

FASTER AND SMARTER FUNDING FOR FIRST
RESPONDERS ACT OF 2004

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JUNE 21, 2004.—Ordered to be printed
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Mr. YOUNG of Alaska, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3266]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, 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, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Faster and Smarter Funding for First Responders Act of 2004”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The first responsibility of governments at all levels is to protect the lives and property of their citizens.

(2) In order to achieve its objective of minimizing the damage, and assisting in the recovery, from major disasters and emergencies, including those caused by 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 major disaster or emergency.

(3) An all-hazards preparedness program encourages governments at all levels to develop flexible and consistent plans to prevent, prepare for, mitigate against, respond to, and recover from major disasters and emergencies, including those caused by terrorist attacks.

(4) Since 1979, the United States has developed a preparedness system that has enabled the Nation to effectively address all disasters it has thus far faced.

(5) The United States must build upon this foundation to better address acts of terrorism, particularly those involving weapons of mass destruction, without degrading the ability to face other types of disasters.

(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.

(7) Securing Indian reservations and tribal lands is an important part of the overall goal of securing the American homeland. Tribal governments should be encouraged to meet the same national goals for preparedness as State and local governments, and should be fully included in State and regional preparedness plans. In order to achieve this goal, Indian tribes should have an opportunity to work and coordinate with States for the purposes of preparedness and funding.

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

(9) A national determination of essential capabilities is needed to identify levels of State and local government 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.

(10) Terrorists by their nature are unpredictable, and therefore the Federal Government should support a strategy that provides a basic level of preparedness to all States.

(11) Private sector resources and citizen volunteers can perform critical functions in assisting in preventing and responding to major disasters and emergencies, including those caused by 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.

(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 major disasters and emergencies, including those caused by terrorist attacks.

(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 needed to attain the essential capabilities for first response to major disasters and emergencies, including those caused by terrorist attacks, and to ensure that first responder funds are spent wisely.

SEC. 3. DEFINITIONS.

(a) DEFINITION OF MAJOR DISASTER.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended to read as follows:

“(2) MAJOR DISASTER.—The term ‘major disaster’ means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, explosion, act of terrorism, or other catastrophic event in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.”

(b) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Section 2(6) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amended by inserting “fire,” after “law enforcement.”

SEC. 4. NATIONAL PREPAREDNESS AND FUNDING FOR FIRST RESPONDERS.

(a) IN GENERAL.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

- (1) by redesignating title VII as title VIII;
- (2) by redesignating sections 701 through 705 as sections 801 through 805, respectively; and
- (3) by inserting after title VI the following:

“TITLE VII—NATIONAL PREPAREDNESS AND FUNDING FOR FIRST RESPONDERS

“SEC. 701. PURPOSES.

“The purposes of this title are—

- “(1) to prepare the United States to prevent, mitigate, respond to, and recover from major disasters and emergencies, including those caused by terrorist attacks;
- “(2) to ensure federally funded preparedness efforts are consistent with an all-hazards preparedness strategy;
- “(3) to ensure effective coordination of Federal preparedness efforts; and
- “(4) to provide preparedness assistance to State and local authorities in a timely manner and provide for accountability with respect to the use of such assistance.

“SEC. 702. DEFINITIONS.

“In this title, the following definitions apply:

- “(1) COVERED GRANT.—The term ‘covered grant’ means a grant referred to in section 731.
- “(2) DEPARTMENT.—The term ‘Department’ means the Department of Homeland Security.
- “(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) of the Homeland Security Act of 2002 (6 U.S.C. 121(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 major disasters and emergencies, including those caused by terrorist attacks, consistent with established practices.
- “(5) FIRST RESPONDER.—The term ‘first responder’ has the meaning such term has under section 2(6) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)).
- “(6) HAZARD.—The term ‘hazard’ means an emergency or disaster resulting from—
 - “(A) a natural disaster; or
 - “(B) an accidental or man-caused event, including a domestic terrorist attack.
- “(7) NATIONAL PREPAREDNESS GOAL.—The term ‘national preparedness goal’ means the national domestic all-hazards preparedness goal developed under section 711.
- “(8) PREVENTION.—The term ‘prevention’ means activities undertaken by the first responder community during the early stages of an incident to reduce the likelihood or consequences of threatened or actual terrorist attacks. The term does not include more general and broader efforts to deter, disrupt, or thwart terrorism.
- “(9) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.
- “(10) STATEWIDE PREPAREDNESS STRATEGY.—The term ‘statewide preparedness strategy’ means a statewide comprehensive all-hazards preparedness strategy prepared under section 714.
- “(11) WEAPON OF MASS DESTRUCTION.—The term ‘weapon of mass destruction’ has the meaning such term has under section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302).

“Subtitle A—Preparedness Goals, Essential Capabilities, Standards, and Strategies

“SEC. 711. NATIONAL PREPAREDNESS GOAL.

“(a) DEVELOPMENT.—To help ensure the preparedness of the Nation to prevent, respond to, and recover from major disasters and emergencies, including those caused by terrorist attacks, the Secretary, in coordination with the heads of other appropriate Federal departments and agencies and in consultation with State and

local governments, shall develop a national domestic all-hazards preparedness goal not later than February 28, 2005.

“(b) ELEMENTS.—

“(1) READINESS PRIORITIES AND TARGETS.—The national preparedness goal shall establish measurable readiness priorities and targets that appropriately balance the potential threat and magnitude of major disasters and emergencies, including those caused by terrorist attacks, with the resources required to prevent, respond to, and recover from such disasters and emergencies.

“(2) READINESS METRICS AND MEASURES; ASSESSMENT SYSTEM.—The national preparedness goal shall include—

“(A) readiness metrics and measures, including standards for preparedness assessments and strategies; and

“(B) a system for assessing the Nation’s overall preparedness to respond to major disasters and emergencies, including those caused by terrorist attacks.

“(3) NATIONAL RESPONSE PLAN AND NATIONAL INCIDENT MANAGEMENT SYSTEM.—The national preparedness goal, to the greatest extent practicable, shall be consistent with the National Response Plan and National Incident Management System.

