

117TH CONGRESS
2D SESSION

S. 4159

To ensure greater equity in Federal disaster assistance policies and programs by authorizing an equity steering group and equity advisor within the Federal Emergency Management Agency, improving data collection to measure disparate outcomes and participation barriers, requiring equity criteria to be applied to policies and programs, and permitting counties to seek emergency and major disaster declarations in certain circumstances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 5, 2022

Ms. WARREN (for herself, Mr. BOOKER, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To ensure greater equity in Federal disaster assistance policies and programs by authorizing an equity steering group and equity advisor within the Federal Emergency Management Agency, improving data collection to measure disparate outcomes and participation barriers, requiring equity criteria to be applied to policies and programs, and permitting counties to seek emergency and major disaster declarations in certain circumstances, and for other purposes.

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 “Federal Emergency
3 Management Advancement of Equity Act” or the “FEMA
4 Equity Act”.

5 **SEC. 2. TABLE OF CONTENTS.**

6 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—ENSURING EQUITY IN FEDERAL DISASTER
MANAGEMENT

Sec. 101. Data collection, analysis, and criteria.
Sec. 102. Criteria for ensuring equity in policies and programs.
Sec. 103. Metrics; report.

TITLE II—OPERATIONAL ENHANCEMENT TO IMPROVE EQUITY IN
FEDERAL DISASTER MANAGEMENT

Sec. 201. Equity advisor.
Sec. 202. Equity enterprise steering group.
Sec. 203. Government Accountability Office review of equity reforms.

TITLE III—SAFEGUARDS TO ENSURE EQUITY IN FEDERAL
EMERGENCY MANAGEMENT AGENCY DISASTER PROGRAMS

Sec. 301. Expanding access to declaration process.
Sec. 302. Rulemaking and guidance.
Sec. 303. Government Accountability Office review of factors to determine as-
sistance.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

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.

1 (3) EMERGENCY.—The term “emergency”
2 means an emergency declared by the President
3 under section 501 of the Robert T. Stafford Disaster
4 Relief and Emergency Assistance Act (42 U.S.C.
5 5191).

6 (4) EQUITABLE.—The term “equitable” means
7 having or exhibiting equity.

8 (5) EQUITY.—The term “equity” means—

9 (A) the guarantee of fair treatment, ad-
10 vancement, equal opportunity, access for under-
11 served communities and other individuals;

12 (B) the elimination of barriers that have
13 prevented full participation for underserved
14 communities; and

15 (C) the reduction of disparate outcomes.

16 (6) FEDERAL ASSISTANCE.—The term “Federal
17 assistance” means assistance provided pursuant to—

18 (A) a declaration of a major disaster or
19 emergency, including assistance provided pursu-
20 ant to sections 203, 205, 404, and 420 of the
21 Robert T. Stafford Disaster Relief and Emer-
22 gency Assistance Act (42 U.S.C. 5133, 5135,
23 5170c, 5187); and

24 (B) section 1366 of the National Flood In-
25 surance Act of 1968 (42 U.S.C. 4104c).

1 (7) MAJOR DISASTER.—The term “major disaster” means a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

6 (8) UNDERSERVED COMMUNITY.—The term “underserved community” means—

8 (A) the Native-American and Alaskan-Native community;

10 (B) the African-American community;

11 (C) the Asian community;

12 (D) the Hispanic community (including individuals of Mexican, Puerto Rican, Cuban, and Central or South American origin);

15 (E) the Pacific Islander community;

16 (F) the Middle Eastern and North African community;

18 (G) a rural community;

19 (H) a low-income community;

20 (I) individuals with disabilities;

21 (J) a limited English proficiency community;

23 (K) other individuals or communities otherwise adversely affected by persistent poverty or inequality; and

1 (L) any other disadvantaged community,
2 as determined by the Administrator.

