



H. R. 6833

One Hundred Seventeenth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,
the third day of January, two thousand and twenty-two*

An Act

Making continuing appropriations for fiscal year 2023, and for other purposes.

*Be it enacted by the Senate and House of Representatives
of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Continuing Appropriations and
Ukraine Supplemental Appropriations Act, 2023”.

SEC. 2. TABLE OF CONTENTS.

- Sec. 1. Short Title.
- Sec. 2. Table of Contents.
- Sec. 3. References.
- Sec. 4. Payment to Widows and Heirs of Deceased Members of Congress.

DIVISION A—CONTINUING APPROPRIATIONS ACT, 2023

DIVISION B—UKRAINE SUPPLEMENTAL APPROPRIATIONS ACT, 2023

DIVISION C—OTHER MATTERS

- Title I—Extensions, Technical Corrections, and Other Matters
- Title II—Budgetary Effects

DIVISION D—HEALTH AND HUMAN SERVICES EXTENSIONS

- Title I—Medicare and Medicaid
- Title II—Human Services
- Title III—Public Health
- Title IV—Indian Health

DIVISION E—VETERANS AFFAIRS EXTENSIONS

- Title I—Extensions of authorities relating to health care
- Title II—Extensions of authorities relating to benefits
- Title III—Extensions of authorities relating to homeless veterans
- Title IV—Extensions of other authorities

DIVISION F—FDA USER FEE REAUTHORIZATION ACT OF 2022

DIVISION G—HERMIT'S PEAK/CALF CANYON FIRE ASSISTANCE ACT

SEC. 5007. REAUTHORIZATION OF CERTAIN DEVICE INSPECTIONS.

Section 704(g)(11) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(g)(11)) is amended by striking “October 1” and inserting “December 17”.

SEC. 5008. REAUTHORIZATION OF REPORTING REQUIREMENTS RELATED TO PENDING GENERIC DRUG APPLICATIONS AND PRIORITY REVIEW APPLICATIONS.

Section 807 of the FDA Reauthorization Act of 2017 (Public Law 115-52) is amended, in the matter preceding paragraph (1), by striking “October 1” and inserting “December 16”.

**DIVISION G—HERMIT’S PEAK/CALF
CANYON FIRE ASSISTANCE ACT**

SEC. 101. SHORT TITLE.

This division may be cited as the “Hermit’s Peak/Calf Canyon Fire Assistance Act”.

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) on April 6, 2022, the Forest Service initiated the Las Dispensas-Gallinas prescribed burn on Federal land in the Santa Fe National Forest in San Miguel County, New Mexico, when erratic winds were prevalent in the area that was also suffering from severe drought after many years of insufficient precipitation;

(2) on April 6, 2022, the prescribed burn, which became known as the “Hermit’s Peak Fire”, exceeded the containment capabilities of the Forest Service, was declared a wildfire, and spread to other Federal and non-Federal land;

(3) on April 19, 2022, the Calf Canyon Fire, also in San Miguel County, New Mexico, began burning on Federal land and was later identified as the result of a pile burn in January 2022 that remained dormant under the surface before re-emerging;

(4) on April 27, 2022, the Hermit’s Peak Fire and the Calf Canyon Fire merged, and both fires were reported as the Hermit’s Peak Fire or the Hermit’s Peak/Calf Canyon Fire, which shall be referred to hereafter as the Hermit’s Peak/Calf Canyon Fire;

(5) by May 2, 2022, the fire had grown in size and caused evacuations in multiple villages and communities in San Miguel County and Mora County, including in the San Miguel county jail, the State’s psychiatric hospital, the United World College, and New Mexico Highlands University;

(6) on May 4, 2022, the President issued a major disaster declaration for the counties of Colfax, Mora, and San Miguel, New Mexico;

(7) on May 20, 2022, U.S. Forest Service Chief Randy Moore ordered a 90-day review of prescribed burn policies to reduce the risk of wildfires and ensure the safety of the communities involved;

(8) the U.S. Forest Service has assumed responsibility for the Hermit’s Peak/Calf Canyon Fire;

(9) the fire resulted in the loss of Federal, State, local, Tribal, and private property; and

(10) the United States should compensate the victims of the Hermit's Peak/Calf Canyon Fire.

