

PRELIMINARY DAMAGE ASSESSMENT IMPROVEMENT
 ACT OF 2020

NOVEMBER 16, 2020.—Committed to the Committee of the Whole House on the
 State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 4358]

The Committee on Transportation and Infrastructure, to whom
 was referred the bill (H.R. 4358) to direct the Administrator of the
 Federal Emergency Management Agency to submit to Congress a
 report on preliminary damage assessment and to establish damage
 assessment teams in the Federal Emergency Management Agency,
 and for other purposes, having considered the same, reports favor-
 ably thereon with an amendment and recommends that the bill as
 amended do pass.

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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 “Preliminary Damage Assessment Improvement Act of 2020”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Preliminary damage assessments play a critical role in assessing and validating the impact and magnitude of a disaster.

(2) Through the preliminary damage assessment process, representatives from the Federal Emergency Management Agency validate information gathered by State and local officials that serves as the basis for disaster assistance requests.

(3) Various factors can impact the duration of a preliminary damage assessment and the corresponding submission of a major disaster request, however, the average time between when a disaster occurs, and the submission of a corresponding disaster request has been found to be approximately twenty days longer for flooding disasters.

(4) With communities across the country facing increased instances of catastrophic flooding and other extreme weather events, accurate and efficient preliminary damage assessments have become critically important to the relief process for impacted states and municipalities.

SEC. 3. REPORT TO CONGRESS.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall submit to Congress a report describing the preliminary damage assessment process, as supported by the Federal Emergency Management Agency in the 5 years before the date of enactment of this Act.

(b) **CONTENTS.**—The report described in subsection (a) shall contain the following:

(1) The process of the Federal Emergency Management Agency for deploying personnel to support preliminary damage assessments.

(2) The number of Agency staff participating on disaster assessment teams.

(3) The training and experience of such staff described in paragraph (2).

(4) A calculation of the average amount of time disaster assessment teams described in paragraph (1) are deployed to a disaster area.

(5) The efforts of the Agency to maintain a consistent liaison between the Agency and State, local, Tribal, and territorial officials within a disaster area.

SEC. 4. PRELIMINARY DAMAGE ASSESSMENT.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall establish a training regime under section 206.33(b) of title 44, Code of Federal Regulations, within the Federal Emergency Management Agency to ensure preliminary damage assessments are conducted and reviewed under consistent guidelines.

(b) **ANNUAL REPORT.**—The Administrator shall annually submit to Congress a report on the number and type of instances under which Federal Emergency Management Agency personnel have overturned decisions made by personnel in the field.

(c) **REPORT TO CONGRESS.**—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to Congress a report—

(1) describing the establishment of disaster guidelines from Federal Emergency Management Agency personnel described under subsection (a);

(2) assessing whether the duration of the deployment of Federal Emergency Management Agency personnel to conduct a preliminary damage assessment is longer based on specific disaster conditions; and

(3) containing legislative recommendations to improve the operation, deployment, and staffing of disaster personnel.

(d) **DEFINITION OF STATE AND LOCAL GOVERNMENT.**—For purposes of this Act, the terms “State” and “local government” have the meanings given such terms in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

PURPOSE OF LEGISLATION

The purpose of H.R. 4358, as amended, is to direct the Administrator of the Federal Emergency Management Agency (FEMA) to submit to Congress a report on the Preliminary Damage Assess-

ment (PDA) process and to establish a consistent training program for FEMA personnel involved in the PDA process, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

State, tribal, territorial, and local (STTL) representatives are responsible for conducting PDAs with the assistance of FEMA officials to validate damages ahead of a governor’s or chief executive’s submittal of a request for FEMA assistance to the President.¹ FEMA uses PDA findings in the wake of a hazard event to determine the extent of damage and the resulting unmet needs of individuals and households, businesses, and the public sector in an affected community or area.² PDA findings play a critical role in that they form the basis for the determinations as to whether damages are of a significant magnitude to warrant a disaster declaration pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act.³

Section 206.33 of title 44 of the Code of Federal Regulations details that it is in the “best interest of all parties to combine State and Federal personnel resources by performing a joint PDA prior to the initiation of a Governor’s request . . .”⁴ Subsection (b) specifically recommends the Federal government use damage assessment teams to coordinate with State officials.⁵