“(c) ACTIVITIES OF FEDERAL DEPARTMENTS AND AGENCIES.—Federal departments and agencies shall work to achieve the national preparedness goal by—

“(1) providing for effective, efficient, and timely delivery of Federal preparedness assistance to State and local governments; and

“(2) supporting efforts to ensure first responders are prepared to respond to major disasters and emergencies, including those caused by terrorist attacks.

“SEC. 712. ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.

“(a) ESTABLISHMENT OF GUIDANCE ON ESSENTIAL CAPABILITIES.—

“(1) IN GENERAL.—Not later than February 28, 2005, the Secretary shall establish guidance that clearly defines the essential capabilities for State and local government preparedness for major disasters and emergencies, including those caused by terrorist attacks.

“(2) PROVISION OF ESSENTIAL CAPABILITIES.—The Secretary shall ensure that the guidance is provided promptly to the States and to Congress. The States shall make the guidance available as necessary and appropriate to local governments within their jurisdictions.

“(b) OBJECTIVES.—The Secretary shall ensure that the guidance established under subsection (a)(1) meets the following objectives:

“(1) SPECIFICITY.—The guidance 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 national preparedness goals.

“(2) FLEXIBILITY.—The guidance shall be sufficiently flexible to allow State and local government officials to set priorities based on particular needs, while achieving nationally determined preparedness levels within a specified time period.

“(3) MEASURABILITY.—The guidance shall be designed to enable measurement of progress towards specific preparedness levels.

“(c) THREATS TO BE CONSIDERED.—

“(1) IN GENERAL.—In establishing the guidance under subsection (a)(1), the Secretary specifically shall consider the variables of risk, threat, vulnerability, and consequences with respect to the Nation’s population (including transient commuting and tourist populations) and critical infrastructure.

“(2) CRITICAL INFRASTRUCTURE SECTORS.—In carrying out paragraph (1), the Secretary specifically shall consider risks to 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) Information and telecommunications networks.

“(J) Postal and shipping.

“(K) Public health.

“(L) Transportation.

“(M) Water.

“(3) CONSIDERATION OF ADDITIONAL THREATS.—In carrying out paragraph (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. 713. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

“(a) EQUIPMENT STANDARDS.—

“(1) IN GENERAL.—The Secretary shall develop, promulgate, and update as necessary national voluntary consensus standards for first responder equipment intended for use in the field. Such standards—

“(A) shall support nationwide interoperability and other capabilities consistent with the national preparedness goal, including the safety and health of first responders;

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

“(C) shall, to the maximum extent practicable, utilize technologies already certified by other departments and agencies of the United States;

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

“(E) 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.

“(3) DEADLINE.—The Secretary shall promulgate initial standards under this subsection not later than September 30, 2005.

“(b) TRAINING STANDARDS.—

“(1) IN GENERAL.—The Secretary 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 preparedness as quickly as practicable. Such standards shall give priority to providing training in those areas where the Secretary has identified significant need, including training—

“(A) to prevent, prepare for, respond to, and mitigate threats from chemical, biological, and radiological materials and explosive devices capable of inflicting significant human casualties; and

“(B) to 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.

“(3) DEADLINE.—The Secretary shall promulgate initial standards under this subsection not later than September 30, 2005.

“(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.

“SEC. 714. STATEWIDE PREPAREDNESS STRATEGIES.

“As a condition for receipt of a covered grant under subtitle B after September 30, 2005, the Secretary shall require that a State develop a statewide comprehensive all-hazards preparedness strategy that—

“(1) is consistent with the national preparedness goal and, as necessary, the State response plan;

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

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

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

“(5) describes how the State intends—

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

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

“(C) to give particular emphasis to regional planning and cooperation, including the activities of multi-jurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States; and

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

“Subtitle B—Grant Programs

“SEC. 731. COVERED GRANTS.

“Under this subtitle, a covered grant is 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.

“SEC. 732. AWARD OF COVERED GRANTS.

“(a) GRANT ELIGIBILITY.—Beginning in fiscal year 2006, any State shall be eligible to apply for a covered grant.

“(b) GRANT CRITERIA.—In awarding covered grants, the Secretary shall carry out the national preparedness goal and assist State, tribal, and local governments in achieving essential capabilities for first responders in accordance with the guidance developed under section 712.

“(c) APPLICATION FOR GRANT.—

“(1) IN GENERAL.—A State 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) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each State include in its application, at a minimum—

“(A) a statewide preparedness strategy that has been approved by the Secretary;

“(B) a description of the purpose for which the State seeks covered grant funds and the reasons why the State needs the covered grant to meet the essential capabilities for preparedness within the State;

“(C) a description of how, by reference to the State’s statewide preparedness strategy, the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 733(e)(1), would assist in fulfilling the essential capabilities specified in such strategy;

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

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

“(F) a statement of how the State intends to meet the matching requirement, if any, that applies under section 733(e)(2).

“(3) 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 statewide preparedness strategy.

“(4) EQUIPMENT STANDARDS.—If a State proposes to upgrade or purchase, with assistance provided under a covered grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standard established by the Secretary under section 713(a), the State shall include in the application an explanation of why such equipment or systems will serve the needs of the State better than equipment or systems that meet or exceed such standards.

“(d) DEADLINE FOR AWARD.—The Secretary shall make final determinations concerning the amount to be awarded to each State in covered grants for a fiscal year and award the grants as soon as practicable, but not later than June 30 of the fiscal year.

“(e) ALLOCATION.—

“(1) MINIMUM AMOUNTS.—Of the total amount made available for covered grants for a fiscal year, the Secretary shall award—

“(A) to each State (other than a State referred to in subparagraph (B)) not less than 0.55 percent; and

“(B) to each of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands not less than 0.18 percent.

“(2) ALLOCATION OF REMAINING AMOUNTS.—In allocating amounts that remain available for covered grants for a fiscal year after setting aside amounts required under paragraph (1), the Secretary shall prioritize applications based on the degree to which a grant to a State will—

“(A) lessen the risk, threat, vulnerability, and consequences of a major disaster or emergency, including those caused by terrorist attacks, to persons and critical infrastructure; and

“(B) enhance or achieve the essential capabilities of first responders in the State in accordance with the guidance developed under section 712.

“(3) BASIS OF ALLOCATIONS.—

“(A) PUBLICATION.—The Secretary shall publish annually the basis on which funds are awarded under paragraph (2).

“(B) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring the Secretary to disclose any classified information or other sensitive information.

