To reestablish the Federal Emergency Management Agency as an independent establishment in the executive branch, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2005

Mr. Dingell (for himself, Mr. Stupak, Mr. Hastings of Florida, Mr. Boren, Ms. Lee, Mr. Moore of Kansas, Mr. Sherman, Ms. DeGette, Mr. Boucher, Mr. Towns, Mr. Rothman, Mr. Andrews, Mr. Ross, Mr. Ruppersberger, Mr. Brown of Ohio, Ms. DeLauro, Mr. Engel, Mr. Grijalva, Mr. Levin, Mr. Hinchey, Ms. Linda T. Sánchez of California, Ms. Kaptur, Mr. Kucinich, Mr. Ryan of Ohio, Mr. Kildee, Mr. Baca, Mr. Visclosky, Mr. Thompson of California, Mr. Davis of Florida, Ms. McCollum of Minnesota, Mr. Weiner, Mr. Cardoza, Mr. Meehan, Mr. Wu, Mr. Berman, Ms. Kilpatrick of Michigan, Mrs. Maloney, Mr. Crowley, Mr. Inslee, Ms. Bordallo, Mr. Filner, Mr. Frank of Massachusetts, Mr. Holt, Mr. Kanjorski, Mr. McDermott, Mr. Nadler, Mr. Gonzalez, Mrs. Lowey, and Mr. Moran of Virginia) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To reestablish the Federal Emergency Management Agency as an independent establishment in the executive branch, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “National Emergency Management Restoration and Improvement Act”.

TITLE I—FEDERAL EMERGENCY MANAGEMENT AGENCY

SEC. 101. FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) INDEPENDENT ESTABLISHMENT.—The Federal Emergency Management Agency shall be an independent establishment in the executive branch.

(b) DIRECTOR.—

(1) IN GENERAL.—The Agency shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the President. The Director of the Federal Emergency Management Agency shall be compensated at the rate provided for at level I of the Executive Schedule under section 5312 of title 5, United States Code.

(2) QUALIFICATIONS.—The Director of the Federal Emergency Management Agency shall be appointed from among persons who have significant experience, knowledge, training, and expertise in the area of emergency preparedness, response, recovery, and mitigation as related to natural disasters and other national cataclysmic events.

(c) DEPUTY DIRECTOR.—
(1) IN GENERAL.—There shall be in the Federal Emergency Management Agency one Deputy Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall be compensated at the rate provided for at level II of the Executive Schedule under section 5313 of title 5, United States Code.

(2) QUALIFICATIONS.—The Deputy Director shall be appointed from among persons who have extensive background in disaster response and disaster preparedness.

(3) RESPONSIBILITIES.—Subject to the direction and control of the Director of the Federal Emergency Management Agency, the Deputy Director shall have primary responsibility within the Agency for natural disasters and non-natural disasters, including large-scale terrorist attacks.

TITLE II—TRANSFER AND SAVINGS PROVISIONS

SEC. 201. TRANSFER OF FUNCTIONS.

There shall be transferred to the Director of the Federal Emergency Management Agency—

(1) the functions (including the functions under paragraphs (3) and (8) of section 430(c) of the
Homeland Security Act of 2002 (6 U.S.C. 238(c)),
personnel, assets, and liabilities of the Department
of Homeland Security relating to the Federal Emer-
gency Management Agency; and

(2) the functions of the Department of Home-
land Security under sections 502 (other than para-
graph (2)) and 503(2) of the Homeland Security Act
of 2002 (6 U.S.C. 312, 313), and the personnel, as-
sets, and liabilities of the Department relating to
such functions.

SEC. 202. TRANSITION PERIOD.

The transfers under this title shall be carried out as
soon as practicable after the date of enactment of this Act.
During the transition period, the Secretary of Homeland
Security shall provide to the Director of the Federal
Emergency Management Agency such assistance, includ-
ing the use of personnel and assets, as the Director may
request in preparing for the transfer.

SEC. 203. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The Director of the Federal
Emergency Management Agency may appoint and fix the
compensation of such officers and employees, including in-
vestigators, attorneys, and administrative law judges, as
may be necessary to carry out the respective functions
transferred under this title. Except as otherwise provided
by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Director of the Federal Emergency Management Agency may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The Director of the Federal Emergency Management Agency may pay experts and consultants who are serving away from their homes or regular place of business, travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

SEC. 204. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this title, the Director of the Federal Emergency Management Agency may delegate any of the functions transferred to the Director of the Federal Emergency Management Agency by this title and any function transferred or granted to such Director after the effective date of this title to such officers and employees
of the Federal Emergency Management Agency as the Di-
rector may designate, and may authorize successive redele-
gations of such functions as may be necessary or appro-
priate. No delegation of functions by the Director of the
Federal Emergency Management Agency under this sec-
tion or under any other provision of this title shall relieve
such Director of responsibility for the administration of
such functions.

