AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

109TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 109–364

GULF COAST RECOVERY ACT OF 2005

DECEMBER 22, 2005.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

REPORT

[To accompany H.R. 4438]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4438) to establish special rules with respect to certain disaster assistance provided for Hurricane Katrina and Hurricane Rita, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 4438 is to establish special rules with respect to certain disaster assistance provided for Hurricanes Katrina and Rita to ensure an effective and expeditious recovery of the Gulf region.

BACKGROUND AND NEED FOR THE LEGISLATION

On August 23rd, the National Weather Service began tracking a tropical depression centered in the Southeastern Bahamas. On August 24th, Tropical Depression #12 became Tropical Storm Katrina, with sustained winds above 40 miles per hour (mph). Hurricane strength of Category 1 was achieved on August 25th as Hurricane Katrina (Katrina) sustained winds over 75 mph.

Once the storm reached the Gulf of Mexico, Hurricane Katrina intensified and sped up, achieving Category 3 status (sustained wind speeds exceeding 111 mph) on August 26th. On August 28th, one day before landfall on the Gulf Coast, Katrina became a Category 5 hurricane, with wind speeds in excess of 150 mph. As the storm moved into shallower waters closer to land, wind speeds decreased and Katrina was downgraded to a Category 4 hurricane.

Katrina eventually made landfall in Southeastern Louisiana with sustained winds over 140 mph at the eye of the storm, and wind

49–006

gusts over 100 mph in the city of New Orleans, just west of the eye of the storm. Katrina also resulted in rainfall exceeding 8–10 inches over much of the storm's path. Direct storm damage was felt in Louisiana, Mississippi, Alabama, Georgia, Florida, and Tennessee, though Louisiana and Mississippi received the brunt of the storm.

When Hurricane Katrina finally dissipated over Tennessee, it left in its wake catastrophic devastation. Covering an area estimated to be near 90,000 square miles, the storm ravaged four states, caused damage in surrounding states, and impacted the entire country.

While neither the most powerful, nor most deadly storm to hit the United States, its combined wind speed, storm surge, flooding effect, and deadliness make it one of the worst natural disasters in American history. The impact of Katrina on human life was immense. The storm caused the deaths of over 1,300 people, the overwhelming majority of whom were in Louisiana and Mississippi, with known deaths also in Florida, Alabama, Georgia and Tennessee.

Katrina caused flooding in 6 states, mostly from storm surge and the high rate of rainfall. However, in Louisiana, the worst flooding was in the New Orleans area, caused by the breaching of a number of levees. At least 80 percent of the City of New Orleans was at some point underwater, though the flooding ranged from as little as one or two feet in areas such as the French Quarter to over 20 feet in the Lower Ninth Ward. Portions of Mississippi and Mobile, Alabama were underwater as a result of a 20 to 30-foot storm surge from the Gulf of Mexico and Mobile Bay. While just three weeks after Katrina, many of the breaks in the levees surrounding New Orleans had been repaired and much of the city had been drained, several of the temporary repairs were damaged or destroyed by Hurricane Rita, again causing flooding in New Orleans.

The economic impact from Hurricane Katrina and Hurricane Rita on the Gulf region has been substantial. Flooding and storm surge damaged hundreds of thousands of homes, leaving many people homeless. Additionally, the disaster displaced thousands of employers, leaving a significant number of people unemployed. With the displacement of hundreds of thousands of people, many parishes, counties, cities, and towns have lost their resident tax base, including property and sales taxes, which are typically the primary source of revenue for local governments. While some state and local governments had maintained emergency reserves, these funds have largely been depleted, forcing widespread layoffs of municipal employees.

A successful recovery requires the provision of essential governmental services. For most governments in the affected region, this will mean the need for more manpower than has existed since the storm and in some circumstances, more than what existed prior to the storm. With depleted reserve resources and limited tax revenue, local governments are struggling to provide the level of governmental services required to recover from the hurricanes.

