

FASTER AND SMARTER FUNDING FOR FIRST  
RESPONDERS ACT OF 2004

—————  
JUNE 14, 2004.—Ordered to be printed  
—————

Mr. BARTON of Texas, from the Committee on Energy and  
Commerce, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3266]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3266) to authorize the Secretary of Homeland Security to make grants to first responders, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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## AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Faster and Smarter Funding for First Responders Act of 2004”.

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

- Sec. 1. Short title; table of contents.  
 Sec. 2. Findings.  
 Sec. 3. Faster and Smarter Funding for First Responders.

“TITLE XVIII—FUNDING FOR FIRST RESPONDERS

- “1801. Faster and smarter funding for first responders.  
 “1802. Essential capabilities for first responders.  
 “1803. Covered grant eligibility and criteria.  
 “1804. Use of funds and accountability requirements.  
 “1805. National standards for first responder equipment and training.  
 “1806. Definitions.

- Sec. 4. Modification of Homeland Security Advisory System.  
 “Sec. 203. Homeland Security Advisory System.  
 Sec. 5. Coordination of industry efforts.  
 Sec. 6. Superseded provision.  
 Sec. 7. Sense of Congress regarding interoperable communications.  
 Sec. 8. Sense of Congress regarding Citizen Corps councils.  
 Sec. 9. Study regarding nationwide emergency notification system.  
 Sec. 10. Authorization of appropriations.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) In order to achieve its objective of minimizing the damage, and assisting in the recovery, from terrorist attacks, the Department of Homeland Security must play a leading role in assisting communities to reach the level of preparedness they need to respond to a terrorist attack.

(2) First responder funding is not reaching the men and women of our Nation’s first response teams quickly enough, and sometimes not at all.

(3) To reform the current bureaucratic process so that homeland security dollars reach the first responders who need it most, it is necessary to clarify and consolidate the authority and procedures of the Department of Homeland Security to support first responders.

(4) Ensuring adequate resources for the new national mission of homeland security requires a discrete and separate grant making process for homeland security funds for first response to terrorist acts, on the one hand, and for first responder programs designed to meet pre-9/11 priorities, on the other.

(5) Homeland security grants to first responders must be based on the best intelligence concerning the capabilities and intentions of our terrorist enemies, and that intelligence must be used to target resources to the Nation’s greatest risks, vulnerabilities, and consequences.

(6) The Nation’s first response capabilities will be improved by sharing resources, training, planning, personnel, and equipment among neighboring jurisdictions through mutual aid agreements and regional cooperation. Such regional cooperation should be supported, where appropriate, through direct grants from the Department of Homeland Security.

(7) An essential prerequisite to achieving the Nation’s homeland security objectives for first responders is the establishment of well-defined national goals for terrorism preparedness. These goals should delineate the essential capabilities that every jurisdiction in the United States should possess or to which it should have access.

(8) A national determination of essential capabilities is needed to identify levels of State and local government terrorism preparedness, to determine the nature and extent of State and local first responder needs, to identify the human and financial resources required to fulfill them, and to direct funding to meet those needs and to measure preparedness levels on a national scale.

(9) To facilitate progress in attaining essential capabilities for State and local first responders, the Department of Homeland Security should seek to allocate homeland security funding for first responders to meet nationwide needs.

(10) Private sector resources and citizen volunteers can perform critical functions in assisting in preventing and responding to terrorist attacks, and should be integrated into State and local planning efforts to ensure that their capabilities and roles are understood, so as to provide enhanced State and local operational capability and surge capacity.

(11) Public-private partnerships, such as the partnerships between the Business Executives for National Security and the States of New Jersey and Georgia, can be useful to identify and coordinate private sector support for State and local first responders. Such models should be expanded to cover all States and territories.

(12) An important component of national standards is measurability, so that it is possible to determine how prepared a State or local government is now, and what additional steps it needs to take, in order to respond to acts of terrorism.

(13) The Department of Homeland Security should establish, publish, and regularly update national voluntary consensus standards for both equipment and training, in cooperation with both public and private sector standard setting organizations, to assist State and local governments in obtaining the equipment and training to attain the essential capabilities for first response to acts of terrorism, and to ensure that first responder funds are spent wisely.

**SEC. 3. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.**

(a) **IN GENERAL.**—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended—

(1) in section 1(b) in the table of contents by adding at the end the following:

“TITLE XVIII—FUNDING FOR FIRST RESPONDERS

- “1801. Faster and smarter funding for first responders.
- “1802. Essential capabilities for first responders.
- “1803. Covered grant eligibility and criteria.
- “1804. Use of funds and accountability requirements.
- “1805. National standards for first responder equipment and training.
- “1806. Definitions.”; and

(2) by adding at the end the following:

**“TITLE XVIII—FUNDING FOR FIRST RESPONDERS**

**“SEC. 1801. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.**

“(a) **COVERED GRANTS.**—This title applies to any grant provided by the Department to States or regions to improve the ability of first responders to prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks, especially those involving weapons of mass destruction, and including any grant under the following:

“(1) **STATE HOMELAND SECURITY GRANT PROGRAM.**—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

“(2) **URBAN AREA SECURITY INITIATIVE.**—The Urban Area Security Initiative of the Department, or any successor to such grant program.

“(b) **EXCLUDED PROGRAMS.**—This title does not apply to or otherwise affect the following Federal grant programs or any grant under such a program:

“(1) **NONDEPARTMENT PROGRAMS.**—Any Federal grant program that is not administered by the Department.

“(2) **FIRE GRANT PROGRAMS.**—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

“(3) **EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.**—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

**“SEC. 1802. ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.**

“(a) **ESTABLISHMENT OF ESSENTIAL CAPABILITIES.**—

“(1) **IN GENERAL.**—For purposes of covered grants, the Secretary shall establish clearly defined essential capabilities for State and local government preparedness for terrorism, in consultation with—

“(A) the Under Secretaries for Emergency Preparedness and Response, Border and Transportation Security, Information Analysis and Infrastructure Protection, and Science and Technology, and the Director of the Office for Domestic Preparedness;

“(B) other appropriate Federal agencies;

- “(C) State and local first responder agencies and officials; and
  - “(D) groups responsible for setting standards relevant to the first responder community.
  - “(2) DEADLINES.—The Secretary shall—
    - “(A) establish essential capabilities under paragraph (1) not later than 120 days after the date of the enactment of this section; and
    - “(B) regularly update such essential capabilities as necessary, but not less than every 3 years.
  - “(3) PROVISION OF ESSENTIAL CAPABILITIES.—The Secretary shall ensure that essential capabilities established under paragraph (1) are provided promptly to the States and to the Congress. The States shall make the essential capabilities available as necessary and appropriate to local governments within their jurisdictions.
  - “(b) OBJECTIVES.—The Secretary shall ensure that essential capabilities established under subsection (a)(1) meet the following objectives:
    - “(1) SPECIFICITY.—The determination of essential capabilities specifically shall describe the training, planning, personnel, and equipment that different types of communities in the Nation should possess, or to which they should have access, in order to meet the Department’s goals for terrorism preparedness based upon—
      - “(A) the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States; and
      - “(B) the types of threats, vulnerabilities, geography, size, and other factors that the Secretary has determined to be applicable to each different type of community.
    - “(2) FLEXIBILITY.—The establishment of essential capabilities shall be sufficiently flexible to allow State and local government officials to set priorities based on particular needs, while reaching nationally determined terrorism preparedness levels within a specified time period.
    - “(3) MEASURABILITY.—The establishment of essential capabilities shall be designed to enable measurement of progress towards specific terrorism preparedness goals.
  - “(c) THREATS TO BE CONSIDERED.—
    - “(1) IN GENERAL.—In establishing essential capabilities under subsection (a)(1), the Secretary specifically shall consider the variables of threat, vulnerability, and consequences with respect to the Nation’s population (including transient commuting and tourist populations) and critical infrastructure. Such consideration shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.
    - “(2) CRITICAL INFRASTRUCTURE SECTORS.—The Secretary specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the Nation, urban and rural:
      - “(A) Agriculture.
      - “(B) Banking and finance.
      - “(C) Chemical industries.
      - “(D) The defense industrial base.
      - “(E) Emergency services.
      - “(F) Energy.
      - “(G) Food.
      - “(H) Government.
      - “(I) Postal and shipping.
      - “(J) Public health.
      - “(K) Information and telecommunications networks.
      - “(L) Transportation.
      - “(M) Water.
- The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.
- “(3) CONSIDERATION OF ADDITIONAL THREATS.—In establishing essential capabilities under subsection (a)(1), the Secretary shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Secretary has determined to exist.

