

NATIONAL DROUGHT POLICY ACT OF 1998

MAY 22, 1998.—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. 3035]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3035) to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies, 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 "National Drought Policy Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States often suffers serious economic and environmental losses from severe regional droughts and there is no coordinated Federal strategy to respond to such emergencies;

(2) at the Federal level, even though historically there have been frequent, significant droughts of national consequences, drought is addressed mainly through special legislation and ad hoc action rather than through a systematic and permanent process as occurs with other natural disasters;

(3) there is an increasing need, particularly at the Federal level, to emphasize preparedness, mitigation, and risk management (rather than simply crisis management) when addressing drought and other natural disasters or emergencies;

(4) several Federal agencies have a role in drought from predicting, forecasting, and monitoring of drought conditions to the provision of planning, technical, and financial assistance;

(5) there is no single Federal agency in a lead or coordinating role with regard to drought;

(6) State, local, and tribal governments have had to deal individually and separately with each Federal agency involved in drought assistance; and

(7) the President should appoint an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for, mitigate the impacts of, respond to, and recover from serious drought emergencies.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) **ESTABLISHMENT.**—There is established a commission to be known as the National Drought Policy Commission (hereinafter in this Act referred to as the “Commission”).

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Commission shall be composed of 16 members. The members of the Commission shall include—

(A) the Secretary of Agriculture, or the designee of the Secretary, who shall chair the Commission;

(B) the Secretary of the Interior, or the designee of the Secretary;

(C) the Secretary of the Army, or the designee of the Secretary;

(D) the Secretary of Commerce, or the designee of the Secretary;

(E) the Director of the Federal Emergency Management Agency, or the designee of the Director;

(F) the Administrator of the Small Business Administration, or the designee of the Administrator;

(G) two persons nominated by the National Governors’ Association and appointed by the President, of whom—

(i) one shall be the governor of a State east of the Mississippi River; and

(ii) one shall be a governor of a State west of the Mississippi River;

(H) a person nominated by the National Association of Counties and appointed by the President;

(I) a person nominated by the United States Conference of Mayors and appointed by the President; and

(J) six persons, appointed by the Secretary of Agriculture in coordination with the Secretary of the Interior and the Secretary of the Army, who shall be representative of groups acutely affected by drought emergencies, such as the agricultural production community, the credit community, rural and urban water associations, Native Americans, and fishing and environmental interests.

(2) **DATE.**—The appointments of the members of the Commission shall be made no later than 60 days after the date of the enactment of this Act.

(c) **PERIOD OF APPOINTMENT; VACANCIES.**—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) **INITIAL MEETING.**—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) **MEETINGS.**—The Commission shall meet at the call of the chair.

(f) **QUORUM.**—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) **VICE CHAIR.**—The Commission shall select a vice chair from among the members who are not Federal officers or employees.

SEC. 4. DUTIES OF THE COMMISSION.

(a) **STUDY AND REPORT.**—The Commission shall conduct a thorough study and submit a report on national drought policy in accordance with this section.

(b) **CONTENT OF STUDY AND REPORT.**—In conducting the study and report, the Commission shall—

(1) determine, in consultation with the National Drought Mitigation Center in Lincoln, Nebraska, and other appropriate entities, what needs exist on the Federal, State, local, and tribal levels to prepare for and respond to drought emergencies;

(2) review all existing Federal laws and programs relating to drought;

(3) review State, local, and tribal laws and programs relating to drought that the Commission finds pertinent;

(4) determine what differences exist between the needs of those affected by drought and the Federal laws and programs designed to mitigate the impacts of and respond to drought;

(5) collaborate with the Western Drought Coordination Council and other appropriate entities in order to consider regional drought initiatives and the application of such initiatives at the national level;

(6) make recommendations on how Federal drought laws and programs can be better integrated with ongoing State, local, and tribal programs into a com-

prehensive national policy to mitigate the impacts of and respond to drought emergencies without diminishing the rights of States to control water through State law and considering the need for protection of the environment;

(7) make recommendations on improving public awareness of the need for drought mitigation, prevention, and response and on developing a coordinated approach to drought mitigation, prevention, and response by governmental and nongovernmental entities, including academic, private, and nonprofit interests; and

(8) include a recommendation on whether all Federal drought preparation and response programs should be consolidated under one existing Federal agency and, if so, identify such agency.