SECTION-BY-SECTION OF THE LEGISLATION

Section 1. This section provides that the short title for the legislation is the Gulf Coast Recovery Act of 2005.

Section 2. Section 2 authorizes the president to provide federal assistance under Sections 402 and 403 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a; 5170b) (Stafford Act) to eligible state and local governments for base and overtime pay for essential recovery personnel.

Eligibility is determined by a showing of loss exceeding 25 percent of annual operating revenue of the state or local government, no later than June 30, 2006. To determine eligibility, FEMA must look at the most recent full fiscal year prior to the date of the disaster declarations made for Hurricane Katrina and Hurricane Rita on or after August 29, 2005. Losses attributable to Hurricanes Katrina and Rita through June 30, 2006 must equal or exceed 25 percent of that prior full fiscal year's operating revenue.

After eligibility is determined, reimbursement may be made for base pay and overtime expenses incurred from January 1, 2006, through June 30, 2006. Assistance is provided on a 75/25 Federal/non-Federal basis. This section is not intended to alter the cost share for expenses, including overtime expenses, otherwise eligible for reimbursement under the Stafford Act.

Under this section, state and local governments are eligible for assistance in providing fire, law enforcement, emergency medical, public works, emergency management, planning, and building code services. State and local governments may provide these services directly, or by contract or mutual aid agreement. It is the Committee's expectation that "building code services" includes staff involved in the permitting and the inspection process, including the enforcement of a building code, regulation, or ordinance pertaining to construction, development, or floodplain management.

Section 3. This section amends Section 2(a) of Public law 109–88, the Community Disaster Loan Act of 2005 to raise the cap on Community Disaster Loans from 25 percent to 50 percent of the operating budget of the applicant. This provision will allow some local communities to borrow additional funds to support basic government activities.

Section 4. This section sets the federal assistance for debris removal at 100 percent for disaster declarations made for Hurricanes Katrina and Rita on or after August 29, 2005, to eliminate the current disincentive for local governments to utilize cost-effective, preexisting debris removal contracts.

The two hurricanes caused significant amounts of debris across the region, including downed trees, damaged cars, and construction materials. Under the Stafford Act, debris removal assistance may be provided for all public property and some private property in areas designated by the disaster declaration. Following the disaster declarations, the president authorized 100 percent federal assistance for debris removal for the first 30 days, followed by a series of extensions. The level of assistance is uncertain for future federal debris removal beyond the current extensions.

Local governments have three options for the removal of debris following a disaster declaration; remove the debris using their own resources, contract for removal with the private sector, or contract with the U.S. Army Corp of Engineers (USACE) for debris removal. FEMA reimburses the local government at the designated rate regardless of who carries out the work.

However, the federal cost share may vary depending upon who conducts the work. For example, when the work is performed by the local government or by private contractors, the federal cost share is determined at the time the cost is incurred. This means the local cost share may increase if the president reduces the federal share at a later point in the disaster. In contrast, if the work is carried out by the USACE, the federal share is determined at the time the contract is signed. This policy creates a strong incentive for local governments to contract with the USACE early in the disaster when the federal share is set at 100 percent to guarantee their cost share.

Given the potential for the president to lower the federal share from 100 percent to 75 percent, local governments have a strong financial incentive to contract with the USACE even if the Corps' price is substantially higher than their local contractors. Due to this loophole in FEMA policy, local governments are canceling cost-effective, pre-existing contracts with private contractors and contracting with the USACE to guarantee the 100 percent federal assistance. As a result, local and private contractor involvement is limited, increasing the total cost to the federal government.

This section requires a 100 percent cost share for the life of the disaster, which will allow local governments to choose the most cost-effective means of debris removal, regardless of who provides the work.

