

*Robert F. Menendez*

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To address the National Flood Insurance Program.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

### AMENDMENT N<sup>o</sup> 2219

By Menendez \_\_\_\_\_ highway safety  
purposes.

To: Amo No 2137 \_\_\_\_\_ and

11

Page(s)

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GPO: 2020 42-568 (mac)

MENENDEZ

(for himself, Mr. KENNEDY, and Mrs. HYDE-SMITH)  
to the amendment (No. 2137) proposed by Ms. SINEMA  
(for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY,  
Mrs. SHAIHEEN, Ms. COLLINS, Mr. TESTER, Ms. MUR-  
KOWSKI, Mr. WARNER, and Mr. ROMNEY)

Viz:

1 At the appropriate place, insert the following:

2 **SEC. \_\_\_\_ . CAP ON ANNUAL PREMIUM INCREASES.**

3 (a) DEFINITIONS.—In this section—

4 (1) the term “Administrator” means the Ad-  
5 ministrator of the Federal Emergency Management  
6 Agency; and

7 (2) the term “covered cost”—

8 (A) means—

9 (i) the amount of an annual premium  
10 with respect to any policy for flood insur-

1           ance under the National Flood Insurance  
2           Program;

3           (ii) any surcharge imposed with re-  
4           spect to a policy described in clause (i)  
5           (other than a surcharge imposed under  
6           section 1304(b) of the National Flood In-  
7           surance Act of 1968 (42 U.S.C. 4011(b))),  
8           including a surcharge imposed under sec-  
9           tion 1308A(a) of that Act (42 U.S.C.  
10          4015a(a)); and

11          (iii) a fee described in paragraph  
12          (1)(B)(iii) or (2) of section 1307(a) of the  
13          National Flood Insurance Act of 1968 (42  
14          U.S.C. 4014(a)); and

15          (B) does not include any cost associated  
16          with the purchase of insurance under section  
17          1304(b) of the National Flood Insurance Act of  
18          1968 (42 U.S.C. 4011(b)), including any sur-  
19          charge that relates to insurance purchased  
20          under such section 1304(b).

21       (b) LIMITATION ON INCREASES.—

22           (1) LIMITATION.—

23           (A) IN GENERAL.—During the 5-year pe-  
24           riod beginning on the date of enactment of this  
25           Act, notwithstanding section 1308(e) of the Na-

1 tional Flood Insurance Act of 1968 (42 U.S.C.  
2 4015(e)), and subject to subparagraph (B), the  
3 Administrator may not, in any year, increase  
4 the amount of any covered cost by an amount  
5 that is more than 9 percent, as compared with  
6 the amount of the covered cost during the pre-  
7 vious year, except where the increase in the cov-  
8 ered cost relates to an exception under para-  
9 graph (1)(C)(iii) of such section 1308(e).

10 (B) DECREASE OF AMOUNT OF DEDUCT-  
11 IBLE OR INCREASE IN AMOUNT OF COV-  
12 ERAGE.—In the case of a policyholder described  
13 in section 1308(e)(1)(C)(ii) of the National  
14 Flood Insurance Act of 1968 (42 U.S.C.  
15 4015(e)(1)(C)(ii)), the Administrator shall es-  
16 tablish a process by which the Administrator  
17 determines an increase in covered costs for the  
18 policyholder that is—

19 (i) proportional to the relative change  
20 in risk based on the action taken by the  
21 policyholder; and

22 (ii) in compliance with subparagraph

23 (A).

24 (2) NEW RATING SYSTEMS.—

1 (A) CLASSIFICATION.—With respect to a  
2 property, the limitation under paragraph (1)  
3 shall remain in effect for each year until the  
4 covered costs with respect to the property re-  
5 flect full actuarial rates, without regard to  
6 whether, at any time until the year in which  
7 those covered costs reflect full actuarial rates,  
8 the property is rated or classified under the  
9 Risk Rating 2.0 methodology (or any substan-  
10 tially similar methodology).

11 (B) NEW POLICYHOLDER.—If a property  
12 to which the limitation under paragraph (1) ap-  
13 plies is sold before the covered costs for the  
14 property reflect full actuarial rates determined  
15 under the Risk Rating 2.0 methodology (or any  
16 substantially similar methodology), that limita-  
17 tion shall remain in effect for each year until  
18 the year in which those full actuarial rates  
19 takes effect.