(b) PURPOSES.—The purposes of this Act are—

(1) to compensate victims of the Hermit's Peak/Calf Canyon Fire, for injuries resulting from the fire; and

(2) to provide for the expeditious consideration and settlement of claims for those injuries.

SEC. 103. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means—

(A) the Administrator of the Federal Emergency Management Agency; or

(B) if a Manager is appointed under section 104(a)(3), the Manager.

(2) HERMIT'S PEAK/CALF CANYON FIRE.—The term "Hermit's Peak/Calf Canyon Fire" means—

(A) the fire resulting from the initiation by the Forest Service of a prescribed burn in the Santa Fe National Forest in San Miguel County, New Mexico, on April 6, 2022;

(B) the pile burn holdover resulting from the prescribed burn by the Forest Service, which reemerged on April 19, 2022; and

(C) the merger of the two fires described in subparagraphs (A) and (B), reported as the Hermit's Peak Fire or the Hermit's Peak Fire/Calf Canyon Fire.

(3) INDIAN TRIBE.—The term "Indian Tribe" means the recognized governing body of any Indian or Alaska Native Tribe, band, nation, pueblo, village, community, component band, or component reservation individually identified (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(4) INJURED PERSON.—The term "injured person" means—

(A) an individual, regardless of the citizenship or alien status of the individual; or

(B) an Indian Tribe, corporation, Tribal corporation, partnership, company, association, county, township, city, State, school district, or other non-Federal entity (including a legal representative) that suffered injury resulting from the Hermit's Peak/Calf Canyon Fire.

(5) INJURY.—The term "injury" has the same meaning as the term "injury or loss of property, or personal injury or death" as used in section 1346(b)(1) of title 28, United States Code.

(6) MANAGER.—The term "Manager" means an Independent Claims Manager appointed under section 104(a)(3).

(7) OFFICE.—The term "Office" means the Office of Hermit's Peak/Calf Canyon Fire Claims established by section 104(a)(2).

(8) TRIBAL ENTITY.—The term "Tribal entity" includes any Indian Tribe, tribal organization, Indian-controlled organization serving Indians, Native Hawaiian organization, or Alaska Native entity, as such terms are defined or used in section

166 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3221).

SEC. 104. COMPENSATION FOR VICTIMS OF HERMIT'S PEAK/CALF CANYON FIRE.

(a) IN GENERAL.—

(1) COMPENSATION.—Each injured person shall be eligible to receive from the United States compensation for injury suffered by the injured person as a result of the Hermit's Peak/Calf Canyon Fire, subject to the availability of appropriations and subject to the Administrator making the determinations required under subsection (d).

(2) OFFICE OF HERMIT'S PEAK/CALF CANYON FIRE CLAIMS.—

(A) IN GENERAL.—There is established within the Federal Emergency Management Agency an Office of Hermit's Peak/Calf Canyon Fire Claims.

(B) PURPOSE.—The Office shall receive, process, and pay claims in accordance with this Act.

(C) FUNDING.—The Office—

(i) shall be funded from funds made available to the Administrator for carrying out this section;

(ii) may appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service; and

(iii) may reimburse other Federal agencies for claims processing support and assistance.

(3) OPTION TO APPOINT INDEPENDENT CLAIMS MANAGER.—

The Administrator may appoint an Independent Claims Manager to—

(A) head the Office; and

(B) assume the duties of the Administrator under this Act.

(4) DETAIL.—Upon the request of the Administrator, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Federal Emergency Management Agency to assist the Agency in carrying out the duties under this Act.

(b) SUBMISSION OF CLAIMS.—Not later than 2 years after the date on which regulations are first promulgated under subsection (f), an injured person may submit to the Administrator a written claim for 1 or more injuries suffered by the injured person in accordance with such requirements as the Administrator determines to be appropriate.

(c) INVESTIGATION OF CLAIMS.—

(1) IN GENERAL.—In accordance with subsection (d), the Administrator shall, on behalf of the United States, investigate, consider, ascertain, adjust, determine, grant, deny, or settle any claim for money damages asserted under subsection (b).

(2) APPLICABILITY OF STATE LAW.—Except as otherwise provided in this Act, the laws of the State of New Mexico shall apply to the calculation of damages under subsection (d)(4).

