

116TH CONGRESS  
2D SESSION

# S. 3418

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to allow the Administrator of the Federal Emergency Management Agency to provide capitalization grants to States to establish revolving funds to provide hazard mitigation assistance to reduce risks from disasters and natural hazards, and other related environmental harm.

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## IN THE SENATE OF THE UNITED STATES

MARCH 9, 2020

Mr. PETERS (for himself and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to allow the Administrator of the Federal Emergency Management Agency to provide capitalization grants to States to establish revolving funds to provide hazard mitigation assistance to reduce risks from disasters and natural hazards, and other related environmental harm.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Safeguarding Tomor-  
3 row through Ongoing Risk Mitigation Act of 2020” or the  
4 “STORM Act”.

5 **SEC. 2. GRANTS TO ENTITIES FOR ESTABLISHMENT OF**  
6 **HAZARD MITIGATION REVOLVING LOAN**  
7 **FUNDS.**

8       Title II of the Robert T. Stafford Disaster Relief and  
9 Emergency Assistance Act (42 U.S.C. 5131 et seq.) is  
10 amended by adding at the end the following:

11 **“SEC. 205. GRANTS TO ENTITIES FOR ESTABLISHMENT OF**  
12 **HAZARD MITIGATION REVOLVING LOAN**  
13 **FUNDS.**

14       “(a) GENERAL AUTHORITY.—

15           “(1) IN GENERAL.—The Administrator may  
16 enter into agreements with eligible entities to make  
17 capitalization grants to such entities for the estab-  
18 lishment of hazard mitigation revolving loan funds  
19 (referred to in this section as ‘entity loan funds’) for  
20 providing funding assistance to local governments to  
21 carry out eligible projects under this section to re-  
22 duce disaster risk in order to decrease—

23           “(A) the loss of life and property;

24           “(B) the cost of insurance; and

25           “(C) Federal disaster payments.

1           “(2) AGREEMENTS.—Any agreement entered  
2           into under this section shall require the participating  
3           entity to—

4                   “(A) comply with the requirements of this  
5                   section; and

6                   “(B) use accounting, audit, and fiscal pro-  
7                   cedures conforming to generally accepted ac-  
8                   counting standards.

9           “(b) APPLICATION.—

10                   “(1) IN GENERAL.—To be eligible to receive a  
11                   capitalization grant under this section, an eligible  
12                   entity shall submit to the Administrator an applica-  
13                   tion that includes the following:

14                           “(A) Project proposals comprised of local  
15                           government hazard mitigation projects, on the  
16                           condition that the entity provides public notice  
17                           not less than 6 weeks prior to the submission  
18                           of an application.

19                           “(B) An assessment of recurring major  
20                           disaster vulnerabilities impacting the entity that  
21                           demonstrates a risk to life and property.

22                           “(C) A description of how the hazard miti-  
23                           gation plan of the entity has or has not taken  
24                           the vulnerabilities described in subparagraph  
25                           (B) into account.

1           “(D) A description about how the projects  
 2           described in subparagraph (A) could conform  
 3           with the hazard mitigation plan of the entity  
 4           and of the unit of local government.

5           “(E) A proposal of the systematic and re-  
 6           gional approach to achieve resilience in a vul-  
 7           nerable area, including impacts to river basins,  
 8           river corridors, watersheds, estuaries, bays,  
 9           coastal regions, micro-basins, micro-watersheds,  
 10          ecosystems, and areas at risk of earthquakes,  
 11          tsunamis, droughts, and wildfires.

12          “(2) TECHNICAL ASSISTANCE.—The Adminis-  
 13          trator shall provide technical assistance to eligible  
 14          entities for applications under this section.

15          “(c) ENTITY LOAN FUND.—

16               “(1) ESTABLISHMENT OF FUND.—An entity  
 17               that receives a capitalization grant under this sec-  
 18               tion shall establish an entity loan fund that complies  
 19               with the requirements of this subsection.

20               “(2) FUND MANAGEMENT.—Except as provided  
 21               in paragraph (3), entity loan funds shall—

22                       “(A) be administered by the agency re-  
 23                       sponsible for emergency management; and

24                       “(B) include only—

1 “(i) funds provided by a capitalization  
2 grant under this section;

3 “(ii) repayments of loans under this  
4 section to the entity loan fund; and

5 “(iii) interest earned on amounts in  
6 the entity loan fund.

