

DISASTER DECLARATION IMPROVEMENT ACT

APRIL 28, 2017.—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. 1665]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1665) to ensure that Administrator of the Federal Emergency Management Agency considers severe local impact in making a recommendation to the President for a major disaster declaration, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose of Legislation	2
Background and Need for Legislation	2
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	6
Performance Goals and Objectives	6
Advisory of Earmarks	7
Duplication of Federal Programs	7
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	8

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 “Disaster Declaration Improvement Act”.

SEC. 2. LOCAL IMPACT.

In making recommendations to the President regarding a major disaster declaration, the Administrator of the Federal Emergency Management Agency shall give greater weight and consideration to severe local impact or recent multiple disasters. Further, the Administrator shall make corresponding adjustments to the Agency’s policies and regulations regarding such consideration. Not later than 1 year after the date of enactment of this section, the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the changes made to regulations and policies and the number of declarations that have been declared based on the new criteria.

PURPOSE OF LEGISLATION

H.R. 1665, as amended, ensures the Administrator of the Federal Emergency Management Agency considers severe local impact in making a recommendation to the President for a major disaster declaration.

BACKGROUND AND NEED FOR LEGISLATION

Federal Emergency Management Agency: History

The Federal Emergency Management Agency (FEMA) was established in 1979 by Executive Order 12148 by President Jimmy Carter in response to a number of massive disasters in the 1960s and 1970s. As a result of states trying to manage these disasters, the National Governors Association and others made a proposal to streamline and cut the number of agencies states were required to work with following a disaster. Prior to the creation of FEMA, the federal government’s emergency response mechanisms were scattered among many agencies throughout government. The creation of FEMA helped to centralize these authorities and the coordination of the federal government’s response to a disaster. The Disaster Relief Act of 1974 (P.L. 93–288), which constituted the statutory authority for most federal disaster response activities, especially of FEMA, was later amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, also known as the Stafford Act (P.L. 100–707).

Following more than two decades as an independent agency, the Homeland Security Act of 2002 (P.L. 107–296) created the Department of Homeland Security (DHS), placed FEMA within DHS, and FEMA’s functions were dispersed among various offices and directorates within DHS. In 2006, following Hurricanes Katrina and Rita and the intensive Congressional investigations and oversight, Congress enacted the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA, P.L. 109–295), which addresses key response roles and authorities and put FEMA back together again within DHS. PKEMRA authorized the National Preparedness System and FEMA for the first time in legislation. Most recently, Congress enacted the Sandy Recovery Improvement Act (SRIA, P.L. 113–2), on January 29, 2013, in the wake of Hurricane Sandy’s impact to the East Coast. SRIA provided additional authorities to expedite and streamline Hurricane Sandy recovery efforts, reduce costs, and improve the effectiveness of several disaster assistance programs authorized by the Stafford Act.

The declaration process

All emergency and major disaster declarations are made solely at the discretion of the President of the United States. Section 401 of the Stafford Act, states in part that: “All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State.” As a result of SRIA, federally recognized Indian tribal governments now have the option of pursuing a declaration directly from the President.

Federal disaster law restricts the use of arithmetical formulas or other objective standards as the sole basis for determining the need for federal supplemental aid. As a result, FEMA assesses a number of factors to determine the severity, magnitude, and impact of a disaster event. Primary factors considered include:

- Amount and type of damage (number of homes destroyed or with major damage);
- Impact on the infrastructure of the affected areas or critical facilities;
- Imminent threats to public health and safety;
- Impacts to essential government services and functions;
- Unique capability of Federal government;
- Dispersion or concentration of damage;
- Level of insurance coverage in place for homeowners and public facilities;
- Assistance available from other sources (federal, State, local, voluntary organizations);
- State and local resource commitments from previous, undeclared events; and
- Frequency of disaster events over recent period of time.

Based on the Governor’s request, the President may declare that a major disaster or emergency exists, thus activating an array of federal programs to assist in the response and recovery effort.

When the President declares a major disaster or emergency, the official declaration triggers certain federal response authorities and financial disaster assistance. In particular, when a declaration is made, the President is authorized to direct any federal agency, with or without reimbursement, to assist state and local governments and protect life and property. FEMA is responsible for coordinating federal agency response and ensuring the necessary federal capabilities are deployed at the appropriate place and time in support of state and local response efforts. In addition, FEMA provides direct support and financial assistance to states and local governments and individuals as authorized under the Stafford Act.

Few disasters account for most costs

The Congressional Research Service (CRS) analyzed data from over 1,300 major disasters since 1989, and adjusting for inflation, found that FEMA obligated more than \$178 billion for these disasters.¹ However, CRS also found that 25 percent of all disasters account for over 92 percent of disaster costs.² Therefore, the remaining 75 percent of smaller disasters constitute less than eight percent of FEMA disaster spending.

¹ CRS Memo *Data Analysis for House Transportation and Infrastructure Committee*, January 14, 2015.

