

118TH CONGRESS
1ST SESSION

H. R. 5599

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2023

Mr. MOSKOWITZ (for himself and Mr. GRAVES of Louisiana) 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 establish the Federal Emergency Management Agency as a cabinet-level independent agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “FEMA Independence Act of 2023”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. Establishment of FEMA as cabinet-level independent agency.
- Sec. 3. Director; deputy directors; regional offices.
- Sec. 4. Authority and responsibilities.
- Sec. 5. Office of the Inspector General.
- Sec. 6. Transfer of functions.
- Sec. 7. Personnel and other transfers.
- Sec. 8. Savings provisions.
- Sec. 9. References.
- Sec. 10. Offices and functions of Department of Homeland Security.
- Sec. 11. Homeland security grants.
- Sec. 12. Conforming amendments to other laws.
- Sec. 13. Report on recommended legislation.
- Sec. 14. Definitions.

1 **SEC. 2. ESTABLISHMENT OF FEMA AS CABINET-LEVEL**
 2 **INDEPENDENT AGENCY.**

3 (a) IN GENERAL.—The Federal Emergency Manage-
 4 ment Agency is established as a cabinet-level independent
 5 establishment in the executive branch.

6 (b) MISSION.—The primary mission of the Agency is
 7 to reduce the loss of life and property and protect the Na-
 8 tion from all hazards, including natural disasters, acts of
 9 terrorism, and other man-made disasters, by leading and
 10 supporting the Nation in a risk-based, comprehensive
 11 emergency management system of preparedness, protec-
 12 tion, response, recovery, and mitigation.

13 **SEC. 3. DIRECTOR; DEPUTY DIRECTORS; REGIONAL OF-**
 14 **FICES.**

15 (a) DIRECTOR.—

16 (1) IN GENERAL.—The Agency shall be headed
 17 by a Director, who shall be appointed by the Presi-
 18 dent, by and with the advice and consent of the Sen-
 19 ate, and who shall report directly to the President.

1 (2) QUALIFICATIONS.—The Director shall be
2 appointed from among individuals who have—

3 (A) a demonstrated ability in and knowl-
4 edge of emergency management and homeland
5 security; and

6 (B) not less than 5 years of executive lead-
7 ership and management experience in the public
8 sector and 5 years of such experience in the pri-
9 vate sector.

10 (3) EXECUTIVE SCHEDULE.—Title 5, United
11 States Code, is amended—

12 (A) in section 5312 by adding at the end
13 the following:

14 “Director of the Federal Emergency Management
15 Agency.”; and

16 (B) in section 5313 by striking the item
17 relating to “Administrator of the Federal
18 Emergency Management Agency.”.

19 (b) DEPUTY DIRECTORS.—

20 (1) IN GENERAL.—The President may appoint,
21 by and with the advice and consent of the Senate,
22 not more than 4 Deputy Directors to assist the Di-
23 rector in carrying out the functions and authorities
24 of the Director.

1 (2) EXECUTIVE SCHEDULE.—Section 5314 of
2 title 5, United States Code, is amended by striking
3 “Deputy Administrators, Federal Emergency Man-
4 agement Agency” and inserting “Deputy Directors,
5 Federal Emergency Management Agency”.

6 (c) REGIONAL OFFICES.—

7 (1) IN GENERAL.—There shall be in the Agency
8 10 Regional Offices, as identified by the Director.

9 (2) REGIONAL DIRECTORS.—Each Regional Of-
10 fice shall be headed by a Regional Director who shall
11 be chosen by the Director.

12 **SEC. 4. AUTHORITY AND RESPONSIBILITIES.**

13 (a) IN GENERAL.—The Director shall provide the
14 Federal leadership necessary to prepare for, respond to,
15 recover from, and mitigate hazards.

16 (b) STAFFORD ACT.—The Director shall assist the
17 President in carrying out the functions under the Robert
18 T. Stafford Disaster Relief and Emergency Assistance Act
19 (42 U.S.C. 5121 et seq.) and carrying out all functions
20 and authorities given to the Administrator of the Federal
21 Emergency Management Agency under that Act.