7 “(3) ADMINISTRATION.—A participating entity  
8 may combine the financial administration of the en-  
9 tity loan fund of such entity with the financial ad-  
10 ministration of any other revolving fund established  
11 by such entity if the Administrator determines  
12 that—

13 “(A) the capitalization grant, entity share,  
14 repayments of loans, and interest earned on  
15 amounts in the entity loan fund are accounted  
16 for separately from other amounts in the revolv-  
17 ing fund; and

18 “(B) the authority to establish assistance  
19 priorities and carry out oversight activities re-  
20 mains in the control of the entity agency re-  
21 sponsible for emergency management.

22 “(4) ENTITY SHARE OF FUNDS.—

23 “(A) IN GENERAL.—On or before the date  
24 on which a participating entity receives a cap-  
25 italization grant under this section, the entity

1           shall deposit into the entity loan fund of such  
2           entity, an amount equal to not less than 10 per-  
3           cent of the amount of the capitalization grant.

4           “(B) REDUCED GRANT.—If, with respect  
5           to a capitalization grant under this section, a  
6           participating entity deposits in the entity loan  
7           fund of the entity an amount that is less than  
8           10 percent of the total amount of the capitaliza-  
9           tion grant that the participating entity would  
10          otherwise receive, the Administrator shall re-  
11          duce the amount of the capitalization grant re-  
12          ceived by the entity to the amount that is 10  
13          times the amount so deposited.

14          “(d) APPORTIONMENT.—

15               “(1) IN GENERAL.—Except as otherwise pro-  
16               vided by this subsection, the Administrator shall ap-  
17               portion funds made available to carry out this sec-  
18               tion to entities that have entered into an agreement  
19               under subsection (a)(2) in amounts as determined  
20               by the Administrator.

21               “(2) RESERVATION OF FUNDS.—The Adminis-  
22               trator shall reserve not more than 2.5 percent of the  
23               amount made available to carry out this section for  
24               the Federal Emergency Management Agency for—

1           “(A) administrative costs incurred in car-  
 2           rying out this section;

3           “(B) providing technical assistance to par-  
 4           ticipating entities under subsection (b)(2); and

5           “(C) capitalization grants to insular areas  
 6           under paragraph (4).

7           “(3) PRIORITY.—In the apportionment of cap-  
 8           italization grants under this subsection, the Admin-  
 9           istrator shall give priority to entity applications  
 10          under subsection (b) that—

11           “(A) propose projects increasing resilience  
 12           and reducing risk of harm to natural and built  
 13           infrastructure;

14           “(B) involve a partnership between two or  
 15           more eligible entities to carry out a project or  
 16           similar projects;

17           “(C) take into account regional impacts of  
 18           hazards on river basins, river corridors, micro-  
 19           watersheds, macro-watersheds, estuaries, lakes,  
 20           bays, and coastal regions and areas at risk of  
 21           earthquakes, tsunamis, droughts, and wildfires;  
 22           or

23           “(D) propose projects for the resilience of  
 24           major economic sectors or critical national in-  
 25           frastructure, including ports, global commodity

1 supply chain assets (located within an entity or  
2 within the jurisdiction of local governments, in-  
3 sular areas, and tribal governments), power and  
4 water production and distribution centers, and  
5 bridges and waterways essential to interstate  
6 commerce.

7 “(4) INSULAR AREAS.—

8 “(A) APPORTIONMENT.—From any  
9 amount remaining of funds reserved under  
10 paragraph (2), the Administrator may enter  
11 into agreements to provide capitalization grants  
12 to insular areas.

13 “(B) REQUIREMENTS.—An insular area  
14 receiving a capitalization grant under this sec-  
15 tion shall comply with the requirements of this  
16 section as applied to participating entities.

17 “(e) ENVIRONMENTAL REVIEW OF REVOLVING LOAN  
18 FUND PROJECTS.—The Administrator may delegate to a  
19 participating entity all of the responsibilities for environ-  
20 mental review, decision making, and action pursuant the  
21 National Environmental Policy Act of 1969 (42 U.S.C.  
22 4321 et seq.), and other applicable Federal environmental  
23 laws including the Endangered Species Act of 1973 (16  
24 U.S.C. 1531 et seq.) and the National Historic Preserva-  
25 tion Act of 1966 (16 U.S.C. 470 et seq.) that would apply



1 to the Administrator were the Administrator to undertake  
 2 projects under this section as Federal projects so long as  
 3 the participating entity carry out such responsibilities in  
 4 the same manner and subject to the same requirements  
 5 as if the Administrator carried out such responsibilities.

