To establish the Federal Emergency Management Agency as a cabinet-level independent agency in the executive branch, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2009

Mr. Oberstar (for himself, Mr. Mica, Ms. Norton, and Mr. Mario Diaz-Balart of Florida) 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

APRIL 13, 2010

Reported from the Committee on Transportation and Infrastructure with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

APRIL 13, 2010

Referral to the Committee on Homeland Security extended for a period ending not later than September 30, 2010

SEPTEMBER 30, 2010

Referral to the Committee on Homeland Security extended for a period ending not later than December 3, 2010

DECEMBER 3, 2010

Referral to the Committee on Homeland Security extended for a period ending not later than December 17, 2010

DECEMBER 17, 2010

Referral to the Committee on Homeland Security extended for a period ending not later than December 21, 2010

VerDate Mar 15 2010 01:17 Dec 23, 2010 Jkt 099200 PO 00000 Frm 00001 Fmt 6652 Sfmt 6652 E:\BILLS\H1174.RH H1174tjames on DSKG8SOYB1PROD with BILLS
A BILL

To establish the Federal Emergency Management Agency as a cabinet-level independent agency in the executive branch, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the
“FEMA Independence Act of 2009”.

(b) Table of Contents.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—ESTABLISHMENT OF FEDERAL EMERGENCY
MANAGEMENT AGENCY

Sec. 101. Establishment of independent agency.
Sec. 102. Administrator; Deputy Administrator; and other officials of the Agency.
Sec. 103. Authority and responsibilities.
Sec. 105. Transfer of functions.
Sec. 106. Personnel and other transfers.
Sec. 107. Savings provisions.
Sec. 109. Homeland security grants.
Sec. 111. Conforming amendments to Post-Katrina Emergency Management Re-
form Act of 2006.
Sec. 112. Conforming and technical amendments to other laws.
Sec. 113. Changes to administrative documents.
Sec. 114. Recommended legislation.

TITLE II—RELATED MATTERS

Sec. 201. National Advisory Council.
Sec. 203. Credentialing and typing.
Sec. 204. Disability coordinator.
Sec. 205. Nuclear incident response.
Sec. 206. Urban area all hazards preparedness grant program.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) Administrator.—The term “Adminis-
trator” means the Administrator of the Federal
Emergency Management Agency appointed under sec-
tion 102.
(2) Agency.—The term “Agency” means the Federal Emergency Management Agency established under section 101.

(3) Emergency.—The term “emergency” has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(4) Emergency management.—The term “emergency management” means preparedness for, response to, recovery from, and mitigating hazards.

(5) Hazard.—The term “hazard” has the meaning given that term in section 602(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) and includes any major disaster or emergency.

(6) Major disaster.—The term “major disaster” has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).
TITLE I—ESTABLISHMENT OF
FEDERAL EMERGENCY MANAGEMENT AGENCY

SEC. 101. ESTABLISHMENT OF INDEPENDENT AGENCY.

(a) In General.—The Federal Emergency Management Agency is established as a cabinet-level independent establishment in the executive branch.

(b) Mission.—The primary mission of the Agency shall be to reduce the loss of life and property and protect the Nation from hazards by leading and supporting the Nation in a comprehensive emergency management system of preparedness, response, recovery, and mitigation.

SEC. 102. ADMINISTRATOR; DEPUTY ADMINISTRATOR; AND OTHER OFFICIALS OF THE AGENCY.

(a) Administrator.—

(1) In General.—The Agency shall be headed by an Administrator, 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.

(2) Qualifications.—The Administrator shall be appointed from among individuals who have extensive experience in emergency preparedness, response, recovery, and mitigating hazards.

(3) Executive Schedule.—Title 5, United States Code, is amended—
(A) in section 5312 by adding at the end
the following:

“Administrator of the Federal Emergency Manage-
ment Agency.”; and

(B) in section 5313 by striking the item re-

lating to “Administrator of the Federal Emer-

gency Management Agency”.

(b) DEPUTY ADMINISTRATOR.—

(1) IN GENERAL.—The Agency shall have one
Deputy Administrator, who shall be appointed by the
President, by and with the advice and consent of the
Senate. The Deputy Administrator shall carry out
duties and powers prescribed by the Administrator
and act for the Administrator when the Adminis-
trator is absent or unable to serve or when the posi-
tion of the Administrator is vacant.

(2) QUALIFICATIONS.—The Deputy Adminis-
trator shall be appointed from among individuals
who have extensive experience in emergency prepared-
ness, response, recovery, and mitigating hazards.

(3) EXECUTIVE SCHEDULE.—Section 5314 of
title 5, United States Code, is amended by striking
the item relating to “Deputy Administrators, Federal
Emergency Management Agency” and inserting the
following:
“Deputy Administrator, Federal Emergency Management Agency.”

(c) **ASSISTANT ADMINISTRATORS.** —

(1) IN GENERAL.—The Agency shall have one or more Assistant Administrators, who shall be appointed by the Administrator, and whose duties shall be determined by the Administrator.