“SEC. 733. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

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

“(1) purchasing commercially available equipment that complies with, where applicable, national voluntary consensus standards, and that facilitates interoperability, coordination, and integration between emergency communications systems, including—

“(A) mobile vehicles that contain equipment such as commercial telephone trunk lines, VHF and UHF radios, patch panels, and crosspatches, among other technologies and equipment; and

“(B) communications system overlay software and hardware that allow multiple disparate communications networks to act as one network;

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

“(3) conducting exercises to strengthen preparedness and response;

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

“(5) developing or updating response plans;

“(6) establishing or enhancing mechanisms for sharing terrorism threat information;

“(7) developing 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 preparedness and response purposes;

“(8) paying the 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;
- “(9) paying the costs of equipment (including software) required to receive, transmit, handle, and store classified information;
- “(10) constructing or enhancing facilities to serve as emergency operations centers;
- “(11) developing educational curricula for first responders to ensure that they are prepared for all hazards;
- “(12) implementing 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;
- “(13) paying of administrative expenses directly related to administration of the grant, but not to exceed 3 percent of the amount of the grant; and
- “(14) other appropriate activities as determined by the Secretary.
- “(b) PROHIBITED USES.—Funds provided under covered grant may not be used—
- “(1) to supplant State, tribal, or local funds;
- “(2) to construct buildings or other physical facilities, except as provided in subsection (a)(10);
- “(3) to acquire land; or
- “(4) for any State, tribal, 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 under covered grant be made available for responding to emergencies in surrounding States, reservations and tribal lands 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 GRANT FUNDS.—Upon request of a State, the Secretary may authorize the State to transfer all or part of funds provided under a 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 furtherance of the statewide preparedness strategy.
- “(e) STATE RESPONSIBILITIES.—
- “(1) PASS-THROUGH.—The Secretary shall require a State to obligate or otherwise make available to tribal and local governments, first responders, and other local groups, to the extent required under the statewide preparedness strategy specified in the application for the grant, not less than 80 percent of the grant funds or 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, as soon as practicable but not later than 60 days after the date of receipt of the grant funds by the State. A State shall provide funds, or resources purchased with funds, made available under section 732 directly to an Indian tribe.
- “(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary that the State has made available for expenditure by tribal and local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).
- “(3) REPORT ON PREPAREDNESS SPENDING.—Each State shall submit a report to the Secretary not later than 60 days after the end of each fiscal year. Each report shall 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 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 State’s statewide preparedness strategy 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 State’s statewide preparedness strategy remain unmet.
- “(4) INCLUSION OF RESTRICTED ANNEXES.—A State may submit to the Secretary an annex to the report under paragraph (3) that is subject to appropriate handling restrictions, if the State believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

“(5) PROVISION OF REPORTS.—The Secretary shall ensure that each report under paragraph (3) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

“(f) COST SHARING.—

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

“(2) INTERIM RULE.—

“(A) IN GENERAL.—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.

“(B) LIMITATION.—This paragraph shall not apply to funds used for construction or enhancement of facilities for emergency operations centers.

“(3) IN-KIND MATCHING.—Each State 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 any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

“SEC. 734. RESTRICTIONS ON EXISTING PROGRAMS.

“Determinations on the allocation, award, and use of grants made under the following programs shall be made in accordance with their authorizing statutes and without priority given to terrorism preparedness activities:

“(1) 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).

“(2) The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of this Act.

“(3) The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

“SEC. 735. AUTHORIZATION OF APPROPRIATIONS.

For making covered grants under this subtitle, there is authorized to be appropriated to the Secretary of Homeland Security \$3,400,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2009.

“Subtitle C—Reporting and Other Requirements

“SEC. 751. REQUIRED COORDINATION.

“The Secretary shall ensure that there is effective and ongoing coordination of Federal preparedness and response efforts for major disasters and emergencies, including those caused by terrorist attacks, among the divisions of the Department, including the Emergency Preparedness and Response Directorate and the Office of State and Local Government Preparedness and Coordination.

“SEC. 752. ANNUAL REPORTS TO CONGRESS.

“(a) IN GENERAL.—Not later than September 30, 2005, and annually thereafter, the Secretary shall transmit to Congress an annual report on the Nation’s level of preparedness, including State capabilities, the readiness of Federal civil response assets, and the utilization of mutual-aid agreements.

“(b) CONTENTS.—Each report shall include—

“(1) an assessment of how the Federal first responder preparedness assistance programs support the national preparedness goal;

“(2) an estimate of the amount of Federal, State, tribal, and local expenditures required to attain the essential capabilities established under section 712(a);

“(3) a detailed description of the amount of Federal funds provided as covered grants that were directed to each State in the preceding fiscal year;

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

“(5) a description on a nationwide and State-by-State basis—

“(A) the extent to which essential capabilities identified in applicable statewide preparedness strategy were created or enhanced as the result of the expenditure of covered grant funds during the preceding fiscal year; and

“(B) the extent to which essential capabilities identified in applicable statewide preparedness strategy remain unmet.

“(6) USE OF QUANTIFIABLE PERFORMANCE MEASUREMENT.—Each report shall be based on quantifiable performance measurements.”.

SEC. 5. 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. 6. 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 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. 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 it is of national importance that interoperable emergency communications systems that to the extent possible meet national voluntary consensus standards should be developed and promulgated as soon as practicable for use by the first responder community.

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. SENSE OF CONGRESS.

It is the sense of Congress that for purposes of emergency planning—

- (1) lack of sufficient bandwidth can have detrimental consequences for State and local governments during times of crisis;
- (2) State and local governments should understand how communication networks will perform in emergencies by analyzing the experience of end users; and
- (3) State and local governments should look into expanding bandwidth efficiency by using cost effective means such as incorporating bandwidth allocation tools into their networks to ensure proper communication is available during times of crisis.

Amend the title so as to read:

A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to prepare the United States to prevent, mitigate, respond to, and recover from major disasters and emergencies, including those caused by terrorist attacks, and for other purposes.

PURPOSE OF THE LEGISLATION

The purpose of this legislation is to better prepare the nation to respond to major disasters and other emergencies, including those caused by acts of terrorism by providing for the coordinated delivery of first responder funds to State, tribal, regional and local governments in order to achieve essential capabilities developed in the context of a national preparedness goal.