6 “(f) USE OF FUNDS.—

7 “(1) TYPES OF ASSISTANCE.—Amounts depos-  
 8 ited in an entity loan fund, including loan repay-  
 9 ments and interest earned on such amounts, may be  
 10 used—

11 “(A) to make loans, on the condition  
 12 that—

13 “(i) such loans are made at an inter-  
 14 est rate of not more than 1 percent;

15 “(ii) annual principal and interest  
 16 payments will commence not later than 1  
 17 year after completion of any project and all  
 18 loans made under this subparagraph will  
 19 be fully amortized—

20 “(I) not later than 20 years after  
 21 the date on which the project is com-  
 22 pleted; or

23 “(II) for projects in a low-income  
 24 geographic area, not later than 30  
 25 years after the date on which the

1 project is completed and not longer  
2 than the expected design life of the  
3 project;

4 “(iii) the loan recipient of a loan  
5 under this subparagraph establishes a  
6 dedicated source of revenue for repayment  
7 of the loan;

8 “(iv) the loan recipient of a loan  
9 under this subparagraph has a hazard  
10 mitigation plan that has been approved by  
11 the Administrator; and

12 “(v) the entity loan fund will be cred-  
13 ited with all payments of principal and in-  
14 terest on all loans made under this sub-  
15 paragraph;

16 “(B) for mitigation efforts, in addition to  
17 mitigation planning under section 322 not to  
18 exceed 10 percent of the capitalization grants  
19 made to the participating entity in a fiscal year;

20 “(C) for the reasonable costs of admin-  
21 istering the fund and conducting activities  
22 under this section, except that such amounts  
23 shall not exceed \$100,000 per year, 2 percent  
24 of the capitalization grants made to the partici-  
25 pating entity in a fiscal year, or 1 percent of

1 the value of the entity loan fund, whichever  
2 amount is greatest, plus the amount of any fees  
3 collected by the entity for such purpose regard-  
4 less of the source; and

5 “(D) to earn interest on the entity loan  
6 fund.

7 “(2) PROHIBITION ON DETERMINATION THAT  
8 LOAN IS A DUPLICATION.—In carrying out this sec-  
9 tion, the Administrator may not determine that a  
10 loan is a duplication of assistance or programs  
11 under this Act.

12 “(3) PROJECTS AND ACTIVITIES ELIGIBLE FOR  
13 ASSISTANCE.—Except as provided in this subsection,  
14 a participating entity may use funds in the entity  
15 loan fund to provide financial assistance for projects  
16 or activities that mitigate the impacts of natural  
17 hazards including—

18 “(A) drought and prolonged episodes of in-  
19 tense heat;

20 “(B) severe storms, including hurricanes,  
21 tornados, wind storms, cyclones, and severe  
22 winter storms;

23 “(C) wildfires;

24 “(D) earthquakes;

25 “(E) flooding;

1 “(F) shoreline erosion;

2 “(G) high water levels; and

3 “(H) storm surges.

4 “(4) ZONING AND LAND USE PLANNING  
 5 CHANGES.—A participating entity may use not more  
 6 than 10 percent of a capitalization grant under this  
 7 section to enable units of local government to imple-  
 8 ment zoning and land use planning changes focused  
 9 on—

10 “(A) the development and improvement of  
 11 zoning and land use codes that incentivize and  
 12 encourage low-impact development, resilient  
 13 wildland-urban interface land management and  
 14 development, natural infrastructure, green  
 15 stormwater management, conservation areas  
 16 adjacent to floodplains, implementation of wa-  
 17 tershed or greenway master plans, and re-  
 18 connection of floodplains;

19 “(B) the study and creation of agricultural  
 20 risk compensation districts where there is a de-  
 21 sire to remove or set-back levees protecting  
 22 highly developed agricultural land to mitigate  
 23 for flooding, allowing agricultural producers to  
 24 receive compensation for assuming greater flood  
 25 risk that would alleviate flood exposure to popu-

lations centers and areas with critical national infrastructure;

“(C) the study and creation of land use incentives that reward developers for greater reliance on low impact development stormwater best management practices, exchange density increases for increased open space and improvement of neighborhood catch basins to mitigate urban flooding, reward developers for including and augmenting natural infrastructure adjacent to and around building projects without reliance on increased sprawl, and reward developers for addressing wildfire ignition; and

“(D) the study and creation of an erosion response plan that accommodates river, lake, forest, plains, and ocean shoreline retreating or bluff stabilization due to increased flooding and disaster impacts.