(3) EXTENT OF DAMAGES.—Any payment under this Act—

(A) shall be limited to actual compensatory damages measured by injuries suffered; and

(B) shall not include—

- (i) interest before settlement or payment of a claim;
 - or
 - (ii) punitive damages.
- (d) PAYMENT OF CLAIMS.—
- (1) DETERMINATION AND PAYMENT OF AMOUNT.—
- (A) IN GENERAL.—
- (i) PAYMENT.—Not later than 180 days after the date on which a claim is submitted under this Act, the Administrator shall determine and fix the amount, if any, to be paid for the claim.
 - (ii) PRIORITY.—The Administrator, to the maximum extent practicable, shall pay subrogation claims submitted under this Act only after paying claims submitted by injured parties that are not insurance companies seeking payment as subrogees.
- (B) PARAMETERS OF DETERMINATION.—In determining and settling a claim under this Act, the Administrator shall determine only—
- (i) whether the claimant is an injured person;
 - (ii) whether the injury that is the subject of the claim resulted from the Hermit's Peak/Calf Canyon Fire;
 - (iii) whether the person or persons are otherwise eligible to receive any amount determined under clause (iv); and
 - (iv) whether sufficient funds are available for payment and, if so, the amount, if any, to be allowed and paid under this Act.
- (C) INSURANCE AND OTHER BENEFITS.—
- (i) IN GENERAL.—In determining the amount of, and paying, a claim under this Act, to prevent recovery by a claimant in excess of actual compensatory damages, the Administrator shall reduce the amount to be paid for the claim by an amount that is equal to the total of insurance benefits (excluding life insurance benefits) or other payments or settlements of any nature that were paid, or will be paid, with respect to the claim.
 - (ii) GOVERNMENT LOANS.—This subparagraph shall not apply to the receipt by a claimant of any government loan that is required to be repaid by the claimant.
- (2) PARTIAL PAYMENT.—
- (A) IN GENERAL.—At the request of a claimant, the Administrator may make 1 or more advance or partial payments, subject to the determination required under paragraph (1)(B), before the final settlement of a claim, including final settlement on any portion or aspect of a claim that is determined to be severable.
- (B) JUDICIAL DECISION.—If a claimant receives a partial payment on a claim under this Act, but further payment on the claim is subsequently denied by the Administrator, the claimant may—
- (i) seek judicial review under subsection (i); and
 - (ii) keep any partial payment that the claimant received, unless the Administrator determines that the claimant—

(I) was not eligible to receive the compensation; or
(II) fraudulently procured the compensation.

(3) RIGHTS OF INSURER OR OTHER THIRD PARTY.—If an insurer or other third party pays any amount to a claimant to compensate for an injury described in subsection (a), the insurer or other third party shall be subrogated to any right that the claimant has to receive any payment under this Act or any other law.

(4) ALLOWABLE DAMAGES.—

(A) LOSS OF PROPERTY.—A claim that is paid for loss of property under this Act may include otherwise uncompensated damages resulting from the Hermit's Peak/Calf Canyon Fire for—

- (i) an uninsured or underinsured property loss;
- (ii) a decrease in the value of real property;
- (iii) damage to physical infrastructure, including irrigation infrastructure such as acequia systems;
- (iv) a cost resulting from lost subsistence from hunting, fishing, firewood gathering, timbering, grazing, or agricultural activities conducted on land damaged by the Hermit's Peak/Calf Canyon Fire;
- (v) a cost of reforestation or revegetation on Tribal or non-Federal land, to the extent that the cost of reforestation or revegetation is not covered by any other Federal program; and
- (vi) any other loss that the Administrator determines to be appropriate for inclusion as loss of property.

(B) BUSINESS LOSS.—A claim that is paid for injury under this Act may include damages resulting from the Hermit's Peak/Calf Canyon Fire for the following types of otherwise uncompensated business loss:

- (i) Damage to tangible assets or inventory, including natural resources.
- (ii) Business interruption losses.
- (iii) Overhead costs.
- (iv) Employee wages for work not performed.
- (v) Loss of business net income.
- (vi) Any other loss that the Administrator determines to be appropriate for inclusion as business loss.

