104TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
104–792

SNOW REMOVAL POLICY ACT OF 1996

SEPTEMBER 17, 1996.—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. 3348]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3348) to direct the President to establish standards and criteria for the provision of major disaster and emergency assistance in response to snow-related events, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Snow Removal Policy Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) winter snow storms in recent years, and particularly in 1996, have interrupted essential public services and utilities, caused widespread disruption of vital transportation networks, stranded many motorists, and isolated many homes and businesses;

(2) the impact of the winter snow storms was of such severity and magnitude that effective response was beyond the capability of State and local governments;

(3) the policy of the Federal Emergency Management Agency for providing major disaster and emergency assistance in response to snow-related events is unclear; and

(4) regulations should be promulgated for providing major disaster and emergency assistance in response to snow-related events in order to ensure the fair treatment of States and local governments that have incurred costs associated with such a response.

29–006

SEC. 3. RULEMAKING TO ESTABLISH STANDARDS AND CRITERIA FOR SNOW-RELATED EVENTS.

(a) NOTICE OF PROPOSED RULEMAKING.—The President, acting through the Director of the Federal Emergency Management Agency, shall issue a notice of proposed rulemaking to promulgate—

(1) standards and criteria for declaring a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in response to a snow-related event; and

(2) standards and criteria for providing assistance under such Act in the case of a snow-related major disaster or emergency, including reimbursement for snow removal and for debris removal and emergency protective measures.

(b) REQUIREMENT.—Rules to be promulgated under this section shall ensure that in determining the eligibility of a State or local government for assistance in connection with a snow-related event, the President will give consideration to existing capabilities of the State or local government.

(c) DEADLINES.—The President, acting through the Director of the Federal Emergency Management Agency, shall issue—

(1) a proposed rule under this section not later than 3 months after the date of the enactment of this Act; and

(2) a final rule under this section not later than 9 months after such date of enactment.

PURPOSE AND SUMMARY

The purpose of H.R. 3348, the "Snow Removal Policy Act of 1996," is to direct the President, acting through the Federal Emergency Management Agency (FEMA), to establish standards and criteria for a consistent and fair policy for the provision of major disaster and emergency assistance in response to snow-related events.

BACKGROUND AND NEED FOR LEGISLATION

Over a number of years, there has been confusion regarding FEMA's policies for providing assistance for snow removal. In particular, during the "blizzard of 1996" there was confusion and controversy surrounding FEMA's snow removal policies and eligibilities for Federal assistance. Representatives and other officials in New York, Pennsylvania, the District of Columbia, and other jurisdictions complained about FEMA's approach to snow removal assistance. Criticisms ranged from a lack of clarity, consistency, and uniformity to both overly restrictive and overly generous criteria for Federal assistance.

In January and February of this year, FEMA officials distributed guidance on Federal assistance for snow removal in response to the blizzards and storms that occurred throughout the Northeast and Mid-Atlantic states. The initial guidance and subsequent clarifications described eligibilities for major disaster declarations and snow removal assistance. The most recent iteration of the policy states that counties would be designated as eligible for assistance if the total snow removal costs for the Blizzard of 1996 (storms occurring during the period January 6 through 19) exceed the average of total snow removal costs for the past three winter seasons within the county. Once a county is designated for assistance, eligible costs would be reimbursed under a 75 percent Federal and 25 percent non-Federal cost share.

Regarding work eligible for assistance, FEMA guidance states that assistance is available for clearance of snow from one lane in each direction along designated snow emergency routes (or selected primary roads in those communities without such designated roadways) and routes necessary to allow the passage of emergency vehi-

cles from those snow emergency routes to hospitals, nursing homes, and other critical facilities. Additional guidance issued between January 12 and February 15 specifies costs eligible for reimbursement (such as overtime labor) and costs ineligible for reimbursement (such as sanding and salting). Guidance also provides two options for calculating costs (one being the "eligible time period method" and the other being the "eligible lane-mile method"). State and local officials and others have complained about the resulting compilation of policies—some on the grounds of confusion and others on the grounds of being too restrictive or too generous.

Confusion regarding snow events stems from two issues: (1) what factors should be considered in determining whether an area affected by a winter storm should be declared eligible for a "major disaster" or "emergency" assistance? and (2) what factors should be considered and what are the limitations in providing assistance for snow removal once a declaration has been made?

Regarding the criteria for major disaster and emergency declarations, it appears FEMA has yet to adopt criteria or other guidance for snow events that has been consistently applied. David Rodham, President-elect of the National Emergency Management Association, testified before the Committee on September 11, 1996, "FEMA's interpretation of [declaration] guidance has varied from disaster to disaster and from state to state."