(c) SUBMISSION OF REPORT.—

(1) IN GENERAL.—No later than 18 months after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) APPROVAL OF REPORT.—Before submission of the report, the contents of the report shall be approved by unanimous consent or majority vote. If the report is approved by majority vote, members voting not to approve the contents shall be given the opportunity to submit dissenting views with the report.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall not be compensated for service on the Commission, except as provided under subsection (b). All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) ADMINISTRATIVE SUPPORT.—The Secretary of Agriculture shall provide all financial, administrative, and staff support services for the Commission.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 4.

PURPOSE AND SUMMARY

The purpose of H.R. 3035, the “National Drought Policy Act of 1998,” is to establish a Commission to report to the President and Congress on ways to coordinate and improve drought management policies. The bill establishes a National Drought Policy Commission, to be composed of Federal, State, local and private sector representatives. Commission members are to provide advice and rec-

ommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies. The Commission terminates 90 days after submitting its report and recommendations to the President and Congress.

BACKGROUND AND NEED FOR LEGISLATION

The nation lacks a coordinated, integrated approach to drought management. In many respects, drought presents one of the most challenging dilemmas for policy makers, managers and citizens. It can be both pervasive and covert, moving slowly yet steadily into an entire region. This “creeping phenomenon” also differs from other natural hazards, such as tornadoes or flashfloods, in that it lacks any precise or universally accepted definition, seldom results in structural damage, and can linger for lengthy periods of time in affected areas. The result is that, compared to other disasters, drought often receives minimal attention in advances or uncoordinated, delayed responses. Drought, like other types of disasters, tends to prompt a crisis management, rather than risk management, approach.

Drought also has the potential to inflict enormous damage and suffering equal to or greater than other forms of natural disasters. For example, the Great Plains drought of the 1930’s which gave the nation the Dust Bowl, is considered one of the most significant events of this century. More recent droughts have caused substantial and far reaching suffering, and indicate that droughts can hit any region of the country. From 1950 to 1954, the Southwest and Southern Plains suffered a severe drought resulting in the death of millions of cattle and forcing hundreds of ranchers to ship their livestock to other regions of the country. In the early 1960s, a drought affected the Northeast for several years and from 1975 to 1977 a lack of winter snowfall resulted in extreme drought conditions in the West.

The worst drought since the days of the Dust Bowl struck the Midwest and parts of the Southeast in 1988. It caused serious damage to grain crops and livestock, slowed economic development, and placed severe strains on the natural environment. The Federal Government responded with nearly \$5 billion in disaster relief. However, the total economic losses to agriculture, energy, transportation, and recreation/tourism associated with the 1988 drought were estimated at nearly \$40 billion.

In response to the need for a more integrated and proactive approach to drought management, Representative Joe Skeen (New Mexico) introduced H.R. 3035 on November 12, 1997. The introduced bill was a companion to S. 222, which the Senate passed on November 12, 1997.

DISCUSSION OF COMMITTEE BILL AND SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 identifies the short title of the Act as the “National Drought Policy Act of 1998.”

Section 2. Findings

Section 2 makes findings regarding the serious economic and environmental losses from severe regional droughts and the need for a Federal strategy to respond to such emergencies. The findings also identify the need for coordination among Federal agencies and State, local and tribal governments to respond to drought emergencies and to emphasize preparedness, mitigation, and risk management.

Section 3. Establishment of the Commission

Section 3 establishes a National Drought Policy Commission composed of 16 members, including the Secretary of Agriculture, the Secretary of the Interior, the Secretary of the Army, the Secretary of Commerce, the Director of the Federal Emergency Management Agency, the Administrator of the Small Business Administration, two persons nominated by the National Governors' Association, one person nominated by the National Association of Counties, one person nominated by the United States Conference of Mayors, and six persons representing groups acutely affected by drought emergencies, such as the agricultural production community, the credit community, rural and urban water association, Native Americans, and fishing and environmental interests.

The Committee anticipates that Federal agency members will consult with other appropriate Federal agencies, such as the Environmental Protection Agency, that have interests in various aspects of drought management. The Committee also intends the Commission to have balanced representation with respect to geographic regions.

