

PROMOTING FLOOD RISK MITIGATION ACT

JULY 16, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5846]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5846) to require the Comptroller General of the United States to conduct a study regarding the buyout practices of the Federal Emergency Management Agency, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose of Legislation .....	3
Background and Need for Legislation .....	4
Hearings .....	4
Legislative History and Consideration .....	5
Committee Votes .....	5
Committee Oversight Findings .....	5
New Budget Authority and Tax Expenditures .....	5
Congressional Budget Office Cost Estimate .....	5
Performance Goals and Objectives .....	6
Advisory of Earmarks .....	6
Duplication of Federal Programs .....	6
Disclosure of Directed Rule Makings .....	7
Federal Mandate Statement .....	7
Preemption Clarification .....	7
Advisory Committee Statement .....	7
Applicability of Legislative Branch .....	7
Section-by-Section Analysis of Legislation .....	7
Changes in Existing Law Made by the Bill, as Reported .....	7

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Promoting Flood Risk Mitigation Act”.

**SEC. 2. GAO STUDY REGARDING BUYOUT PRACTICES.****(a) DEFINITIONS.**—In this section—

(1) the term “Administrator” means the Administrator of the Federal Emergency Management Agency;

(2) the term “appropriate committees of Congress” means—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Committee on Financial Services of the House of Representatives; and

(D) the Committee on Transportation and Infrastructure of the House of Representatives;

(3) the terms “buyout practice” and “buyout program” mean a practice or program, as applicable, under which the Administrator provides assistance to State and local governments so that those entities may acquire flood-damaged properties committed to open space use in perpetuity in accordance with section 404(b)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2));

(4) the term “eligible property owner” means a policyholder under the National Flood Insurance Program with a household income that is not more than 120 percent of the mean household income for the community in which the primary residence of the policyholder is located;

(5) the term “National Flood Insurance Program” means the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.);

(6) the term “repetitive loss structure” has the meaning given the term in section 1370(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4121(a)); and

(7) the term “severe repetitive loss structure” has the meaning given the term in section 1366(h) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(h)).

**(b) STUDY REQUIRED.**—The Comptroller General of the United States shall conduct a study to assess—

(1) the efficacy of buyout practices, as in effect on the date on which the study is conducted; and

(2) ways to streamline the buyout practices described in paragraph (1) in order to provide more timely assistance to a larger number of State and local governments.

**(c) CONSIDERATIONS AND ANALYSIS.**—The study conducted under subsection (b) shall consider and analyze the following:

(1) To the extent possible, current (as of the date on which the study is conducted) and future trends with respect to repetitive loss structures and severe repetitive loss structures that are insured under the National Flood Insurance Program, including, with respect to both inland and coastal areas—

(A) changes in flood risk, flood frequency, and flood magnitude since the inception of the National Flood Insurance Program; and

(B) projections for changes in flood risk, flood frequency, and flood magnitude by 2025, 2050, and 2075.

(2) To the extent possible, buyout practices (as of the date on which the study is conducted), including—

(A) the availability of funding sources for buyout programs through various grant programs;

(B) the total number of properties acquired through buyout programs;

(C) the average length of time for a State or local government to acquire a flood-damaged property under a buyout program, with that period beginning on the date on which the State or local government, as applicable, begins participating in the buyout program;

(D) an estimate of the number of flood-damaged properties that could be acquired from willing property owners under buyout programs with the full cooperation of State and local governments;

(E) the socioeconomic status of recipients of buyouts under buyout programs; and

(F) examples of successful buyout programs, including best practices employed.

(3) Administrative, financial, or temporal constraints that may impede the timely acquisition of properties under a buyout program, including—

- (A) a lack of communication or cooperation between the Administrator and the State and local governments that purchase properties under a buyout program;
  - (B) pressures to redevelop a property after acquiring a property through a buyout program; and
  - (C) a lack of adequate funding.
- (4) Potential options, methods, and strategies to address the constraints identified under paragraph (3), including evaluating the feasibility of—
- (A) a pilot program under which—
    - (i) an eligible property owner may agree, before a flood event occurs, to have the primary single-family residence of the eligible property owner purchased after the residence has been substantially damaged by a flood;
    - (ii) the Administrator may provide—
      - (I) financial assistance to State and local governments that are willing to participate in the program to purchase and acquire the properties of owners that have incurred substantial damage from a flood event; and
      - (II) a premium credit as an incentive to eligible property owners to agree to participate in the program;
    - (iii) properties that are acquired—
      - (I) shall be maintained as open space in accordance with section 404(b)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)); and
      - (II) may be used for non-structural mitigation, conservation, and recreational purposes; and
    - (iv) not fewer than 5 and not more than 10 State and local governments shall participate; and
  - (B) the role that nonprofit organizations could play in making buyouts more readily available or more efficient, similar to the role that those organizations play in the acquisition of properties for conservation purposes.
- (5) The ecological, financial, and flood risk reduction benefits that buyout practices, as in effect on the date on which the study is conducted, provide, which shall—
- (A) take into account the differences between inland and coastal areas; and
  - (B) include—
    - (i) examples in which ecosystem restoration and other nature-based approaches have enhanced the reduction of flood risk; and
    - (ii) recommendations for best practices.
- (6) To the extent possible, an assessment of how the Administrator may use buyout programs to reduce future flood disaster recovery costs that are attributable to future projections of flood risk as a result of sea level rise, population changes, subsidence, and other factors.
- (7) A cost-benefit analysis of mitigation and buy-out projects and programs, including an assessment of opportunities and challenges for leveraging different Federal resources and funding to maximize the value of Federal investment in disaster mitigation.
- (d) REPORT.—
- (1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress and the Administrator a report that sets forth the analysis, conclusions, and recommendations resulting from the study conducted under subsection (b).
  - (2) CONTENTS.—The report submitted under paragraph (1) shall detail the feasibility of the Administrator establishing, and the processes required for the Administrator to establish, an alternative buyout program, such as the pilot program described in subsection (c)(4)(A).