BACKGROUND AND NEED FOR THE LEGISLATION

The concept of preparing for disasters and emergencies is not a new one in the United States. During the Cold War, the Emergency Alert System, air raid sirens, and other warning devices were created to alert communities to impending disaster. Americans were advised to store food and water, and there was a booming industry in emergency shelters. To support these efforts, communities created civil defense teams. These teams were never used because of attacks on the United States, but were instead used to deal with floods, earthquakes, fires, tornadoes, and other disasters. This was the birth of the “national preparedness” effort in the United States.

Over time, as the threat of the Cold War subsided and America began to face new challenges, the civil defense system changed, and began focusing its efforts to prepare American communities for natural disasters, accidents, and other man-caused catastrophes. As these efforts changed on the local level, so did the efforts of the federal government. In 1979, President Jimmy Carter signed Executive Order 12148, which created the Federal Emergency Management Agency (FEMA). At its inception, FEMA was created to consolidate and coordinate the efforts of over 15 different agencies and departments that were responsible for responding to and preparing for disasters. FEMA was tasked with carrying out the authorities contained in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5121 et. seq., as amended) (Stafford Act), which is an amalgamation of previous disaster acts.

Along with the newly created Agency came a new and emerging concept, that communities did not need a separate preparedness and response system for each kind of threat. Governments recognized that core emergency management authorities and procedures must be clear, concise and established in advance of a disaster; improvisation during a disaster crisis does not work.

Since 1976 there have been over 1,400 presidential disaster declarations in the United States and the Insular Territories. These disasters have been caused by every natural disaster, accident and other man-caused events imaginable, including terrorism. With each emergency, the emergency response community has drawn lessons learned, and adapted the preparedness and response system to incorporate these lessons. Over 25 years of experience has resulted in the establishment of a comprehensive, all-hazards emergency management system at the federal, state and local levels.

An effective all-hazards approach means that a community or government will have an integrated and coordinated response system that is prepared to handle any disaster that may arise. While the manner in which a community responds may differ based on the disaster at hand, the management of these disasters is virtually the same. No matter what disaster was being faced, a community would still need to prepare its citizens for the possibility of a lack of municipal services such as water, sewer and electricity; someone would need to be in charge to coordinate efforts; as well as a myriad of other activities that must go on to support the disaster response.

The principle of an all-hazards approach to emergency management is that, at its core, it is not scenario driven. It is based on core emergency support functions that are necessary to respond to any disaster, such as communications, transportation, and mass care. The all-hazards approach identifies the key resources needed in any disaster and clearly states who is responsible for which function.

The federal government incorporated and adopted these lessons into the Federal Response Plan (FRP), which was issued in April 1992. The FRP addresses each aspect of how the federal government will respond to a disaster. By incorporating and consolidating various disaster response plans into one consolidated plan, the FRP adopts the principle of all-hazards emergency management. FEMA was designated as the lead federal agency on the development and implementation of the FRP.

The Homeland Security Act of 2002 (P.L. 107-296) transferred the authorities contained in the Stafford Act, as well as the personnel and assets of FEMA to the newly created Department of Homeland Security (DHS). As a part of this reorganization, FEMA was merged with 21 other departments and agencies and the majority of FEMA's functions were placed in the Emergency Preparedness and Response Directorate (EP&R).

The all-hazards principle, which has been at the core of the federal preparedness and response effort led by FEMA for many years, has been adopted by the Administration for the new Department of Homeland Security, as evidenced by Homeland Security Presidential Directives 5 and 8, and the development of the National Response Plan, itself an all-hazards plan.

Released by the White House on February 28, 2003, the primary purpose of Homeland Security Presidential Directive 5 (HSPD-5) is to, “* * * establish a single, comprehensive approach to domestic incident management.” The National Incident Management System (NIMS) is intended to, “provide a consistent nationwide approach for Federal, State, and local governments to work effectively and

efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.” It is the expectation of DHS that the NIMS will eventually become the adopted standard for preparedness nationwide.

The purpose of HSPD-8 is to establish, “* * * policies to strengthen the preparedness of the United States to prevent and respond to threatened or actual domestic terrorist attacks, major disasters, and other emergencies by requiring a national domestic all-hazards preparedness goal, establishing mechanisms for improved delivery of Federal preparedness assistance to State and local governments, and outlining actions to strengthen preparedness capabilities of Federal, State, and local entities.”

The all-hazards principle is also at the core of the National Response Plan (NRP). The NRP is in its final stages of drafting, and will be released sometime in the fall of 2004. HSPD-5 requires the National Response Plan to “integrate Federal Government domestic prevention, preparedness, response, and recovery plans into one all-discipline, all-hazards plan.” To that end, the NRP incorporates the Federal Response Plan, Domestic Terrorism Concept of Operations Plan, Interim National Response Plan, Federal Radiological Emergency Response Plan, the Spills Concept of Operations Plan, as well as several other plans.

HSPD-5, HSPD-8, and the NRP each reinforce the notion of the all-hazards principle as the guiding principle for the federal preparedness and response effort. Adopting this principle in all areas of the federal effort is critical to ensuring the successful transition of this principle into policy. Enacting legislation that undermines the concept of all-hazards preparedness not only hampers the efforts of the experts to implement the best policy for the government, but will make it that much more difficult for the nation to prepare for the next disaster.

During the 106th and 107th Congresses, the Committee on Transportation and Infrastructure held a number of hearings, received testimony, and introduced and moved legislation on the issue of federal preparedness programs. A key finding in each of these steps was the uncoordinated and duplicative manner in which terrorism preparedness programs were run. As a result, the Committee developed H.R. 4210, the Preparedness Against Terrorism Act of 1999, which was unanimously passed by the House on August 25, 2000, but never enacted. In the 107th Congress, the Subcommittee again reported the Preparedness Against Terrorism Act, re-designated as H.R. 525. This version was reported out of Subcommittee, but further action was stalled due to the terror attacks of September 11th and the development of the Department of Homeland Security.