**“SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.**

- “(a) GRANT ELIGIBILITY.—Any State or region shall be eligible to apply for a covered grant.

“(b) GRANT CRITERIA.—In awarding covered grants, the Secretary shall assist States and local governments in achieving the essential capabilities for first responders established by the Secretary under section 1802.

“(c) STATE HOMELAND SECURITY PLANS.—

“(1) SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant must submit to the Secretary a 3-year State homeland security plan that—

“(A) demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;

“(B) demonstrates the additional needs of the State necessary to achieve the essential capabilities that apply to the State;

“(C) includes a prioritization of such additional needs based on threat, vulnerability, and consequence assessment factors applicable to the State;

“(D) describes how the State intends—

“(i) to address such additional needs at the city, county, regional, State, and interstate level;

“(ii) to use all Federal, State, and local resources available for the purpose of addressing such additional needs; and

“(iii) to give particular emphasis to regional planning and cooperation, both within its jurisdictional borders and with neighboring States; and

“(E) is developed in consultation with and subject to appropriate comment by local governments within the State.

“(2) APPROVAL BY SECRETARY.—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.

“(d) CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

“(e) APPLICATION FOR GRANT.—

“(1) IN GENERAL.—Any State or region may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

“(2) DEADLINES FOR APPLICATIONS AND AWARDS.—All applications for covered grants must be submitted to the Secretary no later than February 15 of the fiscal year for which they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than July 31 of such year.

“(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

“(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

“(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State or region to which the application pertains;

“(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1804(e)(1), would assist in fulfilling the essential capabilities specified in such plan or plans;

“(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

“(D) if the applicant is a region—

“(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

“(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

“(iii) a designation of a specific individual to serve as regional liaison;

“(E) a capital budget showing how the applicant intends to allocate and expend the covered grant funds; and

“(F) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1804(e)(2).

“(5) REGIONAL APPLICATIONS.—

“(A) SUBMISSION TO STATE OR STATES.—To ensure the consistency required under subsection (d), an applicant that is a region must simulta-

neously submit its application to the Department and to each State of which any part is included in the region.

“(B) OPPORTUNITY FOR STATE COMMENT.—Before awarding any covered grant to a region, the Secretary shall provide an opportunity to each State of which any part is included in a region, during the 30-day period beginning on the date on which the region submits an application for a covered grant, to comment to the Secretary on the consistency of the region’s plan with the State’s homeland security plan.

“(C) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any regional application with the applicable State homeland security plan or plans and approve any regional application. The Secretary shall notify each State of which any part is included in a region of the approval of a regional application for that region.

“(D) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(D)(iii) shall—

“(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

“(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region’s access to covered grants; and

“(iii) administer, in consultation with State, local, regional, and private officials within the region, covered grants awarded to the region.

“(6) EQUIPMENT STANDARDS.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary under section 1805(a), the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

“(f) FIRST RESPONDER GRANTS BOARD.—

“(1) ESTABLISHMENT OF BOARD.—The Secretary shall establish a First Responder Grants Board, consisting of—

“(A) the Secretary;

“(B) the Under Secretary for Emergency Preparedness and Response;

“(C) the Under Secretary for Border and Transportation Security;

“(D) the Under Secretary for Information Analysis and Infrastructure Protection;

“(E) the Under Secretary for Science and Technology; and

“(F) the Director of the Office for Domestic Preparedness.

“(2) CHAIRMAN.—

“(A) IN GENERAL.—The Secretary shall be the Chairman of the Board.

“(B) EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

“(3) RANKING OF GRANT APPLICATIONS.—

“(A) PRIORITIZATION OF GRANTS.—The Board shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would lessen the threat to, vulnerability of, and consequences for persons and critical infrastructure.

“(B) ACHIEVING NATIONWIDE CAPABILITY.—In evaluating and prioritizing grant applications under subparagraph (A), the Board shall—

“(i) seek to achieve and enhance essential capabilities throughout the Nation; and

“(ii) seek to allocate a portion of the funds available for covered grants each fiscal year for the purpose of making covered grants to each approved applicant that the Board determines has demonstrated a valid need in its application.

“(4) FUNCTIONS OF UNDER SECRETARIES.—The Under Secretaries referred to in paragraph (1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.

“SEC. 1804. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

“(a) IN GENERAL.—A covered grant may be used for—

“(1) purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness and response;

“(2) exercises to strengthen terrorism preparedness and response;

“(3) training for prevention (including detection) of, preparedness for, or response to attacks involving weapons of mass destruction, including training in the use of equipment and computer software;

“(4) developing or updating response plans;

“(5) establishing or enhancing mechanisms for sharing terrorism threat information pursuant to this Act;

“(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, life-cycle systems design, product and technology evaluation, and prototype development for terrorism preparedness and response purposes;

“(7) additional personnel costs resulting from—

“(A) elevations in the threat alert level of the Homeland Security Advisory System;

“(B) travel to and participation in exercises and training in the use of equipment and on prevention activities; and

“(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities;

“(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

“(9) enhancing facilities to serve as operations centers, or hardening critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices;

“(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

“(11) educational curricula development for first responders to ensure that they are prepared for terrorist attacks;

“(12) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prepare for and respond to an act of terrorism; and

“(13) other appropriate activities as determined by the Secretary.

“The costs of training described in this subsection include such costs for full-time, part-time, and volunteer first responders.

“(b) PROHIBITED USES.—Funds provided as a covered grant may not be used—

“(1) to supplant State or local funds for, or otherwise support, traditional missions of State and local law enforcement, firefighters, emergency medical services, or public health agencies, unless such support serves a dual purpose and the funds are primarily intended to enhance terrorism preparedness;

“(2) to construct buildings or other physical facilities;

“(3) to acquire land; or

“(4) for any State or local government cost sharing contribution.

“(c) ASSISTANCE REQUIREMENT.—The Secretary may not request that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

“(d) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a covered grant, the Secretary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

“(e) STATE AND REGIONAL RESPONSIBILITIES.—

“(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

“(2) COST SHARING.—

“(A) IN GENERAL.—The Federal share of the costs of an activity carried out with a covered grant to a State or region awarded after the 2-year pe-

riod beginning on the date of the enactment of this section shall not exceed 75 percent.

“(B) INTERIM RULE.—The Federal share of the costs of an activity carried out with a covered grant awarded before the end of the 2-year period beginning on the date of the enactment of this section shall be 100 percent.

“(C) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including, but not limited to, any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

“(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

“(4) REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit a report to the Secretary not later than 60 days after the end of each fiscal year. Each recipient of a covered grant that is a region must simultaneously submit its report to each State of which any part is included in the region. Each report must include the following:

“(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

“(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State or region, as applicable, during the previous fiscal year.

“(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

“(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

“(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

“(5) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the report under paragraph (4) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

“(6) PROVISION OF REPORTS.—The Secretary shall ensure that each report under paragraph (4) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

“(f) INCENTIVES TO EFFICIENT ADMINISTRATION OF HOMELAND SECURITY GRANTS.—

“(1) PENALTIES FOR DELAY IN PASSING THROUGH LOCAL SHARE.—If a recipient of a covered grant that is a State fails to pass through to local governments, first responders, and other local groups funds or resources required by subsection (e)(1) within 45 days after receiving funds under the grant, the Secretary may—

“(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (e)(1);

“(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

“(C) impose additional restrictions or burdens on the recipient’s use of funds under the grant, which may include—

“(i) prohibiting use of such funds to pay the grant recipient’s grant-related overtime or other expenses;

“(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (e)(1); or

“(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (e)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (e)(1), except that the



total amount of such reduction may not exceed 20 percent of the total amount of the grant.

“(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities’ terrorism preparedness efforts.

“(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.—

“(A) IN GENERAL.—The Secretary may upon request by a local government pay to the local government a portion of the amount of a covered grant awarded to a State in which the local government is located, if—

“(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

“(ii) the State has failed to pass through funds or resources in accordance with subsection (e)(1); and

“(iii) the local government complies with subparagraphs (B) and (C).

