

CRS Report for Congress

Received through the CRS Web

FEMA Reorganization Legislation in the 109th Congress

Updated September 1, 2006

Keith Bea
Specialist, American National Government
Government and Finance Division

Henry B. Hogue
Analyst, American National Government
Government and Finance Division

FEMA Reorganization Legislation in the 109th Congress

Summary

Members of Congress have introduced legislation in both the House and Senate to alter federal emergency management organizational structures and responsibilities, amend authorities that guide federal action, impose emergency management leadership qualification requirements, and make other changes. The proposals are based upon investigations conducted on the role of the Federal Emergency Management Agency (FEMA) and other entities in the response to Hurricane Katrina in the fall of 2005.

Some observers reduce the matter to one basic question: “Should FEMA remain within the Department of Homeland Security (DHS), or should the agency regain the independent status it had before the creation of DHS?” The issue, however, is more complex than just one of organizational placement. Other questions include the following:

- What should be the reach or limit of the entity’s authority?
- What degree of discretion should Congress extend to the President and executive branch officials to act in emergency situations?
- What functions or responsibilities should be transferred to the new entity? Which should be retained by other DHS entities?
- To what extent should the White House be involved in emergency management on a continuing basis as well as during an emergency?
- How might Congress balance recognition of state sovereignty and primacy in the emergency management field while authorizing prompt federal response?
- If details such as personnel qualifications, training requirements, performance metrics, and interagency coordination mechanisms are set in statute, will federal agencies have the flexibility to adapt procedures and personnel to dynamic crises?

As of the date of this report, Members have introduced at least 15 bills to reorganize FEMA or reorient the agency’s mission. Summary information on the 15 bills, and historical context for debate on the issue, is presented in CRS Report RL33369, *Federal Emergency Management and Homeland Security Organization: Historical Developments and Legislative Options*. Of the bills pending before Congress, two, H.R. 5316 and H.R. 5351, have been the subject of House committee action. The emergency communications segment of H.R. 5351 has been approved by the full House in a stand alone bill, H.R. 5852. Other bills that have been introduced in the House include H.R. 3656, H.R. 3659, H.R. 3685, H.R. 3816, H.R. 4009, H.R. 4493, H.R. 4840, and H.R. 5759. On July 11, 2006, the full Senate approved an amendment (S.Amdt. 4560) to the FY2007 appropriations bill (H.R. 5441) for the Department of Homeland Security. On July 27, the Senate Homeland Security and Governmental Affairs Committee ordered to be reported S. 3721, which includes provisions in S.Amdt. 4560 plus other far-reaching provisions that would provide new emergency management authority. In addition, other Senate bills include S. 1615, S. 2302, and S. 3595. This report will be updated when significant congressional action occurs on the pending legislation.

Contents

The Hurricane Katrina Investigations	1
House of Representatives Report	3
Senate Report	5
White House Report	9
Overview of Findings and Recommendations	10
Comparison of Pending Legislation	11

List of Tables

Table 1. House Hearings on Hurricane Katrina, 2 nd Session, 109 th Congress, by Committee	5
Table 2. Senate Hearings on Hurricane Katrina, 2 nd Session, 109 th Congress, by Committee	7
Table 3. Legislative Proposals Amending Emergency Management Structure and Authorities, Comparison of Existing Policy, S. 3721, H.R. 5316, and H.R. 5351, 109 th Congress	14
Table 4. Legislative Proposals Amending Emergency Communications Provisions, Comparison of Existing Policy, S. 3721, H.R. 5316, and H.R. 5852, 109 th Congress	62

FEMA Reorganization Legislation in the 109th Congress

The Hurricane Katrina Investigations

In the aftermath of Hurricane Katrina, Members of Congress and others raised questions about the scope and reach of federal emergency management policies, the procedures used to administer federal statutory authorities, the qualifications of personnel, and other issues. Most of the questions focused on the Federal Emergency Management Agency (FEMA), the agency primarily responsible for coordinating federal and non-federal disaster response activities.

Legislation pending before the 109th Congress would reconfigure the structure and mission of FEMA, which is currently part of the Department of Homeland Security (DHS) but served as an independent agency prior to 2003. Four of the 15 bills pending in the 109th Congress that would realign responsibility for federal emergency management functions have been acted upon.¹ H.R. 5351 and H.R. 5316 have been reported out of House committees. The emergency communications portion of H.R. 5351 was approved by the full House on July 25, 2006 in stand alone legislation (H.R. 5852). A Senate proposal was approved by the full Senate on July 11, 2006, as an amendment (S.Amdt. 4560) to the Department of Homeland Security appropriations legislation for FY2007 (H.R. 5441). The fourth bill, S. 3721, was ordered to be reported by the Senate Homeland Security and Governmental Affairs Committee on July 27, 2006.

Three of the bills acted upon by Congress, H.R. 5351, S. 3721, and the Senate-approved amendment to H.R. 5441, would amend the Homeland Security Act (HSA) and shift the assignment of emergency management duties within DHS.² The other bill, H.R. 5316, would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act) and reestablish FEMA as an independent agency.³ Amendments considered by the Senate to reestablish FEMA as an independent

¹ As of the date of publication, several other bills before the 109th Congress also would modify FEMA, its missions, or its operations. These bills include those that, like H.R. 5316, would reestablish FEMA as an independent agency (H.R. 3656, H.R. 3659, H.R. 3685, H.R. 3816, H.R. 4493, S. 1615, and S. 2302). Two other bills (H.R. 4009 and H.R. 4840) would recombine preparedness and response functions in DHS and impose qualification requirements on officials, and H.R. 4397 addresses qualification requirements.

² The Homeland Security Act of 2002 is codified at 6 U.S.C. 101 et seq.

³ The Stafford Act is codified at 42 U.S.C. 5121 et seq.

agency (S.Amdt. 4563/S.Amdt. 4564) during the debate on H.R. 5441 were not approved.⁴

These and other bills before the 109th Congress reflect investigative activities undertaken since Hurricane Katrina struck on August 29, 2005. By the spring of 2006, two congressional reports and a White House report had been issued. The findings, identified issues, and recommendations of the congressional and White House reports, as well as investigations conducted by the Government Accountability Office and the Inspector General of DHS, laid the groundwork for the consideration of alternative organizational arrangements for federal emergency management.

This report provides information on provisions of the bill ordered to be reported from the Senate Homeland Security and Governmental Affairs Committee (S. 3721), the Senate-approved amendment (S.Amdt. 4560) to the FY2007 appropriations bill (H.R. 5441), H.R. 5316, and H.R. 5351, all of which address concerns identified after Hurricane Katrina. To provide a context for information on the legislation, this report first summarizes findings and recommendations of the congressional and White House studies pertinent to the pending legislation reported from the House committees.

House of Representatives Report. On September 15, 2005, the House of Representatives approved H.Res. 437, which established the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina (referred to as the Select Committee). The activities of the committee were summarized in its final report as follows:

The Select Committee held nine hearings over the course of approximately three months. Select Committee Members and staff simultaneously conducted scores of interviews and received dozens of briefings from local, state, and federal officials; non-governmental organizations; private companies and individuals who provided or offered external support after Katrina; and hurricane victims. Select Committee Members and staff traveled numerous times to the Gulf Coast. The Select Committee also requested and received more than 500,000 pages of documents from a wide array of sources.⁵

The committee report presented findings but did not include recommendations. It noted successes, such as National Weather Service forecasts, efforts of search and rescue operations, and implementation of interstate mutual aid agreements. The majority of the report's findings, however, identified shortcomings and failures. Although none of the findings specifically addressed organizational issues, some of the findings arguably indicate that failures may have been associated with problems involving implementation of agency missions, questionable aspects of leadership,

⁴ On July 27, 2006, the Senate Homeland Security and Governmental Affairs Committee ordered to be reported S. 3721, which included much of the text of S.Amdt. 4560 plus four other titles with far-reaching implications for federal emergency management authorities and practices.

⁵ U.S. Congress, House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *A Failure of Initiative*, 109th Cong., 2nd sess. (Washington: GPO, 2006), p. 11.

inappropriate interagency coordination mechanisms, or lack of clarity about shared responsibilities. The committee's findings that appear particularly relevant to the pending legislation include the following, with the text presented verbatim from the report:

It does not appear the President received adequate advice and counsel from a senior disaster professional.

The Secretary [of DHS] should have convened the Interagency Incident Management Group on Saturday, two days prior to landfall, or earlier to analyze Katrina's potential consequences and anticipate what the federal response would need to accomplish.

The Secretary [of DHS] should have designated the Principal Federal Official [PFO] on Saturday, two days prior to landfall, from the roster of PFOs who had successfully completed the required training, unlike then-FEMA Director Michael Brown. Considerable confusion was caused by the Secretary's PFO decisions.

The Homeland Security Operations Center failed to provide valuable situational information to the White House and key operational officials during the disaster.

Federal agencies, including DHS, had varying degrees of unfamiliarity with their roles and responsibilities under the National Response Plan and National Incident Management System.

Earlier presidential involvement might have resulted in a more effective response.

Lack of communications and situational awareness paralyzed command and control.

DOD [Department of Defense]/DHS coordination was not effective during Hurricane Katrina.

DOD, FEMA, and the state of Louisiana had difficulty coordinating with each other, which slowed the response.

National Guard and DOD response operations were comprehensive, but perceived as slow.

The Coast Guard's response saved many lives, but coordination with other responders could improve.

DOD has not yet incorporated or implemented lessons learned from joint exercises in military assistance to civil authorities that would have allowed for a more effective response to Katrina.

Northern Command [within DOD] does not have adequate insight into state response capabilities or adequate interface with governors, which contributed to a lack of mutual understanding and trust during the Katrina response.

DOD lacked an information sharing protocol that would have enhanced joint situational awareness and communications between all military components.

Search and rescue operations were a tremendous success, but coordination and integration between the military services, the National Guard, the Coast Guard, and other rescue organizations was lacking.

Top officials at the Department of Health and Human Services and the National Disaster Medical System do not share a common understanding of who controls the National Disaster Medical System under Emergency Support Function-8.

Deployment confusion, uncertainty about mission assignments, and government red tape delayed medical care.

Contributions by charitable organizations assisted many in need, but the American Red Cross and others faced challenges due to the size of the mission, inadequate logistics capacity, and a disorganized shelter process.⁶

In addition to the hearings and interviews conducted by the select committee, oversight hearings before nine other House committees addressed a variety of matters related to the federal response. **Table 1** summarizes the topics of hearings held during the second session of the 109th Congress.

Table 1. House Hearings on Hurricane Katrina, 2nd Session, 109th Congress, by Committee

Committee/Number of hearings	Topics
Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina/9	Forecasts, FEMA role, decisions of Secretary Chertoff, preparedness and response, contractors, Alabama preparedness, victims reports, Mississippi preparedness, Louisiana preparedness
Appropriations/3	DHS, DOD, Housing and Urban Development (HUD) Department
Armed Services/1	DOD preparations
Energy and Commerce/3	Communications, fraud and waste, public health
Financial Services/8	Rebuilding, fair housing, housing needs (5 sessions), flood insurance
Government Reform/5	Preparedness, fraud and waste, contracting, international assistance, oversight
Homeland Security/4	Fraud and waste, FEMA restructuring, federalism, command and control

⁶ Ibid., pp. 2-5

Committee/Number of hearings	Topics
Science/1	Disaster research
Transportation and Infrastructure/4	DHS, need for legislation, risk reduction, FEMA
Ways and Means/1	Charities

Source: Information compiled from searches of CQ Committee Coverage (markups and hearings) data at CQ.com, available by subscription at [http://www.cq.com/], accessed June 15, 2006. The searches were conducted by Jennifer Manning, Knowledge Services Group, Congressional Research Service.

Senate Report. From September 14, 2005, to April 21, 2006, the Senate Homeland Security and Governmental Affairs Committee (HSGAC) held 22 hearings on Hurricane Katrina-related issues.⁷ In the course of the committee investigation, staff interviewed 236 persons to obtain detailed information on events, operations, and procedures.⁸

The Senate committee report, published months after the House select committee report, included findings and recommendations. The Senate report included four “Foundational Recommendations” that, if implemented, would replace FEMA with a new entity, the National Preparedness and Response Authority (NPR). These recommendations include the following, presented verbatim from the report:

Create a New, Comprehensive Emergency Management Organization with DHS to Prepare for and Respond to All Disasters and Catastrophes.

From the Federal Level Down, Take a Comprehensive All-Hazards *Plus* Approach to Emergency Management.

Establish Regional Strike Teams and Enhance Regional Operations to Provide Better Coordination between Federal Agencies and the States.

Build a True, Government-Wide Operations Center to Provide Enhanced Situational Awareness and Manage Interagency Coordination in a Disaster.⁹

The specific characteristics of NPR, and other recommendations in the Senate report related to the pending legislation, may be summarized in the following manner:

⁷ A list of the hearings held, topics, and witnesses is presented in the final report issued by the committee. U.S. Senate, Committee on Homeland Security and Governmental Affairs, *Hurricane Katrina: A Nation Still Unprepared*, 109th Cong., 2nd sess. (Washington: GPO, 2006), pp. Appendix 3-2 through 3-8.

