2019–2020
State Legislation on Natural Disasters
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The National Conference of State Legislatures is the bipartisan organization dedicated to serving the lawmakers and staffs of the nation’s 50 states, its commonwealths and territories.

NCSL provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues, and is an effective and respected advocate for the interests of the states in the American federal system. Its objectives are:

• Improve the quality and effectiveness of state legislatures.
• Promote policy innovation and communication among state legislatures.
• Ensure state legislatures a strong, cohesive voice in the federal system.

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Introduction

As natural disasters increase in frequency and intensity, communities across the country have sought state policy solutions. Disaster seasons of the last few years have broken records across the board. Hurricanes Harvey, Irma, Maria and 14 others made 2017 the costliest hurricane season on record. It would also have been the most destructive wildfire season on record, if not for 2018, the nation’s deadliest and most destructive year ever, featuring the deadliest single fire in a century—the Camp Fire in Paradise, Calif. The megafires of 2020 are still fresh in the nation’s mind—a year that gave California five of its six largest fires in state history, Colorado its single largest fire ever, and temporarily propelled air pollution in some cities to among the worst in the world. According to the National Oceanic and Atmospheric Administration (NOAA), the nation averaged nearly 12 “billion-dollar” disasters annually over the past decade—up from less than five per year between 1980 and 2009. Total damages over the past five years exceeded $525 billion—an annual average of around $106 billion.

2019 Billion-dollar Weather and Climate Disasters

By approximate location

Since 2017, Congress and the Trump administration have placed an increased emphasis on the state and local role in disaster management. In the fall of 2018, Congress enacted the Disaster Recovery Reform Act (DRRA)—widely considered the most comprehensive disaster reform bill since Hurricane Katrina. The Federal Emergency Management Agency (FEMA) has long held that disasters are “locally executed, state managed, and federally supported,” in that order, putting state and local governments ahead of the federal response. This emphasis has strengthened in recent years, evident in such publications as FEMA’s 2018-2022 Strategic Plan, the National Mitigation Investment Strategy, and in general agency messaging. The agency is currently implementing a DRRA-mandated shift in the Per Capita Impact Indicator, which would raise the damage threshold by which extreme weather events are granted a presidential disaster declaration, making it more difficult for disaster-impacted states to access federal assistance under the Stafford Act.

While disasters worsen and the federal government eyes a reduced role, state legislatures across the country are enacting a range of disaster management solutions. In 2019 and 2020, states enacted over 200 bills relating to natural disasters. At least 70 of these bills improve infrastructure resilience, from roads and bridges to the energy grid, building codes and emergency communications. At least 100 bills enact broad emergency management reform from administrative changes to intergovernmental coordination and
transparency. Despite the ongoing challenge of balancing competing priorities for limited funding within state budgets—made no simpler by historic pandemic-induced budget shortfalls—over two-thirds of states enacted at least 95 bills appropriating funds or creating financial incentives for resilience activities. This report discusses state legislative trends in broad emergency management reform, finance and appropriations, and infrastructure.

**Emergency Management**

Jurisdiction for emergency management can vary from state to state, involving multiple agencies, offices and public officials at the state level, as well as a range of counterparts on the local and federal levels. A state may have an emergency management director, public safety commissioner, state resilience officer, state hazard mitigation officer, building and fire officials, governor’s homeland security advisor and other key personnel that all have an important role to play in managing disasters. For example, in Texas, the Division of Emergency Management oversees the use of most FEMA grants while the General Land Office oversees the use of Community Development Block Grants–Disaster Recovery (CDBG-DR) and certain subsets of FEMA funding. Especially in the wake of extreme events, states may seek to reform these emergency management systems through legislation by establishing new positions, offices or interagency working groups; requiring preparedness or mitigation plans from existing agencies; or introducing a range of regulatory and administrative changes. For example, after Hurricane Matthew, North Carolina passed legislation creating the North Carolina Office of Response and Recovery (NCORR) in 2019 that operates under the emergency management director and is the designated grantee of CDBG-DR funds.