Despite the significance of PDAs, the Committee has received reports of discrepancies across the ten FEMA regions regarding the inconsistency of information, data, and FEMA staffing involved in the PDA process.⁶ H.R. 4358, as amended, will direct FEMA to produce a report examining the PDA process and establish a consistent training program for FEMA personnel to effectively and uniformly support these assessments.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—

- (1) No hearings were used to develop or consider H.R. 4358; and
- (2) The following related hearings were held:

On October 22, 2019, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing entitled “An Assessment of Federal Recovery Efforts from Recent Disasters.” The Subcommittee received testimony on the first panel of witnesses from Mr. Jeffrey Byard, Associate Administrator, Office of Response and Recovery, Federal Emergency Management Agency, Department of Homeland Security; Mr. Dennis Alvord, Deputy Assistant Secretary, Economic Development Administration, U.S. Department of Commerce; Mr. Chris P. Currie, Director, Homeland Security and Justice, U.S. Government Account-

¹ 44 C.F.R. § 206.33.

² Federal Emergency Management Agency. *Public Assistance Program and Policy Guide, Version 4*. Available at https://www.fema.gov/sites/default/files/2020-06/fema_public-assistance-program-and-policy-guide_v4_6-1-2020.pdf.

³ 44 CFR § 206.35 and 206.36.

⁴ 44 CFR § 206.33.

⁵ *Id.*

⁶ *See*, for example, FEMA Disaster Workforce: Actions Needed to Address Deployment and Staff Development Challenges, General Accountability Office, May 2020, GAO–20–360.

ability Office; and on the second panel of witnesses from Mr. Mike Sprayberry, Director, Emergency Management, Department of Public Safety, State of North Carolina, testifying on behalf of the National Emergency Management Association; Hon. Fernando Gil-Enseñat, Secretary, Department of Housing, Commonwealth of Puerto Rico; Ms. Rhonda Wiley, Emergency Management/911 Director/Floodplain Administrator, Atchison County, State of Missouri; and Mr. Reese C. May, Chief Strategy and Innovation Officer, The Saint Bernard Project. The Department of Housing and Urban Development submitted a statement for the record.

On March 11, 2020, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing entitled “FEMA’s Priorities for 2020 and Beyond: Coordinating Mission and Vision.” The Subcommittee received testimony from the Hon. Peter T. Gaynor, Administrator, Federal Emergency Management Agency, Department of Homeland Security.

LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 4358 was introduced in the House on September 17, 2019, by Mr. Katko and Mr. Cunningham and referred to the Committee on Transportation and Infrastructure. Within the Committee, H.R. 4358 was referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management.

On September 30, 2020, the Subcommittee on Economic Development, Public Buildings, and Emergency Management was discharged from further consideration of H.R. 4358.

The Committee met in open session to consider H.R. 4358 on September 30, 2020, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote.

The following amendment was offered:

An Amendment in the Nature of a Substitute offered by Mr. Palmer (#1); was AGREED TO by voice vote.

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. 4358, 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

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements 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 requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chair of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

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, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

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 establish training guidelines for FEMA personnel to produce more consistent PDAs.

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. 4358, 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.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

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 in-

tended to preempt state, local, or tribal law. The Committee finds that H.R. 4358, 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 were created by this legislation.

APPLICABILITY TO 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 THE LEGISLATION

Section 1. Short title

This section provides that this bill may be cited as the “Preliminary Damage Assessment Improvement Act of 2019”.

Sec. 2. Findings

This section describes the findings of Congress related to the Preliminary Damage Assessment process. The section states that various factors can impact the duration of a PDA and the subsequent submission of a major disaster request and that accurate, efficient PDAs will become critically important to the relief process for disaster-impacted STTL governments and disaster survivors.

Sec. 3. Report to Congress

This section directs the FEMA Administrator to submit to Congress a report describing the preliminary damage assessment process, including the Agency’s process for deploying personnel to support PDAs, the number of Agency staff participating on disaster assessment teams, the training and experience of such staff, and FEMA’s efforts to maintain a consistent liaison between the Agency and STTL officials within a disaster area.

Sec. 4. Preliminary damage assessment

This section directs the FEMA Administrator to establish a training regime within FEMA to ensure PDAs are conducted and reviewed under consistent guidelines. The section also requires an annual report on the number and type of instances under which FEMA personnel have overturned decisions made by STTL personnel in the field.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported by the Committee, H.R. 4358 makes no changes in existing law.