(C) FINANCIAL LOSS.—A claim that is paid for injury under this Act may include damages resulting from the Hermit's Peak/Calf Canyon Fire for the following types of otherwise uncompensated financial loss:

- (i) Increased mortgage interest costs.
- (ii) An insurance deductible.
- (iii) A temporary living or relocation expense.
- (iv) Lost wages or personal income.
- (v) Emergency staffing expenses.
- (vi) Debris removal and other cleanup costs.
- (vii) Costs of reasonable efforts, as determined by the Administrator, to reduce the risk of wildfire, flood, or other natural disaster in the counties impacted by the Hermit's Peak/Calf Canyon Fire to risk levels prevailing in those counties before the Hermit's Peak/Calf Canyon Fire, that are incurred not later than

the date that is 3 years after the date on which the regulations under subsection (f) are first promulgated.

(viii) A premium for flood insurance that is required to be paid on or before May 31, 2024, if, as a result of the Hermit's Peak/Calf Canyon Fire, a person that was not required to purchase flood insurance before the Hermit's Peak/Calf Canyon Fire is required to purchase flood insurance.

(ix) A disaster assistance loan received from the Small Business Administration.

(x) Any other loss that the Administrator determines to be appropriate for inclusion as financial loss.

(e) ACCEPTANCE OF AWARD.—The acceptance by a claimant of any payment under this Act, except an advance or partial payment made under subsection (d)(2), shall—

(1) be final and conclusive on the claimant, with respect to all claims arising out of or relating to the same subject matter; and

(2) constitute a complete release of all claims against the United States (including any agency or employee of the United States) under chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act"), or any other Federal or State law, arising out of or relating to the same subject matter.

(f) REGULATIONS AND PUBLIC INFORMATION.—

(1) REGULATIONS.—Notwithstanding any other provision of law, not later than 45 days after the date of enactment of this Act, the Administrator shall promulgate and publish in the Federal Register interim final regulations for the processing and payment of claims under this Act.

(2) PUBLIC INFORMATION.—

(A) IN GENERAL.—At the time at which the Administrator promulgates regulations under paragraph (1), the Administrator shall publish, online and in print, in newspapers of general circulation in the State of New Mexico, a clear, concise, and easily understandable explanation, in English and Spanish, of—

(i) the rights conferred under this Act; and

(ii) the procedural and other requirements of the regulations promulgated under paragraph (1).

(B) DISSEMINATION THROUGH OTHER MEDIA.—The Administrator shall disseminate the explanation published under subparagraph (A) through websites, blogs, social media, brochures, pamphlets, radio, television, and other media that the Administrator determines are likely to reach prospective claimants.

(g) CONSULTATION.—In administering this Act, the Administrator shall consult with the Secretary of the Interior, the Secretary of Energy, the Secretary of Agriculture, the Administrator of the Small Business Administration, other Federal agencies, and State, local, and Tribal authorities, as determined to be necessary by the Administrator, to—

(1) ensure the efficient administration of the claims process; and

(2) provide for local concerns.

(h) ELECTION OF REMEDY.—

(1) IN GENERAL.—An injured person may elect to seek compensation from the United States for 1 or more injuries resulting from the Hermit's Peak/Calf Canyon Fire by—

- (A) submitting a claim under this Act;
- (B) filing a claim or bringing a civil action under chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act"); or
- (C) bringing an authorized civil action under any other provision of law.

(2) EFFECT OF ELECTION.—In accordance with subsection (e), an election by an injured person to seek compensation in any manner described in paragraph (1) shall be final and conclusive on the claimant with respect to all injuries resulting from the Hermit's Peak/Calf Canyon Fire that are suffered by the claimant upon acceptance of an award.

(3) ARBITRATION.—

(A) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Administrator shall establish by regulation procedures under which a dispute regarding a claim submitted under this Act may be settled by arbitration.

(B) ARBITRATION AS REMEDY.—On establishment of arbitration procedures under subparagraph (A), an injured person that submits a disputed claim under this Act may elect to settle the claim through arbitration.

(C) BINDING EFFECT.—An election by an injured person to settle a claim through arbitration under this paragraph shall—

- (i) be binding; and
- (ii) preclude any exercise by the injured person of the right to judicial review of a claim described in subsection (i).