(2) **QUALIFICATIONS.** — Each Assistant Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management or other field relevant to their position.

(d) **REGIONAL OFFICES.** —

(1) IN GENERAL.—There shall be in the Agency 10 Regional Offices, as identified by the Administrator.

(2) **REGIONAL ADMINISTRATORS.** —

(A) IN GENERAL.—Each Regional Office shall be headed by a Regional Administrator who shall be appointed by the Administrator.

(B) **QUALIFICATIONS.** —

(i) IN GENERAL.—Each Regional Administrator shall be appointed from among individuals who have a demonstrated abil-
ity in and knowledge of emergency manage-
ment.

(ii) CONSIDERATIONS.—In selecting an
individual to serve as a Regional Adminis-
trator for a Regional Office, the Adminis-
trator shall consider the familiarity of the
individual with the geographical area and
demographic characteristics of the popu-
lation served by the Regional Office.

(3) REGIONAL ADVISORY COUNCILS.—

(A) ESTABLISHMENT.—Each Regional Ad-
ministrator shall establish a Regional Advisory
Council.

(B) NOMINATIONS.—A State, local, or tribal
government located within the geographic area
served by the Regional Office may nominate offi-
cials, including Adjutants General and emer-
gency managers, to serve as members of the Re-
gional Advisory Council for that region.

(C) RESPONSIBILITIES.—Each Regional
Advisory Council shall—

(i) advise the Regional Administrator
on emergency management issues specific to
that region;
(ii) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that might make preparedness, response, recovery, or mitigation more complicated or difficult; and

(iii) advise the Regional Administrator of any weakness or deficiency in preparedness, response, recovery, or mitigation for any State, local, or tribal government within the region of which the Regional Advisory Council is aware.

(e) AREA OFFICES.—There shall be an Area Office for the Pacific, an Area Office for the Caribbean, and an Area Office in Alaska, as components in the appropriate Regional Offices.

SEC. 103. AUTHORITY AND RESPONSIBILITIES.

(a) In General.—The Administrator shall provide the Federal leadership necessary to prepare for, respond to, recover from, and mitigate hazards.

(b) Stafford Act.—The Administrator shall assist the President in carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and authorities given to the Administrator under that Act.
(c) MISSION.—The responsibilities of the Administrator shall include carrying out the mission of the Agency by leading and supporting the Nation in a comprehensive emergency management system of—

1. mitigation, by taking sustained actions to reduce or eliminate long-term risks to people and property from hazards and their effects;

2. preparedness, by planning, training, conducting exercises, and building the emergency management profession to prepare effectively for mitigating, responding to, and recovering from any hazard;

3. response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; and

4. recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards.

(d) RESPONSE DUTIES.—In carrying out subsection (c)(3), the Administrator, at a minimum, shall—
(1) help to ensure the effectiveness of emergency response providers in responding to a hazard;

(2) coordinate and provide the Federal Government’s response to hazards;

(3) build a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities to respond to hazards;

(4) consolidate existing Federal Government emergency response plans into a single, coordinated plan to be known as the National Response Plan;

(5) administer and ensure the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan; and

(6) help ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers.

(e) CONTINUITY OF GOVERNMENT.—The Administrator shall prepare and implement the plans and programs of the Federal Government for—

(1) continuity of operations;

(2) continuity of Government; and

(3) continuity of plans.
(f) OTHER DUTIES.—The Administrator shall—

(1) coordinate the National Advisory Council authorized by this Act;

(2) maintain and operate within the Agency the National Response Coordination Center (or its successor);

(3) develop and maintain a national emergency management system that is capable of preparing for, responding to, recovering from, and mitigating hazards of all magnitudes, including catastrophic disasters; and

(4) supervise grant programs administered by the Agency.

(g) ALL-HAZARDS APPROACH.—In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of an all-hazards strategy that builds those common capabilities necessary to prepare for, respond to, recover from, and mitigate hazards.

SEC. 104. OFFICE OF THE INSPECTOR GENERAL.

The Agency shall have an Office of the Inspector General, headed by an Inspector General, in accordance with the Inspector General Act of 1978 (Public Law 95–452; 5 U.S.C. App.).
SEC. 105. TRANSFER OF FUNCTIONS.

(a) In General.—Except as provided by subsection (c), there shall be transferred to the Administrator the following:

(1) All functions of the Federal Emergency Management Agency, as constituted on January 1, 2009, including continuity of operations and continuity of Government plans and programs.

(2) The functions relating to the Agency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and other laws, including—

(A) the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.);

(B) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.);

(C) the National Dam Safety Program Act (33 U.S.C. 467 et seq.);


(E) Reorganization Plan No. 3 of 1978 (5 U.S.C. App.);

(F) section 612 of the Security and Accountability For Every Port Act of 2006 (6 U.S.C. 314a); and
(G) title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.).

(3) Any function to be transferred to the Agency under the Post-Katrina Emergency Management Reform Act of 2006 (103 Stat. 1394), including the amendments made by that Act, even if the transfer has not taken place as of January 1, 2009.