22 (c) MISSION.—The responsibilities of the Director
23 shall include carrying out the mission of the Agency by
24 leading and supporting the Nation in a comprehensive
25 emergency management system of—

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

4 (2) preparedness, by planning, training, con-
5 ducting exercises, and building the emergency man-
6 agement profession to prepare effectively for miti-
7 gating, responding to, and recovering from any haz-
8 ard;

9 (3) response, by conducting emergency oper-
10 ations to save lives and property through positioning
11 emergency equipment, personnel, and supplies,
12 through evacuating potential victims, through pro-
13 viding food, water, shelter, and medical care to those
14 in need, and through restoring critical public serv-
15 ices; and

16 (4) recovery, by rebuilding communities so indi-
17 viduals, businesses, and governments can function
18 on their own, return to normal life, and protect
19 against future hazards.

20 (d) RESPONSE DUTIES.—In carrying out subsection
21 (c)(3), the Director, at a minimum, shall—

22 (1) help to ensure the effectiveness of emer-
23 gency response providers in responding to a hazard;

24 (2) coordinate and provide the Federal Govern-
25 ment's response to hazards;

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

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

8 (5) administer and ensure the implementation
9 of the National Response Plan, including coordi-
10 nating and ensuring the readiness of each emergency
11 support function under the National Response Plan;
12 and

13 (6) help ensure the acquisition of operable and
14 interoperable communications capabilities by Fed-
15 eral, State, local, and tribal governments and emer-
16 gency response providers.

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

20 (1) continuity of operations;

21 (2) continuity of Government; and

22 (3) continuity of plans.

23 (f) OTHER DUTIES.—The Director shall—

24 (1) coordinate the National Advisory Council;

1 (2) maintain and operate within the Agency the
2 National Response Coordination Center (or its suc-
3 cessor);

4 (3) develop and maintain a national emergency
5 management system that is capable of preparing for,
6 responding to, recovering from, and mitigating haz-
7 ards of all magnitudes, including catastrophic disas-
8 ters; and

9 (4) supervise grant programs administered by
10 the Agency.

11 (g) ALL-HAZARDS APPROACH.—In carrying out the
12 responsibilities under this section, the Director shall co-
13 ordinate the implementation of an all-hazards strategy
14 that builds those common capabilities necessary to prepare
15 for, respond to, recover from, and mitigate hazards.

16 **SEC. 5. OFFICE OF THE INSPECTOR GENERAL.**

17 The Agency shall have an Office of the Inspector
18 General, headed by an Inspector General, in accordance
19 with chapter 4 of title 5, United States Code (commonly
20 known as the “Inspector General Act of 1978”).

21 **SEC. 6. TRANSFER OF FUNCTIONS.**

22 (a) IN GENERAL.—There shall be transferred to the
23 Director all functions of the Federal Emergency Manage-
24 ment Agency, as such Agency was constituted on the day
25 before the date of enactment of this Act.

1 (b) INSPECTOR GENERAL.—There shall be trans-
2 ferred to the Inspector General all functions relating to
3 the Inspector General that were transferred from the Fed-
4 eral Emergency Management Agency to the Department
5 of Homeland Security on or after January 1, 2003.

6 (c) TRANSITION PERIOD.—The transfers under this
7 section shall be carried out not later than 120 days fol-
8 lowing the date of enactment of this Act. During the tran-
9 sition period, the Secretary of Homeland Security shall
10 provide to the Director such assistance, including the use
11 of personnel and assets, as the Director may request in
12 preparing for the transfer.

13 **SEC. 7. PERSONNEL AND OTHER TRANSFERS.**

14 (a) PERSONNEL APPOINTMENTS.—The Director may
15 appoint and fix the compensation of such officers and em-
16 ployees as may be necessary to carry out the respective
17 functions transferred by section 6.

18 (b) TRANSFER AND ALLOCATIONS OF APPROPRIA-
19 TIONS AND PERSONNEL.—Except as otherwise provided
20 in this Act, the personnel employed in connection with,
21 and the assets, liabilities, contracts, property, records, and
22 unexpended balances of appropriations, authorizations, al-
23 locations, and other funds employed, used, held, arising
24 from, available to, or to be made available in connection
25 with the functions transferred by section 6, subject to sec-

1 tion 1531 of title 31, United States Code, shall be trans-
2 ferred to the Agency. Unexpended funds transferred pur-
3 suant to this subsection shall be used only for the purposes
4 for which the funds were originally authorized and appro-
5 priated.