In 2019 and 2020, 29 states enacted at least 100 broad emergency management reform bills. Many of these bills reform disaster management and improve state disaster preparedness plans. Other bills alter or create new emergency response authorities for state agencies, improve coordination between state and local governments in disaster response and preparedness, and create new positions. California alone passed three bills that reorganize state emergency management by creating, consolidating or defining wildfire-specific mandates for planning and disaster management agencies, including the Catastrophe Response Council (AB 111), the California Wildfire Safety Advisory Board (AB 1054) and the Natural Resources Agency (AB 38). Similar examples include:

- **Hawaii HB 993** (2019) requires the Hawaii Emergency Management Agency to assign responsibilities to state agencies for emergency functions and requires each county to coordinate, develop and implement a comprehensive emergency management plan for submission and coordination with the state emergency management plan.

- **Maryland HB 648** (2020) authorizes a comprehensive emergency management system that allows for all state agencies to prepare for and respond to emergencies. The bill specifies that the Maryland Emergency Management Agency may act to coordinate emergency management activities between state agencies, local governments and the federal government.

- **Nevada AB 206** (2019) requires the chief of the Division of Emergency Management within the Department of Public Safety to develop written plans for disaster response and recovery and requires the Department of Health and Human Services to develop a written plan to address behavioral health needs in an emergency. The bill consolidates other emergency jurisdictions.

- **Utah HB 188** (2020) requires coordination among municipalities and counties to ensure access to the Integrated Public Alert and Warning System and requires each political subdivision to have and submit an alert plan to the Division of Emergency Management. The bill requires training every three years for all emergency service agencies, managers and other personnel.

- **Virginia HB 1313** (2020) directs the governor to designate a chief resiliency officer to coordinate disaster resilience and adaptation efforts in the state. The bill expands the list of programs with which localities and the commonwealth are required to coordinate as part of their flood control efforts.

- **Washington SB 5012** (2019) requires all levels and branches of state and local government to conduct planning and preparation for continuity of operations and government. The bill specifies that the ad-
The cost of disasters at all stages is shared to varying degrees by federal, state, local, private and nonprofit sectors alike. There are many sources of federal funding available for communities impacted by a disaster; however, states frequently find it necessary to pass their own economic recovery or appropriations measures. This is true especially when 1) a presidential disaster declaration is not granted, 2) a declaration is granted, to fund the requisite state match and 3) they are needed to boost funding to rainy day accounts or disaster grants programs to advance general financial preparedness ahead of a disaster.

In 2019 and 2020, 36 states enacted at least 95 finance and appropriations bills. There is considerable variation among disaster funding mechanisms state to state, and 2019-2020 was no exception. In addition to increased appropriations, many of these bills relate to loan and grant programs for disaster mitigation, response and recovery activities such as climate adaptation, fire suppression, flood control projects or restoration projects following earthquakes and other natural disasters. Other bills relate to federal funding for state disaster response activities and economic recovery packages following major events. Some of these bills include:

- Washington HB 1622 (2020) permits expenditures and grants from the state drought preparedness and response account for related activities. It authorizes the Department of Ecology to:
  - Issue a drought advisory in the face of drought conditions.
  - Issue grants to eligible public entities to reduce related hardship.
  - Develop and update a drought contingency plan in collaboration with other affected federal, state and local governments.
• **Alaska** SB 38 (2019) appropriates $7.9 billion from the general fund to the Department of Natural Resources for fire suppression activities and $6.5 billion to the Department of Transportation and Public Facilities to match federal funds received for federal highway surface transportation disaster repair.

• **California** AB 78 (2020) creates the Climate Catalyst Revolving Loan Fund for low-interest and low-cost loans to finance projects that mitigate the risk of climate disasters, including the implementation of low-carbon technology and infrastructure projects.

• **Colorado** HB 1057 (2020) makes modifications to the grant program funded by the Forest Restoration and Wildfire Risk Mitigation Act, including adding a fire protection district and a nonprofit organization engaged in firefighting or fire management activities to the list of recipients eligible to receive grant funding.

• **Hawaii** HB 329 (2019) amends the Kauai Flooding Disaster Relief Appropriation Act to include flood mitigation measures to prevent and minimize the impacts of current or future flooding in areas affected in Kauai in 2018. The bill also extends the lapse date of the appropriation ($100 million) from June 2019 to June 2020.