SEC. 205. REORGANIZATION.
The Director of the Federal Emergency Management
Agency is authorized to allocate or reallocate any function
transferred under section 201 among the officers of the
Federal Emergency Management Agency, and to estab-
lish, consolidate, alter, or discontinue such organizational
entities in the Federal Emergency Management Agency as
may be necessary or appropriate.

SEC. 206. RULES.
The Director of the Federal Emergency Management
Agency is authorized to prescribe, in accordance with the
provisions of chapters 5 and 6 of title 5, United States
Code, such rules and regulations as the Director deter-
mines necessary or appropriate to administer and manage
the functions of the Federal Emergency Management
Agency.
SEC. 207. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the Federal Emergency Management Agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 208. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director of the Office of
Management and Budget shall provide for the termination
of the affairs of all entities terminated by this title and
for such further measures and dispositions as may be nec-
essary to effectuate the purposes of this title.

SEC. 209. EFFECT ON PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided by
this title, the transfer pursuant to this title of full-time
personnel (except special Government employees) and
part-time personnel holding permanent positions shall not
cause any such employee to be separated or reduced in
grade or compensation for one year after the date of trans-
fer of such employee under this title.

(b) EXECUTIVE SCHEDULE POSITIONS.—Except as
otherwise provided in this title, any person who, on the
day preceding the effective date of this title, held a posi-
tion compensated in accordance with the Executive Sched-
ule prescribed in chapter 53 of title 5, United States Code,
and who, without a break in service, is appointed in the
Federal Emergency Management Agency to a position
having duties comparable to the duties performed imme-
diately preceding such appointment shall continue to be
compensated in such new position at not less than the rate
provided for such previous position, for the duration of
the service of such person in such new position.
SEC. 210. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Federal Emergency Management Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Federal Emergency Management Agency at the time this title takes effect, with respect to functions trans-
ferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(e) Suits not Affected.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Federal Emergency Management Agency, or by or against any individual in the official capacity of such individual as an officer of the Federal Emergency Management Agency, shall abate by reason of the enactment of this title.
(c) Administrative Actions Relating to Promulgation of Regulations.—Any administrative action relating to the preparation or promulgation of a regulation by the Federal Emergency Management Agency relating to a function transferred under this title may be continued by the Federal Emergency Management Agency with the same effect as if this title had not been enacted.

SEC. 211. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department, agency, or office from which a function is transferred by this title—

(1) to the head of such department, agency, or office is deemed to refer to the head of the department, agency, or office to which such function is transferred; or

(2) to such department, agency, or office is deemed to refer to the department, agency, or office to which such function is transferred.

SEC. 212. CONFORMING AMENDMENTS AND REPEALS.

(a) Homeland Security Act of 2002.—

(1) Section 504.—Section 504(a) of the Homeland Security Act of 2002 (6 U.S.C. 314(a)) is amended by striking “, major disaster,”.
(2) REPEALS.—The following provisions of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) are repealed:

(A) Section 2(11).
(B) Section 503(1).
(C) Section 507.
(D) Section 508.

(b) TITLE 5, UNITED STATES CODE.—

(1) DIRECTOR.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

“Director of the Federal Emergency Management Agency.”.

(2) DEPUTY DIRECTOR.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

“Deputy Director of the Federal Emergency Management Agency.”.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress and the Director of the Office of Management and Budget, the Director of the Federal Emergency Management Agency shall prepare and submit to Congress recommended legislation containing
technical and conforming amendments to reflect the
changes made by this Act.

(2) Submission to Congress.—Not later than
6 months after the effective date of this title, the Di-
rector of the Federal Emergency Management Agen-
cy shall submit the recommended legislation referred
to under subsection (a).

SEC. 213. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this Act shall be construed to limit the
primary mission of the Department of Homeland Security
set forth in subparagraphs (A), (B), (E), (F), (G), and
(H) of section 101(b) of the Homeland Security Act of
2002 (6 U.S.C. 111(b)).

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