⁸ A list of those interviewed is presented in the Senate report, *ibid.*, pp. Appendix 4-1 through 4-23.

⁹ *Ibid.*, pp. Recommendations-1 through Recommendations-7.

- NPRA is to be a distinct entity within DHS, with its missions and components protected from internal reorganizations or departmental reassignments.
- The Director of NPRA would hold the same rank as a Deputy Secretary (Level II of the Executive Schedule, presidential appointees to be confirmed by the Senate), report directly to the Secretary, and serve as the adviser to the President for emergency management and as a direct conduit of information to the President during catastrophes.
- Three NPRA deputy directors would hold the same rank as most under secretaries (Level III of the Executive Schedule, presidential appointees to be confirmed by the Senate).
- Ten regional office directors would be part of the Senior Executive Service and would serve as Federal Coordinating Officers (FCOs). Enhanced intergovernmental and interagency interactions would be built with federal strike teams, staffing changes, and coordination efforts.
- NPRA would be responsible for the four phases of emergency management — preparedness, response, recovery, and mitigation — as well as infrastructure protection, and would adopt an “all-hazards plus” approach to include a wide range of capabilities for the broadest range of hazards.
- A National Operations Center (NOC) would integrate the operational duties currently vested in at least three different entities.
- Increased levels of commitment to and by state and local governments are necessary, along with efforts to better integrate non-governmental organizations into emergency management procedures and operations.
- The plans and systems for disaster response should be enhanced, including the capability to respond to catastrophic incidents.
- Coordination between DHS and DOD and Health and Human Services (HHS) should be improved.
- During the transition to NPRA, DHS should develop strategies to build career emergency management personnel capabilities.

Just as various House committees conducted hearings on Katrina-related issues, seven Senate committees in addition to the primary investigative body examined specific issues related to the disaster. **Table 2** provides summary information on those Senate hearings.

Table 2. Senate Hearings on Hurricane Katrina, 2nd Session, 109th Congress, by Committee

Committee/number of hearings	Topics
Homeland Security and Governmental Affairs/22	Recovery (2 sessions), FEMA performance, New Orleans, levee failures, Coast guard, private sector, FEMA operations professionals, levee responsibility, Mississippi recovery, Hurricane Pam simulation, urban search and rescue, pre-storm evacuation, post-storm evacuation, role of governors, law enforcement and communications, DOD role, DHS/FEMA leadership, waste and fraud, role of Secretary Chertoff, reform recommendations, housing
Appropriations/3	2006 hurricane season, supplemental appropriations
Banking, Housing, and Urban Affairs/4	Rebuilding, flood insurance (3 sessions)
Commerce, Science, and Transportation/3	Hurricane forecasting, communications, hurricane prediction
Environment and Public Works/2	Hurricane response
Health, Education, Labor, and Pensions/1	Hurricane response
Judiciary/1	Readiness
Special Aging/1	Needs of older Americans in disasters

Source: Information compiled from searches of CQ Committee Coverage (markups and hearings) data at CQ.com, available by subscription at [<http://www.cq.com/>], accessed June 15, 2006. The searches were conducted by Jennifer Manning, Knowledge Services Group, Congressional Research Service.

White House Report. The post-Katrina report issued by the White House does not include any recommendations for organizational changes; it does, however, include recommendations pertinent to organizational options, including some of the issues addressed in the pending legislative proposals. The recommendations in the White House report that appear relevant to the pending legislation include the following. The numbers that accompany the following recommendations are taken verbatim from the report and correspond to those presented in it.¹⁰

4. DHS should develop and implement Homeland Security Regions that are fully staffed, trained, and equipped to manage and coordinate all preparedness activities and any emergency that may require a substantial federal response.
5. Each Regional Director should have significant expertise and experience, core competency in emergency preparedness and incident management, and demonstrated leadership ability.
6. The PFO [Principal Federal Official] should have the authority to execute responsibilities and coordinate federal response assets.
8. Each region must be able to establish and resource rapidly deployable, self-sustaining incident management teams (IMT) to execute the functions of the JFO [Joint Field Office] and subordinate area commands that are specified in the NRP [National Response Plan] and NIMS [National Incident Management System].
9. DHS should establish several strategic-level, standby, rapidly deployable interagency task forces capable of managing the national response for catastrophic incidents that span more than one Homeland Security Region.
10. Integrate and synchronize the preparedness functions within the Department of Homeland Security.
11. DHS should establish a permanent standing planning/operations staff housed within the National Operations Center.
13. A unified departmental external affairs office should be created within DHS that combines legislative affairs, intergovernmental affairs, and public affairs as a critical component of the preparedness and response cycle.
15. Establish a National Operations Center to coordinate the national response and provide situational awareness and a common operating picture for the entire federal government.
19. Establish the Disaster Response Group (DRG).
30. DOD should consider assigning additional personnel (to include General officers) from the National Guard and the reserves of the military services to USNORTHCOM [U.S. Northern Command] to achieve enhanced integration of Active and reserve component forces for homeland security missions.

¹⁰ The White House, *The Federal Response to Hurricane Katrina, Lessons Learned* (Washington: 2006), pp. 87-124.

38(f). DHS should establish a Chief Logistics Officer to oversee all logistics operations across multiple support functions.

57(b). HHS in coordination with OMB and DHS should draft proposed legislation for submission to Congress, to transfer NDMS [National Disaster Medical System] from DHS to HHS.

63. Assign HHS the responsibility for coordinating the provision of human services during disasters.

69. Designate HUD as the lead federal agency for the provision of temporary housing.

76. Develop a Public Communications Coordination capability for crisis communications at the White House.

83. The National Economic Council should form an Impact Assessment Working Group to provide an overall economic impact assessment of major disasters, including the Departments of Homeland Security, Treasury, Commerce, Energy (Energy Information Administration), and Labor as well as the President's Council of Economic Advisors.

99. DHS should establish an office with responsibility for integrating non-governmental and other volunteer resources into federal, state, and local emergency response plans and mutual aid agreements. Further, DHS should establish a distinct organizational element to assist faith-based organizations.

110. DHS should consolidate the DHS Training and Exercise Structure.

116. DHS should establish a National Homeland Security University (NHSU) for senior officials that serves as a capstone to other educational and training opportunities.

118. The White House should consider establishing a Presidential Board to review the national security, homeland security, and counterterrorism professional development programs of federal departments and agencies to identify opportunities for further integration.

Overview of Findings and Recommendations. The House, Senate, and White House reports include common elements that appear pertinent to S. 3595, H.R. 5316, and H.R. 5351. All conclude that failures of leadership and initiative compromised efforts to provide necessary assistance to victims and communities. Coordination problems and failures to fully integrate response procedures, plans, and systems among federal agencies were also common findings, with particular attention given to the role of the Principal Federal Officer (PFO); the Homeland Security Operations Center; and DHS, DOD, and HHS officials. In addition to these failures, the reports noted the critical role of regional offices in building relationships with state and local governments.

One significant difference between the congressional reports and the White House report concerns examinations of the qualifications of the leadership in FEMA and DHS, notably the experience and training expected of leaders. Both the House

and Senate reports concluded that problems stemmed, at least in part, from leadership shortcomings. On the other hand, the White House report focused on failures of process, systems, and planning, not the experience or qualifications of top officials.

Comparison of Pending Legislation

The House bills that have been acted upon during the 109th Congress adopt different approaches to the issues identified in the congressional and White House reports. Some of the more significant differences between the two House bills are the following:

- **Organizational location:** H.R. 5316 would establish FEMA as an independent cabinet level agency with direct access to the President; H.R. 5351 would keep FEMA in DHS as the Directorate of Emergency Management (DEM).
- **Base statutory authority:** H.R. 5316 would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); H.R. 5351 would amend the Homeland Security Act, or HSA (6 U.S.C. 101 et seq.).¹¹
- **Preparedness:** H.R. 5351 would authorize preparedness activities (school planning, pandemic influenza, emergency management preparedness grants) and condition eligibility for homeland security grants on the maintenance of catastrophic plans; H.R. 5316 does not include such provisions, but would add a title to the Stafford Act that would authorize establishment of a new comprehensive emergency preparedness system to improve federal and non-federal capabilities.
- **Presidential access:** H.R. 5316 would authorize the FEMA Director to have continual, direct access to the President at all times; H.R. 5351 would designate the head of the DEM as a “Cabinet Officer” for the duration of Incidents of National Significance.¹²
- **Medical response:** A Chief Medical Officer would be appointed under H.R. 5351, and emergency medical response functions would be vested in the DEM; H.R. 5316 does not provide for such a position or such functions.

¹¹ The statutory authorities amended by the House bill reflect committee jurisdictions; the House Transportation and Infrastructure Committee exercises jurisdiction over the Stafford Act, whereas the House Homeland Security Committee has jurisdiction over the HSA.

¹² Incidents of National Significance include, but are not limited to, presidential major disaster and emergency declarations, as well as events that require the involvement of multiple federal agencies and situations that require federal involvement, at the Secretary’s discretion. See U.S. Department of Homeland Security, *National Response Plan*, as amended (Washington: 2005), p. 4.

- **Personnel:** H.R. 5316 would authorize the Director of the independent FEMA to develop a human capital strategy; H.R. 5351 would retain the authority in DHS to develop a workforce strategy. Also, H.R. 5316 would authorize the establishment of a disaster workforce cadre, whereas H.R. 5351 would not.
- **Fraud and waste:** H.R. 5351 would provide new authority and requirements to prevent fraud and waste; H.R. 5316 would authorize the FEMA Director to use up to 1% of funds for oversight activities. Also, H.R. 5351 would require establishment of a system to ensure that equipment purchased by first responders is effective; H.R. 5316 does not contain a similar provision.
- **Regional offices:** H.R. 5351 would require the establishment of regional offices within DEM; H.R. 5316 would not.

S. 3721, while containing many, but not all provisions of the Senate amendment, would make significant changes in both the Robert T. Stafford Disaster Relief and Emergency Assistance Act and the Homeland Security Act. Most of the provisions of the amendment to H.R. 5441 (S.Amdt. 4560) approved by the full Senate on July 11, 2006 are contained in S. 3721 as reported. S. 3721 differs from the Senate amendment, however, in that it would retain the name and acronym of FEMA instead of establishing an Emergency Management Authority (EMA). S. 3721 also expands federal authority to provide accelerated assistance if deemed necessary in a catastrophic incident, would authorize changes in personnel and workforce procedures, and establish broad fraud prevention and reporting requirements. In contrast to the Senate legislation, H.R. 5351 would establish a Directorate of Emergency Management (DEM) within DHS and would make many, but not all, changes included in the Senate legislation. Principle differences between the two Senate texts and H.R. 5351 exist in the following areas:

- **Preparedness:** H.R. 5351 would provide for the pre-positioning of equipment, development of an asset inventory, funding for emergency management preparedness grants, planning for pandemic influenza, and catastrophic planning; the Senate legislation would not.
- **Response:** The Senate bill and amendment include provisions regarding disaster “strike” teams and the establishment of a National Operations Center; H.R. 5351 does not.
- **Organization:** The Senate text would establish the EMA as a distinct entity within DHS and prohibit the Secretary from reorganizing it. H.R. 5351 would not establish DEM as a distinct entity and would not control reorganization authority.
- **Leadership:** H.R. 5351 would create the DEM head at the under secretary level, to report to the Secretary or Deputy Secretary. In contrast, the chief executive in the Senate legislation would be at the deputy secretary level and would report only to the Secretary.

- **Communications:** H.R. 5351 would establish a communications office within DEM; the Senate legislation does not provide for such an office.

Table 3 of this report presents summary information on existing law and administrative documents, and it compares the provisions of the bills, with the exception of emergency communications provisions. **Table 4** compares the emergency communication provisions in H.R. 5852 to those in S. 3721 and the one provision in H.R. 5316. H.R. 5852, which passed the House on July 25, 2006, is similar to the proposed Subtitle B in Section 101(a) of H.R. 5351.