6 (c) INCIDENTAL TRANSFERS.—The Director of the
7 Office of Management and Budget, in consultation with
8 the Director of the Federal Emergency Management
9 Agency, may make such determinations as may be nec-
10 essary with regard to the functions transferred by section
11 6, and may make such additional incidental dispositions
12 of personnel, assets, liabilities, grants, contracts, property,
13 records, and unexpended balances of appropriations, au-
14 thorizations, allocations, and other funds held, used, aris-
15 ing from, available to, or to be made available in connec-
16 tion with such functions, as may be necessary to carry out
17 the provisions of this Act. The Director of the Office of
18 Management and Budget shall provide for the termination
19 of the affairs of all entities terminated by this Act and
20 for such further measures and dispositions as may be nec-
21 essary to effectuate the purposes of this Act.

22 (d) EFFECT ON PERSONNEL.—

23 (1) IN GENERAL.—Except as otherwise pro-
24 vided by this Act, the transfer pursuant to this Act
25 of full-time personnel (except special Government

1 employees) and part-time personnel holding perma-
2 nent positions shall not cause any such employee to
3 be separated or reduced in grade or compensation
4 for 1 year after the date of transfer of such em-
5 ployee under this Act.

6 (2) EXECUTIVE SCHEDULE POSITIONS.—Except
7 as otherwise provided in this Act, any person who,
8 on the day preceding the date of the transfers of
9 functions by section 6, held a position compensated
10 in accordance with the Executive Schedule pre-
11 scribed in chapter 53 of title 5, United States Code,
12 and who, without a break in service, is appointed in
13 the Agency to a position having duties comparable to
14 the duties performed immediately preceding such ap-
15 pointment shall continue to be compensated in such
16 new position at not less than the rate provided for
17 such previous position, for the duration of the serv-
18 ice of such person in such new position.

19 **SEC. 8. SAVINGS PROVISIONS.**

20 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS
21 AND ACTIONS.—

22 (1) IN GENERAL.—The legal documents and ac-
23 tions described in paragraph (2) shall continue in ef-
24 fect according to their terms until modified, termi-
25 nated, superseded, set aside, or revoked in accord-

1 ance with law by the President, the Director, other
2 authorized official, a court of competent jurisdiction,
3 or by operation of law.

4 (2) LEGAL DOCUMENTS AND ACTIONS DE-
5 SCRIBED.—The legal documents and actions de-
6 scribed in this paragraph are all orders, determina-
7 tions, rules, regulations, permits, agreements,
8 grants, contracts, certificates, licenses, registrations,
9 privileges, and other administrative actions that
10 both—

11 (A) have been issued, made, granted, or al-
12 lowed to become effective by the President, any
13 Federal agency or official thereof, or by a court
14 of competent jurisdiction, in the performance of
15 functions that are transferred by section 6; and

16 (B) are in effect on the date of the trans-
17 fers of functions by section 6, or were final be-
18 fore such date and are to become effective on
19 or after such date.

20 (b) PROCEEDINGS NOT AFFECTED.—The provisions
21 of this Act shall not affect any proceedings, including no-
22 tices of proposed rulemaking, or any application for any
23 license, permit, certificate, or financial assistance pending
24 before the Agency on the date of the transfers of functions
25 by section 6, with respect to functions transferred by sec-

1 tion 6, but such proceedings and applications shall con-
2 tinue. Orders shall be issued in such proceedings, appeals
3 shall be taken therefrom, and payments shall be made pur-
4 suant to such orders, as if this Act had not been enacted,
5 and orders issued in any such proceedings shall continue
6 in effect until modified, terminated, superseded, or re-
7 voked by a duly authorized official, by a court of com-
8 petent jurisdiction, or by operation of law. Nothing in this
9 paragraph shall be considered to prohibit the discontinu-
10 ance or modification of any such proceeding under the
11 same terms and conditions and to the same extent that
12 such proceeding could have been discontinued or modified
13 if this Act had not been enacted.