“(5) ESTABLISHING AND CARRYING OUT BUILDING CODE ENFORCEMENT.—A participating entity may use capitalization grants under this section to enable units of local government to establish and carry out the latest published editions of relevant building codes, specifications, and standards for the purpose of protecting the health, safety, and

1 general welfare of the buildings users against disas-  
 2 ters and natural hazards.

3 “(6) ADMINISTRATIVE AND TECHNICAL  
 4 COSTS.—For each fiscal year, a participating entity  
 5 may use the amount described in paragraph (1)(C)  
 6 to—

7 “(A) pay the reasonable costs of admin-  
 8 istering the programs under this section, includ-  
 9 ing the cost of establishing an entity loan fund;  
 10 and

11 “(B) provide technical assistance to recipi-  
 12 ents of financial assistance from the entity loan  
 13 fund, on the condition that such technical as-  
 14 sistance does not exceed 5 percent of the cap-  
 15 italization grant made to such entity.

16 “(7) LIMITATION FOR SINGLE PROJECTS.—A  
 17 participating entity may not provide an amount  
 18 equal to or more than \$5,000,000 to a single hazard  
 19 mitigation project.

20 “(g) INTENDED USE PLANS.—

21 “(1) IN GENERAL.—After providing for public  
 22 comment and review, and consultation with appro-  
 23 priate government agencies of the State or Indian  
 24 Tribe, Federal agencies, and interest groups, each  
 25 participating entity shall annually prepare and sub-

1 mit to the Administrator a plan identifying the in-  
2 tended uses of the entity loan fund.

3 “(2) CONTENTS OF PLAN.—An entity intended  
4 use plan prepared under paragraph (1) shall in-  
5 clude—

6 “(A) the integration of entity planning ef-  
7 forts, including entity hazard mitigation plans  
8 and other programs and initiatives relating to  
9 mitigation of major disasters carried out by  
10 such entity;

11 “(B) an explanation of the mitigation and  
12 resiliency benefits the entity intends to achieve  
13 by—

14 “(i) reducing future damage and loss  
15 associated with hazards;

16 “(ii) reducing the number of severe  
17 repetitive loss structures and repetitive loss  
18 structures in the entity;

19 “(iii) decreasing the number of insur-  
20 ance claims in the entity from injuries re-  
21 sulting from major disasters or other nat-  
22 ural hazards; and

23 “(iv) increasing the rating under the  
24 community rating system under section  
25 1315(b) of the National Flood Insurance

1 Act of 1968 (42 U.S.C. 4022(b)) for com-  
 2 munities in the entity;

3 “(C) information on the availability of, and  
 4 application process for, financial assistance  
 5 from the entity loan fund of such entity;

6 “(D) the criteria and methods established  
 7 for the distribution of funds;

8 “(E) the amount of financial assistance  
 9 that the entity anticipates apportioning;

10 “(F) the expected terms of the assistance  
 11 provided from the entity loan fund; and

12 “(G) a description of the financial status  
 13 of the entity loan fund, including short-term  
 14 and long-term goals for the fund.

15 “(h) AUDITS, REPORTS, PUBLICATIONS, AND OVER-  
 16 SIGHT.—

17 “(1) BIENNIAL ENTITY AUDIT AND REPORT.—  
 18 Beginning not later than the last day of the second  
 19 fiscal year after the receipt of payments under this  
 20 section, and biennially thereafter, any participating  
 21 entity shall—

22 “(A) conduct an audit of such fund estab-  
 23 lished under subsection (b); and

24 “(B) provide to the Administrator a report  
 25 including—



1 “(i) the result of any such audit; and

2 “(ii) a review of the effectiveness of  
3 the entity loan fund of the entity with re-  
4 spect to meeting the goals and intended  
5 benefits described in the intended use plan  
6 submitted by the entity under subsection  
7 (f).