Section 5. Section 5 modifies the federal share for the Hazard Mitigation Grant Program (HMGP) with respect to disaster declarations for Hurricanes Katrina and Rita made on or after August 29, 2005. The federal cost share for HMGP projects is set at a minimum of 75 percent for those measures approved within a one-year period from the date of enactment. This provision provides the president with the discretion to adjust the federal share up to 100 percent, but prohibits the federal cost share from falling below 75 percent. It is the Committee's expectation that the president will utilize this authority to waive the state and local cost share requirements to ensure that, to the greatest extent practicable, cost-effective mitigation projects are incorporated into the initial rebuilding of Gulf Coast communities.

This section also urges the president to assist the state and local governments in the HMGP program, from initial planning stages through final project approval, and expedite the process.

Additionally, Section 5(b) amends Section 404(a) of the Stafford Act to restore the Hazard Mitigation Grant Program percentage from 7.5 percent to its historic level of 15 percent. This provision was included in H.R. 3181 and was approved by the House of Representatives during the 108th Congress.

The Committee encourages FEMA to include "demolition and rebuild" among mitigation activities eligible under the mitigation grant programs authorized by the Stafford Act, particularly with respect to assistance provided pursuant to disaster declarations made for Hurricane Katrina or Hurricane Rita on or after August 29, 2005. Demolition and rebuild should be an eligible activity only when it is necessary to meet a community's overall goals, when it encourages safe and livable housing, and when it is determined to be feasible and cost-effective. The Committee expects FEMA to provide guidance to the field within 90 days of enactment for "demoli-

tion and rebuild" project implementation. The Committee recognizes that some flood hazard areas, such as floodways, pose significant risks to residential structures and expects the guidance to avoid use of "demolish and rebuild" in such high risk areas.

U.S. 90 in Mississippi was severely damaged by Hurricane Katrina. The St. Louis Bay and Biloxi Bay bridges of U.S. 90 were destroyed by the hurricane. U.S. 90 is a Federal-aid highway eligible for Emergency Relief (ER) funding under section 125 of Title 23, United States Code. Under the Emergency Relief program, where a temporary structure or an alternate existing route is not reasonable or practical as a temporary connection, construction of a temporary ferry service (ferryboat, ferry operation and maintenance, docking and loading facilities) is eligible for ER funds. ER participation in the ferryboat is limited to acquisition costs, less resale value, or to a reasonable rental fee. Emergency Relief Manual (August 2003), Chapter 2, section (B)(2). The Committee understands that Mississippi may need to use Emergency Relief funds to institute a temporary ferry service until the destroyed U.S. 90 bridges are replaced. The Committee strongly supports the use of ER funds to institute such a ferry service.

Section 6. This section extends the Disaster Unemployment Assistance ("DUA") Program with respect to disaster declarations for Hurricane Katrina and Hurricane Rita made on or after August 29, 2005, to 52 weeks after the date of the disaster declaration. The section also sets the minimum level of assistance for individuals at not less than 50 percent of the national average of weekly unemployment benefits.

Section 7. This section amends the Stafford Act by adding Section 630. Section 630 creates an emergency equipment grant program under the direction of the Director of the Federal Emergency Management Agency (FEMA) to improve response capabilities of states and local governments in the event of a major disaster or other emergency. The grant program is intended to provide grants to state and local governments for the purchase or improvement of emergency communications systems to facilitate interoperability and better coordination between emergency communication systems, including satellite phones and satellite communication equipment. Grants through this program are also available to purchase mobile equipment to generate emergency power and train first responders and emergency personnel on the communication and mobile power equipment. Technical assistance related to the procurement, installation and use of this equipment is also allowable as needed by the state and local governments. The program is authorized to be appropriated $200,000,000 for fiscal years 2006, 2007, and 2008.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

The Subcommittee on Economic Development, Public Buildings, and Emergency Management held a series of hearings in connection with Hurricane Katrina. These hearings focused on the many different aspects of the response and recovery of the Gulf region. On October 6, 2005, the Subcommittee held an oversight hearing to examine FEMA's ability to manage a successful recovery of the region. On October 18, the Subcommittee held a joint hearing with the Subcommittee on Water Resources and Environment on options

for and the feasibility of rebuilding New Orleans. On November 3, the Subcommittee held a hearing to consider legislative proposals relating to Hurricane Katrina recovery operations.