#### PURPOSE OF LEGISLATION

H.R. 5846, as amended, would require the Comptroller General of the United States to conduct a study regarding the buyout practices of the Federal Emergency Management Agency (FEMA).

## BACKGROUND AND NEED FOR LEGISLATION

According to numerous studies, disaster losses and federal disaster spending have increased significantly over the last 50 years. According to a 2012 report published by Munich Re, the world's largest reinsurance company, North America suffered \$1.06 trillion in total disaster-related losses between 1980 and 2011. This amount included \$510 billion in insured losses. This report also showed that there was an increase in weather-related events five-fold over the previous three decades.<sup>1</sup> A 2005 report published by Princeton University, indicated that since 1952 the cost of natural disasters to the federal government more than tripled as a function of gross domestic product.<sup>2</sup>

Disaster mitigation includes actions taken to reduce loss of life and property by lessening the impact of disasters. Effective mitigation acts to minimize the potential loss from a disaster based on identifying and understanding the risks in a given area or community. Mitigation can encompass a wide variety of activities, including preparation and planning, elevating or moving structures prone to flooding, hardening structures to mitigate effects of hurricanes or earthquakes, and establishing building codes and zoning ordinances.

Mitigation not only saves lives but has been shown to also reduce disaster costs by minimizing damage from a disaster. For example, pursuant to a requirement of the Disaster Mitigation Act of 2000, the Congressional Budget Office (CBO) completed an analysis on the reduction in federal disaster assistance as a result of mitigation efforts. That study examined mitigation projects funded from 2004 to mid-2007 and found that of the nearly \$500 million invested through Pre-Disaster Mitigation grants future losses were reduced by \$1.6 billion for an overall ratio of three to one. In essence, for every dollar invested in mitigation, \$3 were saved. CBO's analysis reaffirmed a prior study commissioned by FEMA and conducted by the Multihazard Mitigation Council of the National Institute of Building Sciences that concluded that funding spent on mitigation reduces future disaster costs. More recent studies conducted by the Wharton School<sup>3</sup> and the National Institute of Building Sciences<sup>4</sup> show potential savings of four to eight dollars for every one dollar invested in mitigation. Specifically, moving structures out of harm's way as intended by FEMA's buyout program has been shown to be very effective in mitigating against future losses.

## HEARINGS

No hearings were held on H.R. 5846, as amended.

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<sup>1</sup>Munich Re (2012). Severe weather in North America—Perils Risk Insurance. Munich, Germany: Muchener Ruckversicherungs-Gesellschaft.

<sup>2</sup>The Princeton University Geoscience 499 Class, The Increasing Costs of U.S. Natural Disasters. Geotimes, November 2005.

<sup>3</sup>University of Pennsylvania, Wharton School Risk Center, "Economic Effectiveness of Implementing a Statewide Building Code: The Case of Florida". May 2016.

<sup>4</sup>National Institute of Building Sciences (NIBS), "Natural Hazard Mitigation Saves: 2017 Interim Report Summary of Findings". Available here: [https://www.nibs.org/page/ms2\\_download](https://www.nibs.org/page/ms2_download).

## LEGISLATIVE HISTORY AND CONSIDERATION

On May 16, 2018, Congressman Earl Blumenauer (D–OR) introduced H.R. 5846. The bill was referred solely to the Committee on Transportation and Infrastructure.

On June 27, 2018, the Committee on Transportation and Infrastructure met in open session. An amendment was offered by Congressman Peter DeFazio (D–OR) and adopted by the Committee by voice vote. A second amendment was offered by Congressman Garret Graves (R–LA) and adopted by the Committee by voice vote. The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 5846 as amended.

## COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 5846 as amended from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 12, 2018.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5846, the Promoting Flood Risk Mitigation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*H.R. 5846—Promoting Flood Risk Mitigation Act*

H.R. 5846 would direct the Government Accountability Office (GAO) to complete and submit to the Congress a study on the efficacy of the Federal Emergency Management Agency's current practices related to the federal acquisition of private properties following major flood disasters. GAO would be required to examine the available funding for such federal acquisition through current grant programs, evaluate any constraints that may impede the timely acquisition of damaged or destroyed properties, consider potential options to address any constraints identified, and assess how an acquisition program could be used to reduce future flood recovery costs.

Using information on the costs of similar studies, CBO estimates that implementing the bill would not have significant cost.

Enacting H.R. 5846 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 5846 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 5846 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Robert Reese. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to require the Comptroller General of the United States to conduct a study regarding the buyout practices of the FEMA.

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3 of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 5846, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Govern-

ment Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee finds that enacting H.R. 5846, as amended, does not direct the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

#### FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 5846 as amended does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

#### APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

#### SECTION-BY-SECTION ANALYSIS OF LEGISLATION

##### *Section 1. Short title*

Section 1 designates the act be known as the ‘Promoting Flood Risk Mitigation Act’.

##### *Section 2. References*

Section 2 defines and designates the study requirements for the Comptroller General of the United States.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 5846, as amended, makes no changes in existing law.