8 “(2) PUBLICATION.—A participating entity  
9 shall publish and periodically update information  
10 about all projects receiving funding from the entity  
11 loan fund of such entity, including—

12 “(A) the location of the project;

13 “(B) the type and amount of assistance  
14 provided from the entity loan fund;

15 “(C) the expected funding schedule; and

16 “(D) the anticipated date of completion of  
17 the project.

18 “(3) OVERSIGHT.—

19 “(A) IN GENERAL.—The Administrator  
20 shall, at least every 4 years, conduct reviews  
21 and audits as may be determined necessary or  
22 appropriate by the Administrator to carry out  
23 the objectives of this section and determine the  
24 effectiveness of the fund in reducing natural  
25 hazard risk.

1           “(B) GAO REQUIREMENTS.—The entity  
2           shall conduct audits under paragraph (1) in ac-  
3           cordance with the auditing procedures of the  
4           Government Accountability Office, including  
5           generally accepted government auditing stand-  
6           ards.

7           “(C) RECOMMENDATIONS BY ADMINIS-  
8           TRATOR.—The Administrator may at any time  
9           make recommendations for or require specific  
10          changes to an entity loan fund in order to im-  
11          prove the effectiveness of the fund.

12          “(i) REGULATIONS OR GUIDANCE.—The Adminis-  
13          trator shall issue such regulations or guidance as are nec-  
14          essary to—

15               “(1) ensure that each participating entity uses  
16               funds as efficiently as possible;

17               “(2) reduce waste, fraud, and abuse to the  
18               maximum extent possible; and

19               “(3) require any party that receives funds di-  
20               rectly or indirectly under this section, including a  
21               participating entity and a recipient of amounts from  
22               an entity loan fund, to use procedures with respect  
23               to the management of the funds that conform to  
24               generally accepted accounting standards.

1       “(j) LIABILITY PROTECTIONS.—The Federal Emer-  
 2       gency Management Agency shall not be liable for any  
 3       claim based on the exercise or performance of, or the fail-  
 4       ure to exercise or perform, a discretionary function or duty  
 5       by the Agency, or an employee of the Agency in carrying  
 6       out this section.

7       “(k) DEFINITIONS.—In this section, the following  
 8       definitions apply:

9               “(1) ADMINISTRATOR.—The term ‘Adminis-  
 10       trator’ means the Administrator of the Federal  
 11       Emergency Management Agency.

12              “(2) AGENCY.—The term ‘Agency’ means the  
 13       Federal Emergency Management Agency.

14              “(3) ELIGIBLE ENTITY.—The term ‘eligible en-  
 15       tity’ means—

16                   “(A) a State; or

17                   “(B) an Indian tribal government that has  
 18       received a major disaster declaration during the  
 19       5-year period ending on the date of enactment  
 20       of the STORM Act.

21              “(4) HAZARD MITIGATION PLAN.—The term  
 22       ‘hazard mitigation plan’ means a mitigation plan  
 23       submitted under section 322.

24              “(5) INSULAR AREA.—The term ‘insular area’  
 25       means Guam, American Samoa, the Commonwealth

1 of the Northern Mariana Islands, and the United  
2 States Virgin Islands.

3 “(6) LOW-INCOME GEOGRAPHIC AREA.—The  
4 term ‘low-income geographic area’ means an area  
5 described in paragraph (1) or (2) of section 301(a)  
6 of the Public Works and Economic Development Act  
7 of 1965 (42 U.S.C. 3161(a)).

8 “(7) PARTICIPATING ENTITY.—The term ‘par-  
9 ticipating entity’ means an eligible entity that has  
10 entered into an agreement under this section.

11 “(8) REPETITIVE LOSS STRUCTURE.—The term  
12 ‘repetitive loss structure’ has the meaning given the  
13 term in section 1370 of the National Flood Insur-  
14 ance Act of 1968 (42 U.S.C. 4121).

15 “(9) SEVERE REPETITIVE LOSS STRUCTURE.—  
16 The term ‘severe repetitive loss structure’ has the  
17 meaning given the term in section 1366(h) of the  
18 National Flood Insurance Act of 1968 (42 U.S.C.  
19 4104c(h)).

20 “(10) STATE.—The term ‘State’ means any  
21 State of the United States, the District of Columbia,  
22 and Puerto Rico.

23 “(1) AUTHORIZATION OF APPROPRIATIONS.—There  
24 are authorized to be appropriated \$100,000,000 for each

1 of fiscal years 2021 through 2023 to carry out this sec-  
2 tion.”.

○