Table 3. Legislative Proposals Amending Emergency Management Structure and Authorities, Comparison of Existing Policy, S. 3721, H.R. 5316, and H.R. 5351, 109th Congress

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
Short Title.		
Post-Katrina Emergency Management Reform Act of 2006 [Sec. 1]	Restoring Emergency Services to Protect Our Nation from Disasters Act of 2006 (RESPOND) Act of 2006 [Sec. 1]	National Emergency Management Reform and Enhancement Act of 2006 [Sec. 1(a)]
Findings.		
No similar provisions	Includes 23 findings. [Sec. 2]	No similar provisions
Title, Subtitle, and Chapter Changes in Existing Law.		
Would strike heading of Title V of the Homeland Security Act (HSA) and replace it with “National Emergency Management.” [Sec. 101] Would insert “Subtitle A — Preparedness and Response” [Sec. 101, §510] and “Subtitle B — Emergency Communications.” [Sec. 101, §539]	Would add “Chapter 101-Federal Emergency Management Agency Personnel” to subpart I of part III of title 5 of the <i>United States Code</i> . [Sec. 121(a)] Would add “Title VII-Comprehensive Emergency Preparedness System” to the Stafford Act. [Sec. 301(a)]	Would strike heading of Title V of the HSA and replace it with “Emergency Management.” Would insert “Subtitle A — Directorate of Emergency Management.” [Sec. 101]

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A**Definitions.**

Would define the following terms for purposes of the act: “Administrator,” “Agency,” “catastrophic incident,” “Department,” “emergency,” “major disaster,” “emergency management,” “emergency manager,” “emergency response provider,” “Federal coordinating officer,” “individual with a disability,” “National Advisory Council,” “National Incident Management System,” “National Response Plan,” “Regional Office,” “Regional Office strike team,” “Secretary,” and “surge capacity.” [Sec. 3]

Would amend Title V of Homeland Security Act by newly defining: “all-hazards-plus,” “Administrator,” “Agency,” “catastrophic incident,” “emergency communications capabilities,” “Federal coordinating officer,” “interoperable emergency communications system,” “communications interoperability,” “National Advisory Council,” “National Incident Management System,” “National Response Plan,” and “surge capacity.” [Sec. 101, §501]

Would also amend Title V of the HSA by defining within proposed Subtitle A: “Nuclear Incident Response Team,” “Regional Advisory Council,”

Would define the following terms for purposes of the act: “Agency,” “Director,” “emergency,” “emergency preparedness,” “hazard,” “local government,” “major disaster,” “mission assignment,” and “state.” [Sec. 3]

No similar provisions

No similar provision

Would amend Homeland Security Act by modifying definition of “emergency response provider,” and newly defines “emergency management,” “prevention,” and “emergency support providers.” [Sec. 114]

Defines “Nuclear Incident Response Team.” [Sec. 101, §543]

Defines terms comparable to “small business entity.” [Sec. 101, §583(g)]

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
<p>“Regional Administrator,” and “Regional Office.” [Sec. 101, §511]</p>		
<p>Would amend proposed subtitle A of the Homeland Security Act (HSA) by adding definitions of “age-appropriate,” “appropriate municipal entity,” “children,” “emergency medical professional,” “life supporting first aid,” selected organization [Sec. 101, §523(a)]; “credential,” “credentialing,” “credentialed” [Sec. 101, §532(a)]; “typed,” “typing” [Sec. 101, §532(a)].</p>	No similar provisions	No similar provisions
<p>Would amend proposed subtitle B of the HSA by adding definitions of: “eligible region,” “National Emergency Communications Strategy,” “Office of Emergency Communications.” [Sec. 101, §551]</p>	No similar provisions	No similar provisions
<p>Would amend the Intelligence Reform and Terrorism Prevention Act by defining: “interoperable emergency communications system,” “communications interoperability,” and “emergency communications capabilities.” [Sec. 102]</p>	No similar provisions	No similar provisions
<p>Would define for the purpose of respective sections of the Senate bill: “situational awareness” [Sec. 101, §520(a)];</p>	No similar provisions	No similar provisions

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A

“National Infrastructure Simulation and Analysis Center” [Sec. 101, §527(a)];
 “document,” “appropriate population segments,”
 “individuals with limited English proficiency”
 [Sec. 220(a)];
 “Surge Capacity Force” [Sec. 304(a)];
 “demonstration project,” “interoperable emergency communication system [Sec. 103(a)]; “Child Locator Center,” “declared event,” “displaced adult,” “displaced child” [Sec. 216(a)];
 “displaced individual,” “National Emergency Family and Locator System” [Sec. 217(a)];
 “authorized placement,” “base flood,” “coastal high hazard area,” “covered civil action,” “covered individual,” “covered manufactured home,”
 “flood,” “flood plain,” “floodway,” “manufactured home,” [Sec. 229(a)];
 “excessive pass-through charge,” “covered contractor,” “covered lower-tier contractor,”
 “executive agency,” [Sec. 501(c) and other provisions which refer to 41 U.S.C. 403];
 “micropurchase” [Sec. 510(a)(5)];
 “biological event” [Sec. 101(a), §506(i)]

Would amend Stafford Act definitions of “major disaster” and “private nonprofit facility,” and

Would amend Stafford Act by defining: “capability,” “covered grant,” “mission

No similar provisions

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
would add new definition of “individual with a disability,” [Sec. 210]; “essential service provider,” [Sec. 205, §425(a)]; “disaster period” and “survivor,” [Sec. 211, §706(a)]; “member of the predisaster household,” [Sec. 218(a)]; and “fair market rent.” [Sec. 218(b)]	assignment,” “operational readiness,” “performance measure,” and “performance metric” [Sec. 301(a), §701] and “catastrophic incident” [Sec. 201, §616(d)]	
For purposes of Title IV of the legislation, would define the term “Emergency Support Function Annex” of the National Response Plan (NRP). [Sec. 401]	No similar provisions	No similar provisions

Organization Location and Status.

Overview of existing policy: *FEMA and the Directorate of Preparedness are two of 26 entities reporting to DHS leadership. [6 U.S.C., 311-317, DHS 7/13/05 letter to Congress]*

* Would establish the Federal Emergency Management Agency (FEMA) in the Department of Homeland Security (DHS) as a distinct entity, to include the functions of FEMA and the Preparedness Directorate as constituted on June 1, 2006. [Sec. 101, §512(a), §514, §515(a)]

Would establish FEMA as an independent “cabinet level” agency. The new agency would carry out the functions of FEMA, specified DHS authorities not assigned to FEMA, and the Preparedness Directorate. [Sec. 101(a), Sec. 105]

Would combine FEMA and the Directorate of Preparedness in a new Directorate of Emergency Management (DEM) within DHS. [Sec. 101(a), §§501(a), 502(b)]

Presidential Access.

Leadership levels/authority to report to the President

Existing policy: *Under secretaries (U/S) report to the Secretary/Deputy Secretary. U/S for Federal Emergency Management may report to the President*

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A

during Incidents of National Significance (INS) through the Principal Federal Officer (PFO). [Sec. Chertoff 7/13/05 letter to Congress]

* FEMA Administrator would report directly and only to the DHS Secretary, and serve as the principal emergency preparedness and response adviser to the President, Homeland Security Council, and DHS Secretary. He or she could inform them of emergency management options and would be required to provide advice upon request. The Administrator could make recommendations to Congress after informing the Secretary. [Sec. 101, §512(c)(3,4)]

FEMA Director would be compensated at the secretary level (Executive Schedule Level I) and would report directly to the President at all times. [Sec. 103(a)(1)]

DEM head, established at U/S level, would report to the Secretary and generally serve as the principal adviser to the President on emergency management. Would serve as a “Cabinet Officer” during Incidents of National Significance. [Sec.101(a), §§501(a)(1), 502(a), 503]

Functions and Mission.

Overall mission

Existing policy: *FEMA mission includes response and recovery, but not emergency preparedness.* [6 U.S.C. 317, DHS 7/13/2005 letter to Congress]
The President is authorized to undertake a range of emergency management functions. [Stafford Disaster Relief Act, 42 U.S.C. 5121 et seq. and Executive Orders 12127, 12148, as amended, Reorganization Plan No. 3 of 1978]

* FEMA mission would include leading the nation in all comprehensive emergency management (CEM) phases based on a risk-based “all-hazards-plus” strategy through administration of the Stafford Act, and undertaking other activities. [Sec. 101, §512(b), §513(a) and (c)]

FEMA mission would be based on the all-hazards, risk-based, comprehensive emergency management (CEM) framework and would include responsibility for the Stafford Act. [Sec. 101(b), Sec. 102(a)(1) and (2)]

DEM would have primary responsibility to prepare for all comprehensive emergency management (CEM) phases related to terrorism, disasters, and other emergencies, with 18 specific tasks and authorities listed, including responsibility for the Stafford Act. [Sec. 101(a), §502(a)]

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
<p>* Functions, personnel, assets, components, and liabilities of the existing FEMA and the Preparedness Directorate and their respective leaders, as of June 1, 2006, would be transferred to FEMA. [Sec. 101, §514] [S.A. 4560, Sec. 504(1) would except National Disaster Medical System.]</p>	<p>The functions of current FEMA and the Preparedness Directorate, and the functions, personnel, and assets associated with six specified authorities would be transferred to the independent agency FEMA. [Sec. 105(a); Sec. 106(e)]</p>	<p>Functions of FEMA (the former Emergency Preparedness and Response Directorate) and the Preparedness Directorate would be transferred to DEM. [Sec. 101(a), §502(b) and (c)]</p>
<p><i>Infrastructure protection</i></p>		
<p>Existing policy: <i>The Preparedness Directorate is responsible for infrastructure protection. [6 U.S.C. 121 et seq., DHS 7/13/2005 letter to Congress] Directorate for Information Analysis and Infrastructure Protection established. [6 U.S.C. 121]</i></p>		
<p>Would establish within FEMA the National Infrastructure Simulation and Analysis Center to coordinate with federal agencies and support modeling and simulation efforts. [Sec. 101, §527]</p>	<p>No similar provision</p>	<p>Would establish Office for Infrastructure Protection in DEM, that would carry out risk assessments, recommend protective measures, assess preparedness, and coordinate with other entities, among other responsibilities. [Sec. 101(a), §591]</p>
<p>No similar provision</p>	<p>No similar provision</p>	<p>Would redesignate Information Analysis and Infrastructure Protection Directorate as Office of Intelligence and Analysis, and make corresponding changes to leadership titles. [Sec. 106]</p>
<p>* Position of Assistant Secretary for Cybersecurity and Telecommunications would be established in DHS (specific location unstated). [Sec. 101, §530(a)]</p>	<p>No similar provision</p>	<p>Office of Cybersecurity and Telecommunications would be established under the authority of the DEM Under Secretary to manage cybersecurity response system, coordinate with the private sector and other entities, administer the National</p>

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A

Communications System, and report to Congress.
[Sec. 101(a), §592]

Specific preparedness functions

Existing policy: *Preparedness functions assigned to the DHS Preparedness Directorate. [Original authority given to Office of Domestic Preparedness, 6 U.S.C. 238, reorganized under 6 U.S.C. 452, DHS 1/26/2004 letter to Congress and DHS 7/13/2005 letter to Congress]*

* Would require each regional administrator to establish multi-agency strike teams, with specified membership, location, coordination, and preparedness requirements. [Sec. 101, §517(e)]

Would amend the Stafford Act to require that the President establish emergency disaster response teams that meet specified criteria. [Sec. 202, §303]

Would authorize support teams residing in regions to deploy force packages (including personal protective, search and rescue, medical, and other equipment) under the Prepositioned Equipment Program. [Sec. 101(a), §581(b), (c), and (d)]

No similar provision

Would establish a requirement that the Director notify state and area officials about the closure of a prepositioned equipment program location. Also would include a related Sense of Congress provision. [Sec. 205]

Would require establishment of Prepositioned Equipment Program. [Sec. 101(a), §581(a)]

Secretary must ensure that federal agencies with responsibilities under the National Response Plan (NRP) develop inventories of material and personnel for deployment. [Sec. 404(e)(1)]

No similar provision

Would require the Secretary to establish a National Asset Inventory Program, with an inventory of federal capabilities, including those of the Department of Defense. Would require the establishment of an inventory database. Secretary must certify annually that federal agencies have developed and maintained force packages. Secretary would identify locations of logistic

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A

No similar provision	No similar provision	support centers and must consult with the Administrator of the Emergency Management Assistance Compact (EMAC). [Sec. 101(a), §582]
Would require that the FEMA Administrator coordinate with federal and nonfederal officials to ensure that training and exercises focus on the planning requirements included in the revised NRP. [Sec. 405]	Would require the Director to establish and maintain a comprehensive emergency management training program for all levels of government that meets specified standards. [Sec. 301(a), §703(b)(4)]	Would establish Office of Training and Exercises in DEM to improve national preparedness capabilities. [Sec. 101(a), §522(a)] Would require the Secretary, through the A/S for Training and Exercises, to administer, in coordination and consultation with specified governmental officers and entities, a National Exercise Program (NEP) and a National Training Program (NTP) to evaluate and improve emergency management capabilities at all levels of government. Would require the Secretary to establish the Remedial Action Management Program (RAMP) to certify that recipients of assistance implement lessons learned from exercises and events. [Sec. 101(a), §522(e), (f), and (g)]
No similar provision	No similar provision	Would establish in DHS a National Domestic Preparedness Consortium and a National Exercise to enhance preparedness training. [Sec. 101(a), §522(h) and (i)]
No similar provision	Would authorize grants for emergency equipment. [Sec. 207, §630]	No similar provision