3 **TITLE I—ENSURING EQUITY IN**
4 **FEDERAL DISASTER MANAGE-**
5 **MENT**

6 **SEC. 101. DATA COLLECTION, ANALYSIS, AND CRITERIA.**

7 (a) IN GENERAL.—Not later than 1 year after the
8 date of enactment of this Act, the Administrator, in con-
9 sultation with the Secretary of Housing and Urban Devel-
10 opment and the Administrator of the Small Business Ad-
11 ministration, shall develop and implement a process to en-
12 sure equity in the provision of Federal assistance and
13 throughout all programs and policies of the Agency.

14 (b) SPECIFIC AREAS FOR CONSULTATION.—In car-
15 rying out subsection (a), the Administrator shall identify
16 requirements for ensuring the quality, consistency, acces-
17 sibility, and availability of information necessary to iden-
18 tify programs and policies of the Agency that may not sup-
19 port the provision of equitable Federal assistance, includ-
20 ing—

- 21 (1) information requirements;
22 (2) data sources and collection methods; and
23 (3) strategies for overcoming data or other in-
24 formation challenges.

1 (c) MODIFICATION OF DATA COLLECTION SYS-
 2 TEMS.—The Administrator shall modify the data collec-
 3 tion systems of the Agency based on the process developed
 4 under subsection (a) to ensure the quality, consistency, ac-
 5 cessibility, and availability of information necessary to
 6 identify any programs and policies of the Agency that may
 7 not support the provision of equitable Federal assistance.

8 **SEC. 102. CRITERIA FOR ENSURING EQUITY IN POLICIES**
 9 **AND PROGRAMS.**

10 (a) IN GENERAL.—Not later than 1 year after the
 11 date of enactment of this Act, the Administrator shall de-
 12 velop, disseminate, and update, as appropriate, criteria to
 13 apply to policies and programs of the Agency to ensure
 14 equity in the provision of Federal assistance and through-
 15 out all programs and policies of the Agency.

16 (b) CONSULTATION.—In developing and dissemi-
 17 nating the criteria required under subsection (a), the Ad-
 18 ministrator shall consult with—

19 (1) the Officer for Civil Rights and Civil Lib-
 20 erties of the Department of Homeland Security;

21 (2) the Secretary of Housing and Urban Devel-
 22 opment; and

23 (3) the Administrator of the Small Business
 24 Administration.

25 (c) INTEGRATION OF CRITERIA.—

1 (1) IN GENERAL.—To the maximum extent pos-
 2 sible, the Administrator shall integrate the criteria
 3 developed under subsection (a) into existing and fu-
 4 ture processes relating to the provision of Federal
 5 assistance.

6 (2) PRIORITY.—The Administrator shall
 7 prioritize integrating the criteria under paragraph
 8 (1) into processes relating to the provision of—

9 (A) assistance under sections 402, 403,
 10 406, 407, 428, and 502 of the Robert T. Staf-
 11 ford Disaster Relief and Emergency Assistance
 12 Act (42 U.S.C. 5170a, 5170b, 5172, 5173,
 13 5189f, 5193);

14 (B) Federal assistance to individuals and
 15 households under section 408 of such Act (42
 16 U.S.C. 5174);

17 (C) hazard mitigation assistance under
 18 section 404 of such Act (42 U.S.C. 5170c); and

19 (D) predisaster hazard mitigation assist-
 20 ance under section 203 of such Act (42 U.S.C.
 21 5133).

22 **SEC. 103. METRICS; REPORT.**

23 (a) METRICS.—In carrying out this title, the Admin-
 24 istrator shall—

1 (1) establish metrics to measure the efficacy of
2 the process developed under section 101(a) and the
3 criteria developed under section 102(a); and

4 (2) seek input from relevant representatives of
5 State, regional, local, and Tribal governments, rep-
6 resentatives of community-based organizations, sub-
7 ject matter experts, and individuals from under-
8 served communities impacted by disasters.