(b) INSPECTOR GENERAL.—There shall be transferred to the Inspector General of the Federal Emergency Management Agency all of the functions relating to the Inspector General that were transferred from the Federal Emergency Management Agency to the Department of Homeland Security on or after January 1, 2003.

(c) EXCEPTIONS.—The following programs shall not be affected by this Act and shall remain within the Department of Homeland Security:


(2) The grant program authorized by section 70107 of title 46, United States Code.

(4) The trucking security grant program (Public Law 110–329; 122 Stat. 3671).


(6) The commercial equipment direct assistance program (Public Law 110–329; 122 Stat. 3672).

(d) UNITED STATES FIRE ADMINISTRATOR; FEDERAL INSURANCE ADMINISTRATOR.—Nothing in this Act shall be construed to affect the appointment of the United States Fire Administrator under section 5(b) of the Fire Prevention and Control Act of 1974 (15 U.S.C. 2204(b)) or the Federal Insurance Administrator under section 1105(a) of the Housing and Urban Development Act of 1968 (42 U.S.C. 4129).

(e) TRANSITION PERIOD.—The transfers under this section shall be carried out not later than 120 days following the date of enactment of this Act. During the transition period, the Secretary of Homeland Security shall provide to the Administrator such assistance, including the use of personnel and assets, as the Administrator may request in preparing for the transfer.

(f) TRANSITION.—The Administrator may use—

(1) the services of such officers, employees, and other personnel of the Department of Homeland Secu-
rity with respect to functions transferred by this sec-

(2) funds appropriated to such functions for such
period of time as may reasonably be needed to facili-
tate the orderly implementation of this section.

(g) Liaison Office To Ensure Coordination With
Department of Homeland Security.—The Adminis-
trator shall establish a liaison office within the Agency to
ensure adequate coordination with the Department of
Homeland Security.

SEC. 106. PERSONNEL AND OTHER TRANSFERS.

(a) Personnel Provisions.—

(1) Appointments.—The Administrator may
appoint and fix the compensation of such officers and
employees, including investigators, attorneys, and ad-
ministrative law judges, as may be necessary to carry
out the respective functions transferred under section
105. Except as otherwise provided by law, such offi-
cers and employees shall be appointed in accordance
with the civil service laws and their compensation
fixed in accordance with title 5, United States Code.

(2) Experts and Consultants.—The Adminis-
trator may obtain the services of experts and consult-
ants in accordance with section 3109 of title 5,
United States Code, and compensate such experts and
consultants for each day (including travel time) during which they are engaged in the actual performance of such services at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The Administrator 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.

(b) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this title, the Administrator may delegate any of the functions transferred to the Administrator by section 105 and any function transferred or granted to the Administrator after the date of the transfers by section 105 to such officers and employees of the Agency as the Administrator may designate and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Administrator under this subsection or under any other provision of this title shall relieve the Administrator of responsibility for the administration of such functions.
(c) Reorganization.—The Administrator may allocate or reallocate any function transferred under section 105 among the officers of the Agency, and may establish, consolidate, alter, or discontinue such organizational entities in the Agency as may be necessary or appropriate if the Administrator, on or before the 30th day preceding the date of the allocation or reallocation, provides to Congress written notice of the allocation or reallocation.

(d) Rules.—The Administrator may prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Administrator determines necessary or appropriate to administer and manage the functions of the Agency.

(e) 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 section 105, subject to section 1531 of title 31, United States Code, shall be transferred to the Agency. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.
(f) **Incidental Transfers.**—The Director of the Office of Management and Budget, in consultation with the Administrator, may make such determinations as may be necessary with regard to the functions transferred by section 105, and may 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 necessary to effectuate the purposes of this title.

(g) **Effect on Personnel.**—

(1) **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 transfer of such employee under this title.

(2) **Executive Schedule Positions.**—Except as otherwise provided in this title, any person who,
on the day preceding the date of the transfers of functions under section 105, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Agency to a position having duties comparable to the duties performed immediately 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. 107. SAVINGS PROVISIONS.

(a) SAVINGS PROVISIONS.—

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

(A) 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 that are transferred under section 105; and
(B) which are in effect on the date of the transfers of functions under section 105, or were final before such date and are to become effective on or after such date, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) 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 Agency on the date of the transfers of functions under section 105, with respect to functions transferred by section 105, 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 paragraph 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.

(3) Suits Not Affected.—The provisions of this title shall not affect suits commenced before the date of the transfers of functions under section 105, 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.

(4) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Agency, or by or against any individual in the official capacity of such individual as an officer of the Agency, shall abate by reason of the enactment of this title.

(5) Administrative Actions Relating to Promulgation of Regulations.—Any administrative action relating to the preparation or promulgation of a regulation by the Agency relating to a function transferred under section 105 may be continued by the Agency with the same effect as if this title had not been enacted.
(b) 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 section 105—

(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. 108. OFFICES AND FUNCTIONS OF DEPARTMENT OF HOMELAND SECURITY.