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
Would require DHS Secretary, through Chief Medical Officer, to fund education on life-supporting first aid for children. [Sec. 101, §523]	No similar provision	No similar provision
* Would require DHS Secretary to establish National Advisory Council on Preparedness and Response, with specified membership requirements, to advise the FEMA Administrator on all aspects of emergency preparedness and response. [Sec. 101, §518]	Would require the Director to establish a National Emergency Preparedness Task Force to ensure coordination of emergency management among federal, state, and local governments, and the private sector. [Sec. 301(a), §707]	Would establish National Advisory Council on Emergency Management, with specified membership requirements, to periodically review federal plans, standards, and capabilities. [Sec. 101(a), §509]
* Would require that the FEMA Administrator promote public and community preparedness. [Sec. 101, §522]	No similar provision	Would establish Office of Public and Community Preparedness, headed by a Director appointed by the Secretary. The office would consist of Community Emergency Response Teams, Internet Resources, and Citizen Corps, with responsibilities for providing guidance to communities, and coordinating with non-governmental organizations, including at-risk communities. Would establish in DEM a National Citizen Corps Council to encourage collaboration and disseminate information. [Sec. 101(a), §527]
No similar provision	No similar provision	Would authorize grantees to use DHS funds for preparedness activities by schools. [Sec. 109]
No similar provision	No similar provision	Would require national exercise to test Pandemic Influenza Strategy. [Sec. 111]

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
No similar provision	No similar provision	Would require establishment of a pilot program for public and private sector planning and response program, subject to specified features and protocols. [Sec. 112]
No similar provision	No similar provision	Would authorize \$360 million for Emergency Management Performance Grants for FY2007. [Sec. 113]
* The Administrator would collaborate on establishing nationwide standards for the typing of resources (i.e., defining in detail the minimum capabilities of an asset or resource) commonly or likely to be used in disaster response. These standards would apply to federal, state, and local governments and be compatible with the National Incident Management System (NIMS). Further details on the typing process, dissemination of the resulting information, and annual reporting requirements are also specified. [Sec. 101, §532]	No similar provision	Would require the establishment of standards for the typing of resources. [Sec. 101, §541(c)(16)]
The Administrator would coordinate with other entities to create model standards to permit owners and employees access to critical infrastructure areas in the event of a disaster. [Sec. 101, §533]	No similar provision	No similar provision
Would require that the FEMA Administrator develop and maintain a National Disaster Housing Strategy and report to Congress. [Sec. 204]	No similar provision	No similar provision

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
<p>Would amend the Stafford Act to require that the FEMA Administrator develop preparedness planning standards in consultation with state and local officials, and that plans consider individuals with special needs and with pets. Would also require evacuation planning, and would authorize financial and technical support for planning activities. [Sec. 221, Title VI]</p>	<p>Would require establishment of a comprehensive emergency preparedness system, including specification of national goals, priorities, requirements, voluntary consensus standards, and performance metrics. Would also authorize federal frameworks and require enhancement of federal capabilities. [Sec. 301(a), §701-709]</p>	<p>Would require that the Secretary update emergency management capability standards that meet specified objectives and factors. [Sec. 101(a), §523]</p>
<p>Would mandate use of NIMS and the National Response Plan (NRP) for disasters. [Sec. 402]</p>	<p>Would establish NIMS for domestic incident management purposes and mandate that the Director be responsible for coordination of the system. [Sec. 301(a), §704]</p>	<p>No similar provision</p>
<p>Would require that DHS review the NRP and make changes based on lessons learned from Hurricane Katrina. The bill would mandate the use of a clear chain of command, elimination of the position of principal federal official (PFO), designation of federal coordinating officers (FCOs), revisions to emergency support functions, with review achieved through consultation with the National Advisory Council, and reports to Congress. [Sec. 403]</p>	<p>Would require that the Director be responsible for all aspects of the NRP and review components of the plan by a specified date. [Sec. 301(a), §705]</p>	<p>Would direct the Secretary, in coordination with the U/S, to designate the PFO. Would permit the appointment of Regional Directors as PFO or FCO. [Sec. 101(a), §§503(c) and 504(c)(3)]</p>
<p>Would require that DHS officials develop a unified system of strategic and operational plans that support the NRP. The Secretary, through the Administrator, would be required to provide clear</p>	<p>Would authorize establishment of national emergency preparedness system. [Sec. 301(a), §703] Would require the Director, with the Secretary of</p>	<p>No similar provision</p>

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
<p>planning guidance and standards for all levels of governance that include health, human services, search and rescue, evacuation, and coordination with Department of Defense. Would require that the Secretary report to Congress on planning and preparedness efforts. [Sec. 404(a), (c), (d), and (f)]</p>	<p>Defense, to identify defense assets that could provide support during disasters. [Sec. 301(a), §703(b)(7)(B)]</p>	
<p>Would require that federal agencies with primary or support responsibilities in the NRP provide information to the assigned coordinating agency. Coordinating agencies would report annually to the Administrator, and the Administrator would report to Congress. [Sec. 406]</p>	<p>No similar provision</p>	<p>No similar provision</p>
<p>The Administrator would provide technical assistance to states and localities that experience hurricanes, tsunamis, or other severe weather events, including the preparation, maintenance, and updating of specified evacuation studies and plans. Would specify time frames for completing actions, issues that state pre-storm evacuation and shelter plans must address, and annual reporting requirements. [Sec. 101, §535]</p>	<p>No similar provision</p>	<p>No similar provision</p>
<p>Grants made by DHS to states or local governments through the State Homeland Security Grant Program or the Urban Area Security Initiative could be used for three specified evacuation preparation purposes. Such grant</p>	<p>No similar provision</p>	<p>No similar provision</p>

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
-------------------------	------------------------	------------------------

recipients would have specified responsibilities. The administrator could set related guidelines, standards, or requirements, and he or she would, as requested by states or localities, assist hospitals, nursing homes, and other similar institutions with evacuation plans that would be coordinated and integrated into plans developed by state or local governments. [Sec. 101, §536]

The Administrator would establish minimum performance requirements for public and community preparedness to ensure that States, regions, and localities are prepared for emergencies. The bill specifies the Administrator’s responsibilities, including the conduct of simulations and exercises to test requirements for emergencies and major disasters. Any deficiencies would need to be remedied in a timely manner. Reporting requirements are specified. [Sec. 101, §537]

Would require the Secretary to ensure pre-scripted mission assignments, where appropriate, representation at military commands, and coordination with the Department of Health and Human Services. The latter would include special needs registries. [Sec. 404(e)]

No similar provision

Would require that state reports on emergency preparedness capabilities use quantifiable performance measures. [Sec. 301(a), §703(b)(8)(B) and (C)]

No similar provision

Would require that the President ensure that

No similar provision

No similar provision

No similar provision

S. 3721 ^{A, B}

H.R. 5316 ^B

H.R. 5351 ^A

federal agencies responding to disasters attain specified capability and operational structures. Would not limit the authority of the Secretary of Defense. [Sec. 301(a), §706]

Catastrophic planning

Existing policy: *No catastrophic planning provisions in HSA or Stafford Act, but Catastrophic Incident Annex (CIA) in National Response Plan (NRP) sets out guidance for federal action. [NRP CIA]*

* FEMA Administrator, in consultation with other federal officials, would be required to develop a system capable of responding to catastrophic incidents. The Administrator would submit to Congress an annual estimate of resources of federal agencies that are needed for and devoted to developing catastrophic incident response capabilities at multiple levels of government. [Sec. 101, §513(b)] [S.A. 4560, Sec. 602, §503(b) has fewer requirements.]

No similar provision

Would require testing and enhancement of federal, state, and local capabilities for responding to, and recovering from, catastrophic incidents. [Sec. 101(a), §522(e)(3)(C), (D)]

No similar provision

FEMA Director would fund state and local catastrophic planning and capabilities; does not condition receipt of aid. Would require a report to Congress on preparedness levels in participating jurisdictions. [Sec. 201, §616]

Would condition federal homeland security financial aid for states and urban areas by requiring maintenance of catastrophic plans and capabilities, including evacuation, sheltering, warning systems, and search and rescue. Would require consistency with federal systems and plans. [Sec. 101(a), §524]

Would require Administrator to develop

No similar provision

No similar provision

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A

comprehensive operational plans to respond to catastrophic incidents. Plan components must include considerations of state and local officials, provisions for surge capacity, and proactive federal deployment. [Sec. 404(b)]

Specific response functions

Existing policy: *Response Division exists in FEMA, generally responsible for implementing the Stafford Act response and recovery missions [42 U.S.C. 5121 et seq.]. [Secretary Chertoff's 2SR reorganization, adopted 10/1/05] President required to establish emergency support teams in response to major disasters or emergencies. [42 U.S.C. 5144] Response capabilities authorized, including control of Nuclear Incident Response Team (NIRT), National Response Plan (NRP), and National Incident Management System (NIMS). (6 U.S.C. 312(5,6))*

Would amend the Stafford Act to authorize the President to provide for precautionary evacuation and accelerated federal assistance in any major disaster or emergency and accelerate federal assistance. [Sec. 201(a) and (b)]

No similar provision

No similar provision

* Would establish the NIMS Integration Center, with specified responsibilities, in FEMA. The Administrator, working through this center, would ensure management and maintenance of NIMS, NRP, and related documents and tools. [Sec. 101, §519]

Would require maintenance of NIMS and NRP, with specified requirements, and would establish the NIMS Integration Center. [Sec. 301(a), §§704, 705, and 708] FEMA would be lead agency for National Response Plan. [Sec. 102(b)]

Would establish NIMS and NRP Integration Center (NIC). [Sec. 101(a), §541]

Retains existing authority, at 6 U.S.C. 314, for NIRT .

No similar provision

Would expand existing DHS authority over NIRT by directing the Secretary to, at all times, set standards, conduct exercises, evaluate performance,

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
-------------------------	------------------------	------------------------

<p>* Would establish a National Search and Rescue Response System in FEMA. [Sec. 101, §525]</p>	<p>No similar provision</p>	<p>and provide funds, for NIRT, to the Department of Energy and the Environmental Protection Agency. [Sec. 101(a), §543]</p> <p>Would authorize the National Urban Search and Rescue Response System and require the establishment of an advisory committee. [Sec. 101(a), §544]</p>
<p>* Would establish a National Operations Center (NOC) in DHS to coordinate national responses to disasters and provide information to all levels of government. The NOC would carry out the responsibilities of the Homeland Security Operations Center (HSOC), the National Response Coordination Center (NRCC), and the Interagency Incident Management Group (IIMG). [Sec. 101, §520]</p>	<p>Would require FEMA Director to establish an emergency operations center. [Sec. 203]</p>	<p>No similar provision</p>
<p>No similar provision</p>	<p>Would require Director to establish a logistics system. [Sec. 204]</p>	<p>Would require identification of areas for logistic support centers as part of asset inventory program. [Sec. 101(a), §582(f)]</p>
<p>Would require the President to ensure that persons with limited English proficiency receive information and translation assistance, and requires that the needs of such persons be considered in preparedness planning. [Sec. 220]</p>	<p>Would prohibit discrimination with respect to limited English proficiency. Population groups with limited English proficiency would be identified and assisted. [Sec. 209]</p>	<p>No similar provision</p>
<p>* Chief Medical Officer (CMO) would be required to establish a program to assess health and safety</p>	<p>No similar provision</p>	<p>Would establish CMO responsibilities similar to those in S. 3721. [Sec. 101(a), §505(c)] Would</p>

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
of first responders after Incidents of National Significance, serve as advisor on public health issues, coordinate relevant DHS and other federal activities, establish National Disaster Medical System (NDMS) doctrine and priorities, manage Metropolitan Medical Response System (MMRS), among other responsibilities. [Sec. 101, §521(c)]		require report to Congress on, and assessment of, NDMS and whether or not it should remain in DHS. [Sec. 103(b)]
Would insert new title into the Stafford Act (Title VII) that authorizes expanded aid for catastrophic disasters. Would establish criteria for determination that catastrophic damage has occurred. Assistance that would be authorized would include up to twice the funding for Individual and Household grants with cost share requirements waived, mortgage and rental assistance, extended time for unemployment assistance, higher community loan allowances, and reimbursement for essential supplies. [Sec. 211]	No similar provision	No similar provision
<i>Specific recovery functions</i>		
<i>Existing policy: FEMA administers functions through a Recovery Division; HSA charges FEMA with responsibility for recovery and rebuilding communities. [Secretary Chertoff's 2SR reorganization, adopted 10/1/05, 6 U.S.C. 317(a)(2)(D)]</i>		
Would require CMO to establish a program to monitor health and safety of responders to Incidents of National Significance. [Sec. 101, §521(d)]	No similar provision	Provision similar to S. 3721. Would require CMO to establish a program to monitor health and safety of responders to Incidents of National Significance. [Sec. 101(a), §505(f)]
Would require the President, after establishment of a long-term recovery office, to establish an Office	No similar provision	No similar provision

S. 3721^{A, B}**H.R. 5316**^B**H.R. 5351**^A

of Catastrophic Incident or Long-term Recovery in the Executive Office of the President and appoint a Chief Financial Officer to be head of the office. Duties, qualifications, and authorities are specified. [sec. 515]

Would authorize the President to establish long-term recovery offices after a catastrophic disaster. [Sec. 211, §707]

No similar provision

Would statutorily establish the Gulf Coast Recovery Office (now established through presidential directive). [Sec. 102]

Would authorize the President to provide short- and long-term recovery assistance and to provide guidelines to states regarding the assistance to be made available. [Sec. 201(a)]

