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Federal Budget Makes Case that FEMA Reforms Are Needed

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Once again, the budget brinksmanship in Washington, D.C., ended with a deal that postponed one of the key questions driving the debate: Should the Federal Emergency Management Agency (FEMA) receive whatever funding it desires, or should the federal government rein in FEMA and its profligate spending by exercising fiscal restraint? FEMA's current spending and declaration trends represent a microcosm of the larger problems facing America.

Specifically, FEMA is running out of money in its Disaster Relief Fund (DRF) due to its daily disaster spending burn rate, which is approaching $13 billion per year. FEMA's fiscal crisis piles onto the federal government's larger fiscal debt crisis, driven by a massive expansion of the federal government over the past four years.

Federalization of Disasters Driving Funding Crisis. FEMA's funding crisis is directly related to the federalization of natural disasters that has occurred since 1993.[1] The Heritage Foundation has been the lone voice urging reform of this system, as it is undermining capabilities at FEMA and in state and local governments.[2] The declaration activity in 2011 illustrates this problem.[3]

For the first nine months of 2011, FEMA has issued 222 declarations, which is a single-year record and a 41 percent increase over the previous record of 157 declarations set in 1996, when President Bill Clinton was running for reelection. FEMA has issued 84 Major Disaster Declarations this year, which also is a record. This pace of declarations is draining the DRF at a pace of $30 million to $40 million per day.

For perspective on FEMA's "new normal," Hurricane Irene—barely a Category 1 hurricane when it finally struck the U.S.—resulted in Major Disaster Declarations for 12 states, largely for flooding. In sharp contrast, just six years ago, Hurricane Katrina—America's costliest disaster by tens of billions of dollars, with more than 60,000 square miles impacted—resulted in just four states receiving Major Disaster Declarations. Texas did not even receive a Major Disaster Declaration for Hurricane Katrina.

"Reforms" Should Not Drive Costs Even Higher. Because of this significant increase in activity, FEMA's costs are exploding, and it is draining the DRF. Keep in mind that a Major Disaster Declaration is the highest FEMA declaration, which triggers a 75 percent (or more) cost shift from the state to the federal government. Louisiana Senator Mary Landrieu (D) recently introduced a bill called the Disaster Recovery Act of 2011 (S. 1630) that would make matters even worse.

Here are some key sections:

- ***Creating Catastrophic Disaster Declarations.*** Section 109 would create a new class of declarations called "Catastrophic Disaster Declarations." These would involve a bureaucratic panel

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of experts who make a recommendation to the President and would require at least $1 billion in estimated assistance. Presumably, this new class of declarations is needed because Major Disaster Declarations now cover fairly small natural disasters—which was never the intent behind that class of declarations.

- ***Shifting states' costs.*** Sections 111 and 203 increase the cost shift by 10 percent (to at least 85 percent) for those jurisdictions that have put in place a pre-incident recovery plan and for states that have adopted "a nationally recognized model building code." These provisions cover restoration of facilities, debris removal, and other needs assistance and mitigation efforts, respectively. As Lee Clarke pointed out in Mission Improbable,[4] such plans are largely symbolic and have little to do with reality, which means states could use the plans primarily to shift costs to other states via the federal government.
- ***Subsidizing government unions.*** Sections 201 and 205 allow the President to pick up the tab (pay and benefits) "for permanent State or local government employees engaged in emergency protective measures after a disaster is declared" or working on debris removal. As with the American Recovery and Reinvestment Act of 2009 and the proposed American Jobs Act of 2011, these provisions are aimed at exploiting a disaster to subsidize the costs of unionized public-sector workers.
- ***Providing fraud-ready housing benefits.*** Section 206 "[a]uthorizes the President to provide temporary mortgage or rental payments on behalf of individuals and families that are at immediate risk of dispossession, foreclosure, or eviction as a result of financial hardship caused by a major disaster" for up to 18 months. This "secondary effect" provision is in addition to the existing provision that provides funding for those who actually cannot live in their primary residences. Thus, FEMA would pay for both temporary housing for disaster victims and for the housing of those who cannot meet their housing payment obligations "because of" a disaster.

The fiscal impact of S. 1630 would appear to be quite large, which would only exacerbate FEMA's funding problems.

Real FEMA Reform. Instead of federalizing disasters to a greater extent, the federal government needs to exercise fiscal restraint and force states to be responsible for their own localized problems. The solution should not perpetuate the funding problem by avoiding it through a short-term gust of money or worsen it by driving the cost even higher. Specifically, Congress should:

- ***Modify the Stafford Act.*** As the litmus test for federal disaster dollars, the Stafford Act fails to accurately determine which disasters meet the federal requirements and which do not. Congress should establish clear requirements that limit the types of situations in which declarations can be issued—eliminating some types of disasters entirely from FEMA's portfolio.
- ***Lower the cost-sharing provisions.*** Congress should reduce the cost-sharing provision for all FEMA declarations to no more than 25 percent of the costs. This will help to ensure that at least three-fourths of the costs of a disaster are borne by the taxpayers living where the disaster took place. For catastrophes with a nationwide impact, such as 9/11 and Hurricane Katrina, a relief provision could provide a higher federal cost share

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1. "FEMA Declarations, by Year and by Presidential Administration," Heritage Foundation chart, August 31, 2011, at *http://www.heritage.org/Multimedia/InfoGraphic/2011/08/FEMA-Declarations*.
2. "FEMA Reform and Disaster Response: Heritage Foundation Recommendations," Heritage Foundation WebMemo No. 3359, September 8, 2011, at *http://www.heritage.org/Research/Reports/2011/09/FEMA-Reform-and-Disaster-Response-Heritage-Foundation-Recommendations*.
3. Matt A. Mayer, James Jay Carafano, and Jessica Zuckerman, "Homeland Security 4.0: Overcoming Centralization, Complacency, and Politics," Heritage Foundation Special Report No. 97, August 23, 2011, at *http://www.heritage.org/Research/Reports/2011/08/Homeland-Security-4-0-Overcoming-Centralization-Complacency-and-Politics*.
4. Lee Clarke, *Mission Improbable: Using Fantasy Documents to Tame Disaster* (Chicago: University Of Chicago Press, 1999).

when the total costs of a disaster exceed a certain threshold amount.

- ***Overhaul existing FEMA processes and procedures.*** Under the public assistance program, which grants monies to state and local governments for disaster response, FEMA's processes and procedures are not aligned with the primary focus of catastrophic disaster response: saving lives and property. The program should increase staff and training and include changes in its project worksheets to ensure that costs and damages are accurately assessed on the front end.

Enough with the Band-Aids. Congress can continue to simply give FEMA another round of taxpayer dollars as a short-term bandage for its budget woes. However, this only ensures that the fundamental problems with FEMA's disaster response framework remain unfixed for another year—leaving state and local governments less prepared and FEMA undoubtedly ill-equipped for the next truly catastrophic disaster.

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