“(B) SHOWING REQUIRED.—To receive a payment under this paragraph, a local government must demonstrate that—

“(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

“(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

“(iii) it petitioned the grantee for the funds or resources after expiration of the period within which the funds or resources were required to be passed through under subsection (e)(1); and

“(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

“(C) EFFECT OF PAYMENT.—Payment of grant funds to a local government under this paragraph—

“(i) shall not affect any payment to another local government under this paragraph; and

“(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

“(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

“(g) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to the Congress by December 31 of each year—

“(1) describing in detail the amount of Federal funds provided as covered grants that were directed to each State and region in the preceding fiscal year;

“(2) containing information on the use of such grant funds by grantees; and

“(3) describing, on a nationwide and State-by-State basis—

“(A) the extent to which essential capabilities identified in applicable State homeland security plan or plans were created or enhanced as the result of the expenditure of covered grant funds during the preceding fiscal year;

“(B) the extent to which essential capabilities identified in applicable State homeland security plan or plans remain unmet; and

“(C) an estimate of the amount of Federal, State, and local expenditures required to attain across the United States the essential capabilities established under section 1802(a).

“SEC. 1805. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

“(a) EQUIPMENT STANDARDS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Under Secretary for Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1803(e)(6). Such standards—

“(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

“(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed; and

“(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety.

“(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

“(A) Thermal imaging equipment.

“(B) Radiation detection and analysis equipment.

“(C) Biological detection and analysis equipment.

“(D) Chemical detection and analysis equipment.

“(E) Decontamination and sterilization equipment.

“(F) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

“(G) Respiratory protection equipment.

“(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

“(I) Explosive mitigation devices and explosive detection and analysis equipment.

“(J) Containment vessels.

“(K) Contaminant-resistant vehicles.

“(L) Such other equipment for which the Secretary determines that national voluntary consensus standards would be appropriate.

“(b) TRAINING STANDARDS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

“(A) enable first responders to prevent, prepare for, respond to, and mitigate terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

“(B) familiarize first responders with the proper use of equipment, including software, developed pursuant to the standards established under subsection (a).

“(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

“(A) Regional planning.

“(B) Joint exercises.

“(C) Intelligence collection, analysis, and sharing.

“(D) Emergency notification of affected populations.

“(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

“(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

“(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

“(1) the National Institute of Standards and Technology;

“(2) the National Fire Protection Association;

“(3) the National Association of County and City Health Officials;

“(4) the Association of State and Territorial Health Officials;

“(5) the American National Standards Institute;

“(6) the National Institute of Justice;

“(7) the Inter-Agency Board for Equipment Standardization and Interoperability;

“(8) the National Public Health Performance Standards Program;

“(9) the National Institute for Occupational Safety and Health;

“(10) ASTM International;

“(11) the International Safety Equipment Association; and

“(12) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

“(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to public health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.

**“SEC. 1806. DEFINITIONS.**

“In this title:

“(1) BOARD.—The term ‘Board’ means the First Responder Grants Board established under section 1803(f).

“(2) COVERED GRANT.—The term ‘covered grant’ means any grant to which this title applies under section 1801.

“(3) ELEVATIONS IN THE THREAT ALERT LEVEL.—The term ‘elevations in the threat alert level’ means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

“(4) ESSENTIAL CAPABILITIES.—The term ‘essential capabilities’ means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, and respond to acts of terrorism consistent with established practices.

“(5) REGION.—The term ‘region’ means—

“(A) any geographic area consisting of all or parts of 2 or more contiguous States, counties, municipalities, or other local governments that have a combined population of at least 1,650,000 or have an area of not less than 20,000 square miles, and that, for purposes of an application for a covered grant, is represented by 1 or more governments or governmental agencies within such geographic area, and that is established by law or by agreement of 2 or more such governments or governmental agencies in a mutual aid agreement; or

“(B) any other combination of contiguous local government units (including such a combination established by law or agreement of two or more governments or governmental agencies in a mutual aid agreement) that is formally certified by the Secretary as a region for purposes of this Act with the consent of—

“(i) the State or States in which they are located, including a multi-State entity established by a compact between two or more States; and

“(ii) the incorporated municipalities, counties, and parishes which they encompass.

“(6) FIRST RESPONDER.—The term ‘first responder’ shall have the same meaning as the term ‘emergency response provider’.”

(b) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amended by striking “includes” and all that follows and inserting “includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.”

(c) TEMPORARY LIMITATION ON APPLICATION.—The following provisions of title XVIII of the Homeland Security Act of 2002, as amended by subsection (a), shall not apply during the 2-year period beginning on the date of the enactment of this Act:

(1) Subsections (b), (c), (e) (except paragraph (5) of such subsection), and (f)(3)(B) of section 1803.

(2) Subparagraphs (D) and (E) of section 1804(e)(4).

(3) Section 1804(g)(3).

**SEC. 4. MODIFICATION OF HOMELAND SECURITY ADVISORY SYSTEM.**

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 121 et seq.) is amended by adding at the end the following:

**“SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.**

“(a) IN GENERAL.—The Secretary shall revise the Homeland Security Advisory System referred to in section 201(d)(7) to require that any designation of a threat level or other warning shall be accompanied by a designation of the geographic regions or economic sectors to which the designation applies.

“(b) REPORTS.—The Secretary shall report to the Congress annually by not later than December 31 each year regarding the geographic region-specific warnings and economic sector-specific warnings issued during the preceding fiscal year under the

Homeland Security Advisory System referred to in section 201(d)(7), and the bases for such warnings. The report shall be submitted in unclassified form and may, as necessary, include a classified annex.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 202 the following:

“203. Homeland Security Advisory System.”.

**SEC. 5. COORDINATION OF INDUSTRY EFFORTS.**

Section 102(f) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 112(f)) is amended by striking “and” after the semicolon at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting “; and”, and by adding at the end the following:

“(8) coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack.”.

**SEC. 6. SUPERSEDED PROVISION.**

This Act supersedes section 1014 of Public Law 107–56.

**SEC. 7. SENSE OF CONGRESS REGARDING INTEROPERABLE COMMUNICATIONS.**

(a) FINDING.—The Congress finds that—

- (1) many first responders working in the same jurisdiction or in different jurisdictions cannot effectively and efficiently communicate with one another; and
- (2) their inability to do so threatens the public’s safety and may result in unnecessary loss of lives and property.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that interoperable emergency communications systems and radios should continue to be deployed as soon as practicable for use by the first responder community, and that upgraded and new digital communications systems and new digital radios must meet prevailing national, voluntary consensus standards for interoperability.

**SEC. 8. SENSE OF CONGRESS REGARDING CITIZEN CORPS COUNCILS.**

(a) FINDING.—The Congress finds that Citizen Corps councils help to enhance local citizen participation in terrorism preparedness by coordinating multiple Citizen Corps programs, developing community action plans, assessing possible threats, and identifying local resources.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that individual Citizen Corps councils should seek to enhance the preparedness and response capabilities of all organizations participating in the councils, including by providing funding to as many of their participating organizations as practicable to promote local terrorism preparedness programs.

**SEC. 9. STUDY REGARDING NATIONWIDE EMERGENCY NOTIFICATION SYSTEM.**

(a) STUDY.—The Secretary of Homeland Security, in consultation with the heads of other appropriate Federal agencies and representatives of providers and participants in the telecommunications industry, shall conduct a study to determine whether it is cost-effective, efficient, or feasible to establish and implement an emergency telephonic alert notification system that will—

- (1) alert persons in the United States of imminent or current hazardous events caused by acts of terrorism; and
- (2) provide information to individuals regarding appropriate measures that may be undertaken to alleviate or minimize threats to their safety and welfare posed by such events.

(b) TECHNOLOGIES TO CONSIDER.—In conducting the study, the Secretary shall consider the use of the telephone, wireless communications, and other existing communications networks to provide such notification.

(c) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report regarding the conclusions of the study.

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—For the purpose of making covered grants (as that term is defined in section 1806 of the Homeland Security Act of 2002, as amended by this Act), there is authorized to be appropriated to the Secretary of Homeland Security \$3,400,000,000 for fiscal year 2006.

(b) METROPOLITAN MEDICAL RESPONSE SYSTEM.—In addition to the purpose specified in subsection (a), the authorization of appropriations in subsection (a) may be used for the Metropolitan Medical Response System.

## PURPOSE AND SUMMARY

H.R. 3266, the Faster and Smarter Funding for First Responders Act of 2004, reforms the manner in which the Department of Homeland Security (DHS) issues grants to enhance the ability of states, local governments, and first responders to prevent, prepare for, mitigate, and respond to acts of terrorism. The bill does not create a new terrorism preparedness grant program. Rather, it directs the Secretary of DHS to establish 'essential capabilities' that different types of communities should obtain in order to prepare for potential terrorist acts, improves the grant process by streamlining and speeding the delivery of Federal grant assistance for first responders to build these essential capabilities in a measurable fashion, and establishes a consolidated structure for evaluating and prioritizing grant applications based on the degree to which they would lessen the threat to, vulnerability of, and consequences for persons and critical infrastructure sectors in the event of a terrorist attack.

