues a public determination that it
12 is not in the best interest of the Federal Gov-
13 ernment to pursue such remedies.

14 “(E) PROTECTION OF PERSONALLY IDEN-
15 TIFIABLE INFORMATION.—In carrying out this
16 paragraph, the Secretary shall take such ac-
17 tions as may be necessary to ensure that per-
18 sonally identifiable information regarding recipi-
19 ents of assistance provided from funds made
20 available under this section is not made publicly
21 available by the Department of Housing and
22 Urban Development or any agency with which
23 information is shared pursuant to this para-
24 graph..

25 “(c) PLAN FOR USE OF ASSISTANCE.—

1 “(1) REQUIREMENT.—Not later than 120 days
2 after the allocation pursuant to subsection (b)(1)(B)
3 of the funds made available by an appropriations
4 Act for assistance under this section and before the
5 Secretary obligates any of such funds for a grantee,
6 the grantee shall submit a plan to the Secretary for
7 approval detailing the proposed use of all funds,
8 which shall include, at a minimum—

9 “(A) criteria for eligibility and a descrip-
10 tion of how the use of such funds will address
11 disaster relief, resiliency, long-term recovery
12 and restoration of infrastructure and housing,
13 and mitigation and economic revitalization in
14 the most impacted and distressed areas;

15 “(B) identification of officials and offices
16 responsible for administering such funds and
17 identifying and recovering duplicate benefits;
18 and

19 “(C) an agreement to share data with Fed-
20 eral agencies and other providers of disaster re-
21 lief, which shall include information the grantee
22 has regarding the matters described in subpara-
23 graph (B).

24 “(2) APPROVAL.—The Secretary shall, by regu-
25 lation, specify criteria for approval of plans under

1 paragraph (1), including approval of substantial
2 amendments to such plans.

3 “(3) DISAPPROVAL.—The Secretary shall dis-
4 approve a plan or substantial amendment to a plan
5 if—

6 “(A) the Secretary determines that a plan
7 or substantial amendment does not meet the
8 approval criteria; or

9 “(B) the Secretary determines, based on
10 damage and unmet needs assessments of the
11 Secretary and the Federal Emergency Manage-
12 ment Administration, that the plan or amend-
13 ment does not provide for equitable allocation
14 of resources—

15 “(i) between infrastructure and hous-
16 ing projects; or

17 “(ii) between homeowners, renters,
18 and persons experiencing homelessness.

19 “(C) RESUBMISSION.—The Secretary shall
20 permit a grantee to revise and resubmit dis-
21 approved plans.

22 “(D) TIMING.—The Secretary shall ap-
23 prove or disapprove a plan not later than 120
24 days after submission of the plan to the Sec-
25 retary.

1 “(d) FINANCIAL CONTROLS.—

2 “(1) COMPLIANCE SYSTEM.—The Secretary
3 shall develop and maintain a system to ensure that
4 each grantee has in place—

5 “(A) proficient financial controls and pro-
6 curement processes;

7 “(B) adequate procedures to ensure that
8 all eligible families and individuals are approved
9 for assistance with amounts made available
10 under this section and that recipients are pro-
11 vided the full amount of assistance for which
12 they are eligible;

13 “(C) adequate procedures to prevent any
14 duplication of benefits, as defined by section
15 312 of the Robert T. Stafford Disaster Relief
16 and Emergency Assistance Act (42 U.S.C.
17 5155), to ensure timely expenditure of funds,
18 and to detect and prevent waste, fraud, and
19 abuse of funds; and

20 “(D) adequate procedure to ensure the
21 grantee will maintain comprehensive and pub-
22 licly accessible websites that make available in-
23 formation regarding all disaster recovery activi-
24 ties assisted with such funds, which information
25 shall include—

1 “(i) full and unredacted copies of all
2 requests for qualification for assistance or
3 for procurement with such funds, however
4 styled;

5 “(ii) all responses to such requests;

6 “(iii) the identity of any individual or
7 entity that reviews, evaluates, scores, or
8 otherwise influences or determines the dis-
9 position of such requests;

10 “(iv) all reports, however styled, con-
11 taining the reviewing individual or entity’s
12 scores, findings; and conclusions regarding
13 such requests; and

14 “(v) any resulting contract, agree-
15 ment, or other disposition of such requests.

16 “(2) CERTIFICATION.—As a condition of mak-
17 ing any grant, the Secretary shall certify in advance
18 that the grantee has in place the processes and pro-
19 cedures required under subparagraphs (A) and (B)
20 of paragraph (1).