Regarding criteria for determining eligible assistance, section 403(a)(3)(C) of the Stafford Disaster Relief and Emergency Assistance Act provides that major disaster areas may receive assistance for the "clearance of roads * * * necessary to the performance for emergency tasks and essential community services." (Other assistance may be provided in the event of a major disaster or emergency due to a winter storm including emergency protective measures, but clearance of roads has historically been the primary form of assistance offered.) In 1989 FEMA issued regulations at 44 CFR 206.227 attempting to define what snow removal assistance might be available in the event of a major disaster. Since these rules were issued, FEMA has provided snow assistance for winter storms in 1993, 1994, and 1996. However, as the confusion following the Blizzard of 1996 showed, these regulations have failed to provide adequate clarity and conformity.

Realizing that these problems exist, FEMA is expecting to issue a proposed rule on October 1, 1996 that "will clarify the eligible assistance, and help ensure that we treat all communities and states fairly and consistently" (Testimony of Dennis H. Kwiatkowski, Deputy Associate Director of FEMA, before the Committee, September 11, 1996). However, given that FEMA's priorities and rulemaking schedules may change or be delayed, the Committee believes that this bill is timely.

Representative Jack Quinn (R–NY), joined by twenty colleagues, introduced H.R. 3348, the Snow Removal Policy Act of 1996 on April 29, 1996.

DISCUSSION OF COMMITTEE BILL

Section 1, Short Title, provides the bill may be cited as the "Snow Removal Policy Act of 1996."

Section 2, Findings, includes various Congressional findings, that, among other things, emphasize the devastating effects of the recent winter storms and the need for clear, consistent, and fair policies on snow removal.

Section 3, Rulemaking to Establish Standards and Criteria for Snow-Related Events, directs the President (acting through FEMA) to establish criteria and standards for: (1) Declaring a major disaster or emergency under the Stafford Act in response to snow-related events and (2) for providing assistance, including snow removal, debris removal, and emergency protective measures. The bill also requires that the President give consideration to existing capabilities of state and local governments. Finally, the bill establishes deadlines for the issuance of a proposed rule (3 months after date of enactment of the bill) and a final rule (9 months after date of enactment of the bill).

The bill does not expand or restrict Federal assistance for snow removal or mandate that FEMA include any particular criteria or standards in its snow removal policy (although it does require the President to recognize existing capabilities of state and local governments).

HEARINGS AND PREVIOUS LEGISLATIVE ACTIVITY

On September 11, 1996, the Water Resources and Environment Subcommittee held a hearing on H.R. 3348, the "Snow Removal Policy Act of 1996," Testimony was given by Representative Bart Stupak (D–MI); Mr. Dennis Kwiatkowski, Federal Emergency Management Agency, Mr. David Rodham, National Emergency Management Association; Mr. Charles F. Wynne, Pennsylvania Emergency Management Agency; and Mr. Vincent LoVallo, Commissioner of Street Sanitation, City of Buffalo, New York.

COMMITTEE CONSIDERATION

On September 12, 1996, the Committee ordered the bill reported by voice vote Representative Sherwood L. Boehlert (R–NY), Chairman of the Water Resources and Environment Subcommittee, offered an amendment en bloc that modified the Congressional findings and increased by 3 months the deadline for final promulgation of the regulations. The Committee, in compliance with rule XI, clause 2(l) of the Rules of the House of Representatives, reports favorably the bill, H.R. 3348.

COMMITTEE OVERSIGHT FINDINGS

Clause 2(l)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. The Committee has no specific oversight findings.

COMMITTEE COST ESTIMATE

Clause 7(a) of rule XIII requires committees to include their own cost estimates in certain committee reports, which include, where practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 13, 1996.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3348, the Snow Removal Policy Act of 1996, as ordered reported by the House Committee on Transportation and Infrastructure on September 12, 1996. CBO estimates that enacting this bill would result in an increase in discretionary spending of less than $100,000 in fiscal year 1997, assuming appropriation of the necessary amount. Enacting H.R. 3348 would not affect direct spending or receipts; therefor, pay-as-you-go procedures would not apply.

The bill would require the Director of the Federal Emergency Management Agency (FEMA) to issue a rule establishing criteria in snow-related events for declaring a major disaster or emergency and for providing assistance under the Stafford Act. In doing so, the bill would direct FEMA to consider the existing capabilities of a state or locality in determining eligibility for assistance. H.R. 3348 would set deadlines for issuing a proposed rule within 3 months and a final rule within 9 months of enactment.

Based on information from FEMA, we estimate that the agency would spend less than $100,000 in fiscal year 1997 to issue the rule. CBO cannot estimate the impact the final rule might have on the provision of disaster assistance for snow-related events in subsequent years because the rulemaking process has not been completed.

H.R. 3348 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) and would not impose costs on budgets of state, local, or tribal governments.

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

Sincerely,

JAMES L. BLUM,
(For June E. O'Neill, Director).

INFLATIONARY IMPACT STATEMENT

Clause 2(l)(4) of rule XI requires each committee report on a bill or joint resolution of a public character to include an analytical statement describing what impact enactment of the measure would have on prices and costs in the operations of our national economy. The Committee has determined that H.R. 3348 has no inflationary impact on the national economy.

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