## BACKGROUND AND NEED FOR LEGISLATION

Since 2001, and including the President's budget request for fiscal year 2005, roughly \$11 billion has been, or will be, appropriated to DHS for distribution to state and local governments for terrorism preparedness. Of this amount, almost \$9 billion either remains in, or has yet to be put into, the terrorism preparedness grant program pipeline, and has not been expended yet at the state or local level. Setting out "essential capabilities", measurable objectives, and standards will further assist in formulating procurement and resource allocation priorities, and provide for more timely and better uses of funds. DHS terrorism preparedness grant funds currently are allocated to each state based on formulas that were established immediately after September 11, 2001. Allocations to states and qualifying regions based on a comprehensive risk analysis will ensure a strong relationship between the risks first responders may address and the specific funding under these programs.

## HEARINGS

The Subcommittee on Health held a hearing on H.R. 3266, the Faster and Smarter Funding for First Responders Act of 2004, on Tuesday, May 11, 2004. The Subcommittee received testimony from: the Honorable Chris Cox, Chairman, Select Committee on Homeland Security, U.S. House of Representatives; Mr. Andrew T. Mitchell, Deputy Director, Office of Domestic Preparedness, U.S. Department of Homeland Security; and, Mr. William Raub, Acting Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services.

## COMMITTEE CONSIDERATION

On Thursday, June 3, 2004, the Full Committee met in open markup session and ordered H.R. 3266 reported to the House, as amended, by voice vote, a quorum being present.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 3266 reported. A motion by Mr. Barton to order H.R. 3266 reported to the House, as amended was agreed to by a voice vote.

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H.R. 3266 provides for essential capabilities for grant applicants, voluntary standards for equipment and training under such grants, and a more flexible set of criteria for prioritizing grant funding for Department of Homeland Security grant programs relating to first responders.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3266, Faster and Smarter Funding for First Responders Act of 2003, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 8, 2004.*

Hon. JOE BARTON,  
*Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3266, the Faster and Smarter Funding for First Responders Act of 2004.

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

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
Director.

Enclosure.

*H.R. 3266—Faster and Smarter Funding for First Responders Act of 2004*

Summary: H.R. 3266 would authorize the Secretary of the Department of Homeland Security (DHS) to change the criteria used to distribute funding for two existing first responder grant programs established after September 11, 2001—the State Homeland Security and the Urban Area Security Initiative grant programs. In addition, this bill would authorize the appropriation of \$3.4 billion in 2006 for first responder grants. Assuming appropriation of the authorized amount, CBO estimates that implementing H.R. 3266 would cost \$3 billion over the 2005–2009 period and an additional \$400 million after 2009. Enacting H.R. 3266 would not affect direct spending or revenues.

H.R. 3266 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Assuming the authorized amount is fully appropriated, the bill would increase funding for existing aid programs while changing conditions for receiving those funds; and costs incurred by state, local, or tribal governments would be involuntary.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3266 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level <sup>1</sup> .....	*	3,400	0	0	0
Estimated Outlays .....	*	510	1,020	918	578

<sup>1</sup>The specified authorization in H.R. 3266 would replace an existing (unspecified) authorization of the appropriation of “such sums as necessary” through 2007.

Note.—\* = Costs of less than \$500,000 for administrative changes that would be made by the bill.

Basis of estimate: Almost \$10 billion has been appropriated for first responder grants since fiscal year 2003, including about \$3 billion in fiscal year 2004. The Office of Domestic Preparedness (within DHS) derives its primary authority to distribute grants to states and localities to prepare and respond to terrorism from the USA Patriot Act (Public Law 107–56). That law authorized the appropriation of such sums as necessary for first responder grants through fiscal year 2007. H.R. 3266 would replace this authorization of appropriations with a one-year authorization of appropriations of \$3.4 billion in fiscal year 2006.

For this estimate, CBO assumes that H.R. 3266 will be enacted before the end of fiscal year 2004 and that the authorized amounts will be appropriated in 2006. For this estimate, CBO assumes that states would need to update their State Homeland Security Plans for approval by DHS to reflect new grant requirements. After that update, we expect that spending would follow historical spending

patterns for existing state and local grant programs for emergency management activities. CBO estimates that implementing this bill would cost about \$3 billion over the 2006–2009 period and nearly \$400 million after 2009.

Under the State Homeland Security grant program, DHS distributes three-quarters of one percent of the amount appropriated for the program to each state. The remaining funds are distributed to states based on population. The Urban Area Security Initiative grant program provides funding to high-threat areas of the country. Under H.R. 3266, DHS would consolidate these two existing programs and distribute all of the funding based on threats, vulnerabilities, and risk assessments for each state and locality. H.R. 3266 also would require states to disburse grant money to local governments within 45 days of receiving funds from the federal government, or states would face penalties as well as pay 25 percent of the total cost of the grant activities.

**Intergovernmental and private-sector impact:** H.R. 3266 contains no intergovernmental or private-sector mandates as defined in UMRA but would make several changes to existing grant programs. First, it would consolidate at least two current programs—the State Homeland Security Grant and the Urban Area Security Initiative—and authorize the appropriation of \$3.4 billion in fiscal year 2006. Second, it would change how those funds are allocated. While some states would receive less funding than in previous years and others would receive more, assuming authorized funds are fully appropriated, total funding would increase. This bill also would expand eligible activities to include covering the costs of additional personnel during heightened threat alerts and training activities.

This bill also would authorize DHS to transfer funds directly to the local recipients, reduce the portion of the grant retained by the state, or impose additional restrictions if states fail to provide funds to local first responders in a timely manner. According to the grant requirements, states would be required to certify that they have provided 80 percent of the funds within 45 days of receipt. Funds that states may lose would be allocated to local jurisdictions. Any costs incurred by state, local, or tribal governments as a result of these changes to the grant programs would be voluntary.

Other provisions of the bill would require DHS to create, with input from local first responders and trade representatives, voluntary standards for equipment and training for first responders. The bill would also require DHS to revise the Homeland Security Advisory System to include geographic and economic sector designations.

**Previous CBO estimates:** On July 16, 2003, CBO transmitted a cost estimate for S. 1245, the Homeland Security Grant Enhancement Act of 2003, as ordered reported by the Senate Committee on Governmental Affairs on June 17, 2003. On September 9, 2003, CBO transmitted a cost estimate for S. 930, the Emergency Preparedness and Response Act of 2003, as ordered reported by the Senate Committee on Environment and Public Works on July 30, 2003. Both bills would authorize the appropriation of different grant amounts for first responders. S. 930 also would authorize grants for urban search and rescue task forces.



On March 30, 2004, CBO transmitted a cost estimate for H.R. 3266 as ordered reported by the House Select Committee on Homeland Security on March 18, 2004. The language approved by the fact that committee and the House Committee on Energy and Commerce are similar the cost estimates are identical.

Estimate prepared by: Federal Costs: Lanette J. Walker; Impact on State, Local, and Tribal Governments: Melissa Merrell; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title and table of contents*

Section 1 cites the measure as “Faster and Smarter Funding for First Responders Act of 2004.”

##### *Section 2. Findings*

Section 2 contains the findings for the legislation.

##### *Section 3. Faster and smarter funding for first responders*

Section 3 amends the Homeland Security Act of 2002 by adding at the end a new Title XVIII, including sections 1801–1807 as follows:

##### *Section 1801—Faster and smarter funding for first responders*

Section 1801(a) states that the provisions of new Title XVIII apply only to those grants that the Department of Homeland Security (DHS) provides to states or regions to improve the ability of first responders to prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks, especially those involving

weapons of mass destruction. Specifically, such terrorism preparedness grants include, but are not limited to, the DHS State Homeland Security Grant Program and the Urban Area Security Initiative.

Section 1801(b) expressly excludes from coverage of this title all non-DHS Federal grants, as well as the DHS firefighter assistance grants and the emergency management planning and assistance grants.

*Section 1802—essential capabilities for first responders.*

Section 1802 requires the Secretary of the Department of Homeland Security (Secretary) to establish specific, flexible, and measurable “essential capabilities” for state and local government terrorism preparedness for purposes of covered grants within 120 days of enactment. Essential capabilities are “the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, and respond to acts of terrorism consistent with established practices”. For example, the presence of a large chemical plant in a densely populated community may require specialized response planning and equipment and an appropriate level of training for first responders to respond effectively to a terrorist incident at the chemical plant and to minimize the harm such an incident could cause. The Committee intends that “weapons” and “threats” may include sabotage or explosive attack on a chemical facility intended to produce a chemical release.