(a) EVACUATION PLANS AND EXERCISES.—Section 512(c) of the Homeland Security Act of 2002 (6 U.S.C. 321a(c)) is amended by striking “Administrator” each place it appears and inserting “Secretary”.

(b) ASSISTANT SECRETARY FOR CYBERSECURITY AND COMMUNICATIONS; NATIONAL OPERATIONS CENTER.—Sections 514 and 515 of such Act (6 U.S.C. 321c and 321d) are amended to read as follows:
“SEC. 514. ASSISTANT SECRETARY FOR CYBERSECURITY AND COMMUNICATIONS.

“There is in the Department an Assistant Secretary for Cybersecurity and Communications.

“SEC. 515. NATIONAL OPERATIONS CENTER.

“(a) DEFINITION.—In this section, the term ‘situational awareness’ means information gathered from a variety of sources that, when communicated to emergency managers and homeland security decisionmakers, can form the basis for homeland security decisionmaking.

“(b) ESTABLISHMENT.—The National Operations Center is the principal operations center for the Department and shall—

“(1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, and tribal governments as appropriate, for homeland security purposes; and

“(2) ensure that critical homeland security information reaches government decisionmakers.

“(c) FEMA AUTHORITY.—Nothing in this section shall be construed to provide to the National Operations Center any authority that overlaps with the authority of the Administrator of the Federal Emergency Management Agency, except to the extent necessary to coordinate the activities or information of the National Operations Center with the Federal Emergency Management Agency.”.
(c) **CHIEF MEDICAL OFFICER.**—Section 516 of such Act of 2002 (6 U.S.C. 321e) is amended—

(1) in subsection (c)—

(A) in the matter preceding paragraph (1) by striking “natural disasters, acts of terrorism, and other man-made disasters” and inserting “homeland security”; and

(B) in paragraph (4) by inserting “the Federal Emergency Management Agency,” after “the Department of Veterans Affairs,”; and

(2) by adding at the end the following:

“(d) **FEMA AUTHORITY.**—Nothing in this section shall be construed to provide to the Chief Medical Officer any authority that overlaps with the authority of the Administrator of the Federal Emergency Management Agency, except to the extent necessary to coordinate activities or information with the Federal Emergency Management Agency.”.

(d) **REPEALS.**—The following provisions of such Act (6 U.S.C. 101 et seq.) are repealed:

(1) Section 501.

(2) Section 503.

(3) Section 504.

(4) Section 505.

(5) Section 506.
(6) Section 507.

(7) Section 508.

(8) Section 509.

(9) Section 510.

(10) Section 513.

(11) Section 517.

(12) Section 519.

(e) REDESIGNATIONS.—Sections 502, 511, 512, 514, 515, 516, 518, 520, 521, 522, 523, and 524 of such Act of 2002 (6 U.S.C. 312, 321, 321a, 321c, 321d, 321e, 321f, 321g, 321i, 321j, 321k, 321l, and 321m) are redesignated as sections 501 through 512, respectively.

(f) TITLE HEADING.—The heading for title V of such Act is amended by striking “NATIONAL EMERGENCY MANAGEMENT” and inserting “OTHER OFFICES AND FUNCTIONS”.

(g) TABLE OF CONTENTS.—The table of contents contained in section 1(b) of such Act is amended by striking the items relating to title V and inserting the following:

“TITLE V—OTHER OFFICES AND FUNCTIONS

“Sec. 501. Definition.
“Sec. 502. The National Infrastructure Simulation and Analysis Center.
“Sec. 503. Evacuation plans and exercises.
“Sec. 504. Assistant Secretary for Cybersecurity and Communications.
“Sec. 506. Chief Medical Officer.
“Sec. 507. Conduct of certain public health-related activities.
“Sec. 508. Use of commercially available technology, goods, and services.
“Sec. 509. Procurement of security countermeasures for strategic national stockpile.
“Sec. 510. Model standards and guidelines for critical infrastructure workers.
“Sec. 511. Guidance and recommendations.
SEC. 109. HOMELAND SECURITY GRANTS.

(a) Urban Area Security Initiative.—Section 2003(a) of the Homeland Security Act of 2002 (6 U.S.C. 604(a)) is amended striking “preventing, preparing for, protecting against, and responding to” and inserting “preventing and protecting against”.

(b) State Homeland Security Grant Program.—Section 2004 of such Act (6 U.S.C. 605) is amended—

(1) in subsection (a) by striking “preventing, preparing for, protecting against, and responding to” and inserting “preventing and protecting against”; and

(2) in subsection (c)(3) by striking “to prevent, prepare for, protect against, or respond to” and inserting “to prevent or protect against”; and

(3) in subsection (d)(1) by striking “to prevent, prepare for, protect against, and respond to” and inserting “to prevent and protect against”.

(c) Grants to Directly Eligible Tribes.—Section 2005(h) of such Act (6 U.S.C. 606(h)) is amended by striking “preventing, preparing for, protecting against, and responding to” and inserting “preventing and protecting against”.