On December 6, 2005, Mr. Shuster, Ms. Norton, Mr. Young of Alaska, and Mr. Oberstar introduced H.R. 4438, which was referred to the Committee on Transportation and Infrastructure. On December 7, 2005, the Full Committee met in open session to consider H.R. 4438. A motion by Mr. Shuster to order H.R. 4438 favorably reported to the House was agreed to by the Full Committee by voice vote with a quorum present. There were no recorded votes taken during Committee consideration of H.R. 4438.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no rollcall votes taken in connection with ordering H.R. 4438 favorably reported to the House.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has not been received. The Congressional Budget Office has informed the Committee that it expects H.R. 4438 will result in an increase in direct spending by $465,000,000 for the fiscal year 2006. Spending will decrease by a total of $465,000,000 over the three year period of 2013, 2014, and 2015, producing no net increase in funding over the next ten years.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation are to provide a successful, safe, efficient, and timely recovery for the Gulf Region.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee expects H.R. 4438 will result in an increase in direct spending by $465,000,000 for the fiscal year 2006. Spending will decrease by a total of

$465,000,000 over the three year period of 2013, 2014, and 2015, producing no net increase in funding over the next ten years.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 4438 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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):

SECTION 2 OF THE COMMUNITY DISASTER LOAN ACT OF 2005

SEC. 2. DISASTER LOANS.

(a) ESSENTIAL SERVICES.—Of the amounts provided in Public Law 109–62 for "Disaster Relief", up to $750,000,000 may be transferred to the Disaster Assistance Direct Loan Program for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184) to be used to assist local governments in providing essential

services: *Provided,* That such transfer may be made to subsidize gross obligations for the principal amount of direct loans not to exceed $1,000,000,000 under section 417 of the Stafford Act: *Provided further,* That notwithstanding section 417(b) of the Stafford Act, the amount of any such loan issued pursuant to this section may exceed $5,000,000: *Provided further,* That notwithstanding section 417(c)(1) of the Stafford Act, such loans may not be canceled: *Provided further,* That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)*: Provided further, That notwithstanding section 417(b) of the Stafford Act such a loan may not exceed 50 percent of the operating budget of the local government to which the loan is made for the fiscal year in which the disaster occurs*.

* * * * * * *

ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

* * * * * * *

TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS

* * * * * * *

SEC. 404. HAZARD MITIGATION.

(a) IN GENERAL.—The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster. Such measures shall be identified following the evaluation of natural hazards under section 322 and shall be subject to approval by the President. Subject to section 322, the total of contributions under this section for a major disaster shall not exceed **[**7.5**]** *15* percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.

* * * * * * *

TITLE VI—EMERGENCY PREPAREDNESS

* * * * * * *

Subtitle B—General Provisions

* * * * * * *

SEC. 630. EMERGENCY EQUIPMENT ASSISTANCE.

(a) GRANTS.—The Director shall carry out a program to make grants to States and local governments—

(1) to purchase or improve commercially available interoperable communications equipment that—

(A) complies with, where applicable, national voluntary consensus standards;

(B) facilitates interoperability, coordination, and integration between and among emergency communications systems (including satellite phone and satellite communications equipment); and

(C) ensures that first responders, government officials, and emergency personnel are able to adequately and effectively communicate with each other in the event of a major disaster or other emergency;

(2) to purchase mobile equipment to generate emergency power; and

(3) to train first responders and emergency personnel on how best to use effectively such equipment.

(b) PURPOSE.—The purpose of the program shall be to improve the response capabilities of States and local governments in the event of a major disaster or other emergency.

(c) APPLICATIONS.—A State or local government seeking a grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may require.

(d) TECHNICAL ASSISTANCE.—The Director shall provide to States and local governments technical assistance with respect to the procurement, installation, and use of equipment under subsection (a)(1).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2006, 2007, and 2008.

* * * * * * *

○