14 (c) CAUSES OF ACTION NOT AFFECTED.—The provi-
15 sions of this Act shall not affect any cause of action com-
16 menced before the date of the transfers of functions by
17 section 6, and in all such causes of action, proceedings
18 shall be had, appeals taken, and judgments rendered in
19 the same manner and with the same effect as if this Act
20 had not been enacted.

21 (d) NONABATEMENT OF CAUSES OF ACTION.—No
22 cause of action commenced by or against the Agency, or
23 by or against any individual in the official capacity of such
24 individual as an officer of the Agency, shall abate by rea-
25 son of the enactment of this Act.

1 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-
2 MULGATION OF REGULATIONS.—Any administrative ac-
3 tion relating to the preparation or promulgation of a regu-
4 lation by the Agency relating to a function transferred by
5 section 6 may be continued by the Agency with the same
6 effect as if this Act had not been enacted.

7 **SEC. 9. REFERENCES.**

8 (a) REFERENCES TO FEMA.—Any reference to the
9 Federal Emergency Management Agency in any law, Ex-
10 ecutive order, rule, regulation, certificate, directive, in-
11 struction, delegation of authority, or other official paper
12 shall be considered to refer and apply to the Agency estab-
13 lished by section 2.

14 (b) REFERENCES TO DIRECTOR OR ADMINISTRATOR
15 OF FEMA.—Any reference to the Director or the Admin-
16 istrator of the Federal Emergency Management Agency
17 in any law, Executive order, rule, regulation, certificate,
18 directive, instruction, delegation of authority, or other offi-
19 cial paper shall be considered to refer and apply to the
20 Director established by section 3(a)(1).

21 (c) REFERENCES TO INSPECTOR GENERAL.—Any
22 reference to the Inspector General of the Federal Emer-
23 gency Management Agency or to the functions relating to
24 such office that were transferred from the Federal Emer-
25 gency Management Agency to the Department of Home-

1 land Security on or after January 1, 2003, in any law,
2 Executive order, rule, regulation, certificate, directive, in-
3 struction, delegation of authority, or other official paper
4 shall be considered to refer and apply to the Inspector
5 General established by section 5 or to the functions related
6 to such office.

7 **SEC. 10. OFFICES AND FUNCTIONS OF DEPARTMENT OF**
8 **HOMELAND SECURITY.**

9 (a) REPEALS.—The following provisions of the
10 Homeland Security Act of 2002 (6 U.S.C. 101 et seq.)
11 are repealed:

- 12 (1) Section 501 (6 U.S.C. 311).
- 13 (2) Section 503 (6 U.S.C. 313).
- 14 (3) Section 504 (6 U.S.C. 314).
- 15 (4) Section 505 (6 U.S.C. 315).
- 16 (5) Section 506 (6 U.S.C. 316).
- 17 (6) Section 507 (6 U.S.C. 317).
- 18 (7) Section 508 (6 U.S.C. 318).
- 19 (8) Section 509 (6 U.S.C. 319).
- 20 (9) Section 510 (6 U.S.C. 320).
- 21 (10) Section 513 (6 U.S.C. 321b).
- 22 (11) Section 514 (6 U.S.C. 321c).
- 23 (12) Section 519 (6 U.S.C. 321h).

24 (b) REDESIGNATIONS.—Sections 502, 511, 512, 515,
25 517, 518, 520, 521, 522, 523, 524, 525, 526, 527, 528,

1 and 529 of such Act (6 U.S.C. 312, 321, 321a, 321d,
 2 321f, 321g, 321i, 321j, 321k, 321l, 321m, 321n, 321o,
 3 321p, 321q, and 321r) are redesignated as sections 501
 4 through 516, respectively.

5 (c) TITLE HEADING.—The heading for title V of such
 6 Act is amended by striking “**NATIONAL EMER-**
 7 **GENCY MANAGEMENT**” and inserting “**OTHER**
 8 **OFFICES AND FUNCTIONS**”.