The amendment adopted by the Transportation and Infrastructure Committee reflected in this report, builds upon this history, and makes important changes to the way that first responder preparedness funds are delivered to State governments, and through them, to tribal, regional and local governments. It reinforces the notion that preparedness money should be spent on actually preparing communities for disasters. It requires that grant funds be spent according to a comprehensive all-hazards preparedness strategy that is based on adopted standards for training, equipment, and response; addresses the needs of all potentially affected com-

munities; and is developed in coordination with government and non-governmental entities responsible for response.

Further, the Committee's amendment also requires that the Department of Homeland Security provide States with guidance on essential capabilities and develop voluntary consensus standards for first responder equipment and training. These provisions ensure that States' planning and preparation are done in accordance with measurable objectives that the Committee believes will further strengthen preparedness.

The terrorists we face today are unpredictable. The government cannot predict with any certainty where, when or in which form the next terrorist attack will take place. The Committee believes that because of the inherent uncertainty surrounding a terrorist attack, each State must be able to adequately train and equip its emergency response providers and prepare its citizens for such an attack. Accordingly, the Committee's amendment provides a percentage of the overall funding for preparedness to each State.

If Congress were to exclusively focus resources on select regions, it would leave the remaining areas vulnerable to attack. Yet, history has shown that terrorists strike in cities large and small, and use a variety of weapons and tactics. The amendment adopted by the Transportation and Infrastructure Committee prepares all of America for each of these scenarios. It promotes an all-hazards approach to first responder preparedness, which, according to the experts, is the best way to prepare for terrorism. It provides the necessary flexibility to deal with any hazard that may arise, while at the same time ensuring that there is sufficient planning and preparation.

By adopting an allocation formula that allows for a minimum amount to be made available to each state, with the remainder allocated on a risk assessment basis as determined by the Secretary, the Committee's amendment addresses both the needs of all communities to attain a minimum level of preparedness while at the same time giving the Secretary sufficient flexibility to meet the needs of communities with unique needs. This is the appropriate way for the federal government to meet the nation's needs.

SUMMARY OF THE LEGISLATION

Section 1. Short title

Designates the bill as the Faster and Smarter Funding for First Responders Act of 2004.

Section 2. Findings

Declares the findings by Congress that underlie the bill and provides guidance to the Administration and stakeholders about Congressional intent. These findings recognize the fact that an all-hazards preparedness strategy, which is the policy of the Administration and emergency managers nationwide, is the best way to prevent, prepare for, mitigate against, respond to, and recover from major disasters and emergencies, including those caused by terrorist attacks.

Section 3. Definitions

This section amends the definitions of terms used in existing law to reflect the changing climate of first response. The definition for “major disaster” as used in the Stafford Act is amended to incorporate terrorism and the effects of terrorism. This change clarifies the authority of the President to declare a Stafford Act disaster in the case of a terrorist attack using a non-conventional weapon of mass destruction such as a chemical, biological, or radiological device. This section also amends the Homeland Security Act to include fire personnel in the definition of “emergency response provider.” This change reflects the current organization of the Department in which the Office for State and Local Government Coordination and Preparedness (OSLGCP) provides funds to fire personnel as well as police officers.

Section 4. National Preparedness and Funding for First Responders

This section amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act to include a new Title VII entitled “National Preparedness and Funding for First Responders.” The Committee believes that it is appropriate to place these authorities within the Stafford Act, as that is the primary source of the Department’s authority to provide assistance in the event of a major disaster or other emergency, including those caused by a terrorist attack.

This new title provides for the revision of the manner in which the Department provides funding to first responders; clarifies the purpose of funding for first responders; defines key terms; establishes a national preparedness goal; requires the establishment of essential capabilities for first responders; requires the establishment of national standards for equipment and training; requires a statewide preparedness strategy; addresses what grants are covered by the legislation and how those funds are awarded; clarifies how those funds may be used; provides accountability for the department and grant recipients; restricts changes to certain existing programs; and requires reporting by the Department and grant recipients.

TITLE VII—NATIONAL PREPAREDNESS AND FUNDING FOR FIRST RESPONDERS

Section 701. Purposes

This section declares the purposes of the new title. In the wake of the September 11th attacks, billions of dollars in new federal funding was made available for first responder preparedness. In the haste to make this funding available, very little guidance was provided by the federal government as to how these funds should be spent; for there were no provisions to ensure that the funds would support well-developed preparedness strategies, and no provisions to ensure that they supported coordinated efforts. Additionally, there was no means of ensuring accountability or timely delivery of the funds. The purpose of this title is to provide for these provisions.

Section 702. Definitions

This section provides definitions for key terms and phrases used throughout the legislation.

“Covered grant” is defined to mean any grant to which subtitle (b) applies under section 731, which addresses the manner in which grant funds are provided. This term includes the State Homeland Security Grant Program, Urban Area Security Initiative, and Citizen Corps. This term does not include the fire grant or Emergency Management Preparedness Grant (EMPG) programs.

“Department” refers to the Department of Homeland Security.

“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) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)(7)).

“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 major disasters and emergencies, including those caused by terrorist attacks, consistent with established practices.

“First responder” refers to the definition for “emergency response provider” in the Homeland Security Act of 2002 (6 U.S.C. 101(6)) as amended by this Act.

“Hazard” means an emergency or disaster resulting from a natural disaster or an accidental or man-caused event, including a terrorist attack. The Committee intends these terms to refer to disasters or emergencies that are declared pursuant to the authorities of the Stafford Act.

“National preparedness goal” means the national domestic all-hazards preparedness goal developed under section 711.

“Prevention” means activities undertaken by the first responder community during the early stages of an incident to reduce the likelihood or consequences of threatened or actual terrorist attacks. The term does not include more general and broader efforts to deter, disrupt, or thwart terrorism. The Committee also does not intend this term to include efforts commonly thought of as natural disaster mitigation efforts.

“Secretary” refers to the Secretary of Homeland Security.

“Statewide preparedness strategy” means a statewide comprehensive all-hazards preparedness strategy prepared under section 714.

“Weapon of mass destruction” has the meaning such term has under section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302).

Subtitle A—Preparedness Goals, Essential Capabilities, Standards, and Strategies

Section 711. National preparedness goal

This section requires the development of a national domestic all-hazards preparedness goal by February 28, 2005. The goal must include readiness priorities and targets, metrics and measures and an assessment system; and be consistent with both the National

Response Plan and the National Incident Management System. Federal departments and agencies are required to work to achieve the national preparedness goal by providing for effective, efficient, and timely delivery of Federal preparedness assistance to State, tribal and local governments and to support efforts to ensure first responder preparedness.