(d) Terrorism Prevention.—Section 2006(b)(4)(A) of such Act (6 U.S.C. 607(b)(4)(A)) is amended by striking
“preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disasters within the United States” and inserting “preventing and protecting against acts of terrorism within the United States”.

(e) PRIORITY.—Section 2007(a) of such Act (6 U.S.C. 608(a)) is amended—

(1) in paragraph (1)(H) by striking “respond to” and inserting “address”; and

(2) in paragraphs (1)(J)(i) and (2) by striking “to prevent, prepare for, protect against, and respond to” and inserting “to prevent and protect against”.

(f) USE OF FUNDS.—Section 2008 of such Act (6 U.S.C. 609) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking “preventing, preparing for, protecting against, and responding to” and inserting “preventing and protecting against”; and

(B) in paragraph (12) by inserting before the semicolon at the end the following: “, except to the extent that such activities are inconsistent with the FEMA Independence Act of 2009 (including the amendments made by that Act)”;

and
(2) in subsections (b)(4)(B)(i) and (d)(2) by striking “preventing, preparing for, protecting against, or responding to” and inserting “preventing or protecting against”.

(g) Administration and Coordination.—Section 2021 of such Act (6 U.S.C. 611) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) Regional Coordination.—The Secretary shall ensure that—

“(1) all recipients of grants administered by the Department to prevent and protect against acts of terrorism coordinate, as appropriate, their prevention and protection efforts with neighboring State, local, and tribal governments; and

“(2) all high-risk urban areas and other recipients of grants administered by the Department to prevent and protect against acts of terrorism that include or substantially affect parts or all of more than 1 State coordinate, as appropriate, across State boundaries, including, where appropriate, through the use of regional working groups and requirements for regional plans.”; and

(2) in subsection (d)(1) by striking “Department” and inserting “Federal Government”.
(h) ACCOUNTABILITY.—

(1) AUDITS OF GRANT PROGRAMS.—Section 2022(a) of such Act (6 U.S.C. 612(a)) is amended—

(A) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—Not less than once every 2 years, the Secretary shall conduct, for each State and high-risk urban area receiving a grant administered by the Department, a programmatic and financial review of all grants awarded by the Department to prevent or protect against acts of terrorism.”; and

(ii) in subparagraph (B) by striking “to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism, and other man-made disasters” and inserting “to prevent and protect against acts of terrorism”; and

(B) in paragraph (3)—

(i) by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—In order to ensure the effective and appropriate use of grants administered by the Department, the Inspector General
of the Department each year shall conduct audits
of a sample of States and high-risk urban areas
that receive grants administered by the Depart-
ment to prevent or protect against acts of ter-
rorism.”; and

(ii) in subparagraph (D)(ii)(IV) by
striking “to prevent, prepare for, protect
against, and respond to natural disasters,
acts of terrorism and other man-made dis-
asters” and inserting “to prevent and pro-
tect against acts of terrorism”.

(2) Administration of Grants.—Section 2022
of such Act (6 U.S.C. 612) is amended by adding at
the end the following:

“(d) Administration of Grants.—The Secretary
may request the Administrator to continue to support the
administration of any grant authorized by this title.”.

(i) References to Administrator.—Title XX of
such Act (6 U.S.C. 601 et seq.) is amended—

(1) in section 2002(a) by striking “, through the
Administrator,”; 

(2) in section 2021(c)(1) by striking “(acting
through the Administrator)”;}
(3) in the subparagraph heading for section 2022(a)(3)(F) by striking “ADMINISTRATOR” and inserting “SECRETARY”;

(4) in the subsection heading for section 2022(c) by striking “BY THE ADMINISTRATOR”; and

(5) by striking “Administrator” each place it appears and inserting “Secretary”, except in—

(A) section 2001(1);

(B) section 2006(b)(4)(F);

(C) section 2006(b)(5);

(D) section 2022(b)(2); and

(E) section 2022(c)(1).

SEC. 110. ADDITIONAL CONFORMING AMENDMENTS TO HOMELAND SECURITY ACT OF 2002.

(a) MISSION.—Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively; and

(3) in subparagraph (C) (as so redesignated) by striking “, including” and all that follows before the semicolon at the end.

(b) SECRETARY; FUNCTIONS.—Section 102 of such Act (6 U.S.C. 112) is amended—
(1) by adding at the end of subsection (c) the following:

“Nothing in this subsection may be construed to interfere with the role of the Administrator of the Federal Emergency Management Agency.”; and

(2) in subsection (f)—

(A) in paragraph (4)—

(i) by inserting “and” at the end of subparagraph (A);

(ii) by striking “and” at the end of subparagraph (B); and

(iii) by striking subparagraph (C);

(B) by striking paragraph (8); and

(C) by redesignating paragraphs (9), (10), and (11) as paragraphs (8), (9), and (10), respectively.

(c) OTHER OFFICERS.—Section 103(a) of such Act (6 U.S.C. 113(a)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) through (10) as paragraphs (4) through (9), respectively.

