

PRELIMINARY DAMAGE ASSESSMENT
IMPROVEMENT ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

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



NOVEMBER 14, 2022.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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PRELIMINARY DAMAGE ASSESSMENT IMPROVEMENT ACT

NOVEMBER 14, 2022.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, 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 Homeland Security and Governmental Affairs, to which 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.

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I. PURPOSE AND SUMMARY

H.R. 3709, the *Preliminary Damage Assessment Improvement Act of 2021*, directs the Administrator of the Federal Emergency Management Agency (FEMA) to submit to Congress a report describing the preliminary damage assessment process, as carried out by FEMA in the five years before this bill's enactment. The legislation also requires FEMA to convene an advisory panel to assist the agency in improving critical components of the preliminary damage assessment process. Once the advisory panel issues their report,

FEMA is required to issue regulations to implement those recommendations and submit a report to Congress on the implementation of recommendations, the identification of any additional challenges to the preliminary damage assessment process, and any additional legislative recommendations necessary for Congress to consider to improve the preliminary damage assessment process.

II. BACKGROUND AND THE NEED FOR LEGISLATION

State, local, tribal, territorial (SLTT) representatives are generally responsible for conducting preliminary damage assessments (PDA) with the assistance of FEMA officials to identify the extent of damages after a disaster and ahead of a governor’s or chief executive’s submittal to the President of a request for FEMA assistance.¹ FEMA utilizes PDA findings after a disaster to determine the magnitude of damage and the resulting unmet needs in an affected community or area.² The information collected through the PDA process plays a vital role in the determination of whether damages sustained following a disaster are of a significant magnitude to warrant a disaster declaration pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288 as amended).³

Current federal rulemaking says 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 Federal code of regulations specifically recommends the federal government use damage assessment teams to coordinate with state officials.⁵

Despite the significance of PDAs, FEMA regions have received reports of discrepancies regarding the inconsistency of information, data, and FEMA staffing involved in the PDA process.⁶ H.R. 3709 will require FEMA to convene an advisory panel to examine the PDA process, consider establishing 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 actions that will need to be taken to reform the joint PDA process, and initiate a rulemaking to implement such recommendations.

III. LEGISLATIVE HISTORY

Rep. John Katko (D–NY) introduced H.R. 3709, the *Preliminary Damage Assessment Improvement Act of 2021*, on June 4, 2021, with Rep. Antonio Delgado (D–NY). The bill passed the House of Representatives under suspension of the rules on November 4, 2021 by a roll call vote of 402–11.

The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs. The Committee considered H.R. 3709 at a business meeting on August 3, 2022. The bill was ordered to be favorably reported without amendment by voice vote *en bloc*.

¹ CFR § 206.33.

² Federal Emergency Management Agency, *Public Assistance Program and Policy Guide, Version 4*, (FP 104–009–2) (June 2020).

³ 44 CFR § 206.35 and 206.36.

⁴ 44 CFR § 206.33.

⁵ *Id.*

⁶ Government Accountability Office, *FEMA Disaster Workforce: Actions Needed to Address Deployment and Staff Development Challenges* (GAO–20–360) (May 2020) at 39.

Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley were present for the vote.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Preliminary Damage Assessment Improvement Act of 2021.”

Section 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 (SLTT) governments and disaster survivors.

Section 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 FEMA 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 SLTT officials within a disaster area.

Section 4. Preliminary damage assessment

This section directs the FEMA Administrator to establish a panel of SLTT 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.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 15, 2022.

Hon. GARY PETERS,
Chairman, Committee on Homeland Security, and Governmental
Affairs, U.S. Senate, 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 Madeleine Fox.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 3709, Preliminary Damage Assessment Improvement Act of 2021			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on August 3, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	27	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

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 2022 and that FEMA would begin implementing the rec-

ommendations from the panel in fiscal year 2023. In total, CBO estimates that implementing the bill would cost \$27 million over the 2022–2027 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	2027	2022–2027
Estimated Authorization	0	7	5	5	5	5	27
Estimated Outlays	0	7	5	5	5	5	27

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 \$22 million through 2027 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 \$4 million over the 2022–2027 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.

On October 19, 2021, CBO transmitted a cost estimate for H.R. 3709, the Preliminary Damage Assessment Improvement Act of 2021, as ordered reported by the House Committee on Transportation and Infrastructure on July 28, 2021. CBO’s estimate for the Senate’s version of the legislation reflects a later assumed enactment date and an additional year of estimated costs.

The CBO staff contact for this estimate is Madeleine Fox. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation would make no change in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.