Section 712. Essential capabilities for first responders

This section requires the Secretary to establish guidance on essential capabilities for State and local government preparedness for major disasters and emergencies including those caused by terrorism. This guidance is to be provided promptly to States and to Congress, and be available to local governments as necessary and appropriate. The guidance must meet three main objectives, specificity, flexibility, and measurability, which will ensure it is usable by its recipients. In establishing the guidance, the Secretary must consider risk, threat, vulnerability, and consequences with respect to the nation's population and critical infrastructure.

Section 713. National standards for first responder equipment and training.

This section requires the Secretary to develop, promulgate and update as necessary national voluntary consensus standards for first responder equipment. These standards are critical to ensuring that the funds provided for equipment go towards the purchase of items that meet the needs of existing and emerging threats. They must be consistent, when practicable, with existing standards, be updated to meet new threats, utilize where possible existing federal certifications, and be developed to maximize usability and protect the safety and health of first responders. The Secretary is required to consider a variety of categories of equipment that meet specific needs of first responders.

This section also requires the Secretary to support the development of, promulgate and regularly update national voluntary consensus standards for first responder training to achieve required levels of preparedness. The standards shall focus on those areas where the Secretary has identified significant need. As with the standards for equipment, the Secretary is required to consider a number of specific training programs focusing on skills necessary to meet the specific needs of first responders. In developing these standards, the Secretary is required to consult with relevant public and private sector groups.

The Committee deleted those portions of H.R. 3266 as reported by the SCHS that created a Task Force on Essential Capabilities for First Responders. The Committee believed that this language was duplicative and burdensome on the Department considering the Department already has the authority to create such a task force, already has several formats for similar consultation, and has shown its willingness to include first responders in its decision making process on a variety of issues. Further, the Committee believes that imposing such a burdensome process would delay the development of these standards beyond the Committee's imposed deadline of September 30, 2005.

It is the Committee's expectation that in developing the standards under this Section, the Secretary will consult with the broad-

est representation of interested organizations possible that represent all necessary disciplines to building a comprehensive preparedness and response system.

Section 714. Statewide preparedness strategies

This section identifies the requirements of preparedness strategies to be developed by the States as a precondition for receipt of federal preparedness dollars. These new requirements, though included in the new title, will not be implemented until the next round of planning required by the Department. These preparedness strategies must be consistent with State response plans; identify the extent to which the State has achieved the essential capabilities that apply to the State; demonstrate the additional needs of the State; include the prioritization of those needs; describe how the State intends to address those needs with funds provided; and be developed in consultation with regional, local and tribal governments.

Subtitle B—Grant Programs

Section 731. Covered grants

This section addresses the question of which grants currently being issued by the Department are covered by this legislation. The requirements of the legislation only cover those grants issued by the Department to States under the State Homeland Security Grant Program and Urban Area Security Initiative. These requirements do not apply to the fire grants, Emergency Management Planning and Assistance Grants, and grants not issued by the Department.

Section 732. Award of covered grants

This section details the manner in which grants are applied for and distributed. Only States may apply for the grants, which are distributed to carry out the national preparedness goal and assist States in achieving essential capabilities. This section also outlines key grant application criteria, including: a statewide preparedness strategy, what the grant is intended to achieve, whether the funds will be used in a mutual aid agreement, how the grants will be used, and how the State will meet any matching requirement. The grant must be used in a manner consistent with a State preparedness strategy. The grant application must include a description of how and to what extent the grant will be used in accordance with national standards for equipment and training, or if not, why not. This section becomes applicable with the FY 2006 grant cycle.

The Secretary must make a final determination concerning the amount to be awarded as soon as practicable, but not later than June 30 of each fiscal year. Doing so will provide necessary advance notice to the States to achieve necessary planning.

A key difference between this section and the similar section in the SCHS amendment to H.R. 3266 is the absence of a time limitation on the Department and on the State for how soon the grants must be awarded after an application is received. The Committee believes that these deadlines are not necessary to speed up the process, nor do they work to ensure that the funds are distributed in a manner that best suits the communities impacted, as they do

not allow for careful consideration of a grant application and may hamper the States' ability to effectively plan. States are directed to deliver an appropriate amount of funding to tribal, regional and local governments in a timely manner by provisions in Section 733.

Finally, this section addresses the issue of how the grants are to be allocated. In a significant departure from the SCHS amendment to HR 3266, this amendment would have the grant funds allocated, in part, according to a minimum to each State (including the District of Columbia and Puerto Rico) of 0.55% of the total amount each fiscal year and 0.18%, to Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands. These percentages reflect the average amount allocated to each recipient during fiscal years 2003 and 2004 under the combined SHSGP and UASI programs. It is the Committee's intention to maintain the approximate levels of funding under the minimum percentage for each recipient.

The remainder of the funds would be allocated based on risk of major disaster and emergencies, including those caused by terrorism, and the degree to which the grants would enhance or achieve essential capabilities. The discretion of which hazards are considered, how they are prioritized, and how these funds are allocated, remains with the Secretary. It is the Committee's expectation that the Secretary may prioritize these funds based on the risk of terrorism. If the Secretary prioritizes the allocation of the remainder of funds based on the risk of terrorism, it is the Committee's expectation that such allocation will be based on a comprehensive risk assessment that takes into consideration all relevant population and infrastructure factors, and is based on relevant intelligence and law enforcement information.

Section 733. Use of funds

This section generally lists the eligible uses, and ineligible uses for funds received under this title. There are limited differences with the SCHS amendment, the most notable being that funds under this amendment are available for the construction or improvement of emergency operations centers, whereas under the SCHS amendment, no construction is allowed. Under this section, funds may be used to support first responder preparedness activities; additionally, funds may be used on a limited basis for personnel costs, including training, travel to and from training, and costs related to an elevation of the threat alert level.

This section also retains many of the requirements imposed on States by the SCHS amendment; however, it extends the period in which a State is required to pass funds through to local governments from 45 to 60 days, and does away with penalties imposed on States for failing to meet that deadline. It also requires that States distribute funds and resources directly to Indian tribes. This amendment allows for a 100% cost-share during the first two years and 75% thereafter. With the above-mentioned exception, a prohibition on construction is retained.