9 (b) REPORT.—Not later than 1 year after the dis-
10 semination of the criteria under section 102(a), and annu-
11 ally thereafter, the Administrator shall submit to Congress
12 a report describing how the criteria and processes devel-
13 oped under this title have impacted efforts to ensure eq-
14 uity in the provision of Federal assistance and throughout
15 all programs and policies of the Agency, including—

16 (1) any obstacles identified or areas for im-
17 provement, with respect to implementation of such
18 criteria and processes, including any recommended
19 legislative changes;

20 (2) the effectiveness of such criteria and proc-
21 esses, as measured by the metrics established under
22 subsection (a)(1); and

23 (3) any impacts of such criteria and processes
24 on the provision of Federal assistance, with specific
25 attention to impacts relating to efforts within the

1 Agency to address barriers to access and reduce dis-
2 parate outcomes.

3 **TITLE II—OPERATIONAL EN-**
4 **HANCEMENT TO IMPROVE**
5 **EQUITY IN FEDERAL DIS-**
6 **ASTER MANAGEMENT**

7 **SEC. 201. EQUITY ADVISOR.**

8 (a) IN GENERAL.—

9 (1) DESIGNATION.—The Administrator shall
10 designate a senior official within the Agency as an
11 equity advisor to the Administrator.

12 (2) RESPONSIBILITIES.—The equity advisory
13 designated under paragraph (1) shall be responsible
14 for advising the Administrator on efforts of the
15 Agency to ensure equity in the provision of Federal
16 assistance and throughout all programs and policies
17 of the Agency.

18 (b) QUALIFICATIONS.—In designating an equity advi-
19 sor under subsection (a)(1), the Administrator shall select
20 an individual who is a qualified expert with significant ex-
21 perience with respect to equity policy or programmatic re-
22 forms.

23 (c) DUTIES.—In addition to advising the Adminis-
24 trator, the equity advisor designated under subsection

25 (a)(1) shall—

1 (1) participate in the implementation of sec-
2 tions 101 and 102;

3 (2) monitor equity in the implementation of eq-
4 uity efforts within the Agency and within regions of
5 the Agency to ensure consistency in the implementa-
6 tion of policy or programmatic changes intended to
7 ensure equity in the provision of Federal assistance
8 and throughout all programs and policies of the
9 Agency;

10 (3) identify ways to improve the policies and
11 programs of the Agency to ensure that such policies
12 and programs are equitable, including—

13 (A) recommending opportunities to en-
14 hance language access;

15 (B) recruiting, hiring, retaining, and pro-
16 moting diverse candidates at all levels of Agen-
17 cy operations; and

18 (C) enhancing opportunities to support un-
19 derserved populations in preparedness, mitiga-
20 tion, protection, response, and recovery; and

21 (4) any other activities the Administrator con-
22 siders appropriate.

23 (d) CONSULTATION.—In carrying out the duties
24 under this section, the equity advisor designate under sub-
25 section (a)(1) shall, on an ongoing basis, consult with rep-

1 representatives of underserved communities, including com-
 2 munities directly impacted by disasters, to evaluate oppor-
 3 tunities and develop approaches to advancing equity with-
 4 in the Agency, including by increasing coordination, com-
 5 munication, and engagement with—

6 (1) community-based organizations;

7 (2) civil rights organizations;

8 (3) institutions of higher education;

9 (4) research institutions; and

10 (5) academic organizations specializing in diver-
 11 sity, equity, and inclusion issues.

12 **SEC. 202. EQUITY ENTERPRISE STEERING GROUP.**

13 (a) ESTABLISHMENT.—There is established within
 14 the Agency a steering group to advise the Administrator
 15 on how to ensure equity in the provision of Federal assist-
 16 ance and throughout all programs and policies of the
 17 Agency.

18 (b) RESPONSIBILITIES.—In carrying out subsection
 19 (a), the steering group established under this section
 20 shall—

21 (1) review and, as appropriate, recommend
 22 changes to Agency-wide policies, procedures, plans,
 23 and guidance;

1 (2) support the development and implementa-
2 tion of the processes and criteria developed under
3 title I; and

4 (3) monitor the integration and establishment
5 of metrics developed under section 103.

6 (c) COMPOSITION.—The Administrator shall appoint
7 the following individuals as members of the steering group
8 established under subsection (a):

9 (1) Representatives from each of the following
10 offices of the Agency:

11 (A) The Office of Equal Rights.

12 (B) The Office of Response and Recovery.

13 (C) Federal Emergency Management
14 Agency Resilience.