The establishment of essential capabilities for terrorism preparedness will assist communities in making the determination of what planning, training, equipment, and other capabilities they require to respond effectively to the specific risks they face.

In order to address the wide variety of threats and vulnerabilities faced by communities throughout the nation, the Secretary is required to establish essential capabilities in a manner that will allow different types of communities to determine what they require, and how the attainment of these capabilities should be prioritized. The Committee expects that communities in all states need a baseline of capabilities. All states may also need to participate in responding to threats that arise in other states. Accordingly, all states will need to maintain certain essential capabilities—whether more urban than rural, whether they contain specific terrorist targets, and regardless of populations.

Section 1802(a) requires the Secretary to consult with other appropriate Federal agencies, state and local first responder agencies and officials, and groups responsible for setting standards relevant to the first responder community. The Committee also expects the Secretary to provide outreach and obtain input from a wide variety of organizations representing first responders. The Committee notes that the bill reported out of the Select Committee on Homeland Security created a specific task force for this purpose. However, in testimony before the Subcommittee on Health, the Department of Homeland Security stated that this task force would duplicate efforts and responsibilities already existing under the Homeland Security Act’s section 871 advisory committee. Under section 871, Secretary Ridge created the Homeland Security Advisory Council in 2003 as a means of providing the Department with a

continuing source of advice and comment. The Department believes that it would be more effective and efficient to incorporate additional roles and responsibilities into the Department's current system of task forces and advisory councils, rather than to create new advisory mechanisms.

Similarly, the Department of Health and Human Services outlined numerous unnecessary duplications that would arise from the proposed task force and a current interagency Working Group on Bioterrorism and Other Public Health Emergencies (the "Working Group"), authorized by the Public Health Security and Bioterrorism Preparedness and Response Act. Among other items, the Working Group provides an "assessment of the priorities for and enhancement of the preparedness of public health institutions, providers of medical care, and other emergency service personnel (including firefighters) to detect, diagnose, and respond (including mental health response) to a biological threat or attack" (see section 319F(a)(1)(F), as added by section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act). The Working Group, led by the Department of Health and Human Services, is also tasked with the "development and enhancement of the quality of joint planning and training programs that address the public health and medical consequences of a biological threat or attack on the civilian population between (i) local firefighters, ambulance personnel, police and public security officers, or other emergency response personnel (including private response contractors); and (ii) hospitals, primary care facilities, and public health agencies."

The Committee expects the current Working Group to be the primary group to review these issues. The Committee neither intends to provide for duplication of these missions, nor to diminish the responsibilities of the Department of Health and Human Services in these areas. The Committee expects the Secretary of the Department of Homeland Security to consult with the current Working Group.

Section 1802(c)(2) identifies critical infrastructure sectors the Secretary shall consider in establishing essential capabilities for first responders. The report of the Select Committee on Homeland Security noted that the purpose of this section is to ensure that the Secretary considers the different types of threats and vulnerabilities relating to all of the nation's critical infrastructure when determining the proper allocation of terrorism preparedness grants, and to avoid overlooking critical infrastructure components. In this regard, the Committee notes that the critical infrastructure sectors of government and defense industrial base include both military and nonmilitary defense infrastructure including research and development capabilities.

#### *Section 1803—Grant eligibility and criteria*

Section 1803 provides that both states and regions may apply for covered grants. The Committee notes that, although states will continue to play a central role in homeland security planning and coordinating grant fund distribution to first responders at the local level, H.R. 3266 ensures that the unique preparedness needs of regions can be addressed by the Secretary through direct grants. For purposes of the grant application process, only certain geographic areas will qualify as regions, as defined in H.R. 3266. The Com-

mittee expects that most regions will consist of either multi-state or metropolitan jurisdictions.

H.R. 3266 recognizes the central role of states in the nation's terrorism preparedness efforts. Accordingly, to be eligible for a covered grant, a region must file an application that is consistent with the applicable state homeland security plan of each state of which any part is included in the region. Further, a regional applicant must submit simultaneously its application to both DHS and to each such state. The Secretary, prior to awarding a grant to a region, is required to give any relevant state thirty (30) days to comment on the application's consistency, or lack thereof, with its homeland security plan.

To assist the Secretary in making awards of covered grants, this section also creates the First Responder Grant Board.

Section 1803 also establishes that any state or region shall be eligible to apply for a covered grant. This section also requires that state Homeland Security Plans be developed in consultation with local governments. The Department testified before the Committee that the Homeland Security Funding Task Force created by the Secretary includes a representative of tribal governments as well as state, county, and municipal officials. The Committee also notes that critical infrastructures can and do lie on or adjacent to tribal lands, and that tribal governments may have first responder capabilities as understood in the bill that are routinely coordinated with other state and local capabilities. In that regard, the Committee notes the inclusion of tribal governments in the definition of "local governments" within the Homeland Security Act of 2002 applies to this bill. The Committee encourages states to include Federally recognized tribal governments in developing State Homeland Security Plans and further encourages tribal governments to participate as appropriate in State or regional applications for covered grants.

Section 1803(f)(3)(B) states that the grant programs must seek to achieve and enhance essential capabilities throughout the nation and that a portion of funds must be available to each approved applicant that the Board determines has demonstrated a valid need. Although there are no fixed percentages, the Committee expects the Secretary to provide a significant baseline of funding for each state. Many threats, such as those involving response to communicable diseases, will know no boundary. Moreover, attacks in one state may require the assistance of first responders from other states. It is therefore important that there is a baseline capability for first responders in all states.

*Section 1804—Use of funds and accountability requirements*

Section 1804 sets out definitive uses of grant funds, and establishes specific timelines for the expenditure of grant funds, along with reporting requirements for DHS and both state and regional grant recipients.

This section provides that a covered grant may be used for appropriate activities as determined by the Secretary of DHS, including specifically: (1) purchasing and upgrading of equipment (including computer software); (2) exercises and training; (3) developing or updating response plans; (4) establishing or enhancing mechanisms for information sharing; (5) systems architecture and engineering, program planning and management, and product evaluation; (6)

personnel costs directly attributable to elevations in the threat alert level of the Homeland Security Advisory System; (7) classified information receipt and storage costs; (8) upgrading operation centers and hardening critical infrastructures; (9) costs associated with the purchase of commercially available equipment that complies with national voluntary consensus standards and that facilitates interoperability of emergency communications; (10) developing educational curricula for first responders to ensure their preparedness for terrorist attacks; and, (11) training and exercises to assist public elementary and secondary schools to develop terrorism preparedness programs.

A covered grant, however, may not be used to: (1) supplant state or local funds for, or otherwise support, traditional missions of state and local law enforcement, firefighters, emergency medical services, or public health agencies (unless such support serves a dual purpose and the funds are primarily intended to enhance terrorism preparedness); (2) construct buildings or other physical facilities or acquire land; or, (3) to alleviate any state or local government cost sharing contribution.

Subsection (a) states that the costs of training include such costs for full-time, part-time, and voluntary first responders. The Committee expects the Secretary to ensure that states may include part-time and voluntary first responders in this program and that steps be taken to ensure there are no unnecessary Federal regulatory or other impediments to the participation of full-time, part-time, and voluntary first responders. The term “part-time” also includes part-paid employees.

*Section 1805—National standards for first responder equipment and training*

Section 1805 adds to the Homeland Security Act of 2002 provisions requiring the Secretary to develop, promulgate, and update as necessary national voluntary consensus standards for first responder equipment and training. With regard to equipment, the standards for the performance, use, and validation should be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, portability, and safety. Applicants who seek to purchase or upgrade equipment with covered grants must either buy items that meet these standards or explain why non-standard items will be superior.

Section 1805(a)(10) clarifies the types of communications equipment for which funds will be available under this Act. The equipment must support interoperability among first responders’ emergency communications systems. Such equipment must be based on national, voluntary, consensus standards, which will further facilitate interoperability by ensuring that the communications systems share a common technological language.

The Committee intends that containment vessels include mortality containment vessels capable of dealing with casualties resulting from biological, radiological, or chemical contamination. The Committee also notes specifically that reliable electrical generating equipment will be important for first responders.

The Committee stresses the importance of developing national voluntary consensus standards that are dynamic, and that will encourage a wide variety of creative, private sector-generated solu-

tions to homeland security challenges. Appropriate national voluntary consensus standards will help private sector entities identify potential markets and their characteristics. To the extent that they do, they can serve as an indirect stimulus to economic growth, while ensuring that first responders get the equipment and training most likely to help them prevent, prepare for, respond to, and mitigate the effects of a terrorist attack.