(4) NO EFFECT ON ENTITLEMENTS.—The value of compensation that may be provided under this Act shall not be considered income or resources for any purpose under any Federal, State, or local laws, including laws relating to taxation, welfare, and public assistance programs, and no State or political subdivision thereof shall decrease any assistance otherwise provided to an injured person because of the receipt of benefits under this Act.

(i) JUDICIAL REVIEW.—

(1) IN GENERAL.—Any claimant aggrieved by a final decision of the Administrator under this Act may, not later than 60 days after the date on which the decision is issued, bring a civil action in the United States District Court for the District of New Mexico, to modify or set aside the decision, in whole or in part.

(2) RECORD.—The court shall hear a civil action under paragraph (1) on the record made before the Administrator.

(3) STANDARD.—The decision of the Administrator incorporating the findings of the Administrator shall be upheld if the decision is supported by substantial evidence on the record considered as a whole.

(j) ATTORNEY'S AND AGENT'S FEES.—

(1) IN GENERAL.—No attorney or agent, acting alone or in combination with any other attorney or agent, shall charge, demand, receive, or collect, for services rendered in connection

with a claim submitted under this Act, fees in excess of the limitations established under section 2678 of title 28, United States Code.

(2) VIOLATION.—An attorney or agent who violates paragraph (1) shall be fined not more than \$10,000.

(k) WAIVER OF REQUIREMENT FOR MATCHING FUNDS.—

(1) STATE AND LOCAL PROJECT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a State or local project that is determined by the Administrator to be carried out in response to the Hermit's Peak/Calf Canyon Fire under any Federal program that applies to an area affected by the Hermit's Peak/Calf Canyon Fire shall not be subject to any requirement for State or local matching funds to pay the cost of the project under the Federal program.

(B) FEDERAL SHARE.—The Federal share of the costs of a project described in subparagraph (A) shall be 100 percent.

(2) OTHER NEEDS PROGRAM ASSISTANCE.—Notwithstanding section 408(g)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(g)(2)), for any emergency or major disaster declared by the President under that Act for the Hermit's Peak/Calf Canyon Fire, the Federal share of assistance provided under that section shall be 100 percent.

(3) AGRICULTURAL PROGRAM ASSISTANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a State, local, or individual project that is determined by the Secretary of Agriculture to be carried out in response to the Hermit's Peak/Calf Canyon Fire under any Federal program that applies to an area affected by the Hermit's Peak/Calf Canyon Fire shall not be subject to any requirement for State, local, or individual matching funds to pay the cost of the project under the Federal program.

(B) FEDERAL SHARE.—The Federal share of the costs of a project described in subparagraph (A) shall be 100 percent.

(l) APPLICABILITY OF DEBT COLLECTION REQUIREMENTS.—Section 3711(a) of title 31, United States Code, shall not apply to any payment under this Act, unless—

(1) there is evidence of civil or criminal fraud, misrepresentation, presentation of a false claim; or

(2) a claimant was not eligible under subsection (d)(2) of this Act to any partial payment.

(m) INDIAN COMPENSATION.—Notwithstanding any other provision of law, in the case of an Indian Tribe, a Tribal entity, or a member of an Indian Tribe that submits a claim under this Act—

(1) the Bureau of Indian Affairs shall have no authority over, or any trust obligation regarding, any aspect of the submission of, or any payment received for, the claim;

(2) the Indian Tribe, Tribal entity, or member of an Indian Tribe shall be entitled to proceed under this Act in the same manner and to the same extent as any other injured person; and

(3) except with respect to land damaged by the Hermit's Peak/Calf Canyon Fire that is the subject of the claim, the

H. R. 6833—63

Bureau of Indian Affairs shall have no responsibility to restore land damaged by the Hermit's Peak/Calf Canyon Fire.

(n) REPORT.—Not later than 1 year after the date of promulgation of regulations under subsection (f)(1), and annually thereafter, the Administrator shall submit to Congress a report that describes the claims submitted under this Act during the year preceding the date of submission of the report, including, for each claim—

(1) the amount claimed;

(2) a brief description of the nature of the claim; and

(3) the status or disposition of the claim, including the amount of any payment under this Act.

(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*