9 (d) TABLE OF CONTENTS.—The table of contents
 10 contained in section 1(b) of such Act is amended by strik-
 11 ing the items relating to title V and inserting the fol-
 12 lowing:

“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. National Operations Center.
- “Sec. 505. Nuclear incident response.
- “Sec. 506. Conduct of certain public health-related activities.
- “Sec. 507. Use of commercially available technology, goods, and services.
- “Sec. 508. Procurement of security countermeasures for strategic national stockpile.
- “Sec. 509. Model standards and guidelines for critical infrastructure workers.
- “Sec. 510. Guidance and recommendations.
- “Sec. 511. Voluntary private sector preparedness accreditation and certification program.
- “Sec. 512. Acceptance of gifts.
- “Sec. 513. Integrated public alert and warning system modernization.
- “Sec. 514. National planning and education.
- “Sec. 515. Coordination of Department of Homeland Security efforts related to food, agriculture, and veterinary defense against terrorism.
- “Sec. 516. Transfer of equipment during a public health emergency.”.

13 (e) EFFECTIVE DATE.—The amendments made by
 14 this section shall take effect on the date on which the
 15 transfers of functions by section 6 are carried out.

1 **SEC. 11. HOMELAND SECURITY GRANTS.**

2 (a) REFERENCES TO ADMINISTRATOR.—Title XX of
3 the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.)
4 is amended—

5 (1) in section 2002(a) (6 U.S.C. 603(a)) by
6 striking “, through the Administrator,”;

7 (2) in section 2009(a) (6 U.S.C. 609a(a)) by
8 striking “, acting through the Administrator,”;

9 (3) in the subsection heading for section
10 2022(e) (6 U.S.C. 612(e)) by striking “BY THE AD-
11 MINISTRATOR”; and

12 (4) by striking “Administrator” each place it
13 appears and inserting “Secretary”.

14 (b) EXCEPTIONS.—Title XX of the Homeland Secu-
15 rity Act of 2002 (6 U.S.C. 601 et seq.), as amended by
16 subsection (a), is further amended—

17 (1) in section 2001(1) (6 U.S.C. 601(1)) by
18 striking “Secretary” each place it appears and in-
19 serting “Director”;

20 (2) in section 2006(b)(4)(F) (6 U.S.C.
21 607(b)(4)(F)) by striking “Secretary” and inserting
22 “Director”; and

23 (3) in section 2006(b)(5) (6 U.S.C. 607(b)(5))
24 by striking “Secretary” and inserting “Director”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date on which the
3 transfers of functions by section 6 are carried out.

4 **SEC. 12. CONFORMING AMENDMENTS TO OTHER LAWS.**

5 (a) IMPROVEMENTS TO INFORMATION TECH-
6 NOLOGY.—Section 640(a) of the Post-Katrina Emergency
7 Management Reform Act of 2006 (6 U.S.C. 727(a)) is
8 amended by striking “, in coordination with the Chief In-
9 formation Officer of the Department,”.

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

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

15 (c) REFERENCES.—Subsection (c) of section 612 of
16 the Post-Katrina Emergency Management Reform Act of
17 2006 (6 U.S.C. 313 note) is repealed.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date on which the
20 transfers of functions by section 6 are carried out.

21 **SEC. 13. REPORT ON RECOMMENDED LEGISLATION.**

22 (a) IN GENERAL.—After consultation with Congress,
23 the Director shall prepare a report describing rec-
24 ommended legislation for additional technical and con-

1 forming amendments to reflect the changes made by this
2 Act.

3 (b) SUBMISSION TO CONGRESS.—Not later than 90
4 days after the last day of the transition period referred
5 to in section 6(c), the Director shall submit to Congress
6 the report referred to in subsection (a).

7 **SEC. 14. DEFINITIONS.**

8 In this Act:

9 (1) AGENCY.—The term “Agency” means the
10 Federal Emergency Management Agency established
11 by section 2.

12 (2) DIRECTOR.—The term “Director” means
13 the Director of the Federal Emergency Management
14 Agency established by section 3(a).

15 (3) HAZARD.—The term “hazard” has the
16 meaning given that term in section 602(a) of the
17 Robert T. Stafford Disaster Relief and Emergency
18 Assistance Act (42 U.S.C. 5195a(a)) and includes
19 any major disaster or emergency.

20 (4) INSPECTOR GENERAL.—The term “Inspec-
21 tor General” means the Inspector General of the
22 Federal Emergency Management Agency established
23 by section 5.

○