The Committee intends that section 1805(b)'s training standards may include training on how to respond to mass casualty attacks by biological, chemical, or radiological contamination.

In addition to the organizations identified in section 1805(c), the Committee is aware of numerous private and non-profit organizations working with state and local governments to implement first responder equipment and training standards. The DHS Secretary should consult with as many of these organizations as practicable in the development of the national voluntary consensus standards.

Paragraph 1805(d) states that in establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to public health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services. This requires concurrence before publication of any such standards. Moreover, the Department of Health and Human Services has the primary expertise concerning such equipment standards and training. The Committee wants to avoid inconsistent standards between the Departments or among different grant programs.

#### *Section 1806—Definitions*

Section 1806 provides a number of definitions. H.R. 3266 essentially adopts the definition of "emergency response providers" in section 2(6) of the Homeland Security Act as the definition of "first responder." The Committee notes that the definition of "emergency response providers" in the Homeland Security Act includes a reference to "related personnel, agencies, and authorities." That definition is not, therefore, limited to Federal, state, and local governmental entities. The Committee believes and, for purposes of this bill intends, that the "related personnel" language in the definition of "emergency response providers," incorporated into the definition of "first responder" in the bill, includes, among other persons and entities, non-governmental organizations with assigned responsibilities under domestic preparedness and response incident management plans. Nonetheless, the Committee has amended this definition to make clear the governmental and non-governmental organizations and personnel are included in the definition of "emergency response providers."

#### *Section 4. Modification of Homeland Security Advisory System*

Section 4 directs the Secretary to revise the Homeland Security Advisory System (HSAS) to require that the designation of a threat level or any other warning be issued to specific geographical regions and economic sectors. The Secretary must report annually to the Congress regarding the geographic region-specific or economic sector-specific warnings issued during the preceding fiscal year.

The Committee observes that, aside from revising the HSAS, attention should be given to emerging technologies that will prove critical to enhancing our notification and alert systems to both the general public and first responders. New digital broadcasting technology, for example, has the potential to provide a secure, time-sensitive communication system for Federal, state and local governments. Specifically, digital broadcast signals may be used to transmit encrypted data to government offices, law enforcement agencies, hospitals, schools, businesses, and private residences. Since such signals are transmitted wirelessly and in unique bands of spectrum, downed telephone lines, clogged cellular services, and even Internet hackers pose less of a risk of disruption to such services during emergencies. Digital broadcasting also is becoming ubiquitous. Public television stations nationwide are in the process of converting to digital broadcast signals that, when fully implemented, could reach ninety-nine (99) percent of American households, according to some estimates. Thus, the Committee encourages DHS to consider whether this technology may be helpful in providing training and alerts for citizens and first responders at the state and local levels, and in supplementing emergency alert systems.

*Section 5. Coordination of industry efforts*

Section 5 adds to the duties of the Special Assistant to the Secretary for Private Sector Liaison the responsibility to coordinate industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources that could effectively supplement Federal, state, and local government efforts to prevent or respond to terrorist attacks. Nothing in this section is intended to expand the authorities of the Department of Homeland Security into areas addressed by other Federal Departments or agencies or to suggest that any agency lacks the authority to work with the private sector in a similar manner. Nor does the provision provide for any regulatory or other authority.

*Section 6. Superseded provision*

Section 6 provides that this Act supersedes section 1014 of the USA PATRIOT Act (Public Law 107-56) (dealing with allocation of terrorism grant funds).

*Section 7. Sense of Congress regarding interoperable communications*

Section 7 clarifies that the focus of efforts by DHS and first responders to achieve interoperability among emergency communications systems should be on deploying digital systems and radios.

*Section 8. Sense of Congress regarding Citizen Corps Councils*

Section 8 states that it is the Sense of the Congress that individual Citizen Corps Councils should seek to enhance and promote local terrorism preparedness programs by providing funding to as many of their participating local organizations as practicable.

*Section 9. Study regarding nationwide emergency notification system*

Section 9 directs the Secretary, in consultation with other appropriate Federal agencies, to conduct a study to determine whether it would be cost-effective, efficient, or feasible to establish and implement an emergency telephonic alert notification system.

*Section 10. Authorization of appropriations*

Section 10 authorizes the Secretary to make covered grants in the amount of \$3.4 billion for fiscal year 2006. In addition to covered grants, the authorization of appropriations may be used for the Metropolitan Medical Response System.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

**HOMELAND SECURITY ACT OF 2002**

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

(a) \* \* \*

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

Sec. 1. Short title; table of contents.

\* \* \* \* \*

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

\* \* \* \* \*

203. *Homeland Security Advisory System.*

\* \* \* \* \*

TITLE XVIII—FUNDING FOR FIRST RESPONDERS

1801. *Faster and smarter funding for first responders.*

1802. *Essential capabilities for first responders.*

1803. *Covered grant eligibility and criteria.*

1804. *Use of funds and accountability requirements.*

1805. *National standards for first responder equipment and training.*

1806. *Definitions.*

**SEC. 2. DEFINITIONS.**

In this Act, the following definitions apply:

(1) \* \* \*

\* \* \* \* \*

(6) The term “emergency response providers” [includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.] *includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital*



*emergency facilities), and related personnel, organizations, agencies, and authorities.*

\* \* \* \* \*

**TITLE I—DEPARTMENT OF HOMELAND SECURITY**

\* \* \* \* \*

**SEC. 102. SECRETARY; FUNCTIONS.**

(a) \* \* \*

\* \* \* \* \*

(f) SPECIAL ASSISTANT TO THE SECRETARY.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) \* \* \*

\* \* \* \* \*

(6) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges; **[and]**

(7) assisting in the development and promotion of private sector best practices to secure critical infrastructure**[.]; and**

(8) *coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack.*

\* \* \* \* \*

**TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION**

**Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information**

\* \* \* \* \*

**SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.**

(a) *IN GENERAL.*—The Secretary shall revise the Homeland Security Advisory System referred to in section 201(d)(7) to require that any designation of a threat level or other warning shall be accompanied by a designation of the geographic regions or economic sectors to which the designation applies.

(b) *REPORTS.*—The Secretary shall report to the Congress annually by not later than December 31 each year regarding the geographic region-specific warnings and economic sector-specific warnings issued during the preceding fiscal year under the Homeland Security Advisory System referred to in section 201(d)(7), and the

bases for such warnings. The report shall be submitted in unclassified form and may, as necessary, include a classified annex.

\* \* \* \* \*

## **TITLE XVIII—FUNDING FOR FIRST RESPONDERS**

### **SEC. 1801. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.**

(a) **COVERED GRANTS.**—This title applies to any grant provided by the Department to States or regions to improve the ability of first responders to prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks, especially those involving weapons of mass destruction, and including any grant under the following:

(1) **STATE HOMELAND SECURITY GRANT PROGRAM.**—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

(2) **URBAN AREA SECURITY INITIATIVE.**—The Urban Area Security Initiative of the Department, or any successor to such grant program.

(b) **EXCLUDED PROGRAMS.**—This title does not apply to or otherwise affect the following Federal grant programs or any grant under such a program:

(1) **NONDEPARTMENT PROGRAMS.**—Any Federal grant program that is not administered by the Department.

(2) **FIRE GRANT PROGRAMS.**—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

(3) **EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.**—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

### **SEC. 1802. ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.**

(a) **ESTABLISHMENT OF ESSENTIAL CAPABILITIES.**—

(1) **IN GENERAL.**—For purposes of covered grants, the Secretary shall establish clearly defined essential capabilities for State and local government preparedness for terrorism, in consultation with—

(A) the Under Secretaries for Emergency Preparedness and Response, Border and Transportation Security, Information Analysis and Infrastructure Protection, and Science and Technology, and the Director of the Office for Domestic Preparedness;

(B) other appropriate Federal agencies;

(C) State and local first responder agencies and officials;

and

(D) groups responsible for setting standards relevant to the first responder community.

(2) **DEADLINES.**—The Secretary shall—

(A) establish essential capabilities under paragraph (1) not later than 120 days after the date of the enactment of this section; and

(B) regularly update such essential capabilities as necessary, but not less than every 3 years.

(3) *PROVISION OF ESSENTIAL CAPABILITIES.*—The Secretary shall ensure that essential capabilities established under paragraph (1) are provided promptly to the States and to the Congress. The States shall make the essential capabilities available as necessary and appropriate to local governments within their jurisdictions.