²*Id.*

Localized impact and recent multiple disasters

In recent years, there has been more evidence of devastated small and rural communities not receiving disaster assistance in a fair and equitable manner compared to other, larger communities and neighboring states.

For example, on November 17, 2013, 15 counties in Illinois were hit by the fourth largest November tornado outbreak in the history of the United States. The storm system produced 67 tornadoes throughout the Midwest, 24 of which touched down in Illinois, causing widespread destruction throughout the state. Six fatalities and at least 180 injuries resulted. The damage in neighboring states of Missouri and Kentucky received federal disaster assistance, but Illinois did not.

In another example from the year before, a tornado outbreak hit the Midwest on February 28–29, 2012, causing substantial damage in Indiana, Kentucky, Ohio, and Illinois. The most powerful tornado during this outbreak hit Harrisburg, Illinois, which was especially devastated after an EF-4 Tornado killed eight people and destroyed hundreds of buildings and homes. In this case, FEMA declared Indiana and Kentucky federal disaster areas, while denying disaster assistance for Ohio and Illinois.

Further, in the last year, there have been multiple, successive disasters in the same region. FEMA, rather than looking at these events cumulatively, isolates each disaster, and does not recognize the cumulative impacts of these events that have occurred in the same area.

Of the several factors FEMA takes into account when determining the recommendation for a major disaster declaration to the President, there is currently no standard to determine which factor is more important than another. FEMA is prohibited by law from using a mathematical formula to determine eligibility for a major disaster declaration.

H.R. 1665, as amended, directs the Administrator to give greater weight and consideration to severe localized impact or recent multiple disasters in making recommendations to the President for public and individual assistance through a major disaster declaration.

HEARINGS

The Subcommittee on Economic Development, Public Buildings, and Emergency Management, held no hearings on this topic in the 115th Congress. However, the following hearings and roundtable discussions were held by the Subcommittee on subjects related to matters contained in H.R. 1665, as amended, during the 114th Congress:

“Rebuilding after the Storm: Lessening Impacts and Speeding Recovery” held on January 27, 2015. The purpose of the hearing was to launch an assessment of the rising costs of disasters, the cost effectiveness of disaster assistance, strategies to reduce disaster losses, and the appropriate roles of government and the private sector, and to consider reforms to save lives through improved alerts and warning systems and search and rescue.

“What is Driving the Increasing Costs and Rising Losses from Disasters?” held on March 18, 2015. The purpose of the roundtable

was to examine and discuss data related to disaster costs, the trends observed over time, and the projections for the future given the policies in place today.

“The State of Pennsylvania and FEMA Region III are Leaders in Mitigating Disaster Costs and Losses” held on May 28, 2015. The purpose of the roundtable was to examine disaster costs and losses, focus on hazards impacting Pennsylvania and the region, and identify best practices for mitigating and avoiding disaster impacts.

“Federal Disaster Assistance: Roles, Programs and Coordination” held on June 17, 2015. The purpose of the roundtable was to examine and discuss federal disaster assistance programs, the requirements and effectiveness of those programs, and coordination among various agencies and stakeholders.

“Controlling the Rising Cost of Federal Responses to Disaster” held on May 12, 2016. The purpose of the hearing was to begin exploring potential solutions and the principles that should be driving solutions to lower the overall costs of disasters and to help avoid devastating losses.

LEGISLATIVE HISTORY AND CONSIDERATION

On March 22, 2017, Congressman Rodney Davis (R-IL) introduced H.R. 1665, a bill to ensure that Administrator of FEMA considers severe local impact in making a recommendation to the President for a major disaster declaration.

On March 29, 2017, the Committee on Transportation and Infrastructure met in open session to consider H.R. 1665. The Committee adopted an amendment offered by Congressman Garret Graves (R-LA). 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. 1665, as amended, or ordering the measure reported. A motion to order H.R. 1665, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

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. 1665, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 13, 2017.

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. 1665, the Disaster Declaration Improvement Act.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 1665—Disaster Declaration Improvement Act

H.R. 1665 would direct the Federal Emergency Management Agency (FEMA) to give greater consideration to the local effects of disaster events when reviewing state or tribal requests for a major disaster declaration. Under current law, FEMA considers the extent of both statewide and localized damage when determining whether to recommend that the President issue such a declaration. Based on an analysis of information provided by FEMA, CBO estimates that FEMA would incur no additional costs to implement this bill.

Enacting H.R. 1665 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1665 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Robert Reese. The estimate was approved 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 ensure that Administrator of FEMA considers severe local impact and recent multiple disasters in making a recommendation to the President for a major disaster declaration.

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, as amended, 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(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1665, 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 Government 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. 1665, 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. 1665, 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 short title as the “Disaster Declaration Improvement Act”.

Section 2: Local impact

Section 2 requires that the Administrator of FEMA shall give greater weight and consideration to sever local impacts and recent multiple disasters when making a recommendation to the President for a major disaster declaration.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1665, as amended, makes no changes in existing law.