No similar provision

No similar provision

Would authorize FEMA Administrator to develop and maintain a National Disaster Recovery Strategy that identifies federal recovery assistance and to report to Congress on those efforts. [Sec. 202]

No similar provision

No similar provision

Would authorize the President to provide federal assistance to essential service providers (generally utilities) for reasonable compensation and would require reviews and reports to Congress. [Sec. 205]

No similar provision

No similar provision

Would require that consent of households be obtained before housing assistance is provided, and

No similar provision

No similar provision

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
would retain eligibility for assistance if household does not consent. Replaces “temporary” housing reference with “semi-permanent or permanent.” [Sec. 207]		
Would remove funding caps on assistance provided to individuals or households. [Sec. 208]	No similar provision	No similar provision
Would require establishment of an National Emergency Child Locator Center to facilitate the identification and location of missing children after a disaster. [Sec. 216]	No similar provision	No similar provision
Would require establishment of a National Emergency Family Registry and Locator System to reunify separated families. [Sec. 217(b)]	No similar provision	No similar provision
Would prohibit denial of assistance disaster victims in shared household because a household member had previously received aid, and would expand housing assistance for utilities and rental calculations. Also would require clear language presentation of housing assistance availability. [Sec. 218]	No similar provision	No similar provision
Would expand the crisis counseling and mental health services authority of the President and require study of mental health and substance abuse needs and services of disaster victims. [Sec. 219]	No similar provision	No similar provision
Would authorize the President to provide	No similar provision	No similar provision

S. 3721 ^{A, B}**H.R. 5316** ^B**H.R. 5351** ^A

relocation transportation for displaced persons and case management services to state and local governments or organizations. [Sec. 222]

Would expand eligibility for federal disaster assistance for rebuilding or repairing public facilities in cases where repair or replacement is infeasible. The provision of in-lieu grants at the 90% level, in place of rebuilding funds, would no longer be restricted to cases of soil instability. [Sec. 225]

No similar provision

No similar provision

Would authorize the President to help state and local governments provide housing for volunteers assisting with recovery. [Sec. 226]

No similar provision

No similar provision

Would amend the Stafford Act to authorize federal funds to repair existing rental units for use by disaster victims. [Sec. 227]

No similar provision

No similar provision

Would require a review of debris removal procedures and authorize incentives for recycling debris and a related report to Congress. [Sec. 228]

No similar provision

No similar provision

Would authorize placement of those displaced by Hurricanes Katrina or Rita in manufactured homes in flood hazard areas, under specified conditions. [Sec. 229(b)]

No similar provision

No similar provision

Would require that the Administrator establish an identity verification process to ensure that

No similar provision

No similar provision

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A

Individuals and Households Program (IHP) assistance is provided to eligible applicants. [Sec. 504]

Specific mitigation functions

Existing Policy:

Would require that state mitigation plans address man-made as well as natural threats, and would authorize the use of Hazard Mitigation Grant Program (HMGP) funds to address man-made threats. [Sec. 203]

No similar provision

No similar provision

Would establish scale for HMGP funding based on severity of major disaster. [Sec. 206]

No similar provision

No similar provision

Continuity of Operations (COOP) ^C

Existing policy: *Federal departments and agencies are responsible for contingency planning, including continuity of operations, within the executive branch, in coordination with FEMA. [E.O. 12656, Presidential Decision Directive (PDD) 67, and Federal Preparedness Circular (FPC) 65]*

No similar provision

Responsibilities of the proposed independent FEMA would include developing guidance for and coordinating federal continuity plans and operations. [Sec. 102(a)(3)]

No similar provision

Disabled and Special Needs.

Preparations and guidelines

Would require FEMA Administrator to develop guidelines for individuals with disabilities, prohibit

No similar provision

Would provide that the Office of Public and Community Preparedness meet the emergency

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
discrimination, and authorize the provision of durable medical equipment. Other amendments to Stafford Act would address facility access concerns, transportation access, and inclusion of disabled persons in preparedness planning. [Sec. 212]		needs of individuals with disabilities, among others. [Sec. 101(a), §527] Would provide that catastrophic planning must take into account the needs of persons with disabilities, among others. [Sec. 101(a), §524]
Would require the appointment of a FEMA Disability Coordinator, with specified responsibilities. [Sec. 213]	No similar provision	No similar provision
Would establish accessibility requirements for housing units. [Sec. 214]	No similar provision	No similar provision

Leadership.

Appointment authority (PAS means presidentially appointed, with the advice and consent of the Senate.)

Existing policy: *U/S for Federal Emergency Management is Level III PAS position. [6 U.S.C. 113; Reorganized under 6 U.S.C. 452; see letter from Sec. Chertoff to Congress, 4/6/06] U/S for Preparedness is Level III PAS position. [6 U.S.C. 113; Reorganized under 6 U.S.C. 452; see letter from Sec. Chertoff to Congress, 7/13/05]*

Assistant Secretary (A/S) for Grants and Training is a Level IV PAS position in the Directorate of Preparedness. [6 U.S.C. 238; reorganized under 6 U.S.C. 452; letter from Sec. Ridge to Congress, 1/26/04, and letter from Sec. Chertoff to Congress, 7/13/05] U.S. Fire Administration is located in the Directorate of Preparedness. [6 U.S.C. 313; reorganized under 6 U.S.C. 452, letter from Sec. Chertoff to Congress, 7/13/05] Its administrator is Level IV PAS position under a separate statute. [15 U.S.C. 2204] Appointments to most other leadership positions made by the Secretary.

* FEMA Administrator would be a Level II PAS position. The DHS positions currently titled U/S for Preparedness and U/S for Federal Emergency Management would no longer exist in statute. [Sec. 101, §512(c)(1); Sec. 104(a)(1) and (b)]	Would establish FEMA Director as a Level I PAS position. [Sec. 103(a)(1) and (4)]	Would establish U/S for Emergency Management, as head of DEM, as a PAS position (pay level not specified). [Sec. 101(a), §501(a)]
* Directors for Preparedness and for Response and Recovery would be Level III PAS positions	Would authorize the FEMA Director to appoint a Deputy Director in the competitive service. [Sec.	Dep. U/S's for Emergency Preparedness and Mitigation, and for Emergency Response and

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
reporting to the Administrator. [Sec. 101, §516(a); Sec. 104(a)(2)]	103(b)(1)]	Recovery would be PAS positions (pay levels not specified). [Sec. 101(a), §§501(b) and (c)]
* Would establish A/S for Cybersecurity and Telecommunications, with appointment authority and pay level unspecified. [Sec. 101, §530(a)]	No similar provision	Would establish, as PAS positions, an A/S for Grants and Planning, an A/S for Training and Exercises, an A/S for Emergency Communications, an A/S for Infrastructure Protection, and an A/S for Cybersecurity and Telecommunications (pay levels not specified). President would be directed to submit a nomination for the position of A/S for Cybersecurity and Telecommunications within 90 days of enactment. [Sec. 101(a), §§501(d) and 592(e)]
* The Administrator's rank would be that of Assistant Secretary in DHS. [Sec. 101, §530(b)]	No similar provision	No similar provision
* Would establish the Chief Medical Officer (CMO) as a PAS position (pay level unspecified) reporting directly to the Administrator. [Sec. 101, §521(a)]	No similar provision	Would establish the CMO as a PAS position reporting to the U/S. A deputy CMO would be appointed by the Secretary. (Pay levels are unspecified.) [Sec. 101(a), §§505(a) and (d)]
* Regional Administrators for Preparedness and Response, for each region, would be appointed by, and report to, the FEMA Administrator (pay level unspecified). [Sec. 101, §517(b)(1)]	No similar provision	DHS Secretary would appoint regional directors and deputy directors after consulting with state, local, and tribal officials (pay level unspecified). [Sec. 101(a), §504(b)]
No similar provision, but would establish an Office of Catastrophic Incidents and Long-Term Recovery, headed by a Chief Financial Officer	Would authorize FEMA Director to appoint a chief financial officer (CFO) who shall be in the competitive service or Senior Executive Service.	No similar provision

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
-------------------------	------------------------	------------------------

(CFO) and located in the Executive Office of the President. The CFO would be a PAS position. [Sec. 515(a)]	[Sec. 108(a)]	
No similar provision	Inspector general (IG) office established, with pay level and appointment authority unspecified. [Sec. 104]	Would require the DHS IG to appoint a Deputy IG for Response and Recovery as a career member of the Senior Executive Service. This Deputy IG would be under the direct authority and supervision of, and within the office of, the DHS IG. [Sec. 205, §813(a), (b)(1), and (c)]
* Would establish, in DHS, a Director of the Office for the Prevention of Terrorism, with pay level and appointment authority unspecified. This director would report directly to the Secretary. [Sec. 101, §529(a), (b)(1)]	No similar provision	Would establish the positions of Director of State, Local, and Tribal Government Coordination; Director of the Office of National Capital Region Coordination; the Director of Public and Community Preparedness; the Director of the National Incident Management System and National Response Plan Integration Center; and Director of the Gulf Coast Long-Term Recovery Office; each of whom would be appointed by the DHS Secretary (pay levels unspecified). [Sec. 101(a), §§507(b), 508(a)(2), 527(b), 541(b); Sec. 102(b)]

Qualifications

Existing policy: *Specified in statute, as noted, for the Chief Financial Officer and Inspector General positions.*

* Persons filling FEMA Administrator and Director positions would have to hold at least five	Director and Deputy Director would be selected from individuals who have extensive experience	Would require that U/S have demonstrated ability in and knowledge of emergency management and
--	---	---

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
<p>years of executive leadership and management experience, “significant experience in crisis management” or related field, and substantial staff and budget management ability. DHS FEMA and Preparedness officials may serve as directors during interim period. [Sec. 101, §§512(c)(2) and 516(b), (c)(1)]</p>	<p>in emergency preparedness, response, recovery, and mitigation for all hazards, including major disasters, acts of terrorism and other emergencies. [Sec. 103(a)(2) and (b)(2)]</p>	<p>homeland security. [Sec. 101(a), § 501(a)(2)] Deputy U/S for Emergency Preparedness and Mitigation would be required to possess same for emergency preparedness and mitigation. [Sec. 101(a), § 501(b)(2)] Deputy U/S for Emergency Response and Recovery would be required to possess same for emergency response and recovery. [Sec. 101(a), § 501(c)(2)]</p>
<p>The interim service provision applies if the individual serving as FEMA or Preparedness Under Secretary has been confirmed for that position by the Senate. [Sec. 101, §516(c)(2)]</p>	<p>No similar provision</p>	<p>Regional directors and dep. directors would be required to possess ability in and knowledge of emergency management, and familiarity with region’s geography and demography. [Sec. 101(a), § 504(b)(3)]</p>
<p>* Regional administrators would be Senior Executive Service employees qualified to serve as FCO. [Sec. 101, §517(b)(2)]</p>	<p>No similar provision</p>	<p>No similar provision</p>
<p>* The Director of the Office for the Prevention of Terrorism would be required to have experience in law enforcement, intelligence, or other anti-terrorist functions. [Sec. 101, §529(b)(2)]</p>	<p>No similar provision</p>	<p>No similar provision</p>
<p>* FEMA would include a Chief Medical Officer (CMO) with demonstrated ability in and a knowledge of public health and medicine. [Sec. 101, §521(b)]</p>	<p>No similar provision</p>	<p>CMO and Deputy CMO would be required to possess ability in and knowledge of medicine and public health. [Sec. 101(a), §§ 505(b) and (e)]</p>
<p>The CFO heading the Office of Catastrophic or Long-term Recovery would be required to have the</p>	<p>No similar provision (Qualifications are specified under existing</p>	<p>Deputy IG for Response and Recovery would be required to possess integrity and ability in</p>

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
<p>qualifications specified for other executive branch CFOs and set out at 31 U.S.C. 901(a)(3), as well as knowledge of Federal contracting and policy-making functions. [Sec. 515(c)]</p> <p>* No position would be established by this bill that would be subject to the Inspector General Act of 1978.</p>	<p>statutes for the CFO and IG positions that would be established by this bill. [31 U.S.C. 901(a)(3); 5 App. Inspector General Act of 1978])</p>	<p>accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. [Sec. 205(a), §813(b)(2)]</p>

Delegation and assignment

Existing policy: *As provided for in the Homeland Security Act, “Unless otherwise provided in the delegation or by law, any function delegated under this chapter may be redelegated to any subordinate.” [6 U.S.C. 455(c)]*

* Would explicitly prohibit reductions, by the Secretary, of authorities, responsibilities, or functions of FEMA, or FEMA’s capability to perform its responsibilities. Would prohibit most transfers of FEMA assets, functions, or missions to other parts of DHS. [Sec. 101, §515(c)]

Except where otherwise expressly prohibited by law or provided by the bill, the Director would be authorized to delegate to FEMA officers and employees any of the functions transferred to the Director under the bill or subsequently vested in him. Successive redelegations as necessary or appropriate could be authorized by the Director. The Director would retain the responsibility for the administration of such functions. [Sec. 106(b)]

No similar provision

Rules

Existing policy: *“The issuance of regulations by the Secretary shall be governed by the provisions of chapter 5 of title 5 [administrative procedure], except as specifically provided in this chapter, in laws granting regulatory authorities that are transferred by this chapter, and in laws enacted after November 25,*

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
-------------------------	------------------------	------------------------

2002.” [6 U.S.C. 112(e)]

No similar provision

The Director would be authorized to prescribe rules and regulations as necessary or appropriate, in accordance with 5 U.S.C. Chapters 5 (administrative procedure) and 6 (regulatory functions), to administer and manage FEMA. [Sec. 106(d)]

No similar provision

Interagency and Intergovernmental Coordination.