15 (D) The Office of Disability Integration
16 and Coordination.

17 (E) The United States Fire Administra-
18 tion.

19 (F) The mission support office of the
20 Agency.

21 (G) The Office of Chief Counsel.

22 (H) The Office of the Chief Financial Offi-
23 cer.

24 (I) The Office of Policy and Program
25 Analysis.

1 (2) The administrator of each regional office of
2 the Agency or a designee.

3 (3) A representative from the National Advisory
4 Council.

5 (4) The equity advisor designated by the Ad-
6 ministrator under section 201(a)(1).

7 (5) A representative from the Office for Civil
8 Rights and Civil Liberties of the Department of
9 Homeland Security.

10 (6) The Superintendent of the Emergency Man-
11 agement Institute.

12 (7) The National Tribal Affairs Advisor of the
13 Agency.

14 (8) Any other official of the Agency the Admin-
15 istrator determines appropriate.

16 (d) LEADERSHIP.—The Administrator shall des-
17 ignate 1 or more members of the steering group estab-
18 lished under subsection (a) to serve as chair of the steering
19 group.

20 **SEC. 203. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW**
21 **OF EQUITY REFORMS.**

22 Not later than 3 years after the date of enactment
23 of this Act, the Comptroller General of the United States
24 shall issue a report to evaluate the implementation of this
25 title and title I.

1 **TITLE III—SAFEGUARDS TO EN-**
 2 **SURE EQUITY IN FEDERAL**
 3 **EMERGENCY MANAGEMENT**
 4 **AGENCY DISASTER PRO-**
 5 **GRAMS**

6 **SEC. 301. EXPANDING ACCESS TO DECLARATION PROCESS.**

7 (a) MAJOR DISASTER.—Section 401 of the Robert T.
 8 Stafford Disaster Relief and Emergency Assistance Act
 9 (42 U.S.C. 5170) is amended—

10 (1) in subsection (a), by striking “All requests”
 11 and inserting “Subject to subsection (d), all re-
 12 quests”; and

13 (2) by adding at the end the following:

14 “(d) COUNTY REQUESTS.—

15 “(1) COUNTY DEFINED.—In this subsection,
 16 the term ‘county’—

17 “(A) means a county, parish, or equivalent
 18 subdivision of a State or territory of the United
 19 States that is a unit of general local govern-
 20 ment; and

21 “(B) in the event a county is located in a
 22 State where 1 or more counties are not units of
 23 general local government, includes the largest
 24 city, town, or unit of general local government
 25 by population in an area affected by a major

1 disaster on behalf of all affected cities, towns,
2 and other local units of general local govern-
3 ment.

4 “(2) REQUEST.—The chief executive officer of
5 an affected county may submit a request for a dec-
6 laration by the President that a major disaster ex-
7 ists consistent with the requirements of subsection
8 (a) under the following circumstances:

9 “(A) The Governor of the State or terri-
10 tory in which the affected county is located does
11 not request such a declaration under subsection
12 (a).

13 “(B) The affected county is not included in
14 a request for assistance made under subsection
15 (a) by the Governor of the State or territory in
16 which such county is located.

17 “(C) The affected county communicates
18 with the Governor of the State or territory in
19 which the affected county is located about the
20 disaster or potential request for a major dis-
21 aster declaration before the period described in
22 paragraph (3)(A) has lapsed.

23 “(3) LIMITATION.—The chief executive officer
24 of an affected county may not submit a request for

1 a declaration by the President that a major disaster
2 exists under paragraph (2) until—

3 “(A) the period during which the Governor
4 of the State or territory in which such county
5 is located may request such a declaration under
6 subsection (a) has lapsed; or

7 “(B) the Governor of the State or territory
8 in which such county is located has commu-
9 nicated to the chief executive officer of the
10 county that the Governor will not seek such a
11 declaration from the President.

12 “(4) REFERENCES.—In implementing assist-
13 ance authorized by the President under this Act in
14 response to a request from the chief executive officer
15 of an affected county for a major disaster declara-
16 tion under this subsection, any reference in this title
17 or title III to a State or the Governor of a State is
18 deemed to refer to an affected county or the chief
19 executive officer of an affected county, as appro-
20 priate.