21 “(e) USE OF FUNDS.—

22 “(1) ADMINISTRATIVE COSTS.—A State, unit of
23 general local government, or Indian tribe receiving a
24 grant under this section may use not more than 10
25 percent of the amount of grant funds received for

1 administrative costs and shall document the use of
2 funds for such purpose in accordance with such re-
3 quirements as the Secretary shall establish.

4 “(2) LIMITATION ON USE.—Amounts from a
5 grant under this section may not be used for activi-
6 ties reimbursable by, or for which funds are made
7 available by—

8 “(A) the Federal Emergency Management
9 Agency, including under the Robert T. Stafford
10 Disaster Relief and Emergency Assistance Act
11 or the National Flood Insurance Program; or

12 “(B) the Army Corps of Engineers.

13 “(3) HUD ADMINISTRATIVE COSTS.—

14 “(A) LIMITATION.—Of any funds made
15 available for use under this section by any sin-
16 gle appropriations Act, the Secretary may use
17 0.1 percent of any such amount exceeding
18 \$1,000,000,000 for necessary costs, including
19 information technology costs, of administering
20 and overseeing the obligation and expenditure
21 of amounts made available for use under this
22 section.

23 “(B) TRANSFER OF FUNDS.—Any amounts
24 made available for use in accordance with sub-
25 paragraph (A) shall—

1 “(i) be transferred to the account for
2 ‘Program Office Salaries and Expenses—
3 Community Planning and Development’
4 for the Department;

5 “(ii) shall remain available until ex-
6 pended; and

7 “(iii) may be used for such adminis-
8 trative costs for administering any funds
9 appropriated to the Department for any
10 disaster and related purposes in any prior
11 or future Act making funds available for
12 use under this section, notwithstanding the
13 disaster for which such funds were appro-
14 priated.

15 “(4) INSPECTOR GENERAL.—Of any funds
16 made available for use in accordance with paragraph
17 (3)(A), 30 percent shall be transferred to the Office
18 of the Inspector General for necessary costs of au-
19 dits, reviews, oversight, evaluation, and investiga-
20 tions relating to amounts made available for use
21 under this section.

22 “(5) CAPACITY BUILDING.—Of any funds made
23 available for use under this section, not more than
24 0.1 percent or \$10,000,000, whichever is less, shall
25 be made available for capacity building and technical

1 assistance, including assistance regarding con-
2 tracting and procurement processes, to support
3 grantees and subgrantees receiving funds under this
4 section.

5 “(6) COMPLIANCE WITH STORM WATER PRO-
6 TECTIONS.—The Secretary shall provide that no
7 funds made available under this section may be used
8 for construction, repair, or rehabilitation of any in-
9 frastructure unless the infrastructure assisted com-
10 plies with any minimum standards for protection
11 from floods and stormwaters, including the Federal
12 Flood Risk Management Standards of the Federal
13 Emergency Management Agency.

14 “(7) FLOOD RISK MITIGATION.—

15 “(A) REQUIREMENTS.—The Secretary
16 shall require that any structure that is located
17 in an area having special flood hazards and
18 that is newly constructed, for which substantial
19 damage is repaired, or that is substantially im-
20 proved, using amounts made available under
21 this section, shall be elevated with the lowest
22 floor, including the basement, at least two feet
23 above the base flood level.

24 “(B) DEFINITIONS.—For purposes of sub-
25 paragraph (A), the terms ‘area having special

1 flood hazards’, ‘newly constructed’, ‘substantial
2 damage’, ‘substantial improvement’, and ‘base
3 flood level’ have the same meanings as under
4 the Flood Disaster Protection Act of 1973 and
5 the National Flood Insurance Act of 1968 (42
6 U.S.C. 4001 et seq.).

7 “(f) ADMINISTRATION.—In administering any
8 amounts made available for assistance under this section,
9 the Secretary—

10 “(1) may not allow a grantee to use any such
11 amounts for any purpose other than the purpose ap-
12 proved by the Secretary in the plan submitted under
13 subsection (c)(1) to the Secretary for use of such
14 amounts;

15 “(2) may not permit a grantee to amend a plan
16 to retroactively approve a beneficiary’s use of funds
17 for an eligible activity other than an activity for
18 which the funds were originally approved in the
19 plan; and

20 “(3) shall prohibit a grantee from delegating,
21 by contract or otherwise, the responsibility for inher-
22 ent government functions.

23 “(g) TRAINING FOR GRANT MANAGEMENT FOR SUB-
24 GRANTEES.—The Secretary shall require each grantee to
25 provide ongoing training to all staff and subgrantees.