Federal interagency coordination

Existing policy: *Secretary of DHS (and during Incidents of National Significance, the Principal Federal Official, or PFO) and the Federal Coordinating Officer (FCO) during major disasters and emergencies [42 U.S.C. 5143; National Response Plan, Homeland Security Presidential Directive (HSPD)-5]*

Would require that FCOs serve as primary contact for DHS Secretary, and would authorize appointment of deputy FCOs. [Sec. 209]

FEMA would be required to have a liaison office to coordinate with DHS during potential or actual terrorist incident. [Sec. 105(d)]

Authority of FCOs would remain unaffected. [Sec. 101, §504(g)(1)]

No similar provision

No similar provision

Would establish a National Biosurveillance Integration System (NBIS) to assure interagency coordination of biological events. CMO would exercise specified responsibility concerning NBIS. Head of any federal agency could detail personnel to provide assistance. CMO would establish an interagency coordination council and report annually to Congress on NBIS activities. [Sec. 101(a), §506]

Would require the FEMA Administrator and Corps of Engineers to coordinate on disaster response,

No similar provision

No similar provision

S. 3721 ^{A, B}

H.R. 5316 ^B

H.R. 5351 ^A

recovery, and mitigation. Consultations would cover ways to establish better communication and strategic planning, within departments, on levees, levy repair, flood plain management, critical infrastructure, and other relevant matters pertaining to vulnerable communities. [Sec. 101, §538]

Federalism

Existing policy: *FCO coordinates with state official(s) during major disasters or emergencies. [42 U.S.C. 5143] DHS Secretary required to develop and co-locate regional offices of agencies transferred to DHS. [6 U.S.C. 346] Office for National Capital Region Coordination established in DHS. [6 U.S.C. 462]*

* FEMA Administrator would be required to establish 10 regional offices, each with a Regional Advisory Council, and may designate the Office for National Capital Region Coordination as a regional office. [Sec. 101, §§517(a) and (c)(2)(E)] Responsibilities of regional administrators would include coordination of activities with state and local governments in the geographical area served, establishing strike teams, among others. [Sec. 101, §517(c)] Administrator would be required to establish area offices for the Pacific and Caribbean areas. [Sec. 101, §517(d)]

No similar provisions

Would establish and set forth responsibilities of regional offices and Regional Advisory Councils on Emergency Management. Agency representatives would be housed in regional offices. Would not be construed as limiting state, local, or tribal government power. [Sec. 101(a), §504] Would establish Office of National Capital Region Coordination in DEM. [Sec. 101(a), §508]

No similar provision

No similar provision

Would establish Office of State, Local, and Tribal Government Coordination. [Sec. 101(a), §507]

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
* Would authorize Secretary to fund administration and improvement of the Emergency Management Assistance Compact (EMAC). [Sec. 101, §528]	Would authorize grants for the administration of EMAC. [Sec. 302]	Provision similar to S. 3721. [Sec. 101(a), §546]
* Would establish the Metropolitan Medical Response System (MMRS) in FEMA. [Sec. 101, §526]	No similar provision	Provision similar to S. 3721. [Sec. 101(a), §545]
No similar provision	No similar provision	Authority of state, local, and tribal governments would remain unaffected by provisions of the legislation. [Sec. 101, §504(g)(2)]
Would require EMA Administrator to promote public and community preparedness. [Sec. 101, §522]	No similar provision	Would establish an Office of Public and Community Preparedness to assist state, local, and tribal governments in public preparedness activities. Office would administer programs related to Citizen Corps, Community Emergency Response Teams, and other entities; would provide information to state and local governments and non-governmental organizations; and would consider the needs of at-risk communities [Sec. 101(a), §527]
No similar provision	No similar provision	Would allow the use of grants to hire qualified intelligence analysts in state, local, and tribal governments. [Sec. 105]
* Would establish an Office for the Prevention of Terrorism in DHS to coordinate with state and local agencies. Would require Director to coordinate policy and activities, work with DHS	No similar provision	Would establish Office of Grants and Planning in DEM to aid preparedness of state and local governments for acts of terrorism, natural disasters, and other emergencies. [Sec. 101(a), §521]

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
-------------------------	------------------------	------------------------

grants office, and establish a pilot project. Department of Justice roles or responsibilities would be unaffected. [Sec. 101, §529(a), (d), (e), and (f)]

Relationships with non-governmental organizations (NGOs) and foreign governments

Existing policy: *Agreement exists for the delivery of mass care by NGOs after Incidents of National Significance (INS) [National Response Plan] President authorized to use services of disaster relief NGOs. [42 U.S.C. 5152]*

* National Advisory Council on Preparedness and Response would include private sector representatives. [Sec. 101, §518] [S.A. 4560, Sec. 602, §508 included “Emergency” in council title.]	National Emergency Preparedness Task Force would include non-governmental organizations. [Sec. 301(a), §707]	Would establish a Regional Advisory Council including private sector members. [Sec. 101(a), §504(e)]
No similar provision	No similar provision	Would encourage use of national private sector networks for emergency response. [Sec. 101(a), §542]
Would authorize the President to accept gifts and services from foreign organizations and governments. [Sec. 223]	No similar provision	No similar provision
Would require FEMA Administrator to consult with Secretaries of Defense and State on policies concerning the coordination of assistance. [Sec. 224]	No similar provision	No similar provision

Credentials

Existing policy: *No provisions in current policy.*

* Would require that the Administrator work with	Would require that the Director establish a	Would require NIC officials to establish and
--	---	--

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
-------------------------	------------------------	------------------------

<p>non-federal officials to establish nationwide credentialing standards. Would require the Administrator to establish and maintain a database of federal emergency response providers and other credentialed federal personnel. The Administrator would facilitate, in specified ways, credentialing of state and local emergency response providers. Reporting requirements and time frames for completing all actions are specified. [Sec. 101, §531]</p>	<p>credentialing system for the disaster workforce. [Sec. 121(a), §10105(b)(4)]</p>	<p>maintain a credentialing system related emergency response officials and organizations. [Sec. 101(a), §§541(c)(13), (14), and (15)]</p>
--	---	--

Personnel. ^D

Existing policy: *Authorizes the establishment of a new human resources management system, referred to as Max-HR, for DHS. [5 U.S.C. Chapter 97] Permits changes to the staffing, position classification, pay, performance management, adverse actions and appeals, and labor management relations systems.*

<p>No similar provision</p>	<p>Officers and employees would be subject to the appointment, compensation, and other provisions of Title 5, <i>United States Code</i> (Title 5), to the same extent and in the same manner as any other officer or employee, but officers and employees would not be subject to the DHS human resources management system established at 5 U.S.C. Chapter 97. [Sec. 106 (a)(1)]</p>	<p>No similar provision</p>
<p>The Secretary would assign permanent staff and detail other appropriate personnel from other DHS components to the Office for the Prevention of Terrorism. Senior employees from each DHS component having significant antiterrorism responsibilities would be designated, by the Secretary, to act as liaisons between the components and the Office. [Sec. 101, §529(c)]</p>	<p>No similar provision</p>	<p>No similar provision</p>

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A***Applicability of Civil Service laws and selection***Existing policy: *Current statutory policies do not provide authority for agency Directors to fix compensation.*

No similar provision

The Director could appoint and fix the compensation of officers and employees, including investigators, attorneys, and administrative law judges, necessary to carry out transferred functions. [Sec. 106(a)(1)]

No similar provision

Experts and consultantsExisting policy: *An agency head may contract for the temporary (up to one year) or intermittent services of experts and consultants without regard to the Title 5 United States Code provisions on appointment or the 5 U.S.C. Chapters 51 and 53 provisions on position classification and pay. [5 U.S.C. §3109]*

No similar provision

In accordance with 5 U.S.C. §3109, the Director could obtain the services of experts and consultants, who would be compensated as specified. [Sec. 106(a)(2)]

No similar provision

Effect on personnelExisting policy: *Specified transferred personnel would not be separated or reduced in pay grade or compensation for one year after the date of the transfer, except as otherwise provided in that chapter of the code. [6 U.S.C. 411(b)(1)] Any individual in an Executive Schedule position appointed to a comparable position in the new department without a break in service would continue to be compensated at no less than that pay rate. [6 U.S.C. 411(b)(2)]*

No similar provision

Specified transferred personnel would not be separated or reduced in pay grade or compensation for one year after the date of the transfer, except as otherwise provided by the bill. Any individual in an Executive Schedule position appointed to a comparable position in the new agency without a break in service would continue

No similar provision

S. 3721 ^{A, B}

H.R. 5316 ^B

H.R. 5351 ^A

to be compensated at no less than that pay rate, except as otherwise provided by the bill. [Sec. 106(g)]

Workforce development and training

Existing policy: *Executive agency heads must submit a strategic plan for program activities to the Office of Management and Budget (OMB) and Congress at least every three years. The plan, which must include specified elements, must cover at least five years forward from the fiscal year in which it is submitted. [5 U.S.C. 306] A Chief Human Capital Officer (CHCO), among other responsibilities, sets the strategy for developing the workforce, assesses the characteristics and future needs of the workforce based on the mission and strategic plan of the agency, and aligns human resources policies and programs with the agency’s mission, strategic goals, and performance outcomes. [5 U.S.C. 1402] Training for DHS employees is governed by 5 U.S.C. Chapter 41.*

Would require that FEMA develop a strategic human capital plan for the Agency. It would include an analysis of gaps in the workforce, plans to address those gaps, and a discussion of the Surge Capacity Force. The bill specifies issues that these three elements would address. This plan would be updated annually through 2012, and would include the Administrator’s assessment of department and agency implementation progress, based on results-oriented performance measures. The Comptroller General would evaluate the plan and its updates. Requirements for reports to Congress are specified. [Sec. 301]

Would authorize the Director to develop a human capital strategy to ensure that FEMA has a workforce of the appropriate size and with the appropriate skills and training to effectively carry out its mission and responsibilities, consistent with the policies and plans developed pursuant to the strategy. The human capital strategy would include specified elements. Not later than six months after enactment the Director would be required to submit the human capital strategy to Congress with periodic updates to follow. [Sec. 121, §10102]

No similar provision

Would require the Administrator to identify career paths within FEMA and to ensure that FEMA personnel are afforded related educational, training and experience opportunities. Would require the Administrator to set a personnel assignment policy balancing career path goals and the need to require sufficient tenure to meet other specified goals. [Sec. 302]

No similar provision

The A/S for Training and Exercises would be required to establish a comprehensive program for the professional development and education of homeland security personnel at all levels of government, nongovernmental organizations, and emergency management personnel in the private sector. [Sec. 101(a), §522(c)(8)]

S. 3721 ^{A, B}**H.R. 5316** ^B**H.R. 5351** ^A

Would amend Title VIII of the HSA to create a DHS employee rotation program, with specified workforce development goals, and established by the Secretary in accordance with the DHS Human Capital Strategic Plan. The program would apply best practices, including those suggested by the Chief Human Capital Officers Council and would be administered by the DHS Chief Human Capital Officer (CHCO). [Sec. 305]
[See also provision on National Homeland Security Academy below.]

No similar provision

No similar provision

See provision immediately below.