The Secretary of Agriculture will chair the Commission. The Committee anticipates the Secretary of Army, acting through the Corps of Engineers, the Secretary of the Interior, and the Director of the Federal Emergency Management Agency to play major roles in the Commission's deliberations. The Commission is to select a vice chair from among the members who are not Federal officers or employees.

Section 4. Duties of the Commission

Section 4 requires the Commission to conduct a thorough study and submit a report to the President and Congress on national drought policy within 18 months.

The study and report must: determine the need at the Federal, State, local and Tribal levels to prepare for and respond to drought emergencies; review Federal laws and programs related to drought; review pertinent State, local and Tribal laws and programs relating to drought; determine the differences between the identified needs and the Federal laws and programs designed to address such needs; consider regional drought initiatives; and, make recommendations with respect to integration with ongoing programs, improving public awareness, developing a coordinated approach to drought mitigation, and consolidating Federal drought preparation and response programs.

In order to accomplish its duties in the most effective and balanced manner, the Commission is directed to consult and coordi-

nate with drought management experts and organizations throughout the nation.

The Commission is also directed to review the findings and recommendations contained in and materials referenced by the Western Water Policy Review Advisory Commission in its Final Report released in 1998, particularly the report "Improving Drought Management in the West."

Section 5. Powers of the Commission

Section 5 provides the Commission with the authority to hold hearings, take testimony and receive evidence. The Commission also has the authority to obtain information directly from Federal agencies, use the United States mails in the same manner as agencies of the Federal Government, and accept, use, and dispose of donations of services or property.

Section 6. Commission personnel matters

Section 6 addresses Commission personnel matters by providing that members of the Commission shall not be compensated for service on the Commission, but may receive eligible travel expenses. Federal Government employees may be detailed to the Commission. Financial, administrative, and staff support services for the Commission are to be provided by the Secretary of Agriculture.

Section 7. Termination of the Commission

Section 7 requires the Commission to terminate 90 days after it submits its report.

HEARINGS

On January 28, 1998, the Water Resources and Environment Subcommittee held a hearing on "Disaster Mitigation" and related issues. Testimony was presented by, among others, Representative Joe Skeen (New Mexico); Director James L. Witt, Federal Emergency Management Agency; Dr. John H. Zirschky, Assistant Secretary of the Army (Civil Works); Mr. Joseph F. Myers, National Emergency Management Association; Mr. Scott Faber, American Rivers; and, Dr. Donald A. Wilhite, University of Nebraska. Written comments of the Department of Agriculture and the Western Governors' Association were also submitted.

COMMITTEE CONSIDERATION

On March 26, 1998 the Subcommittee on Water Resources and Environment adopted an amendment in the nature of a substitute offered by Representative Sherwood L. Boehlert (NY) and favorably reported the amended bill by a unanimous voice vote. The amendment made technical and clarifying changes; added two non-federal members to the Commission to represent rural and urban water users and fishing and environmental interests; emphasized the need for disaster preparedness and mitigation, increased public education, and coordination between public and private sectors; enhanced the Commission's consideration of environmental issues and impacts; and provided more flexibility regarding the participation of other parties and entities in the Commission's proceedings.

On May 6, 1998, the Committee ordered the bill, as amended, reported by voice vote.

ROLLCALL VOTES

Clause 2(1)(2)(B) of rule XI requires each committee report to include the total number of votes cast for and against on each roll call 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 ordering H.R. 3035 reported. A motion by Mr. Boehlert to order H.R. 3035, as amended, reported to the House, was unanimously agreed to by voice vote, a quorum being present.

COST OF THE LEGISLATION

Clause 7 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.

COMPLIANCE WITH HOUSE RULE XI

1. Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, oversight findings and recommendations have been made by the Committee as reflected in this report.

2. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

3. With respect to requirement of clause (2)(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3035.

4. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3035 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 11, 1998.

Hon. BUD 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. 3035, the National Drought Policy Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Gary Brown and David Hull.

Sincerely,

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

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 3035—National Drought Policy Act of 1998

Summary: H.R. 3035 would establish an advisory commission to provide advice and recommendations to the President and the Congress on the creation of an integrated federal policy designed to prepare for and respond to drought emergencies. The commission would submit a report recommending a national drought policy within 18 months of enactment of the bill. The Secretary of Agriculture would provide all financial, administrative, and staff support services for the commission.

CBO estimates that implementing H.R. 3035 would cost between \$500,000 and \$1 million over the 1999–2003 period, assuming appropriation of the necessary amounts. H.R. 3035 would not affect direct spending or receipts; therefore pay-as-you-go procedures would not apply. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: CBO estimates that implementing H.R. 3035 would result in new spending subject to appropriation of less than \$500,000 in each of fiscal years 1999 and 2000 and that the total cost of implementing the bill would be between \$500,000 and \$1 million. Those costs would be subject to appropriation of the necessary amounts.

Basis of estimate: For purposes of this estimate, CBO assumes that (1) H.R. 3035 is enacted by the beginning of fiscal year 1999, (2) commissioners are appointed within two months of enactment, (3) the commission submits its report with its recommendations for a national drought policy in fiscal year 2000, (4) the commission ceases to exist within three months after submitting the report, and (5) all amounts estimated to be authorized by the bill are appropriated.

The commission would consist of 16 members, including six federal officers representing the Departments of Agriculture, the Interior, the Army, and Commerce, the Federal Emergency Management Agency, and the Small Business Administration. The other 10 (nonfederal) members would be nominated by the Secretary of Agriculture and by state, county, and city associations.

CBO anticipates that requiring federal officers to sit on the commission and detailing federal employees to the commission would collectively create a need for additional staff and overtime compensation at the affected agencies. The commission would incur additional cost for travel and per diem expenses of its members, communications, supplies, printing and other general expenses. We estimate that the total cost of temporarily replacing individuals as-

signed to the commission and the general expenses of the commission would require new spending subject to appropriation of less than \$500,000 a year for 1999 and 2000.

The six federal officials that would serve on the commission would be compensated by their employing agency while performing commission business (but could not receive compensation in addition to that received in connection with their normal positions). The 10 nonfederal members of the commission would be reimbursed only for travel expenses, including per diem in lieu of subsistence while away from home or their regular place of business.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 3035 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On November 7, 1997, CBO provided an estimate for S. 222, the National Drought Policy Act of 1997, as ordered reported by the Senate Committee on Governmental Affairs on November 5, 1997. The two bills are similar and the estimates of total cost are identical.

Estimate prepared by: Gary Brown and David Hull.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (2)(1)(4) of rule XI of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

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.

ADVISORY COMMITTEE STATEMENT

The bill establishes an advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act. In the view of the Committee the functions of the Commission are not and could not be accomplished by one or more other agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee.

APPLICABILITY TO THE 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.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED
H.R. 3035 makes no changes in existing law.

EXCHANGE OF LETTERS

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, May 21, 1998.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Committee on Transportation and Infrastructure recently ordered reported H.R. 3035, the National Drought Policy Act of 1998, authored by Congressman Skeen of New Mexico.

In recognition of your Committee's desire and that of Congressman Skeen to move this legislation expeditiously through the House of Representatives, the Committee on Resources agrees to waive its additional referral of the bill. However, this action should not be construed as waiving or otherwise diminishing the Committee on Resources' jurisdiction over the bill or issues associated with H.R. 3035. In addition, should a conference on H.R. 3035 or a similar measure become necessary, I would ask you to support the Committee on Resources be represented on the conference committee. Finally, I ask that you make this letter a part of the Committee on Transportation and Infrastructure's report on the bill.

Once again, it has been a pleasure working with you and your staff, and I look forward to seeing H.R. 3035 scheduled for Floor consideration very soon.

Sincerely,

DON YOUNG, *Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, May 21, 1998.

Hon. DON YOUNG,
Chairman, Committee on Resources, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN YOUNG: Thank you for contacting me regarding the jurisdictional interest of the Committee on Resources over H.R. 3035, the National Drought Policy Act of 1998.

I appreciate the decision of the Committee on Resources to be discharged from further consideration of the bill in the interest of moving it forward expeditiously. I agree that this should not be viewed as a waiver of any jurisdictional claim that you might have over the bill or issues associated with the bill.

I appreciate your cooperation and the cooperation of your staff. With kind personal regards, I am

Sincerely,

BUD SHUSTER, *Chairman.*