20 (c) RULE OF CONSTRUCTION.—Nothing in sub-  
21 section (b) may be construed as prohibiting the Adminis-  
22 trator from reducing, in any year, the amount of any cov-  
23 ered cost, as compared with the amount of the covered  
24 cost during the previous year.

1 (d) AVERAGE HISTORICAL LOSS YEAR.—Section  
2 1308 of the National Flood Insurance Act of 1968 (42  
3 U.S.C. 4015) is amended by striking subsection (h) and  
4 inserting the following:

5 “(h) RULE OF CONSTRUCTION.—For purposes of this  
6 section, the calculation of an ‘average historical loss year’  
7 shall be computed in accordance with generally accepted  
8 actuarial principles.”.

9 (e) DISCLOSURE WITH RESPECT TO THE AFFORD-  
10 ABILITY STANDARD.—Section 1308(j) of the National  
11 Flood Insurance Act of 1968 (42 U.S.C. 4015(j)) is  
12 amended, in the second sentence, by inserting “and shall  
13 include in the report the number of those exceptions as  
14 of the date on which the Administrator submits the report  
15 and the location of each policyholder insured under those  
16 exceptions, organized by county and State” after “of the  
17 Senate”.

18 **SEC. \_\_\_\_\_. MEANS TESTED AFFORDABILITY VOUCHER.**

19 (a) IN GENERAL.—Chapter I of the National Flood  
20 Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amend-  
21 ed by adding at the end the following:

22 **“SEC. 1326. AFFORDABILITY ASSISTANCE.**

23 “(a) AFFORDABILITY ASSISTANCE FUND.—

24 “(1) ESTABLISHMENT.—The Administrator  
25 shall establish in the Treasury of the United States

1 an Affordability Assistance Fund (referred to in this  
2 section as the ‘Fund’), which shall be—

3 “(A) an account separate from any other  
4 accounts or funds available to the Adminis-  
5 trator; and

6 “(B) available without fiscal year limita-  
7 tion.

8 “(2) USE OF FUNDS.—Amounts from the Fund  
9 shall be available to provide financial assistance  
10 under subsection (b).

11 “(b) FINANCIAL ASSISTANCE.—

12 “(1) DEFINITIONS.—In this subsection—

13 “(A) the term ‘adjusted gross income’ has  
14 the meaning given the term in section 62 of the  
15 Internal Revenue Code of 1986;

16 “(B) the term ‘eligible household’ means a  
17 household for which—

18 “(i) housing expenses exceed 30 per-  
19 cent of the adjusted gross income of the  
20 household in a year; and

21 “(ii)(I) the total assets owned by the  
22 household are in an amount that is not  
23 greater than 220 percent of the median  
24 household income for the State in which  
25 the household is located; or

1                   “(II) with respect to a household that  
2                   has a total household income that is not  
3                   greater than 120 percent of the area me-  
4                   dian income for the area in which the  
5                   household is located, the amount of pre-  
6                   miums, surcharges, and fees for a flood in-  
7                   surance policy provided under this title in  
8                   a year for the household exceeds 1 percent  
9                   of the coverage limit of that policy under  
10                  section 1306(b); and

11                  “(C) the term ‘housing expenses’ means,  
12                  with respect to a household, the total amount  
13                  that the household spends in a year on—

14                         “(i) mortgage payments;

15                         “(ii) property taxes;

16                         “(iii) homeowners insurance; and

17                         “(iv) premiums for flood insurance  
18                         under the national flood insurance pro-  
19                         gram.

20                  “(2) AUTHORITY.—

21                         “(A) OTHER FINANCIAL ASSISTANCE.—

22                         The Administrator shall provide a voucher,  
23                         grant, or premium credit to an eligible house-  
24                         hold for a year in an amount that, subject to  
25                         subparagraph (B), is equal to the lesser of—

1 “(i) the difference between—

2 “(I) the housing expenses of the  
3 household for the year; and

4 “(II) 30 percent of the adjusted  
5 gross income of the household for the  
6 year; and

7 “(ii) the cost of premiums for the  
8 household for flood insurance under the  
9 national flood insurance program for the  
10 year.

11 “(B) REDUCTION.—The amount of the as-  
12 sistance provided under subparagraph (A) to an  
13 eligible household shall be reduced by 1 percent  
14 for each percent that the income of the eligible  
15 household exceeds 120 percent of the median  
16 household income for the State in which the  
17 property that is the subject of the assistance is  
18 located.