No similar provision

The National Exercise Simulation Center would provide a learning environment for the homeland security personnel of all federal departments and agencies. [Sec. 101(a), § 522(i)(2)]

Would amend Title VIII of HSA to create a National Homeland Security Academy. to be established by the Secretary. The Academy would comprise four entities: (1) the National Homeland Security Education and Strategy Center to provide fundamental instruction and develop a homeland security curriculum; (2) a communications network that can provide for distance learning; (3) the programs of the Center for Homeland Defense and Security at the Naval Postgraduate School; and (4) the National Homeland Security Education Network, made up of representatives of all academies and training centers within DHS jurisdiction. The Academy would have a specified educational and training mission, enrollment targets, and specified responsibilities. The bill

No similar provision

Would establish a graduate-level Homeland Security Education Program in the National Capital Region. Would establish requirements for service commitment for selected employees. [Sec. 101(a), §526]

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
-------------------------	------------------------	------------------------

specifies the responsibilities of the Academy’s components, officials and staff, eligibility for admission, standards for the curriculum, reporting requirements, and coordination practices. [Sec. 303]

The DHS Inspector General would evaluate, for Congress, the implications of converting a portion of FEMA’s temporary workers to full-time permanent positions. [Sec. 307]

No similar provision

No similar provision

Recruitment

Existing policy: *Payment of recruitment bonuses by executive agency heads governed by existing authority. [5 U.S.C. 5753] In addition, several other provisions at 5 U.S.C. 5753 apply to recruitment bonuses.*

No similar provision

Would authorize FEMA Director to pay recruitment bonuses for difficult-to-fill positions, with specifications regarding amount and form of the bonus and requirements for an employee receiving a bonus. Political appointees not eligible to receive recruitment bonuses. Authority to pay bonuses would end five years after enactment of Chapter 101. [Sec. 121, §10103]

No similar provision

Retention

Existing policy: *Payment of retention bonuses by executive agency heads governed by existing authority. [5 U.S.C. 5754] Several additional provisions at 5 U.S.C. 5754 apply to retention bonuses.*

No similar provision

Would authorize the Director to pay bonuses to retain certain hard-to-retain employees under specified circumstances, with specifications regarding the amount and form of the bonus and service agreement requirements for an employee

No similar provision

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
-------------------------	------------------------	------------------------

receiving a bonus. A retention bonus could not be based on any period of service which is the basis for a recruitment bonus. The authority to pay bonuses would end five years after Chapter 101 was enacted. [Sec. 121, §10104]

The Administrator would prepare a report for Congress on vacant positions within FEMA. The bill specifies requirements for the report which would include a plan for reducing both the time required to fill positions and the number of positions which are currently vacant or anticipated to be so. Quarterly updates, to include the Administrator’s assessment of FEMA’s progress in filling vacant positions, would be required for the next five years. [Sec. 306]

No similar provision

No similar provision

Disaster workforce

Existing policy: *Current statutory policy does not address disaster reserve cadre.*

The Administrator would establish a Surge Capacity Force (SCF) to be deployed to disasters, including catastrophic incidents. DHS employees who are not employees of FEMA, as well as employees of other federal departments and agencies, would be designated by the Secretary to serve on SCF. Specifies credentialing and training requirements for SCF members. A database with specified information would be established and maintained by the Administrator. [Sec. 304]

Authorizes the establishment, within FEMA, of a disaster workforce reserve cadre to meet the agency’s surge requirements during emergencies. The Director would review the current disaster workforce reserve and redevelop it to create a cadre with specified characteristics. Also includes provisions facilitating the participation of annuitants in such a cadre, with duration caps, and for cadre member training expenses. [Sec. 121, §10105]

No similar provision

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A**Information Technology.****Improvements to Information Technology Systems**Existing policy: *No provisions in current policy.*

The Administrator would ensure that FEMA's information technology systems are updated, compatible, and track disaster response personnel, as well as task orders for mission assignments, commodities, and supplies used in disaster response. Training on the use of those systems would be provided to FEMA personnel, including disaster response personnel. [Sec. 101, §534]

No similar provision

No similar provision

Investigations and Reports.**Accountability, waste and fraud prevention and oversight**Existing policy: *Penalties established for persons who knowingly misapply Stafford Act assistance proceeds. [42 U.S.C. 5157]*

Would require Comptroller General to report to Congress on fraud prevention programs used by DHS and recommend additional fraud prevention controls. Would also require the Secretary to conduct training on fraud awareness. [Sec. 502]

Would permit the Director to authorize use by recipient agencies of up to 1% of mission assignment funds for oversight activities to prevent fraud and waste. [Sec. 208]

Would amend the HSA to mandate that the Secretary establish of a fraud prevention training program for federal employees and non-federal officials. [Sec. 101(a), §584] Would amend HSA to require the Secretary of DHS to prevent and detect fraud, waste, and abuse of funds administered by DEM. Would require review by DHS IG and an annual certification to Congress that proper controls are in place. [Sec. 201, §707] Would provide for an assessment of, and report concerning, the past and potential future use of independent private sector IGs. [Sec. 202] Would amend the HSA to

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A

		<p>establish a Deputy IG for Response and Recovery, under the DHS IG, as a career position. This official would conduct and supervise audits and investigations related to disaster assistance funding. Would require that agencies receiving or spending federal funds distinguish those funds from other agency funds. [Sec. 205, §§813(d) and (e)] Would amend the HSA to protect the DHS official seal and insignia. [Sec. 206, §875(d)]</p>
No similar provision	No similar provision	<p>Would amend the HSA to require that grantees report on expenditures of federal emergency management funds. Federal agencies would be required to report to their respective IGs on the expenditure of funds. Such reports would need to be submitted pursuant to specified time frames. [Sec. 203, §856a]</p>
Would require that the Secretary of DHS ensure that information technology systems ensure the validity of claims for Stafford Act assistance. [Sec. 505]	No similar provision	<p>Would amend the HSA to require increased information sharing among federal agencies to confirm the identity and eligibility of those seeking emergency assistance. [Sec. 204, §856b]</p>
Would require the Comptroller General to report to Congress on compliance of DHS with the Single Audit Act for the two year period preceding enactment of this legislation. [Sec. 512]	No similar provision	No similar provision
Would require the Comptroller General to report to Congress on DHS compliance with the Improper Payments Information Act with respect to disasters similar to Hurricane Katrina as well as the presence of internal controls in DHS. [Sec. 513]	No similar provision	No similar provision

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A***Reporting and evaluation***Existing policy: *Current statutory policy does not contain comparable reporting or evaluation requirements.*

No similar provisions	Director would be required to report to Congress on recommended legislation. [Sec. 108(b)] Director would be required to submit annual reports to Congress on emergency preparedness in the nation. [Sec. 301(a), §703(b)(8)]	No similar provisions
*Would establish a System Assessment and Validation for Emergency Responders (SAVER) Program to provide evaluations of emergency response equipment and systems. [Sec. 101, §524]	No similar provision	Provision similar to S. 3721. Would require establishment of a SAVER Program. [Sec. 101(a), §525]
No similar provision	No similar provision	Would require that the National Academy of Public Administration (NAPA) study the implementation of organizational changes at DHS and provide assistance with such implementation during this process. [Sec. 107]
No similar provision	No similar provision	Would establish requirements for the Government Accountability Office (GAO) to report to Congress on homeland security training. [Sec. 108(a) and (b)]
Would require the Comptroller General to study and report to Congress on the accessibility, and use by disabled persons, of emergency shelters. [Sec. 215]	No similar provision	No similar provision

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A**FEMA expenses**

Would require report to Congress by the Comptroller General on the increase in fixed costs or expenses incurred by FEMA from January 1, 2000 through enactment. The report would also be required to include an analysis of additional resources needed by the agency. [Sec. 101, §513(d)]

No similar provision

No similar provision

Disclosure of Certain Information to Law Enforcement Agencies

Existing policy: *Current statutory policy does not contain comparable requirement.*

The Secretary would authorized to disclose, in accordance with the Privacy Act, information in any DHS database on individual assistance to any federal, State, or local government law enforcement agency when circumstances require an evacuation, sheltering, or mass relocation of the population. This would occur for the purposes of identifying illegal conduct or addressing public safety or security issues. [Sec. 101, §539]

No similar provision

No similar provision

Reorganization. ^E

Existing policy: *President was granted specified reorganization authority during the year following the effective date of HSA (2003). [6 U.S.C. 542] DHS Secretary has ongoing broad reorganization authority under the act. [6 U.S.C. 452]*

* Would exempt FEMA from the Secretary's broad reorganization authority under 6 U.S.C. 452. Would explicitly prohibit reductions, by the Secretary, of authorities, responsibilities, or

FEMA Director would exercise authority to reorganize FEMA similar to that of the DHS Secretary under 6 U.S.C. 452, with a shorter period of time (30 days) between notification of

The congressional notification requirement for a DEM reorganization by the Secretary under existing authority, at 6 U.S.C. 452, would be lengthened from 60 to 120 days. [Sec. 101(a),

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A

functions of FEMA, or FEMA's capability to perform its responsibilities. Would prohibit most transfers of FEMA assets, functions, or missions to other parts of DHS. [Sec. 101, §515(b), (c)]

Congress and implementation. [Sec. 106(c)]

§510]

Transfer and Transition.

Transfer and Allocations of Appropriations and Personnel

Existing policy: *Emergency management-related functions, personnel, assets, and liabilities were transferred to the DHS Secretary. [6 U.S.C. 503] Certain functions were subsequently re-transferred within DHS under the President's and secy's reorganization authorities. For specific information, see specific functional categories above. Requirements for transferring functions and activities, generally, are specified at 31 U.S.C. 1531.*

* No similar provisions, but see "Overall Mission," above, for transfers.

Transfers from DHS to FEMA would be subject to 31 U.S.C. 1531. The personnel employed in connection with the functions transferred by Sec. 105 would be transferred to FEMA. Additionally, the assets, liabilities, contracts, property records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or made available in connection with the functions transferred by Sec. 105 would be transferred to FEMA. Funds transferred which were unexpended would be used only for the purposes for which they were originally authorized and appropriated. [Sec. 106(e)]
The OMB Director, in consultation with the FEMA Director, could make such determinations as necessary for the functions transferred by Section 105. He also could, as necessary, make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts,

No similar provisions, but see "Overall Mission," above, for transfers.

S. 3721 ^{A, B}H.R. 5316 ^BH.R. 5351 ^A

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 the functions. The OMB Director would provide for the termination of the affairs of all entities terminated by Title I of H.R. 5316 and for such further measures and dispositions as necessary. [Sec. 106(f)]

No similar provision

No similar provision

Would assign responsibility for existing federal training centers to A/S for Training and Exercises. [Sec 101(a), §522(d)]

Transition

Existing policy: *HSA transition provisions include those requiring the development of an initial reorganization plan, calling for a review of congressional committee structures, allowing for transitional authorities, terminating executive-level positions not explicitly transferred, requiring continuity of inspector general oversight, and providing for incidental transfers. [6 U.S.C. 541-557] The transition period is defined as “the 12-month period beginning on the effective date of [the] Act.” [6 U.S.C. 541(2)]*

* Legal references to the Director of FEMA would be considered to apply to the Administrator of FEMA. [Sec. 104(c)] Individuals serving as the U/S of Federal Emergency Management and the U/S of Preparedness could serve as directors until permanent directors were appointed. [Sec. 101, §516(c)(1)]

The interim service provision would apply if the individual serving as FEMA or Preparedness Under Secretary had been confirmed for that position by the Senate. [Sec. 101, §516(c)(2)]

No similar provisions

No similar provisions

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
No similar provision	Transition would be required to be carried out no later than February 1, 2007. [Sec. 105(b)] FEMA Director may use FEMA personnel and funds to implement the transition. [Sec. 105(c)]	No similar provision
No similar provision	Would provide for the continuity of legal documents, proceedings, legal suits and actions, regulatory actions, and legal references. [Sec. 107]	No similar provision

Procurement.

Existing policy: *The HSA includes procurement provisions pertaining to research and development, personal services, special streamlined acquisition authority, unsolicited proposals, contracts with corporate expatriates, and emergency procurement flexibility. [6 U.S.C. 393-395, 421-428] The act does not address limitations on subcontracting, non-competitive contracts, or prohibitions on consideration of political affiliation in the award of agency contracts.*

No similar provision	No similar provision	Would direct the Secretary, through the U/S for Emergency Management and in coordination with regional directors, to establish and maintain a small business database for federal contracting related to major disasters and emergency assistance activities. [Sec. 101(a), §583]
No similar provisions	Would instruct the Director to promulgate regulations placing limitations on subcontracting agency-contracted work [Sec. 131], and on the length of certain non-competitive contracts. [Sec. 132] In addition, the bill would prohibit the consideration of political affiliation in the award of agency contracts. [Sec. 133]	No similar provisions
Excessive pass-through charges on contracts involving subcontractors would be prohibited. Would require related report to Congress by the	No similar provision	No similar provision

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
Comptroller General. [Sec. 501]		
Director of OMB would establish a Contingency Contracting Corps, which would consist of contracting officers serving on a temporary and voluntary basis. [Sec. 503]	No similar provision	No similar provision
Would require the head of FEMA to create and maintain an online registry of contractors that provide disaster or emergency relief services. [Sec. 506]	No similar provision	No similar provision
Would expand the list of supplies or services that state and local governments may purchase from General Services Administration's (GSA) federal supply schedules. [Sec. 507]	No similar provision	No similar provision
Would amend the Stafford Act to require written justification for any expenditure of federal funds for disaster and recovery work that is not awarded to local organizations, firms, or individuals. [Sec. 508, §307]	No similar provision	No similar provision
FEMA's Administrator would be required to develop and implement an advance contracting strategy for recurring requirements for goods and services needed for disaster recovery. Would require a related report to Congress, by the Administrator, on recurring disaster response requirements. [Sec. 509]	No similar provision	Would amend the HSA to authorize the U/S to pre-negotiate contracts for the delivery of goods and services related to response and recovery after emergencies, provide preferences to small businesses, use competitive procedures, and consult with other federal agencies. Contract authority could be delegated to regional directors. [Sec. 101(a), §585]
Would require OMB to issue guidance on purchase	No similar provision	No similar provision

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
<p>cards for making micropurchases, and also would require agency senior procurement executives to submit periodic reports to OMB on their agencies' compliance efforts. GSA, in conjunction with the Internal Revenue Service and the Financial Management Service, would develop procedures that would subject purchase card payments to federal contractors to the Federal Payment Levy Program. Would require annual reports to Congress on first and business class travel by executive branch employees. [Sec. 510]</p>		
<p>Would direct agency heads to develop safeguards and internal controls governing the use of purchase cards and convenience checks. [Sec. 511]</p>	<p>No similar provision</p>	<p>No similar provision</p>
<p>Would mandate that the Comptroller General submit a report to Congress on the number of contracts and subcontracts entered into by the department and small businesses. [Sec. 514]</p>	<p>No similar provision</p>	<p>No similar provision</p>

Authorizations and Miscellaneous Provisions.