(b) *OBJECTIVES.*—The Secretary shall ensure that essential capabilities established under subsection (a)(1) meet the following objectives:

(1) *SPECIFICITY.*—The determination of essential capabilities specifically shall describe the training, planning, personnel, and equipment that different types of communities in the Nation should possess, or to which they should have access, in order to meet the Department's goals for terrorism preparedness based upon—

(A) the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States; and

(B) the types of threats, vulnerabilities, geography, size, and other factors that the Secretary has determined to be applicable to each different type of community.

(2) *FLEXIBILITY.*—The establishment of essential capabilities shall be sufficiently flexible to allow State and local government officials to set priorities based on particular needs, while reaching nationally determined terrorism preparedness levels within a specified time period.

(3) *MEASURABILITY.*—The establishment of essential capabilities shall be designed to enable measurement of progress towards specific terrorism preparedness goals.

(c) *THREATS TO BE CONSIDERED.*—

(1) *IN GENERAL.*—In establishing essential capabilities under subsection (a)(1), the Secretary specifically shall consider the variables of threat, vulnerability, and consequences with respect to the Nation's population (including transient commuting and tourist populations) and critical infrastructure. Such consideration shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.

(2) *CRITICAL INFRASTRUCTURE SECTORS.*—The Secretary specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the Nation, urban and rural:

(A) Agriculture.

(B) Banking and finance.

(C) Chemical industries.

(D) The defense industrial base.

(E) Emergency services.

(F) Energy.

- (G) Food.
- (H) Government.
- (I) Postal and shipping.
- (J) Public health.
- (K) Information and telecommunications networks.
- (L) Transportation.
- (M) Water.

*The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.*

(3) *CONSIDERATION OF ADDITIONAL THREATS.—In establishing essential capabilities under subsection (a)(1), the Secretary shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Secretary has determined to exist.*

**SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.**

(a) *GRANT ELIGIBILITY.—Any State or region shall be eligible to apply for a covered grant.*

(b) *GRANT CRITERIA.—In awarding covered grants, the Secretary shall assist States and local governments in achieving the essential capabilities for first responders established by the Secretary under section 1802.*

(c) *STATE HOMELAND SECURITY PLANS.—*

(1) *SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant must submit to the Secretary a 3-year State homeland security plan that—*

(A) *demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;*

(B) *demonstrates the additional needs of the State necessary to achieve the essential capabilities that apply to the State;*

(C) *includes a prioritization of such additional needs based on threat, vulnerability, and consequence assessment factors applicable to the State;*

(D) *describes how the State intends—*

(i) *to address such additional needs at the city, county, regional, State, and interstate level;*

(ii) *to use all Federal, State, and local resources available for the purpose of addressing such additional needs; and*

(iii) *to give particular emphasis to regional planning and cooperation, both within its jurisdictional borders and with neighboring States; and*

(E) *is developed in consultation with and subject to appropriate comment by local governments within the State.*

(2) *APPROVAL BY SECRETARY.—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.*

(d) *CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.*

(e) *APPLICATION FOR GRANT.—*

(1) *IN GENERAL.*—Any State or region may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

(2) *DEADLINES FOR APPLICATIONS AND AWARDS.*—All applications for covered grants must be submitted to the Secretary no later than February 15 of the fiscal year for which they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than July 31 of such year.

(3) *AVAILABILITY OF FUNDS.*—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

(4) *MINIMUM CONTENTS OF APPLICATION.*—The Secretary shall require that each applicant include in its application, at a minimum—

(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State or region to which the application pertains;

(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1804(e)(1), would assist in fulfilling the essential capabilities specified in such plan or plans;

(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

(D) if the applicant is a region—

(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

(iii) a designation of a specific individual to serve as regional liaison;

(E) a capital budget showing how the applicant intends to allocate and expend the covered grant funds; and

(F) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1804(e)(2).

(5) *REGIONAL APPLICATIONS.*—

(A) *SUBMISSION TO STATE OR STATES.*—To ensure the consistency required under subsection (d), an applicant that is a region must simultaneously submit its application to the Department and to each State of which any part is included in the region.

(B) *OPPORTUNITY FOR STATE COMMENT.*—Before awarding any covered grant to a region, the Secretary shall provide an opportunity to each State of which any part is in-

cluded in a region, during the 30-day period beginning on the date on which the region submits an application for a covered grant, to comment to the Secretary on the consistency of the region's plan with the State's homeland security plan.

(C) *FINAL AUTHORITY.*—The Secretary shall have final authority to determine the consistency of any regional application with the applicable State homeland security plan or plans and approve any regional application. The Secretary shall notify each State of which any part is included in a region of the approval of a regional application for that region.

(D) *REGIONAL LIAISONS.*—A regional liaison designated under paragraph (4)(D)(iii) shall—

(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region's access to covered grants; and

(iii) administer, in consultation with State, local, regional, and private officials within the region, covered grants awarded to the region.

(6) *EQUIPMENT STANDARDS.*—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary under section 1805(a), the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

(f) *FIRST RESPONDER GRANTS BOARD.*—

(1) *ESTABLISHMENT OF BOARD.*—The Secretary shall establish a First Responder Grants Board, consisting of—

(A) the Secretary;

(B) the Under Secretary for Emergency Preparedness and Response;

(C) the Under Secretary for Border and Transportation Security;

(D) the Under Secretary for Information Analysis and Infrastructure Protection;

(E) the Under Secretary for Science and Technology; and

(F) the Director of the Office for Domestic Preparedness.

(2) *CHAIRMAN.*—

(A) *IN GENERAL.*—The Secretary shall be the Chairman of the Board.

(B) *EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.*—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

(3) *RANKING OF GRANT APPLICATIONS.*—

(A) *PRIORITIZATION OF GRANTS.*—The Board shall evaluate and annually prioritize all pending applications for

covered grants based upon the degree to which they would lessen the threat to, vulnerability of, and consequences for persons and critical infrastructure.

(B) *ACHIEVING NATIONWIDE CAPABILITY.*—*In evaluating and prioritizing grant applications under subparagraph (A), the Board shall—*

*(i) seek to achieve and enhance essential capabilities throughout the Nation; and*

*(ii) seek to allocate a portion of the funds available for covered grants each fiscal year for the purpose of making covered grants to each approved applicant that the Board determines has demonstrated a valid need in its application.*

(4) *FUNCTIONS OF UNDER SECRETARIES.*—*The Under Secretaries referred to in paragraph (1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.*

**SEC. 1804. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.**

(a) *IN GENERAL.*—*A covered grant may be used for—*

*(1) purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness and response;*

*(2) exercises to strengthen terrorism preparedness and response;*

*(3) training for prevention (including detection) of, preparedness for, or response to attacks involving weapons of mass destruction, including training in the use of equipment and computer software;*

*(4) developing or updating response plans;*

*(5) establishing or enhancing mechanisms for sharing terrorism threat information pursuant to this Act;*

*(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, life-cycle systems design, product and technology evaluation, and prototype development for terrorism preparedness and response purposes;*

*(7) additional personnel costs resulting from—*

*(A) elevations in the threat alert level of the Homeland Security Advisory System;*

*(B) travel to and participation in exercises and training in the use of equipment and on prevention activities; and*

*(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities;*

*(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;*

*(9) enhancing facilities to serve as operations centers, or hardening critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices;*

*(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency com-*

communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

(11) educational curricula development for first responders to ensure that they are prepared for terrorist attacks;

(12) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prepare for and respond to an act of terrorism; and

(13) other appropriate activities as determined by the Secretary.

The costs of training described in this subsection include such costs for full-time, part-time, and volunteer first responders.

(b) **PROHIBITED USES.**—Funds provided as a covered grant may not be used—

(1) to supplant State or local funds for, or otherwise support, traditional missions of State and local law enforcement, fire-fighters, emergency medical services, or public health agencies, unless such support serves a dual purpose and the funds are primarily intended to enhance terrorism preparedness;

(2) to construct buildings or other physical facilities;

(3) to acquire land; or

(4) for any State or local government cost sharing contribution.

(c) **ASSISTANCE REQUIREMENT.**—The Secretary may not request that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

(d) **FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.**—Upon request by the recipient of a covered grant, the Secretary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

(e) **STATE AND REGIONAL RESPONSIBILITIES.**—

(1) **PASS-THROUGH.**—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

(2) **COST SHARING.**—

(A) **IN GENERAL.**—The Federal share of the costs of an activity carried out with a covered grant to a State or region awarded after the 2-year period beginning on the date of the enactment of this section shall not exceed 75 percent.