• **Iowa** SB 2188 (2020) states that, in the event that hazard mitigation assistance is granted by the federal government under the Stafford Act or the federal National Flood Insurance Reform Act (and when section 29C.6 is not applicable), the state will pay 10% of the state match and local government applicants will pay 15% of the state match. This assumes the federal government is covering the typical 75% federal match. State facilitation of such financial assistance to local governments is contingent on the local government having on file a comprehensive, state-approved emergency plan.

• **Mississippi** HB 524 (2020) expands how the Disaster Assistance Trust Fund can be used by the Mississippi Emergency Management Agency (MEMA) to assist cities and counties after disasters. It specifies that the fund can be used for costs incurred for alternative housing grants and debris removal support.

• **Mississippi** SB 2938 (2020) appropriates nearly $4 billion to defray the costs of MEMA and establishes a Disaster Relief Reserve Fund.

Tropical Storm Beta inundated parts of Corpus Christi, Texas, in September 2020. Texas enacted a bill that provides $3 billion for flood planning.
• **North Carolina** HB 200 (2019) requires the public safety secretary to notify annually and within five days of a presidential disaster declaration the budget director, the governor’s office and other state entities of the potential for using CDBG-DR funds to cover the nonfederal share of matching requirements for eligible programs. The bill provides various disaster appropriations, including $121 million for:
  - Hurricane Florence Disaster Recovery Fund.
  - State matches for the following federal programs:
    - Emergency Response and Disaster Relief Fund.
    - Hurricane Florence federal disaster assistance programs.
    - Federal disaster assistance for hurricanes Matthew and Michael.
    - Other federal disaster assistance for Hurricane Dorian.
    - Clean Water State Revolving Fund and Drinking Water State Revolving Fund.

• **Texas** SB 7 (2019) provides $3 billion in funding to flood planning, mitigation and infrastructure projects, including the creation of the Flood Infrastructure Fund, the State Infrastructure Resiliency Fund and the Hurricane Harvey Account.

• **Utah** HB 305 (2019) creates the Post Disaster Recovery and Mitigation Restricted Account for related activities and appropriates $300,000 ongoing to the account. It also appropriates funding via the Department of Public Safety for post-disaster recovery and mitigation reimbursement costs to qualified local governments.

• **Virginia** HB 22 (2020) changes the Shoreline Resiliency Fund to the Community Flood Preparedness Fund, providing it will receive revenue generated by the sale of emissions allowances. The fund will be used to assist localities affected by recurrent flooding, sea level rise, and flooding from severe weather events.

### States That Enacted Finance Bills
2019-2020

Source: NCSL, 2020
Critical Infrastructure

Infrastructure resilience legislation typically covers a range of disaster mitigation activities and preparedness planning. Critical infrastructure spans a vast array of issues—communications infrastructure, financial sector, health sector and more. While there are few sectors that natural disasters do not impact, key state legislative trends in 2019 and 2020 in particular encompassed transportation infrastructure, building codes and energy grid resilience. These specific subsets of infrastructure resilience are discussed below. States enacted at least 70 infrastructure resilience bills in these areas.

States That Enacted Critical Infrastructure Resilience Bills
2019-2020

Transportation Infrastructure

When disasters arrive, their impact is most immediately evident on the built environment. Public infrastructure not only sustains some of the most extensive damage from disasters, it supports the continued operation of a range of key sectors within a community. Roads, bridges and other key components transport vulnerable populations out of harm’s way—ideally before, but sometimes during and just after, the event. As noted by the Federal Highway Administration (FHWA) in 2019, damage from extreme weather events—heat waves, drought, tropical storms, high winds, storm surges and heavy downpours—is occurring more frequently and comes at significant costs to repair. As Congress has engaged in ongoing negotiations in recent years over a comprehensive infrastructure package, it has also included a transportation resiliency strategy for weather-resilient infrastructure projects along the country’s freight corridors to mitigate extreme weather impacts.

States have also acknowledged and grappled with this reality. In 2019 and 2020, states considered a range of such solutions, from emergency evacuation routes during floods, fires and hurricanes to highway, road and bridge infrastructure projects and preparing for various changes resiliency may necessitate. In 2019 and 2020, at least four states—California, Florida, Maine and Vermont—enacted seven pieces of legislation addressing transportation resilience. These include:
• **California SB 99 (2019)** requires localities to review and update safety elements in local government’s general plans with information identifying residences at high risk of floods or wildfires without at least two emergency evacuation routes.