(d) AUTHORITY TO ISSUE WARNINGS.—Section 214(g) of such Act (6 U.S.C. 133(g)) is amended by adding at the end the following:
“Nothing in this subsection may be construed to limit or otherwise affect the authority of the President or the Administrator of the Federal Emergency Management Agency under section 202 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5132).”.

(e) Enhancement of Non-Federal Cybersecurity.—Section 223 of such Act (6 U.S.C. 143) is amended by striking “Under Secretary for Emergency Preparedness and Response” each place it appears and inserting “Administrator of the Federal Emergency Management Agency”.

(f) Coordination With Federal Emergency Management Agency.—

(1) In general.—Title II of such Act (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

“Subtitle E—Consultation With Federal Emergency Management Agency

“Sec. 241. Duty to Consult.

“In carrying out this title, the Secretary shall consult, as appropriate, with the Administrator of the Federal Emergency Management Agency.”
“SEC. 242. LIMITATION ON STATUTORY CONSTRUCTION.

“Nothing in this title may be construed to limit or other-
wise affect the authority of the Administrator of the Fed-
eral Emergency Management Agency.”.

(2) CLERICAL AMENDMENT.—The table of con-
tents contained in section 1(b) of such Act is amended
by adding at the end of the items relating to title II
the following:

“Subtitle E—Consultation With Federal Emergency Management Agency

“Sec. 241. Duty to consult.
“Sec. 242. Limitation on statutory construction.”.

(g) OFFICE FOR DOMESTIC PREPAREDNESS.—Section
430 of such Act (6 U.S.C. 238), and the item relating to
that section in the table of contents contained in section
1(b) of such Act, are repealed.

(h) QUADRENNIAL HOMELAND SECURITY REVIEW.—
Section 707 of such Act (6 U.S.C. 347) is amended—

(1) in subsection (a)(3)(A) by inserting “the Ad-
ministrator of the Federal Emergency Management
Agency,” after “the Secretary of Agriculture,”;

(2) in subsection (b)(1) by striking “, the Na-
tional Response Plan,”; and

(3) in subsection (c)(2)(G) by striking “and pre-
paring for emergency response to threats to national
homeland security”.

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(i) **COORDINATION WITH DEPARTMENT OF HEALTH** and **HUMAN SERVICES UNDER PUBLIC HEALTH SERVICE ACT.**—Section 887 of such Act (6 U.S.C. 467) is amended—

(1) in subsection (a) by inserting before the period at the end the following: “and section 202(b) of the FEMA Independence Act of 2009”; and

(2) in subsections (b)(2) and (b)(3) by inserting “the Federal Emergency Management Agency,” after “the Department of Homeland Security,”.

(j) **MEMBERSHIP OF NATIONAL HOMELAND SECURITY COUNCIL.**—Section 903(a) of such Act (6 U.S.C. 493(a)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

“(6) The Administrator of the Federal Emergency Management Agency.”.

**SEC. 111. CONFORMING AMENDMENTS TO POST-KATRINA EMERGENCY MANAGEMENT REFORM ACT OF 2006.**

(a) **SURGE CAPACITY FORCE.**—Section 624 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 711) is amended—

(1) in subsection (b)—
(A) by striking “Secretary” and inserting “Administrator”; and 

(B) by striking “of the Department”; and 

(2) in subsections (c)(1) and (c)(2) by striking “section 510 of the Homeland Security Act of 2002, as amended by this Act,” and inserting “section 203 of the FEMA Independence Act of 2009”.

(b) IMPROVEMENTS TO INFORMATION TECHNOLOGY SYSTEMS.—Section 640(a) of such Act (6 U.S.C. 727(a)) is amended by striking “, in coordination with the Chief Information Officer of the Department,”.


(d) FEDERAL RESPONSE CAPABILITY INVENTORY.—Section 651 of such Act (6 U.S.C. 751) is amended in paragraphs (2) and (3) of subsection (b) by striking “section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320)” and inserting “section 203 of the FEMA Independence Act of 2009”.

and inserting “section 203 of the FEMA Independence Act of 2009”.

(f) NATIONAL DISASTER RECOVERY STRATEGY.—Section 682(a) of such Act (6 U.S.C. 771(a)) is amended by inserting “the Secretary,” after “the Department of the Interior,”.

(g) INDIVIDUALS WITH DISABILITIES.—Section 689(a) of such Act (6 U.S.C. 773(a)) is amended by striking “section 513 of the Homeland Security Act of 2002, as added by this Act” and inserting “section 204 of the FEMA Independence Act of 2009”.

(h) LIMITATIONS ON TIERING OF SUBCONTRACTORS.—Section 692 of such Act (6 U.S.C. 792)—

(1) in subsections (a) and (b) by striking “Secretary” and inserting “Administrator”; and

(2) in subsection (c) by striking “Department” and inserting “Agency”.