21 “(5) RULE OF CONSTRUCTION.—Nothing in
22 this subsection shall prohibit a county from receiving
23 assistance under this title through a declaration
24 made by the President at the request of a State
25 under subsection (a) if the President does not make

1 a declaration under this subsection for the same in-
 2 cident.”.

3 (b) EMERGENCY.—Section 501 of the Robert T. Staf-
 4 ford Disaster Relief and Emergency Assistance Act (42
 5 U.S.C. 5191) is amended—

6 (1) in subsection (a), by striking “All requests”
 7 and inserting “Subject to subsection (d), all re-
 8 quests”; and

9 (2) by adding at the end the following:

10 “(d) COUNTY REQUESTS.—

11 “(1) COUNTY DEFINED.—In this subsection,
 12 the term ‘county’ has the meaning given the term in
 13 section 401(d).

14 “(2) REQUEST.—The chief executive officer of
 15 an affected county may submit a request for a dec-
 16 laration by the President that an emergency exists
 17 consistent with the requirements of subsection (a)
 18 under the following circumstances:

19 “(A) The Governor of the State or terri-
 20 tory in which the affected county is located does
 21 not request such a declaration under subsection
 22 (a).

23 “(B) The affected county is not included in
 24 a request for assistance made under subsection

1 (a) by the Governor of the State or territory in
2 which such county is located.

3 “(C) The affected county communicates
4 with the Governor of the State or territory in
5 which the affected county is located about the
6 disaster or potential request for a major dis-
7 aster declaration before the period described in
8 paragraph (3)(A) has lapsed.

9 “(3) LIMITATION.—The chief executive officer
10 of an affected county may not submit a request for
11 a declaration by the President that an emergency ex-
12 ists under paragraph (2) until—

13 “(A) the period during which the Governor
14 of the State or territory in which such county
15 is located may request such a declaration under
16 subsection (a) has lapsed; or

17 “(B) the Governor of the State or territory
18 in which such county is located has commu-
19 nicated to the chief executive officer of the
20 county that the Governor will not seek such a
21 declaration from the President.

22 “(4) REFERENCES.—In implementing assist-
23 ance authorized by the President under this Act in
24 response to a request of the chief executive officer
25 of an affected county for an emergency declaration

1 under this subsection, any reference in this title or
 2 title III to a State or the Governor of a State is
 3 deemed to refer to an affected county or the chief
 4 executive officer of an affected county, as appro-
 5 priate.

6 “(5) RULE OF CONSTRUCTION.—Nothing in
 7 this subsection shall prohibit a county from receiving
 8 assistance under this title through a declaration
 9 made by the President at the request of a State
 10 under subsection (a) if the President does not make
 11 a declaration under this subsection for the same in-
 12 cident.”.

13 **SEC. 302. RULEMAKING AND GUIDANCE.**

14 (a) RULEMAKING.—

15 (1) IN GENERAL.—Not later than 1 year after
 16 the date of enactment of this Act and after pro-
 17 viding public notice and opportunity for comment,
 18 the Administrator shall issue regulations necessary
 19 to establish a process to implement the amendments
 20 made by section 302.

21 (2) CONTENTS.—The regulations required
 22 under paragraph (1) shall include—

23 (A) a process by which the chief executive
 24 officer of a county may—

1 (i) submit a request for the Adminis-
2 trator to recommend that the President
3 make a major disaster or emergency dec-
4 laration for such county; and

5 (ii) upon approval of such request, di-
6 rectly receive any assistance provided pur-
7 suant to such request;

8 (B) in addition to the eligibility factors de-
9 scribed under section 206.48 of title 44, Code
10 of Federal Regulations, eligibility criteria for
11 the approval of a request from a county for a
12 major disaster or emergency declaration that
13 gives consideration to—

14 (i) poverty rates within such county;

15 (ii) the economy within such county,
16 including the economy of the area within
17 such county that is impacted by the dis-
18 aster or emergency;

19 (iii) relevant social vulnerability in-
20 dexes for residents of such county;