• **California AB 74 (2019)** appropriates $2.5 million to reimburse localities for maintaining evacuation routes during emergencies, specifying the intent of the Legislature that localities should develop standards for such routes, as well as create and maintain signage and other necessities.

• **California AB 477 (2019)** requires local governments to include persons with disabilities in the next update of emergency plans.

• **Florida SB 7068 (2019)** establishes the Multi-Use Corridors of Regional Economic Significant (M-CORES) program to study three regional corridors for accommodating multiple modes of transportation and various types of infrastructure. The bill includes a task force for each of the three proposed facilities (Southwest-Central Florida Connect, Suncoast Connect and the Northern Turnpike Connector) tasked in part with evaluating the necessity for hurricane routes along the corridor, as well as the associated environmental and economic impacts. The bill also allocates $10 million per year over four years to:
  - The Small County Road Assistance Program, to assist small county governments in resurfacing or reconstructing county roads, with priority given to those that serve as an evacuation route.
  - The Small County Outreach Program, to assist small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, etc.
  - Each program may give preference to projects in counties impacted by hurricanes.

• **Maine Ballot Question 1 (2019)** was approved by voters to provide $4 million for a competitive grant program that matches local funding for upgrades to local culverts at stream crossings to improve fish and wildlife habitats and enhance community safety.

• **Maine SB 550 (2019)** establishes a Climate Council to prioritize a plan encouraging and preparing for transitions in transportation, including infrastructure changes resulting from climate disruption. The council’s Transportation Working Group released a June 2020 plan recommending the state conduct a statewide infrastructure vulnerability assessment for roads, bridges and culverts, airports, railroads, ferries, ports and wharfs, maintenance facilities and public transit systems.

• **Vermont HB 688 (2020)** establishes a Subcommittee on Rural Resilience and Adaptation, directing it to focus on the pressures that climate change adaption will impose on rural transportation.

### Building Codes

Building codes have been identified as a highly cost effective strategy to reducing the impacts of disasters. The Congressionally established National Institute of Building Sciences found that the regular adoption of building codes provides an $11 benefit for every $1 invested. A recent FEMA study found that building codes provided more than $27 billion in cumulative mitigation benefits against flood, hurricane wind, and earthquake hazards from 2000 to 2016 and could help communities avoid $132 billion to $171 billion in cumulative losses through 2040. Building code vintages and adoption processes vary greatly in states across the country—from enforcing a statewide building code or having a largely decentralized statewide code to having a statewide minimum code but allowing local discretion for enforcement or amendments, or deferring fully to local control. Building code requirements can also be limited to communities that are most vulnerable to disasters, such as homes in flood plains, on the coasts, or exposed to the Wildlife Urban Interface or to specific building types including state buildings or schools. Up-to-date building codes can also make a state more competitive for FEMA BRIC grants, reduce resident’s insurance premiums through the NFIP Community Rating System and the Building Codes Effectiveness Grading Schedule (BCEGS) and potentially ease recovery with Post-Disaster Public Assistance funding. In 2019 and 2020, 13 states updated their codes via regulatory processes previously established by the legislature, while five states adopted new codes or updated existing codes via legislation.
These include:

- Nebraska Legislative Bill 348.
- Utah HB 29.
- Maine Legislative Document 855.
- Texas HB 2858.
- New Hampshire HB 562.

Energy

In the wake of increasingly severe disasters, policymakers and industry have sought ways to balance energy infrastructure protection with service restoration. State legislatures have actively addressed these issues—both in disaster mitigation by providing incentives for investments that harden infrastructure and in facilitating swift response and recovery actions after disasters strike. Legislative trends in energy resilience emphasize utility regulation, grid hardening and backup power. Fourteen states enacted at least 30 bills in these areas in 2019 and 2020.