(B) **INTERIM RULE.**—The Federal share of the costs of an activity carried out with a covered grant awarded before the end of the 2-year period beginning on the date of the enactment of this section shall be 100 percent.



(C) *IN-KIND MATCHING.*—Each recipient of a covered grant may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including, but not limited to, any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

(3) *CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.*—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

(4) *REPORT ON HOMELAND SECURITY SPENDING.*—Each recipient of a covered grant shall submit a report to the Secretary not later than 60 days after the end of each fiscal year. Each recipient of a covered grant that is a region must simultaneously submit its report to each State of which any part is included in the region. Each report must include the following:

(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State or region, as applicable, during the previous fiscal year.

(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

(5) *INCLUSION OF RESTRICTED ANNEXES.*—A recipient of a covered grant may submit to the Secretary an annex to the report under paragraph (4) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

(6) *PROVISION OF REPORTS.*—The Secretary shall ensure that each report under paragraph (4) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

(f) *INCENTIVES TO EFFICIENT ADMINISTRATION OF HOMELAND SECURITY GRANTS.*—

(1) *PENALTIES FOR DELAY IN PASSING THROUGH LOCAL SHARE.*—If a recipient of a covered grant that is a State fails to pass through to local governments, first responders, and other local groups funds or resources required by subsection

(e)(1) within 45 days after receiving funds under the grant, the Secretary may—

(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (e)(1);

(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

(C) impose additional restrictions or burdens on the recipient's use of funds under the grant, which may include—

(i) prohibiting use of such funds to pay the grant recipient's grant-related overtime or other expenses;

(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (e)(1); or

(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (e)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (e)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

(2) **EXTENSION OF PERIOD.**—The Governor of a State may request in writing that the Secretary extend the 45-day period under paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

(3) **PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.**—

(A) **IN GENERAL.**—The Secretary may upon request by a local government pay to the local government a portion of the amount of a covered grant awarded to a State in which the local government is located, if—

(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

(ii) the State has failed to pass through funds or resources in accordance with subsection (e)(1); and

(iii) the local government complies with subparagraphs (B) and (C).

(B) **SHOWING REQUIRED.**—To receive a payment under this paragraph, a local government must demonstrate that—

(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

(iii) it petitioned the grantee for the funds or resources after expiration of the period within which the funds or resources were required to be passed through under subsection (e)(1); and

(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

(C) **EFFECT OF PAYMENT.**—Payment of grant funds to a local government under this paragraph—

(i) shall not affect any payment to another local government under this paragraph; and

(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

(D) **DEADLINE FOR ACTION BY SECRETARY.**—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

(g) **REPORTS TO CONGRESS.**—The Secretary shall submit an annual report to the Congress by December 31 of each year—

(1) describing in detail the amount of Federal funds provided as covered grants that were directed to each State and region in the preceding fiscal year;

(2) containing information on the use of such grant funds by grantees; and

(3) describing, on a nationwide and State-by-State basis—

(A) the extent to which essential capabilities identified in applicable State homeland security plan or plans were created or enhanced as the result of the expenditure of covered grant funds during the preceding fiscal year;

(B) the extent to which essential capabilities identified in applicable State homeland security plan or plans remain unmet; and

(C) an estimate of the amount of Federal, State, and local expenditures required to attain across the United States the essential capabilities established under section 1802(a).

**SEC. 1805. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.**

(a) **EQUIPMENT STANDARDS.**—

(1) **IN GENERAL.**—The Secretary, in consultation with the Under Secretary for Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1803(e)(6). Such standards—

(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed; and

(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety.

(2) *REQUIRED CATEGORIES.*—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

(A) Thermal imaging equipment.

(B) Radiation detection and analysis equipment.

(C) Biological detection and analysis equipment.

(D) Chemical detection and analysis equipment.

(E) Decontamination and sterilization equipment.

(F) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

(G) Respiratory protection equipment.

(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

(I) Explosive mitigation devices and explosive detection and analysis equipment.

(J) Containment vessels.

(K) Contaminant-resistant vehicles.

(L) Such other equipment for which the Secretary determines that national voluntary consensus standards would be appropriate.

(b) *TRAINING STANDARDS.*—

(1) *IN GENERAL.*—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

(A) enable first responders to prevent, prepare for, respond to, and mitigate terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

(B) familiarize first responders with the proper use of equipment, including software, developed pursuant to the standards established under subsection (a).

(2) *REQUIRED CATEGORIES.*—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

(A) Regional planning.

(B) Joint exercises.

(C) Intelligence collection, analysis, and sharing.

(D) Emergency notification of affected populations.

(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

(c) *CONSULTATION WITH STANDARDS ORGANIZATIONS.*—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

- (1) the National Institute of Standards and Technology;
- (2) the National Fire Protection Association;
- (3) the National Association of County and City Health Officials;
- (4) the Association of State and Territorial Health Officials;
- (5) the American National Standards Institute;
- (6) the National Institute of Justice;
- (7) the Inter-Agency Board for Equipment Standardization and Interoperability;
- (8) the National Public Health Performance Standards Program;
- (9) the National Institute for Occupational Safety and Health;
- (10) ASTM International;
- (11) the International Safety Equipment Association; and
- (12) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

(d) *COORDINATION WITH SECRETARY OF HHS.*—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to public health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.

**SEC. 1806. DEFINITIONS.**

In this title:

- (1) *BOARD.*—The term “Board” means the First Responder Grants Board established under section 1803(f).
- (2) *COVERED GRANT.*—The term “covered grant” means any grant to which this title applies under section 1801.
- (3) *ELEVATIONS IN THE THREAT ALERT LEVEL.*—The term “elevations in the threat alert level” means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).
- (4) *ESSENTIAL CAPABILITIES.*—The term “essential capabilities” means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, and respond to acts of terrorism consistent with established practices.
- (5) *REGION.*—The term “region” means—
  - (A) any geographic area consisting of all or parts of 2 or more contiguous States, counties, municipalities, or other local governments that have a combined population of at least 1,650,000 or have an area of not less than 20,000 square miles, and that, for purposes of an application for a covered grant, is represented by 1 or more governments or governmental agencies within such geographic area, and that is established by law or by agreement of 2 or more

*such governments or governmental agencies in a mutual aid agreement; or*

*(B) any other combination of contiguous local government units (including such a combination established by law or agreement of two or more governments or governmental agencies in a mutual aid agreement) that is formally certified by the Secretary as a region for purposes of this Act with the consent of—*

*(i) the State or States in which they are located, including a multi-State entity established by a compact between two or more States; and*

*(ii) the incorporated municipalities, counties, and parishes which they encompass.*

*(6) FIRST RESPONDER.—The term “first responder” shall have the same meaning as the term “emergency response provider”.*

## DISSENTING VIEWS

This legislation raises serious concerns on my part because it puts small, rural states at a disadvantage when vying for State Homeland Security grant money. Specifically, this bill does away with a minimum funding level that assures each state of receiving adequate dollars for first responders in each state to maintain essential capabilities for protection from and response to terrorist acts. Instead, the bill allocates money using strictly a set of “risk-based” criteria. A Board at the Department of Homeland Security would determine the final amount for each state. Such a board has little understanding of the risks and first responder capabilities in rural states.

Funding first responders on a nationwide basis is critically important because these people are our first line of defense in the event of any terrorist attack on American soil. A risk-based approach to allocating funding has its place in Homeland Security and I do not dispute that. However, to base funding solely on risk while at the same time eliminating minimum funding levels will rob small communities and states, like Wyoming, of their vital State Homeland Security Grant Program dollars.

How can we possibly know, with any degree of certainty, where a terrorist attack will take place? Any area of the country can be the subject of a terrorist attack. Biological attacks of communicable diseases may rapidly spread across the Nation and will not observe geographic boundaries. Does rural America not supply this country with the bulk of its food, agriculture and energy supply? Are power plants and nuclear weapons not located throughout rural America? Are the most beautiful and grandiose national parks not located in rural America, where countless numbers of tourists visit at any given time? Perhaps such points will be adequately weighed by the Board and perhaps not. Congress, in previously authorizing the State Homeland Security Grant Program wisely chose to avoid such bureaucratic uncertainty for at least a base level of support to each State.

Isn't it common sense to think that if we harness all of our resources into few geographic areas that the terrorists will simply look to attack what is left vulnerable? We must equip ALL first responders in both urban and rural America with the funding and resources they need to do the job. This legislation falls short of that.

BARBARA CUBIN.

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