Would authorize funds for FY2007 through FY2010 for specified FEMA accounts and for specified communications provisions. In addition to these specific authorizations, would authorize such sums as necessary for the act. [Sec. 601]

Would authorize specified funds for FY2007 through FY2009 specifically for the catastrophic planning [Sec. 201, §616(f); \$200 million for the purchase of interoperable communications equipment for FY2007 through FY2009 [Sec. 207, §630(f)]; specified funds for the NIMS and NRP Integration Center for FY2007 through FY2009; \$4 million for each year FY2007 through FY2009 for EMAC grants; and such sums as necessary for the proposed Comprehensive Emergency

Would authorize:
 \$40 million for each fiscal year 2007 through 2009 and such sums as needed after FY2009 for the National Urban Search and Rescue Response System [Sec. 101(a), §544(d)];
 such sums as necessary for FY2007 through FY2010 for the Metropolitan Medical Response System [Sec. 101, §545(c)];
 \$4 million for each of three years (years unstated) for administration of the Emergency Management

S. 3721 ^{A, B}	H.R. 5316 ^B	H.R. 5351 ^A
	Preparedness System title of the Stafford Act [Sec. 301, §709(b)].	Assistance Compact [Sec. 101, §546(c)]; \$85 million for each fiscal year FY2007 through FY2010 for the National Disaster Medical System [Sec. 103(a)]; such sums as necessary for the Office of Catastrophic Incident or Long-Term Recovery [Sec. 515(i)]; \$11 million for the Office of the Deputy Inspector General for each fiscal year [Sec. 205, §813(f)].
No similar provision	No similar provision	Would require the Secretary, when reprogramming or transferring funds, to comply with applicable provisions of annual homeland security appropriations acts. [Sec. 101(a), §502(d)]
No similar provision	No similar provision	Would require the Secretary to provide the U/S with necessary resources and staff. [Sec. 101(a), §502 (e)]
Effective date of legislation would be January 1, 2007. [Sec. 602]	No similar provision	No similar provision

Source: This table is based on sources cited. Keith Bea, Barbara L. Schwemle, L. Elaine Halchin, Garrett Hughes, and Henry B. Hogue, Government and Finance Division, Congressional Research Service, contributed to the development of this table.

Notes: Provisions of S.A. 4560 identical or similar to those included in S. 3721 are preceded by an asterisk (*).

^A S. 3721 includes much of the text included in S.A. 4560, the amendment approved by the full Senate during debate on H.R. 5441. S. 3721 and H.R. 5351 (as reported from committee) would amend the Homeland Security Act of 2002 (P.L. 107-296, as amended), 6 U.S.C. 311 et seq.

^B S. 3721 and H.R. 5316 (as reported from committee) would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended), 42 U.S.C. 5121 et seq.

^C For further analysis of authorities governing government contingency programs, see CRS Report RL32752, *Continuity of Operations (COOP) in the Executive Branch: Issues in the 109th Congress*, by R. Eric Petersen.

^D For information on the new human resources management system at DHS, see CRS Report RL32261, *DHS's Max-HR Personnel System: Regulations on Classification, Pay, and Performance Management Compared with Current Law and Implementation Plans*, by Barbara L. Schwemle; CRS Report RL32255, *Homeland Security: Proposed Regulations for the Department of Homeland Security Human Resources Management System (Subpart E) Compared with Current Law*, by Jon O. Shimabukuro; and CRS Report RL33052, *Homeland Security and Labor-Management Relations: NTEU v. Chertoff*, by Thomas J. Nicola and Jon O. Shimabukuro.

^E For the reorganization plan under Sec. 1502 (6 U.S.C. 542), see White House Office, "Department of Homeland Security Reorganization Plan," Nov. 25, 2002, Washington, DC, available at [http://www.whitehouse.gov/news/releases/2002/11/reorganization_plan.pdf], accessed on July 3, 2006. Reorganizations under Sec. 872 of the act (6 U.S.C. 452) were specified in letters from the Secretary of Homeland Security to leaders of the appropriate congressional committees on the following dates: Jan. 26, 2004, July 13, 2005, and Apr. 4, 2006.

Table 4. Legislative Proposals Amending Emergency Communications Provisions, Comparison of Existing Policy, S. 3721, H.R. 5316, and H.R. 5852, 109th Congress

S. 3721 ^A	H.R. 5316 ^B	H.R. 5852 ^C
Communications.		
Existing policy: <i>DHS Secretary authorized to coordinate communications systems through the Office of State and Local Coordination (now Preparedness Directorate). [6 U.S.C. 112, DHS letter of 7/13/05 to Congress] Congress authorized the creation of the Office of Interoperability and Compatibility within the Science and Technology directorate, in the Intelligence Reform and Terrorism Prevention Act of 2004 [P.L. 108-458, Title VII, Subtitle C, Sec. 7303 (a) (2)].</i>		
Definitions		
Would define the following terms: “eligible region,” “National Emergency Communications Strategy,” “Office of Emergency Communications” [Sec. 101, §551]	No similar provisions	No similar provisions
Administrative entity and officials		
Would establish Office of Emergency Communications within the Federal Emergency Management Agency (FEMA) in DHS, headed by a Director who would report to the Assistant Secretary for Cybersecurity and Telecommunications. [Sec. 101, § 552(a)(b)]	Would require that the independent FEMA maintain interoperable communications compatibility. [Sec. 206]	Would establish Office of Emergency Communications within DHS headed by an Assistant Secretary for Emergency Communications. [Sec. 2(a), §1801(a)(b)]
Responsibilities		
Would assign the following responsibilities to the Director which include: assuring sufficient capacity and robustness of emergency communications as well as interoperability, with an emphasis on national programs, such as developing and implementing the coordination of	No similar provision	Would assign the following responsibilities to the Director which include: fostering cooperation at all levels of government and standards development for interoperability, such as: developing and implementing the coordination of public safety interoperable communications programs as required

S. 3721^A**H.R. 5316**^B**H.R. 5852**^C

public safety interoperable communications programs as required in 6 U.S.C. 194 and a strategy to achieve emergency communications capabilities and interoperability; promulgating grant guidance; carrying out responsibilities for utilizing suitable commercial technologies; fostering the development of emergency communications capabilities and interoperable communications systems by federal, state, and local governments and public safety agencies through means such as developing a national strategy for communications capabilities and interoperability and developing a national architecture and describing its components; administering departmental responsibilities and authorities regarding the Integrated Wireless Network (IWN) program, the National Communications System, and the Emergency Alert System (EAS) and Integrated Public Alert and Warning System; establishing a national system of alerts and warnings in the event of a natural or man-made disaster; administering departmental responsibilities and authorities of the Office of Interoperability and Compatibility; coordinating a national response capacity for back-up communications, including planning, implementation, and training; assisting the President and other designated authorities in ensuring emergency communications capability; reviewing all interoperable communications plans prepared by federal, state, and local governments; and creating an interactive database with an

in 6 U.S.C. 194 (some of these requirements appear in S. 3721); administering departmental responsibilities and authorities regarding, SAFECOM — excluding elements related to research, the Integrated Wireless Network (IWN) program, and the National Communications System; conducting outreach and fostering development of interoperability and provide technical assistance for interoperability, at all levels of government; facilitating the creation of a Regional Emergency Communications Coordination Working Group; promoting best practices; coordinating the establishment of a national response capability; assisting the president and other executive officials in ensuring federal telecommunications operability, except for spectrum management; establishing requirements for full, nonproprietary interoperable emergency communications for public safety equipment purchased with homeland security assistance programs in the Department; and reviewing plans developed for these programs [Sec. 2 (a) § 1801 (c)]; overseeing transferred functions for SAFECOM,^D departmental responsibilities related to the Integrated Wireless Network, and the Interoperable Communications Technical Assistance Program [Sec. 2 (a) § 1801 (d)]; and submitting a report to Congress on resources and staff necessary to meet the above responsibilities [Sec. 2 (a) § 1801 (e)].

S. 3721 ^A	H.R. 5316 ^B	H.R. 5852 ^C
inventory of emergency communications assets (including generators) that can be rapidly deployed. [Sec. 101 § 552 (c)]		
Would establish a research and development program to promote competitive research for emergency communications and interoperability that would include a Center for Excellence. [Sec. 101, § 556]	No similar provision	No similar provision
Would require at least two pilot projects of which at least one would test data communications, including medical data. Specifies disaster risk criteria for selecting areas for pilot projects. [Sec. 101, § 557]	No similar provision	No similar provision
Would require FEMA Administrator, through the Office of Grants and Training, to direct grants program for communications and interoperability; criteria would include assessment of risk for an area. Would establish application requirements for states and for regions and criteria for awarding grants. [Sec. 101, § 558]	No similar provision	No similar provision
No similar provision	No similar provision	Would require DHS Secretary, in consultation with other federal and non-federal officials, to guide development of minimum interoperable emergency communications capabilities in urban and other high risk areas. [Sec. 2, §1807]

S. 3721 ^AH.R. 5316 ^BH.R. 5852 ^C*Communications strategy*

Would require that the Administrator of the Federal Emergency Management Agency (FEMA), through the Director for Emergency Communications, develop a National Emergency Communications Strategy to enhance interoperable and other emergency capabilities. [Sec. 101, §553]

No similar provision

No similar provision

Assessments and reports

Would require: assessments of federal, state and local governments to identify emergency needs and capabilities, attainment of interoperability objectives, evaluation of mobile communications capability modeled on Army Signal Corps, and an inventory of spectrum and other resources. Would require annual report to Congress on progress made toward implementing subtitle goals.[Sec. 101, §554(b) and (c)]

No similar provision

Similar to S. 3721, would require National Emergency Communications Report covering many aspects of communications and interoperability, including evaluation of mobile communications capability modeled on Army Signal Corps, and an inventory of spectrum and other resources. Unlike S. 3721, would require recommendations for expediting national voluntary consensus-based equipment standards and solutions for deploying emergency communications systems nationwide. Would, within one year, require a report to Congress on progress made toward implementing subtitle goals. [Sec. 2, §1802 and §1803]

Would require review of federal emergency communications grant programs and establishment of conditions for denying funding, such as failure to submit statewide Interoperable Communications Plan. [Sec. 101, § 555]

No similar provision

The Secretary, acting through the Assistant Director of Emergency Communications, would coordinate grants and deny funding when requirement for Statewide Interoperable Communications Plan is not met, and for other reasons. [Sec. 2, §1804]

S. 3721 ^AH.R. 5316 ^BH.R. 5852 ^C*National strategy and standards development*

Would require development of a National Communications Strategy that would include expediting national voluntary equipment standards, addressing solutions to achieving interoperability of communications systems, assuring operations of 911 call centers and networks during disasters, and improving dissemination of emergency alerts. [Sec. 101, § 553]

No similar provision

Would establish in each regional office a Regional Emergency Communications Coordination Group comprised of federal and non-federal officials to assess and report on development of communication networks. [Sec.2, §1805]

No similar provision

No similar provision

Would state that it is the sense of Congress that a Project 25 Compliance Assessment Program, discussed by SAFECOM and the National Institute of Standards and Technology, be implemented as soon as possible. [Sec. 4]

Coordination and other programs

No similar provision

No similar provision

Would establish an Emergency Communications Preparedness Center to provide coordinating activities and to prepare the National Emergency Communications Report. [Sec. 2, §1806]

No similar provision

No similar provision

Would clarify and expand responsibilities of Office of Interoperability and Compatibility (OIC) by requiring that the Director support creation of voluntary consensus standards for interoperable standards, establish requirements for emergency communications capabilities, coordinate with respect to SAFECOM program, among others. [Sec. 3, §314]

S. 3721 ^A	H.R. 5316 ^B	H.R. 5852 ^C
Would create an International Border Communications Demonstration Project to address interoperable communications needs along the northern and southern borders of the United States. [Sec. 103(b) through (e)]	No similar provision	No similar provision

Source: This table is based on sources cited. Linda K. Moore and Keith Bea, Congressional Research Service, contributed to the development of this table.

^A Portions of S. 3721 as reported from committee that would amend the Homeland Security Act of 2002 (P.L. 107-296, as amended), 6 U.S.C. 311 et seq.

^B H.R. 5316 as reported from committee that would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended), 42 U.S.C. 5121 et seq.

^C H.R. 5852 as approved by the House and referred to the Senate Committee on Homeland Security and Governmental Affairs that would amend the Homeland Security Act of 2002 (P.L. 107-296, as amended), 6 U.S.C. 311 et seq.

^D For information on SAFECOM see CRS Report RL32594, *Public Safety Communications Policy*, by Linda K. Moore.