UTILITY REGULATION

While the energy industry has taken its own measures to improve resilience, state legislation has complemented these efforts in interstate mutual assistance, billing practices transparency, and utility disaster mitigation plans. Utility mutual assistance agreements establish a broad support network of utilities by which neighboring (including out-of-state) utilities partner in restoration work. Similarly, state legislatures in at least 24 states implemented business rapid response laws, which temporarily remove some licensing and tax requirements for out-of-state businesses and employees engaged in emergency response and restoration work. Puerto Rico enacted a law that will add transparency to how utilities bill customers during outages, while other states have considered measures that would force utilities to compensate customers whose service isn’t restored within a certain amount of time after an event.

The deadly 2017 and 2018 wildfire seasons prompted western states like California to pass a slate of bills regulating electric utilities. California alone passed nine bills in 2019 addressing everything from fire prevention practices to utility communication requirements. Some of these bills heightened oversight of utilities’ vegetation management and disaster mitigation plans. They also expanded state oversight and communication requirements for “de-energization” events—when utilities cut off power to portions of the grid to avoid sparking a fire during periods of elevated fire risk. Some of these bills include:

The Silverado Fire looms over Irvine, Calif., in October 2020. The state passed a bill that requires electric utilities to notify first responders, hospitals, telecommunication infrastructure and others when events might lead to a loss of power.
• **California SB 247 (2019)** requires an electrical corporation to notify the public utilities commission’s (PUC) Wildfire Safety Division after it completes all or a substantial portion of the vegetation management requirements in its wildfire mitigation plan. The Wildfire Safety Division must audit the work performed and specify any failure to comply with the requirements.

• **California SB 560 (2019)** requires electric utilities to establish procedures to notify all public safety offices, critical first responders, health care facilities and operators of telecommunications infrastructure within the footprint of a potential de-energization event.

• **Nevada SB 329 (2019)** requires an electric utility to submit a natural disaster protection plan to the PUC every three years for approval to recover costs related to plan development and implementation. The plan must identify high-risk areas for wildfires or other disasters, approaches for cost-effective mitigation, proposed protocols for de-energizing distribution lines, and implementation capabilities.

• **Utah HB 66 (2020)** amends cost-recovery statutes, grants the PUC authority to establish procedures related to wildfire planning, and requires utilities and electric cooperatives to submit wildfire protection plans for the commission’s approval.

**GRID HARDENING**

Some of the most disaster-impacted states have sought to prevent the worst of the damage by hardening their energy grid infrastructure in recent years. These measures encourage utilities to invest in upgrades to existing infrastructure, incorporate grid-hardening measures in plans to replace infrastructure, and often provide utilities with a way to finance projects. These measures also seek to mitigate risks from certain threats, like substation flood prevention projects in coastal areas or concrete utility pole installation in regions with higher exposure to strong winds. In some cases, these projects include undergrounding electric lines in high risk areas—whether to mitigate against hurricane-force winds that consistently knock out power or to prevent lines from sparking the next dangerous blaze in very dry regions.

While California and Florida passed important grid-hardening legislation in 2019, Virginia passed a variety of energy resilience measures early in 2020. Illinois and New Jersey have also seen bills in the past two years that would require certain electric lines to be placed undergrounded, while Massachusetts, Missouri, New Jersey and Texas all considered bills that sought to enhance electric system resilience. Key examples include:

• **California SB 70 (2019)** requires each electrical corporation’s wildfire mitigation plan to include a description of where and how the corporation considered undergrounding electrical distribution lines within service territories identified to have the highest wildfire risk.

• **Florida SB 796 (2019)** requires utilities to develop transmission and distribution system storm protection plans, including substantial undergrounding and flood mitigation. These plans must be approved by the Florida PUC and updated every three years. The commission is required to determine the utility’s prudently incurred costs under the plan annually and allow the utility to recover those costs through a charge on customer bills.

• **Virginia HB 576 (2020)** makes stipulations on two electric transmission line projects to pilot undergrounding in the state.

• **Virginia HB 1030 (2020)** establishes that, if the Virginia Corporation Commission approves an underground transmission line project under a pilot program, future projects in the same right of way should also be placed underground. Whether future projects are required to be undergrounded will be determined based on technical feasibility and community support, while the estimated cost of placing the line underground must be less than 2.5 times the cost of placing it overhead.
MICROGRIDS AND BACKUP POWER

Microgrids and backup generators can keep critical loads powered and operational—whether at an emergency shelter, a health care facility or an individual home—until normal service is restored. States like California and Puerto Rico have moved to offer clarity to microgrid developers by standardizing service tariffs. States have also considered backup power requirements for certain facilities and broad planning initiatives to identify areas and facilities where backup power would be particularly beneficial. Some of these bills include:

- **Massachusetts HB 3941** (2019) creates a matching grant program and offers technical assistance for cities and towns to develop microgrids.

