

PRELIMINARY DAMAGE ASSESSMENT IMPROVEMENT ACT  
OF 2021

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NOVEMBER 1, 2021.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 3709]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3709) to direct the Administrator of the Federal Emergency Management Agency to submit to Congress a report on preliminary damage assessments and make necessary improvements to processes in the Federal Emergency Management Agency, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose of Legislation .....	2
Background and Need for Legislation .....	2
Hearings .....	2
Legislative History and Consideration .....	3
Committee Votes .....	3
Committee Oversight Findings .....	3
New Budget Authority and Tax Expenditures .....	3
Congressional Budget Office Cost Estimate .....	3
Performance Goals and Objectives .....	5
Duplication of Federal Programs .....	5
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	5
Federal Mandates Statement .....	6
Preemption Clarification .....	6
Advisory Committee Statement .....	6
Applicability to Legislative Branch .....	6
Section-by-Section Analysis of the Legislation .....	6
Changes in Existing Law Made by the Bill, as Reported .....	7

## PURPOSE OF LEGISLATION

The purpose of H.R. 3709 is to direct the administrator of the Federal Emergency Management Agency (FEMA) to convene an advisory panel to assist the agency in improving critical components of the preliminary damage assessment process.

## BACKGROUND AND NEED FOR LEGISLATION

State, tribal, territorial, and local (STTL) representatives are responsible for conducting preliminary damage assessments (PDA) with the assistance of FEMA officials to validate damages ahead of a governor’s or chief executive’s submittal to the President of a request for FEMA assistance.<sup>1</sup> 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.<sup>2</sup> 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* (P.L. 93–288 as amended).<sup>3</sup>

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 . . .”<sup>4</sup> Subsection (b) specifically recommends the Federal government use damage assessment teams to coordinate with state officials.<sup>5</sup>

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.<sup>6</sup> H.R. 3709 will direct FEMA to convene an advisory panel to examine the PDA process, establish a consistent training program for FEMA personnel to effectively and uniformly support these assessments, provide a report to Congress regarding the findings of the panel and steps that will need to be taken to reform the joint PDA process, and issue a rulemaking to implement such recommendations.

## HEARINGS

For the purposes of rule XIII, clause 3(c)(6)(A) of the 117th Congress, the following hearing was used to develop or consider H.R. 3709:

On June 23, 2021, the Subcommittee held a hearing titled “FEMA’s Priorities for FY22 and Beyond: Coordinating Mission, Vision, and Budget.” The Subcommittee received testimony from Hon. Deanne Criswell, Administrator, Federal Emergency Management Agency, Department of Homeland Security. This hearing provided

<sup>1</sup> 44 CFR Sec. 206.33.

<sup>2</sup> 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](https://www.fema.gov/sites/default/files/2020-06/fema_public-assistance-program-and-policy-guide_v4_6-1-2020.pdf).

<sup>3</sup> 44 CFR Sec. 206.35 and 206.36.

<sup>4</sup> 44 CFR Sec. 206.33.

<sup>5</sup> *Id.*

<sup>6</sup> See, e.g., *FEMA Disaster Workforce: Actions Needed to Address Deployment and Staff Development Challenges*, General Accountability Office (May 2020) GAO–20–360.

Members an opportunity to examine the President's fiscal year 2022 budget request for programs within FEMA.

#### LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 3709 was introduced in the House on June 4, 2021, by Mr. Katko and Mr. Delgado and was referred to the Committee on Transportation and Infrastructure. Within the Committee, H.R. 3709 was referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management.

The Subcommittee on Economic Development, Public Buildings, and Emergency Management was discharged from further consideration of H.R. 3709 on July 28, 2021.

The Committee considered H.R. 3709 on July 28, 2021, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, 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.

No record votes were requested during consideration of H.R. 3709.

#### 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. 3709 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 19, 2021.*

Hon. PETER A. DEFAZIO,  
*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. 3709, the Preliminary Damage Assessment Improvement Act of 2021.

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

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>H.R. 3709, Preliminary Damage Assessment Improvement Act of 2021</b>			
As ordered reported by the House Committee on Transportation and Infrastructure on July 28, 2021			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	22	not estimated
Statutory pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

Following a major disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Federal Emergency Management Agency (FEMA) works with state and local partners to generate a preliminary damage assessment (PDA) quantifying the potential magnitude of damages caused by the event. That assessment informs subsequent requests for federal assistance.

H.R. 3709 would require FEMA to convene an advisory panel consisting of federal, state, and local officials to make recommendations on training, the use of a technological platform to integrate data, and other ways to improve the PDA process. Under the bill, FEMA would need to issue regulations to implement any activities that the panel recommends. Finally, the bill would require the agency to report to the Congress on several issues, including the PDA process and the panel's recommendations.

The costs of the legislation, detailed in Table 1, fall within budget function 450 (community and regional development).

CBO assumes that the bill will be enacted by the end of calendar year 2021 and that FEMA would begin implementing the recommendations from the panel in fiscal year 2023. In total, CBO estimates that implementing the bill would cost \$22 million over the 2022–2026 period; that spending would be subject to the availability of appropriated funds.

TABLE 1—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 3709

	By fiscal year, millions of dollars—					
	2022	2023	2024	2025	2026	2022–2026
Estimated Authorization .....	*	7	5	5	5	22

TABLE 1—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 3709—  
Continued

	By fiscal year, millions of dollars—					
	2022	2023	2024	2025	2026	2022–2026
Estimated Outlays .....	*	7	5	5	5	22

\* = between zero and \$500,000.

CBO cannot determine what recommendations the panel would make in its final report. Based on information from the agency, however, we expect that the panel would recommend the creation of a common technological platform for integrating PDA data from federal, state, and local officials, as well as additional training for FEMA officials.

Using information from FEMA about the costs of software systems for its grant programs, CBO estimates that it would cost \$18 million through 2026 to develop a technological platform. Most of those costs would probably be for contracts with a software vendor. In addition, CBO estimates that training officials throughout the country on PDA guidelines and processes would cost about \$3 million over the 2022–2026 period. Finally, based on the costs of similar advisory panels and reporting requirements, we estimate that implementing those requirements would cost about \$1 million.

The panel could recommend implementing more, fewer, or different activities than CBO used as the basis for this estimate. Depending on what the panel ultimately recommends, the costs of implementing H.R. 3709 could be higher or lower than our estimate.

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of 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 examine the joint preliminary damage assessment process and identify ways to improve training and guidelines with the goal of producing 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. 3709 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

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 finds that H.R. 3709 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 2021”.

*Sec. 2. Findings*

This section describes the findings of Congress related to the Preliminary Damage Assessment (PDA) 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 state, tribal, territorial, and local (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 panel of STTL emergency managers to assist the Agency in improving critical components of the PDA process, including making recommendations to improve the training regime within FEMA to ensure PDAs are conducted and reviewed under consistent guidelines.

This section also directs the FEMA Administrator to initiate a rule-making to implement such recommendations.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported by the Committee, H.R. 3709 makes no changes in existing law.