(i) LIMITATION ON LENGTH OF CERTAIN NON-COMPETITIVE CONTRACTS.—Section 695 of such Act (6 U.S.C. 794) is amended—

(1) in subsections (a) and (b) by striking “Secretary” and inserting “Administrator”; and

(2) in subsection (c) by striking “Department” and inserting “Agency”.
SEC. 112. CONFORMING AND TECHNICAL AMENDMENTS TO OTHER LAWS.

(a) CHIEF FINANCIAL OFFICER.—Section 901(b)(2) of title 31, United States Code, is amended by adding at the end the following:

“(H) The Federal Emergency Management Agency.”.


(c) TECHNICAL CORRECTIONS TO REFERENCES.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) in section 602(a) by striking paragraph (7) and inserting the following:

“(7) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.”; and

(2) by striking “Director” each place it appears and inserting “Administrator”, except—

(A) the second and fourth places it appears in section 622(c); and

(B) in section 626(b).
SEC. 113. CHANGES TO ADMINISTRATIVE DOCUMENTS.

Not later than 120 days after the date of enactment of this Act, the President shall amend Homeland Security Presidential Directive–5, Homeland Security Presidential Directive–8, and any other similar administrative document to reflect the changes made by this Act (including the amendments made by this Act).

SEC. 114. RECOMMENDED LEGISLATION.

(a) In general.—After consultation with Congress, the Administrator shall prepare recommended legislation containing additional technical and conforming amendments to reflect the changes made by this title.

(b) Submission to Congress.—Not later than 90 days after the last day of the transition period referred to in section 105(e), the Administrator shall submit to Congress a report containing the recommended legislation.

TITLE II—RELATED MATTERS

SEC. 201. NATIONAL ADVISORY COUNCIL.

(a) Establishment.—The Administrator shall continue to maintain an advisory body to ensure effective and ongoing coordination of Federal preparedness, response, recovery, and mitigation for hazards, to be known as the National Advisory Council.

(b) Responsibilities.—The National Advisory Council shall advise the Administrator on all aspects of emergency management.
(c) **Membership.**—

(1) **In general.**—The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from State, local, and tribal governments, the private sector, and nongovernmental organizations, including as appropriate—

(A) members selected from the emergency management field and emergency response providers, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency management personnel, or organizations representing such individuals;

(B) health scientists, emergency and inpatient medical providers, and public health professionals;

(C) experts from Federal, State, local, and tribal governments, and the private sector, representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community, particularly those with exper-
tise in the emergency preparedness and response field;

(D) State, local, and tribal government officials with expertise in preparedness, response, recovery, and mitigation, including Adjutants General;

(E) elected State, local, and tribal government executives;

(F) experts in public and private sector infrastructure protection, cybersecurity, and communications;

(G) representatives of individuals with disabilities and other populations with special needs; and

(H) such other individuals as the Administrator determines to be appropriate.

(2) COORDINATION WITH THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND TRANSPORTATION.—In the selection of members of the National Advisory Council who are health or emergency medical services professionals, the Administrator shall work with the Secretary of Health and Human Services and the Secretary of Transportation.

(3) EX OFFICIO MEMBERS.—The Administrator shall designate 1 or more officers of the Federal Gov-
ernment to serve as ex officio members of the National Advisory Council.

(4) TERMS OF OFFICE.—The term of office of each member of the National Advisory Council shall be 3 years.

(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—Subject to paragraph (2), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the National Advisory Council.

(2) TERMINATION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Advisory Council.

SEC. 202. NATIONAL INTEGRATION CENTER.

(a) IN GENERAL.—There is established in the Agency a National Integration Center.

(b) RESPONSIBILITIES.—The Administrator, through the National Integration Center, and in consultation with other Federal departments and agencies and the National Advisory Council, shall ensure ongoing management and maintenance, including revisions as appropriate, of the National Incident Management System, the National Response
Plan (including the Catastrophic Incident Annex), and any successor to such system or plan.

(c) INCIDENT MANAGEMENT.—

(1) NATIONAL RESPONSE PLAN.—The Administrator shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any hazard.

(2) PRINCIPAL FEDERAL OFFICIAL.—The position of Principal Federal Official is abolished.

SEC. 203. CREDENTIALING AND TYPING.

(a) IN GENERAL.—The Administrator shall continue to implement a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, and organizations that represent emergency response providers to collaborate on developing standards for deployment capabilities, including for credentialing and typing of incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a hazard.

(b) DISTRIBUTION.—

(1) IN GENERAL.—The Administrator shall provide the standards developed under subsection (a), including detailed written guidance, to—
(A) each Federal agency that has responsibilities under the National Response Plan to aid that agency with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a hazard; and

(B) State, local, and tribal governments, to aid such governments with credentialing and typing of State, local, and tribal incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a hazard.

(2) ASSISTANCE.—The Administrator shall provide expertise and technical assistance to aid Federal, State, local, and tribal government agencies with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a hazard.