21 (iv) the rate of unemployment before
22 the disaster or emergency within such
23 county;

24 (v) underserved communities within
25 such county;

1 (vi) the fiscal condition of the unit of
2 government with jurisdiction over such
3 county;

4 (vii) the degree to which a significant
5 proportion of residents of such county re-
6 ceived Federal benefits during the year
7 preceding the disaster or emergency, in-
8 cluding—

9 (I) benefits provided under the
10 Medicaid program under title XIX of
11 the Social Security Act (42 U.S.C.
12 1396 et seq.);

13 (II) benefits provided under the
14 supplemental nutrition assistance pro-
15 gram established under the Food and
16 Nutrition Act of 2008 (7 U.S.C. 2011
17 et seq.);

18 (III) benefits provided under the
19 program of block grants to States for
20 temporary assistance for needy fami-
21 lies established under part A of title
22 IV of the Social Security Act (42
23 U.S.C. 601 et seq.); and

1 (IV) any other Federal benefits
2 the Administrator determines appro-
3 priate; and

4 (viii) the impact of other recent disas-
5 ters and emergencies on residents within
6 such county;

7 (C) eligibility criteria for contiguous coun-
8 ties located within the same State or territory
9 to seek Federal disaster assistance together;
10 and

11 (D) timelines for a chief executive officer
12 of a county to submit such request and oppor-
13 tunities to seek extensions, where appropriate.

14 (b) GUIDANCE.—Upon issuing a final regulation pur-
15 suant to subsection (a), the Administrator shall issue
16 guidance relating to such regulation, including publicizing
17 and providing guidance directly to counties about the proc-
18 ess by which the chief executive officer of a county may
19 submit a request for the declaration of a major disaster
20 or emergency.

21 **SEC. 303. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW**
22 **OF FACTORS TO DETERMINE ASSISTANCE.**

23 (a) IN GENERAL.—Not later than 1 year after the
24 date of enactment of this Act, the Comptroller General

1 of the United States shall issue a report that describing
2 the factors the Agency considers—

3 (1) when evaluating a request from a Governor
4 to declare that a major disaster or emergency exists;
5 and

6 (2) to authorize assistance under sections 402,
7 403, 406, 407, 408, 428, and 502 of the Robert T.
8 Stafford Disaster Relief and Emergency Assistance
9 Act (42 U.S.C. 5170a, 5170b, 5170c, 5172, 5173,
10 5189f, 5193).

11 (b) CONTENTS.—The report issued under subsection
12 (a) shall include—

13 (1) an assessment of—

14 (A) the degree to which the factors the
15 Agency considers when evaluating a request for
16 a major disaster or emergency declaration—

17 (i) affect equity for underserved com-
18 munities, particularly with respect to
19 major disaster and emergency declaration
20 requests, approvals of such requests, and
21 the authorization of assistance described in
22 subsection (a)(2); and

23 (ii) are designed to deliver equitable
24 outcomes;

1 (B) how the Agency uses such factors or
2 monitors whether such factors result in equi-
3 table outcomes;

4 (C) the extent to which major disaster and
5 emergency declaration requests, approvals of
6 such requests, and the authorization of assist-
7 ance described in subsection (a)(2), are more
8 highly correlated with high-income counties
9 compared to lower-income counties;

10 (D) whether the process and administra-
11 tive steps for conducting preliminary damage
12 assessments are equitable; and

13 (E) to the extent practicable, whether such
14 factors may deter a Governor from seeking a
15 major disaster or emergency declaration for po-
16 tentially eligible counties; and

17 (2) a consideration of the extent to which such
18 factors affect underserved communities—

19 (A) of varying size;

20 (B) with varying population density and
21 demographic characteristics;

22 (C) with limited emergency management
23 staff and resources; and

24 (D) located in urban or rural areas.

1 (c) RECOMMENDATIONS.—The Comptroller General
2 of the United States shall include in the report issued
3 under subsection (a) any recommendations for changes to
4 the factors the Agency considers when evaluating a re-
5 quest for a major disaster or emergency declaration to ac-
6 count for underserved communities.

○