19 “(3) RELATIONSHIPS WITH OTHER AGEN-  
20 CIES.—The Administrator may enter into a memo-  
21 randum of understanding with the head of any other  
22 Federal agency to administer paragraph (2)(A).”.

23 (b) DIRECT APPROPRIATION.—Out of any money in  
24 the Treasury not otherwise appropriated, there is appro-  
25 priated to the Affordability Assistance Fund established



1 under section 1326 of the National Flood Insurance Act  
2 of 1968, as added by subsection (a) of this section,  
3 \$1,000,000,000 for each of fiscal years 2022 through  
4 2026 to provide financial assistance under subsection (b)  
5 of such section 1326.

6 **SEC. \_\_\_\_ . COMMUNITY DEVELOPMENT BLOCK GRANT DIS-**  
7 **ASTER RECOVERY PROGRAM.**

8 (a) DIRECT APPROPRIATIONS.—Out of amounts in  
9 the Treasury not otherwise appropriated, there is appro-  
10 priated to the “Community Development Fund”, for nec-  
11 essary expenses related to disaster relief, long-term recov-  
12 ery, and restoration of infrastructure, housing, and eco-  
13 nomic revitalization in areas in States for which the Presi-  
14 dent declared a major disaster under title IV of the Robert  
15 T. Stafford Disaster Relief and Emergency Assistance Act  
16 of 1974 (42 U.S.C. 5170 et seq.), \$25,000,000,000 for  
17 fiscal year 2021, to remain available until expended, for  
18 activities authorized under title I of the Housing and Com-  
19 munity Development Act of 1974 (42 U.S.C. 5301 et  
20 seq.).

21 (b) FORMULA.—Notwithstanding section 106 of the  
22 Housing and Community Development Act of 1974 (42  
23 U.S.C. 5306), amounts appropriated under subsection (a)  
24 shall be allocated to States as follows:

1           (1) One-third shall be allocated to States based  
2           on the dollar amount of claims in the State under  
3           the National Flood Insurance Program established  
4           under the National Flood Insurance Act of 1968 (42  
5           U.S.C. 4001 et seq.) during the 10-year period pre-  
6           ceding the date of enactment of this Act.

7           (2) One-third shall be allocated to States based  
8           on the number of severe repetitive loss properties, as  
9           defined in section 1307(h) of the National Flood In-  
10          surance Act of 1968 (42 U.S.C. 4014(h)), located in  
11          the State.

12          (3) One-third shall be allocated to States based  
13          on the amount of premium rate increases for prop-  
14          erties located in the State under the Risk Rating 2.0  
15          methodology (or any substantially similar method-  
16          ology).

17 **SEC. \_\_\_\_\_. FORBEARANCE ON NFIP INTEREST PAYMENTS.**

18          (a) IN GENERAL.—During the 5-year period begin-  
19          ning on the date of enactment of this Act, the Secretary  
20          of the Treasury may not charge the Administrator of the  
21          Federal Emergency Management Agency (referred to in  
22          this section as the “Administrator”) interest on amounts  
23          borrowed by the Administrator under section 1309(a) of  
24          the National Flood Insurance Act of 1968 (42 U.S.C.  
25          4016(a)) that were outstanding as of the date of enact-

1 ment of this Act, including amounts borrowed after the  
2 date of enactment of this Act that refinance debts that  
3 existed before the date of enactment of this Act.

4 (b) USE OF SAVED AMOUNTS.—There shall be depos-  
5 ited into the National Flood Mitigation Fund an amount  
6 equal to the interest that would have accrued on the bor-  
7 rowed amounts during the 5-year period described in sub-  
8 section (a) at the time at which those interest payments  
9 would have otherwise been paid, which, notwithstanding  
10 any provision of section 1367 of the National Flood Insur-  
11 ance Act of 1968 (42 U.S.C. 4104d), the Administrator  
12 shall use to carry out the program established under sec-  
13 tion 1366 of the National Flood Insurance Act of 1968  
14 (42 U.S.C. 4104c).

15 (c) NO RETROACTIVE ACCRUAL.—After the 5-year  
16 period described in subsection (a), the Secretary of the  
17 Treasury shall not require the Administrator to repay any  
18 interest that, but for that subsection, would have accrued  
19 on the borrowed amounts described in that subsection dur-  
20 ing that 5-year period.