It is the Committee's expectation that should an Indian tribe be unable or unwilling to administer directly the funds or resources allocated to it by the State, they would be allowed to subgrant such funds or resources to another eligible recipient, such as a local or regional governmental entity.

Section 734. Restrictions on existing programs

This section restricts how the funds from existing programs may be used. Specifically, fire grant funds and EMPG funds must be used for their original purpose and may not be distributed with a prioritization for terrorism. These funds were created before the terrorist attacks of September 11th to meet the specific needs of State and local governments, and should be allowed to continue to meet those needs.

Section 735. Authorization of appropriations

This section authorizes appropriations for this subtitle in the amount of \$3.4 billion for FY 2006 and such sums as may be necessary for fiscal years 2007 through 2009.

Subtitle C—Reporting and Other Requirements

Section 751. Required coordination

This section requires that the Secretary ensure the ongoing and effective coordination of preparedness and response efforts within the Department, specifically between the Emergency Preparedness and Response Directorate (EP&R) and OSLGCP. With the division of the preparedness dollars and response policy, the Committee is concerned that a schism may develop between the two groups that may lead to inefficiencies and lack of coordination.

Section 752. Annual report to Congress

This section requires an annual, detailed report to Congress on the Nation's level of preparedness, including State capabilities, the readiness of Federal civil response assets, and the utilization of mutual aid. The report must also include an assessment of how the Federal first responder preparedness assistance programs support the national preparedness goal.

Section 5. Modification of Homeland Security Advisory System

This section directs the Secretary to revise the Homeland Security Advisory System 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-specific warnings issued during the preceding fiscal year.

Section 6. Coordination of industry efforts

This section adds to the duties of the Special Assistant to the Secretary for private sector liaison the responsibility to coordinate industry efforts to identify private sector resources that could effectively supplement Federal, State, and local government efforts to prevent or respond to terrorist attacks.

Section 7. Sense of Congress regarding interoperable communications

This section states that it is the Sense of the Congress that interoperable emergency communications systems that meet national voluntary consensus standards should be developed and promulgated as soon as practicable for use by first responders.

Section 8. Sense of Congress regarding Citizen Corps Councils

This section 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

This section 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. Sense of Congress regarding bandwidth allocation

This section states that it is the Sense of Congress that for the purposes of emergency planning, a lack of sufficient bandwidth can have detrimental consequences for State and local governments during time of crisis; that State and local governments should better understand how communication networks will perform in emergencies by analyzing the experience of end users; and, State and local governments should look into expanding bandwidth efficiency.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

On October 8, 2003, Representative Chris Cox introduced H.R. 3266, the "Faster and Smarter Funding for First Responders Act of 2003." The legislation was referred to the Select Committee on Homeland Security. The legislation was also referred to the Committees on Transportation and Infrastructure, Science, Judiciary, and Energy and Commerce for a period to be subsequently determined by the Speaker. On March 17, 2004, the Select Committee on Homeland Security (SCHS) ordered H.R. 3266, as amended, reported to the House. On April 2, 2004, the referral to the Committee on Transportation and Infrastructure was time limited until June 7, 2004. On June 3, 2004, the Committee on Transportation and Infrastructure was granted an extension until June 14, 2004. On June 14, 2004, the Committee on Transportation and Infrastructure was granted an extension until June 21, 2004.

On March 18, 2004 the Subcommittee on Economic Development, Public Buildings and Emergency Management (the Subcommittee) held a hearing on the FY 2005 Budget Request for the Department of Homeland Security's Emergency Preparedness and Response Directorate (EP&R), the Office of Domestic Preparedness (ODP), and First Responder Funding. The hearing also explored how the Administration's budget request interacts with its policy directives as well as how these policy directives serve to prepare the Nation for all the hazards that it faces. The Subcommittee heard from Michael Brown, Undersecretary for Emergency Preparedness and Response at the Department of Homeland Security. This hearing explored how the budget request by the Administration reflects its policy to pursue an all-hazards preparedness plan at the federal level. Mr. Brown assured the Subcommittee that the Department is pursuing an all-hazards strategy, and explained how the budget request furthers that policy by providing funding to terrorism preparedness in a manner that supports the all-hazards principle.

On May 14, 2004, the Subcommittee held a hearing entitled, "How to Best Prepare for Acts of Terror: National Preparedness and Funding for First Responders." At this hearing, the Subcommittee heard from William Jenkins, Director of the Homeland Security and Justice Division at the General Accounting Office; Andrew Mitchell, Deputy Director of the Office of Domestic Preparedness at the Department of Homeland Security; and George Foresman, Assistant to the Governor for Commonwealth Preparedness for the Commonwealth of Virginia. At this hearing, the Subcommittee discussed the delay in funding for first responders and further information on the choice between an all-hazard or terrorism specific preparedness and response system. Andrew Mitchell and George Foresman both supported the implementation of an all-hazards system as being the preferred means of protecting America.

On June 1, 2004, the Subcommittee met in open session to consider H.R. 3266. An amendment in the nature of a substitute offered by Mr. LaTourette was adopted by voice vote, with a quorum present. A motion by Ms. Norton to order H.R. 3266, as amended, favorably reported to the Full Committee was agreed to unanimously, by voice vote with a quorum present. There were no recorded votes taken during Subcommittee consideration of H.R. 3266.

On June 2, 2004, the Full Committee met in open session to consider H.R. 3266, as amended by the Subcommittee. Two amendments offered by Mr. Nadler of New York were offered, discussed, and withdrawn. An amendment by Mr. Weiner of New York was offered and withdrawn. An amendment authored by Mr. Baird of Washington and offered by Mr. DeFazio of Oregon, which adds a Sense of Congress on the importance of expanding bandwidth efficiency to emergency planning was adopted by unanimous consent. A motion by Mr. LaTourette to order H.R. 3266, as amended, favorably reported to the House was agreed to unanimously, by voice vote with a quorum present. There were no recorded votes taken during Committee consideration of H.R. 3266.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in conjunction with ordering H.R. 3266, as amended, favorably reported to the House.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under sec-

tion 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation are to improve the manner in which first responder preparedness funding is delivered to States, and through States to tribal, regional, and local governments; to improve oversight by requiring reporting by grant recipients to the Department on the use of funds and by the Department to Congress on the overall preparedness of the Nation.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3266 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 14, 2004.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,
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 Julie Middleton.