1 “(h) PROCUREMENT PROCESSES AND PROCEDURES
2 FOR STATES.—

3 “(1) STATE PROCESSES AND PROCEDURES.—In
4 procuring property or services to be paid for in
5 whole or in part with amounts from a grant under
6 this section, a State shall—

7 “(A) follow its own procurement processes
8 and procedures, but only if the Secretary makes
9 a determination that such processes and proce-
10 dures comply with the requirements under
11 paragraph (2); or

12 “(B) comply with such processes and pro-
13 cedures as the Secretary shall, by regulation,
14 establish for purposes of this section.

15 “(2) REQUIREMENTS.—The requirements under
16 this paragraph with respect to the procurement
17 processes and procedures of a State are that such
18 processes and procedures shall—

19 “(A) provide for full and open competition
20 and require cost or price analysis;

21 “(B) include requirements for procurement
22 policies and procedures for subgrantees, based
23 on full and open competition;

24 “(C) specify methods of procurement and
25 their applicability, but not allow for cost-plus-a-

1 percentage-of cost or percentage-of-construc-
2 tion-cost methods of procurement;

3 “(D) include standards of conduct gov-
4 erning employees engaged in the award or ad-
5 ministration of contracts;

6 “(E) ensure that all purchase orders and
7 contracts include any clauses required by Fed-
8 eral Statute, Executive Order, or implementing
9 regulation.

10 “(i) TREATMENT OF CDBG ALLOCATIONS.—
11 Amounts made available for use under this section shall
12 not be considered relevant to the non-disaster formula al-
13 locations made pursuant to section 106 of this title (42
14 U.S.C. 5306).

15 “(j) WAIVERS.—

16 “(1) AUTHORITY.—Subject to the other provi-
17 sions of this section, in administering amounts made
18 available for use under this section, the Secretary
19 may waive, or specify alternative requirements for,
20 any provision of any statute or regulation that the
21 Secretary administers in connection with the obliga-
22 tion by the Secretary or the use by the recipient of
23 such funds (except for requirements related to fair
24 housing, nondiscrimination, labor standards, and the
25 environment and except for the requirements of this

1 section), if the Secretary makes a public finding that
2 good cause exists for the waiver or alternative re-
3 quirement and such waiver or alternative require-
4 ment would not be inconsistent with the overall pur-
5 pose of this title.

6 “(2) NOTICE AND PUBLICATION.—Any waiver
7 of or alternative requirement pursuant to paragraph
8 (1) shall not take effect before the expiration of the
9 5-day period beginning upon the publication of no-
10 tice in the Federal Register of such waiver or alter-
11 native requirement.

12 “(3) LOW- AND MODERATE-INCOME USE.—A
13 waiver pursuant to paragraph (1) may not reduce
14 the percentage of funds that must be used for activi-
15 ties that benefit persons of low and moderate income
16 to less than 70 percent, unless the Secretary specifi-
17 cally finds that there is compelling need to further
18 reduce the percentage requirement.

19 “(4) PROHIBITION.—The Secretary may not
20 waive any provision of this section pursuant to the
21 authority under paragraph (1).

22 “(k) ENVIRONMENTAL REVIEW.—

23 “(1) ADOPTION.—Notwithstanding subsection
24 (j)(1), recipients of funds provided under this section
25 that use such funds to supplement Federal assist-

1 ance provided under section 402, 403, 404, 406,
2 407, 408(e)(4), 428, or 502 of the Robert T. Staf-
3 ford Disaster Relief and Emergency Assistance Act
4 (42 U.S.C. 5121 et seq.) may adopt, without review
5 or public comment, any environmental review, ap-
6 proval, or permit performed by a Federal agency,
7 and such adoption shall satisfy the responsibilities of
8 the recipient with respect to such environmental re-
9 view, approval, or permit under section 104(g)(1) of
10 this title (42 U.S.C. 5304(g)(1)).

11 “(2) RELEASE OF FUNDS.—Notwithstanding
12 section 104(g)(2) of this title (42 U.S.C.
13 5304(g)(2)), the Secretary may, upon receipt of a
14 request for release of funds and certification, imme-
15 diately approve the release of funds for an activity
16 or project assisted with amounts made available for
17 use under this section if the recipient has adopted
18 an environmental review, approval or permit under
19 paragraph (1) or the activity or project is categori-
20 cally excluded from review under the National Envi-
21 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
22 seq.).

23 “(1) COLLECTION OF INFORMATION; AUDITS AND
24 OVERSIGHT.—

1 “(1) COLLECTION OF INFORMATION.—For each
2 major disaster for which assistance is made available
3 under this section, the Secretary shall collect infor-
4 mation regarding all recovery efforts so assisted and
5 shall make such information available to the public
6 and to the Inspector General for the Department of
7 Housing and Urban Development, and shall report
8 to the Congress regarding such efforts. Information
9 collected and reported shall be disaggregated by
10 race, geography, and all protected classes of individ-
11 uals under the Robert T. Stafford Disaster Relief
12 and Emergency Assistance Act, the Americans with
13 Disabilities Act of 1990, the Fair Housing Act, the
14 Civil Rights Act of 1964, and other civil rights and
15 nondiscrimination protections.