- **California SB 167** (2019) requires each electrical corporation to identify ways to mitigate the public safety effects of de-energization events, especially on customers who use medically essential equipment. It also authorizes electrical corporations to deploy backup electrical resources or provide financial assistance for backup electrical resources to those customers.

- **Puerto Rico SB 657** (2020) requires group homes, day care sites and elderly care facilities to have sufficient water reserves and a backup electric generator in order to be licensed.

- **Virginia SB 1077** (2019) requires licensed assisted living facilities with six or more residents to have a temporary emergency electrical power source available for use on-site in the event of power outages.

- **Virginia SB 350** (2020) establishes the Emergency Shelters Upgrade Assistance Grant Fund administered by the Department of Emergency Management. It provides matching funds to localities to install, maintain or repair infrastructure for backup energy generation in emergency shelters.

EMERGENCY COMMUNICATIONS

Several states also considered emergency communications legislation since 2019. Many of these bills are aimed at enhancing states’ emergency communication systems and updating 911 laws. Some bills cover training for 911 operators, while others address the costs involved with emergency telephone systems. In 2019 and 2020, 16 states enacted at least 28 bills related to emergency communications and 911. Some examples of these bills include:

- **California SB 670** (2019) requires a provider of telecommunications services that provides access to 911 services to notify the Office of Emergency Services within 60 minutes after discovering an outage that limits customers’ ability to make 911 calls or receive emergency notifications.

- **Maine HB 1281** (2019) modifies the state’s emergency services communication laws to reflect that text messaging can be used to contact 911.

- **Tennessee SB 1958** (2019) requires training for 911 call takers and public safety dispatchers to include instruction on dispatcher-assisted delivery of CPR instructions to callers or bystanders.

- **Virginia HB 1003** (2020) transfers responsibilities for the 911 Services Board from the Virginia Information Technologies Agency to the Virginia Department of Emergency Management. The Division of Public Safety Communications within the Department of Emergency Management is directed to assist in the development of enhanced emergency telecommunications systems throughout the state.

- **West Virginia HB 4123** (2020) requires each county emergency answering point to be constantly operated by an emergency telecommunicator. It specifies that a county commission or the West Virginia State Police should seek the advice of telephone companies and local emergency providers in order to develop an enhanced emergency telephone system.
Conclusion

At a time when disasters are increasing in frequency and intensity, damage from extreme weather events is growing far costlier than in previous decades, and the federal government is looking to limit its role and spending on disasters, states are faced with no small challenge—and they are rising to the occasion. In the context of some of the worst disaster seasons on record, states have passed legislation in the last two years prioritizing disaster resilience across the board. States have moved to assess, strengthen and fund transportation resilience improvements, emphasizing emergency evacuation routes and vulnerable or disaster-affected routes. States are learning from past lessons by revising their building code standards, hardening their energy grid, encouraging backup power, and regulating utilities to facilitate disaster prevention, mitigation, response and recovery. States are reforming the very systems behind emergency management in their communities by creating new positions, offices, authorities and transparencies within state government and between levels of government. And importantly, states are paying for it. In 2019 and 2020, nearly two-thirds of states across the country allocated several billions of dollars for hurricane mitigation and recovery—from various financial incentives for mitigation activities to new grant programs to hefty state matches for access to federal assistance. State legislatures have stepped up to address these daunting challenges and will be well equipped as the landscape in disaster mitigation, preparedness, response and recovery continues to evolve.
The NCSL Foundation Partnership on Disaster Mitigation and Recovery convened a steering committee of state legislators, legislative staff and private-sector partners to explore policy considerations and develop policy options for states as they face impacts of current and future natural disasters. The steering committee’s in-person and virtual convenings have informed the contents of this policy brief. The content within is a product of NCSL and does not necessarily reflect the position of our partnering organizations.

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