(c) CREDENTIALING AND TYPING OF PERSONNEL.—Each Federal agency with responsibilities under the National Response Plan shall ensure that incident management personnel, emergency response providers, and other
personnel (including temporary personnel) and resources likely needed to respond to a hazard are credentialed or typed, as appropriate, in accordance with this section.

(d) Consultation on Health Care Standards.—In developing standards for credentialing health care professionals under this section, the Administrator shall consult with the Secretary of Health and Human Services.

(e) Definition.—For purposes of this section, the term “credentialing” means to provide documentation that identifies personnel and authenticates and verifies the qualifications of such personnel by ensuring that such personnel possess a minimum common level of training, experience, physical and medical fitness, and capability appropriate for a particular position in accordance with standards created under this section.

SEC. 204. DISABILITY COORDINATOR.

(a) In General.—The Administrator shall appoint in the Agency a Disability Coordinator in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief. The Disability Coordinator shall report directly to the Administrator.

(b) Consultation.—The Disability Coordinator shall be appointed after consultation with organizations representing individuals with disabilities, the National Coun-

(c) Transitional Provision.—The individual serving in the Agency as Disability Coordinator on the date of enactment of this Act may continue to serve in that position at the discretion of the Administrator.

SEC. 205. NUCLEAR INCIDENT RESPONSE.

(a) In General.—At the direction of the Administrator (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Agency. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Administrator.

(b) Rule of Construction.—Nothing in this section shall be construed to limit the ordinary responsibility of the Secretary of Energy or the Administrator of the Environmental Protection Agency for organizing, training, equipping, or utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this section) from exercising direction, authority, or control over them when they are not operating as a unit of the Agency.
SEC. 206. URBAN AREA ALL HAZARDS PREPAREDNESS GRANT PROGRAM.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

“SEC. 617. URBAN AREA ALL HAZARDS PREPAREDNESS GRANT PROGRAM.

“(a) IN GENERAL.—To assist urban areas to prepare for any hazard, the Administrator shall establish an urban area all hazards preparedness grant program.

“(b) ELIGIBILITY.—The 100 most populous metropolitan statistical areas, as defined by the Office of Management and Budget, shall be eligible to receive a grant award under this section. The Administrator may consider additional urban areas for a grant award based on criteria established by the Administrator.

“(c) NOTIFICATION AND INFORMATION.—Not later than 30 days before the Administrator accepts applications for the urban area all hazards preparedness grant program, the Administrator shall notify the chief elected official of each urban area and the Governor of the State in which such urban area is located if the urban area is eligible for a grant under this section and provide information regarding the application procedures and grant award criteria. Such notification and information shall also be published...
in the Federal Register not later than 15 days before the Administrator accepts applications for the grant program.

“(d) APPLICATION.—An urban area eligible under subsection (b) may apply to the Administrator for a grant award under this section. Such application shall demonstrate, to the satisfaction of the Administrator, that—

“(1) the urban area will use funds awarded under this section to develop or implement activities that support the emergency management goals of the State in which an urban area is located; and

“(2) the State has reviewed the application.

“(e) ALLOCATION OF FUNDS.—

“(1) IN GENERAL.—The Administrator shall allocate funds to each State in which an urban area selected to receive a grant award under this section is located based on—

“(A) the population of each eligible urban area;

“(B) the relative level of risk of any hazard faced by each eligible urban area; and

“(C) other factors as determined appropriate by the Administrator.

“(2) MINIMUM ALLOCATION.—In determining the allocation amount under paragraph (1), the Adminis-
tractor may provide each eligible urban area with a minimum allocation.

“(3) **STATE DISTRIBUTION OF FUNDS.**—

“(A) **IN GENERAL.**—Not later than 45 days after the date on which a State receives a grant award under this section, the State shall provide each urban area awarded a grant not less than 80 percent of the award amount for such area. Any funds retained by a State shall be expended on items, services, or activities related to emergency preparedness that benefit such urban area for activities described in subsection (f).

“(B) **FUNDS RETAINED.**—A State shall provide each urban area awarded such a grant with an accounting of the items, services, or activities on which any funds retained by the State under subparagraph (A) were expended.

“(4) **INTERSTATE URBAN AREAS.**—If an urban area selected to receive a grant award under this section is located in 2 or more States, the Administrator shall distribute to each such State a portion of the grant funds that the Administrator determines to be appropriate.

“(f) **USES OF FUNDS.**—An urban area that receives a grant award under this section may use funds only for
activities determined by the Administrator to enhance the preparedness of an urban area for a hazard, and shall include—

“(1) planning;
“(2) purchase and maintenance of equipment;
“(3) training;
“(4) exercises; and
“(5) management and administration.

“(g) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue regulations to implement the urban area all hazards preparedness grant program under this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

“(1) $525,000,000 for fiscal year 2010;
“(2) $575,000,000 for fiscal year 2011; and
“(3) $650,000,000 for fiscal year 2012.”.
A BILL

To establish the Federal Emergency Management Agency as a cabinet-level independent agency in the executive branch, and for other purposes.

DECEMBER 22, 2010

The Committee on Homeland Security discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed.