

NATIONAL COMMISSION ON CHILDREN AND DISASTERS
REAUTHORIZATION ACT OF 2010

JULY 19, 2010.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 5266]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5266) to extend the final report deadline and otherwise reauthorize the National Commission on Children and Disasters, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

H.R. 5266, the “National Commission on Children and Disasters Reauthorization Act of 2010”, reauthorizes the National Commission on Children and Disasters and extends the due date of the final report of the Commission to December 31, 2012.

BACKGROUND AND NEED FOR LEGISLATION

Children comprise nearly 25 percent of the U.S. population. There are 74 million children under the age of 18 in the United States, who are particularly vulnerable in disasters. However, disaster plans are written largely for able-bodied adults, meaning that before, during, and after disasters, the unique needs of children are overlooked, unmet, and misunderstood.¹

Hurricane Katrina exposed many problems with our nation’s ability to meet the needs of children during disasters. Approximately one-fourth of the people who lived in areas damaged or

¹ National Commission on Children and Disasters, *Interim Report* (October 14, 2009), at ii.

flooded by Hurricane Katrina were under the age of 18. More than 400,000 children under the age of five lived in, or were evacuated from, counties and parishes that were declared disaster areas by the Federal Emergency Management Agency (FEMA) in response to Hurricane Katrina. The vulnerability of this population presented many unique obstacles. For example, 5,192 children were reported missing or displaced to the National Center for Missing and Exploited Children as a result of Hurricane Katrina, and it took more than six months to reunite the last child separated from her family. In addition, 1,100 schools were closed immediately following Hurricane Katrina; many were closed for a substantial period of time. These statistics reveal the importance of examining the special needs of children in preparing for, responding to, and recovering from emergencies and disasters. More recently, in emergencies and disasters such as the H1N1 outbreak, and the tsunami in American Samoa, and the earthquake in Haiti, children were disproportionately affected compared to adults. These recent events have revealed the persistent challenges in coordinating an effective preparedness, response, and recovery effort for children.

Congress created the National Commission on Children and Disasters (Commission) in the Kids in Disasters Well-being, Safety, and Health Act of 2007 (the 2007 Act), Title VI of Division G of the Consolidated Appropriations Act of 2008 (P.L. 110–161).² The purposes of the Commission are to: (1) conduct a comprehensive study to examine and assess the needs of children as they relate to preparing for, responding to, and recovering from all hazards, including major disasters and emergencies; (2) build upon and review the recommendations of other governmental and nongovernmental entities that work on issues relating to the needs of children in disasters; and (3) report to the President and Congress on its specific findings, conclusions, and recommendations to address the needs of children as they relate to preparing for, responding to, and recovering from all hazards, including major disasters and emergencies.

The Commission consists of 10 members: two members appointed by the President; two members appointed by the Speaker of the House; two members appointed by the House Minority Leader; two members appointed by the Senate Majority Leader; and two members appointed by the Senate Minority Leader.

Pursuant to the 2007 Act, the Commission is required to submit interim and final reports to the President and Congress on its specific findings, conclusions, and recommendations. The Commission held its first meeting October 14, 2008. On October 14, 2009, the Commission issued an interim report. On October 20, 2009, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on the interim report. The Commission issued an additional progress report on May 11, 2010. Pursuant to the 2007 Act, the final report is due on October 14, 2010.

Some of the Commission recommendations included in the interim report are being implemented, in particular by FEMA. For example, in August 2009, FEMA Administrator Craig Fugate created a Children's Working Group responsible for ensuring that the needs of children are addressed and integrated into overall disaster

²Sections 601–613 of Public Law 110–161, 121 Stat. 2213–2217.

planning, preparedness, response, and recovery efforts initiated at the Federal level. FEMA's Emergency Management Institute developed a course entitled "Planning for Children and Disasters", which provides emergency managers and implementers of children's programs with guidance on meeting children's disaster-related needs. FEMA is also integrating children's needs into overall disaster planning guidance and documents such as the Comprehensive Preparedness Guide, the National Response Framework, and other guidance and documents. FEMA is collaborating with the Department of Justice and the Department of Health and Human Services to develop disaster preparedness guidelines for juvenile justice facilities and child care providers.

However, more progress is needed in implementing the Commission's recommendations. The Commission has urged the Department of Health and Human Services to make children a greater priority in the development of medical countermeasures, disaster mental health, and emergency preparedness education and training for health professionals. The Commission also recommended that the Department of Education support state-led efforts to improve disaster preparedness in schools. These recommendations have not been fully implemented. In addition, due to delays in the appointment of Commission members and receipt of funding, the Commission was unable to hold its first meeting until 10 months after the date of enactment of the 2007 Act. As a result, the work of the Commission remains incomplete. Without reauthorization, the Commission will be required to issue its final report on October 14, 2010, and will sunset 180 days thereafter.

On October 20, 2009, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing, entitled "Looking Out for the Very Young, the Elderly and Others with Special Needs: Lessons from Katrina and other Major Disasters". In response to testimony from the Commission, the Committee included language in H.R. 3377, the "Disaster Response, Recovery, and Mitigation Enhancement Act of 2009", to require the Administrator of FEMA to consider the recommendations of the Commission in the drafting and updating of certain plans, strategies, policies, regulations, and educational course materials. H.R. 5266 will allow the Commission to advise Congress and the President on how this requirement and the recommendations of the Commission are being implemented.

The Committee also expects FEMA to expeditiously clarify its regulations concerning the eligibility of private nonprofit child care centers under FEMA's Public Assistance program. In House Report 110-425 accompanying H.R. 3495, the "Kids in Disasters Well-being, Safety, and Health Act of 2007", the Committee noted that these facilities are eligible under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5172) (Stafford Act) and that FEMA has recognized the eligibility of child care centers in FEMA Public Assistance Policy 9521.3 "Private Nonprofit Facility (PNP) Eligibility", issued on July 18, 2007. More recently, on March 5, 2010, FEMA issued Disaster Assistance Fact Sheet 9580.107, which clarifies the eligibility of child care facilities under section 403 (Essential Assistance) of the Stafford Act (42 U.S.C. § 5170b). However, the Committee also noted in 2007 that FEMA's regulations on private non-profit facilities (44

C.F.R. § 206.221(e) do not specifically list child care facilities as eligible, causing confusion in the implementation of assistance to these facilities. The Committee encouraged FEMA to update its regulations to clarify the eligibility of these facilities. To date, FEMA has not promulgated such a rule. The Committee expects FEMA to report to the Committee on the status of this rulemaking, including how FEMA intends to promulgate a rule not later than December 31, 2010.

SUMMARY OF THE LEGISLATION

Section 1. Short title

This section designates the title of the bill as the “National Commission on Children and Disasters Reauthorization Act of 2010”.

Sec. 2. National Commission on Children and Disasters Reauthorization

Subsection (a) of Section 2 amends section 605(g) of the Kids in Disasters Well-being, Safety, and Health Act of 2007 to require vacancies on the Commission to be filled within 90 days. Delays in the initial appointment of Commission members in part delayed the first meeting of the Commission. The provision will help ensure that, if vacancies arise, they will have limited impact on the work of the Commission.

Subsection (b) amends section 611(a) of the 2007 Act to require the Commission to report to Congress and the President on an annual basis. Given that subsection (c) extends the deadline of the final report until December 31, 2012, the Committee requires the Commission to continue to report on its activities annually.

Subsection (c) amends section 611(c) of the 2007 Act to extend the deadline for the final report of the Commission from two years after the first meeting of the Commission (or October 14, 2010) to December 31, 2012.

Subsection (d) amends section 612 of the 2007 Act to authorize appropriations of \$1,500,000 for each of fiscal years 2008 through 2012 and \$1,000,000 for fiscal year 2013. The reduced authorization in fiscal year 2013 reflects the fact that authority for the Commission terminates 180 days after the final report is due, or June 30, 2013. This section also makes the amounts appropriated available until expended.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

In the 110th Congress, Representative Corrine Brown introduced H.R. 3495, the “Kids in Disasters Well-being, Safety, and Health Act of 2007”, on September 7, 2007. On October 30, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management met to consider the bill and favorably recommended the bill to the Committee on Transportation and Infrastructure by voice vote with a quorum present. On October 31, 2007, the Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present. H. Rept. 110–425. On November 6, 2007, the House passed the bill, as amended, by voice vote. Provisions of H.R. 3495 were incorporated into H.R. 2764, the Consolidated Appropriations Act of 2008 (P.L. 110–161), which was signed into law on December 26, 2007.

In the 111th Congress, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing, entitled “Looking Out for the Very Young, the Elderly and Others with Special Needs: Lessons from Katrina and other Major Disasters”, to receive testimony on the interim report of the Commission.

On May 11, 2010, Representative Corrine Brown introduced H.R. 5266.

On July 1, 2010, the Committee on Transportation and Infrastructure met in open session to consider H.R. 5266. The Committee on Transportation and Infrastructure ordered H.R. 5266 reported favorably to the House by voice vote with a quorum present.

RECORD 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. 5266 or ordering the bill reported. A motion to order H.R. 5266 reported favorably to the House was agreed to by voice vote with a quorum present.

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.

COST OF LEGISLATION

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.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement 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, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to reauthorize the National Commission on Children and Disasters to address the needs of children as they relate to preparing for, responding to, and recovering from all hazards including disasters and emergencies.

3. 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. 5266 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 15, 2010.

Hon. JAMES L. OBERSTAR,
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. 5266, the National Commission on Children and Disasters Reauthorization Act of 2010.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 5266—National Commission on Children and Disasters Reauthorization Act of 2010

H.R. 5266 would reauthorize the National Commission on Children and Disasters through 2013. CBO estimates that implementing this legislation would cost \$4 million over the 2011–2013 period, assuming appropriation of the specified amounts. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 5266 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The National Commission on Children and Disasters examines and reports to the Congress and the President on the needs of children during the preparation for, response to, and recovery from major disasters and emergencies. Under current law, the commission would terminate in 2011.

H.R. 5266 would authorize the appropriation of \$1.5 million for each of the fiscal years 2011 and 2012, and \$1 million for 2013 for the commission to continue conducting studies. In 2010, the Congress provided \$1 million to the commission (see Public Law 111–117). Under the bill, the commission would issue a final report by the end of calendar year 2012 and would terminate 180 days thereafter. Based on historical expenditure patterns, CBO estimates that implementing this legislation would cost \$4 million over the 2011–2013 period, assuming appropriation of the specified amounts.

The CBO staff contact for this estimate is Daniel Hoople. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits, as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. H.R. 5266 does not contain any ear-

marks, limited tax benefits, or limited tariff benefits under clause 9(e), 9(f), or 9(g) of rule XXI.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII 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 (P.L. 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 states that H.R. 5266 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

H.R. 5266 extends the termination date for the National Commission on Children and Disasters, an advisory committee as defined by section 3 of the Federal Advisory Committee Act (P.L. 92-463). The Committee finds pursuant to section 5 of the Federal Advisory Committee Act that none of the functions of the proposed advisory committee are being or could be performed by one or more agencies or by another advisory committee already in existence. The Committee also determines that the National Commission on Children and Disasters has a clearly defined purpose, fairly balanced membership, and meets all of the other requirements of section 5(b) of the Federal Advisory Committee Act.

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 (P.L. 104-1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

**KIDS IN DISASTERS WELL-BEING, SAFETY, AND HEALTH
ACT OF 2007**

(Title VI of division G of Public Law 110–161)

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TITLE VI

NATIONAL COMMISSION ON CHILDREN AND DISASTERS

SECTION 601. SHORT TITLE.

This title may be cited as the “Kids in Disasters Well-being, Safety, and Health Act of 2007”.

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SEC. 605. COMPOSITION OF COMMISSION.

(a) * * *

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(g) QUORUM AND VACANCY.—

(1) * * *

(2) VACANCY.—Any vacancy in the Commission shall not affect its powers and shall be filled *not later than 90 days after the date of vacancy* in the same manner in which the original appointment was made.

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SEC. 611. REPORTS OF COMMISSION; TERMINATION.

(a) **[INTERIM REPORT]** *INTERIM REPORTS*.—The Commission shall, not later than 1 year after the date of its first meeting *and annually thereafter*, submit to the President and Congress an interim report containing specific findings, conclusions, and recommendations required under this title as have been agreed to by a majority of Commission members.

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(c) **FINAL REPORT**.—The Commission shall, **[not later than 2 years after the date of its first meeting]** *not later than December 31, 2012*, submit to the President and Congress a final report containing specific findings, conclusions, and recommendations required under this title as have been agreed to by a majority of Commission members.

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[SEC. 612. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated to carry out this title, \$1,500,000 for each of fiscal years 2008 and 2009.]

SEC. 612. AUTHORIZATION OF APPROPRIATIONS.

(a) *IN GENERAL*.—*There is authorized to be appropriated to carry out this title \$1,500,000 for each of fiscal years 2008 through 2012, and \$1,000,000 for fiscal year 2013.*

(b) AVAILABILITY.—Amounts made available pursuant to subsection (a) shall remain available until expended.

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