16 “(2) AUDITS AND OVERSIGHT.—In conducting
17 audits, reviews, oversight, evaluation, and investiga-
18 tions, in addition to activities designed to prevent
19 and detect waste, fraud, and abuse, the Inspector
20 General shall review programs of grantees under this
21 section for providing disaster relief and recovery as-
22 sistance to ensure such programs fulfill their pur-
23 poses and serve all eligible applicants for disaster re-
24 lief or recovery assistance.

1 “(m) PRE-CERTIFICATION FOR UNITS OF GENERAL
2 LOCAL GOVERNMENT.—

3 “(1) IN GENERAL.—The Secretary shall carry
4 out a program under this subsection to provide for
5 units of general local government to pre-certify as el-
6 igible grantees for assistance under this section.

7 “(2) REQUIREMENTS.—To be eligible for pre-
8 certification under the program under this sub-
9 section a unit of general local government shall—

10 “(A) demonstrate to the satisfaction of the
11 Secretary compliance with the requirements of
12 this section; and

13 “(B) have previously received assistance as
14 a grantee or subgrantee under this section, or
15 with amounts made available for the Commu-
16 nity Development Block Grant—Disaster Re-
17 covery account, in connection with two or more
18 major disasters declared pursuant to the Robert
19 T. Stafford Disaster Relief and Emergency As-
20 sistance Act (42 U.S.C. 5121 et seq.).

21 “(3) DURATION.—Pre-certification under the
22 program under this subsection shall be effective for
23 a term of 10 years.

24 “(n) DEPOSIT OF UNUSED AMOUNTS IN FUND.—

1 “(1) IN GENERAL.—If any amounts made avail-
2 able for assistance under this section to grantees re-
3 main unexpended upon the earlier of—

4 “(A) the date that the grantee of such
5 amounts notifies the Secretary that the grantee
6 has completed all activities identified in the
7 grantee’s plan for use of such amounts that was
8 approved by the Secretary in connection with
9 such grant; or

10 “(B) the expiration of the 6-year period
11 beginning upon the Secretary obligating such
12 amounts to the grantee, as such period may be
13 extended pursuant to paragraph (2),

14 the Secretary shall transfer such unexpended
15 amounts to the Secretary of the Treasury for deposit
16 into the Community Development Block Grant Dis-
17 aster Recovery Reserve Fund established under sec-
18 tion 124, except that the Secretary may, by regula-
19 tion, permit the grantee to retain amounts needed to
20 close out the grant.

21 “(2) EXTENSION OF PERIOD FOR USE OF
22 FUNDS.—The period under paragraph (1)(B) shall
23 be extended by not more than 3 years if, before the
24 expiration of such 6-year period, the Director of the
25 Office of Management and Budget, upon a request

1 by the Secretary, waives this requirement and sub-
2 mits a written justification for such waiver to the
3 Committees on Appropriations of the House of Rep-
4 resentatives and the Senate that specifies the period
5 of such extension.

6 **“SEC. 124. COMMUNITY DEVELOPMENT BLOCK GRANT DIS-**
7 **ASTER RECOVERY RESERVE FUND.**

8 “(a) ESTABLISHMENT.—There is established in the
9 Treasury of the United States an account to be known
10 as the Community Development Block Grant Disaster Re-
11 covery Reserve Fund (in this section referred to as the
12 ‘Fund’).

13 “(b) AMOUNTS.—The Fund shall consist of any
14 amounts appropriated to or deposited into the Fund, in-
15 cluding amounts deposited into the Fund pursuant to sec-
16 tion 123(n).

17 “(c) USE.—Amounts in the Fund shall be available
18 only for providing assistance under section 123, but only
19 to the extent provided in advance in appropriations Acts.”.

20 (b) REGULATIONS.—Not later than the expiration of
21 the 12-month period beginning on the date of the enact-
22 ment of this Act, the Secretary of Housing and Urban
23 Development shall issue regulations to carry out sections
24 123 and 124 of the Housing and Community Development

- 1 Act of 1974, as added by the amendment made by sub-
- 2 section (a) of this section.

Amend the title so as to read: “A bill to authorize the Secretary of Housing and Urban Development to provide disaster assistance to States, units of general government, and Indian tribes under a community development block grant disaster recovery program, and for other purposes.”.