Sincerely,

ELIZABETH ROBINSON
(For 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 grant programs for first responders established after September 11, 2001—the grant programs for State Homeland Security and the Urban Area Security Initiative.

The bill also would make the grant funds available to states to plan for natural disasters as well as terrorism events. H.R. 3266 would authorize the appropriation of \$3.4 billion in 2006 for first responder grants, and such sums as is necessary over the 2007–2009 period. Assuming appropriation of the authorized amount, in 2006 and adjusting that amount for anticipated inflation over the 2007–2009 period, CBO estimates that implementing H.R. 3266

would cost \$8.4 billion over the 2005–2009 period and over \$5.5 billion 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 for 2006 and similar amounts for 2007 through 2009 are appropriated, implementing the bill would increase funding for existing aid programs while changing conditions for receiving those funds; any costs incurred by state, local, or tribal governments would be voluntary.

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					
Estimated Authorization Level ^a	*	3,400	3,481	3,571	3,663
Estimated Outlays	*	680	1,716	2,677	3,322

^a The 2007–2009 levels assume the grant program continues at the 2006 level, adjusted for anticipated inflation. If grants after 2006 were not increased for inflation, the four-year total would be \$13.6 billion instead of \$14.1 billion. Without inflation adjustments, outlays would be \$200 million lower than the amounts shown in the table for the 2006–2009 period.

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 authorize the appropriation of \$3.4 billion in fiscal year 2006 and such sums as necessary over the 2007–2009 period. The bill also would make the grant funds available to states to plan for natural disasters as well as terrorism events.

For this estimate, CBO assumes that H.R. 3266 will be enacted near the start of fiscal year 2005 and that the authorized amount will be appropriated for 2006 and that the 2007–2009 funding levels will be appropriated for 2006 level, adjusted for anticipated inflation. For this estimate, CBO assumes that each state would need to update its homeland security plan to reflect the state’s preparedness for natural hazards and terrorism incidents. 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 \$8.4 billion over the 2006–2009 period and about \$5.5 billion after 2009.

Under the State Homeland Security program, DHS distributes three-quarters of one percent of the amount appropriated for the program to each state and one-quarter of one percent to the territories. The remaining funds are distributed to states based on population. The Urban Area Security Initiative program provides funding to high-threat areas of the country. Under H.R. 3266, DHS would consolidate these two existing programs and distribute 0.55

percent of the grants to each state and 0.18 percent to U.S. territories. The rest of the funding would be distributed based on threats, vulnerabilities, and risk assessments for each state and locality.

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 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 these funds are allocated by decreasing the base allocation to each state and awarding the remaining funds according to potential disaster risks. 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 by \$0.3 billion over appropriations for 2004. Finally, this bill would expand eligible activities to include preparing for natural disasters, adding personnel during heightened threat alerts, and training first responders. Any costs incurred by state, local, or tribal governments as a result of these changes to the grant programs would be incurred voluntarily.

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 also would 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 of those 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. On June 8, 2004, CBO transmitted a cost estimate for H.R. 3266 as ordered reported by the House Committee on Energy and Commerce on June 3, 2004. The versions of the legislation approved by those two committees are similar, and the cost estimates are identical. The version approved by the House Committee on Transportation and Infrastructure is similar but would authorize the appropriation of funds over the 2006–2009 period, while the other versions of H.R. 3266 would authorize funding only for 2006.

Estimate prepared by: Federal Costs: Julie Middleton; 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.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

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. (Public Law 104-4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local or tribal law. The Committee states that H.R. 3266 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO THE 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. (Public Law 104-1).

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):

**ROBERT T. STAFFORD DISASTER RELIEF AND
EMERGENCY ASSISTANCE ACT**

* * * * *

TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS

* * * * *

DEFINITIONS

SEC. 102. As used in this Act—

(1) * * *

【(2) MAJOR DISASTER.—“Major disaster” means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.】

(2) MAJOR DISASTER.—*The term “major disaster” means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, explosion, act of terrorism, or other catastrophic event in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.*

* * * * *

TITLE VII—NATIONAL PREPAREDNESS AND FUNDING FOR FIRST RESPONDERS

SEC. 701. PURPOSES.

The purposes of this title are—

- (1) *to prepare the United States to prevent, mitigate, respond to, and recover from major disasters and emergencies, including those caused by terrorist attacks;*
- (2) *to ensure federally funded preparedness efforts are consistent with an all-hazards preparedness strategy;*
- (3) *to ensure effective coordination of Federal preparedness efforts; and*
- (4) *to provide preparedness assistance to State and local authorities in a timely manner and provide for accountability with respect to the use of such assistance.*

SEC. 702. DEFINITIONS.

In this title, the following definitions apply:

- (1) COVERED GRANT.—*The term “covered grant” means a grant referred to in section 731.*
- (2) DEPARTMENT.—*The term “Department” means the Department of Homeland Security.*
- (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) of the Homeland Security Act of 2002 (6 U.S.C. 121(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 major disasters and emergencies, including those caused by terrorist attacks, consistent with established practices.

(5) *FIRST RESPONDER.*—The term “first responder” has the meaning such term has under section 2(6) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)).

(6) *HAZARD.*—The term “hazard” means an emergency or disaster resulting from—

(A) a natural disaster; or

(B) an accidental or man-caused event, including a domestic terrorist attack.

(7) *NATIONAL PREPAREDNESS GOAL.*—The term “national preparedness goal” means the national domestic all-hazards preparedness goal developed under section 711.

(8) *PREVENTION.*—The term “prevention” means activities undertaken by the first responder community during the early stages of an incident to reduce the likelihood or consequences of threatened or actual terrorist attacks. The term does not include more general and broader efforts to deter, disrupt, or thwart terrorism.

(9) *SECRETARY.*—The term “Secretary” means the Secretary of Homeland Security.

(10) *STATEWIDE PREPAREDNESS STRATEGY.*—The term “statewide preparedness strategy” means a statewide comprehensive all-hazards preparedness strategy prepared under section 714.

(11) *WEAPON OF MASS DESTRUCTION.*—The term “weapon of mass destruction” has the meaning such term has under section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302).

Subtitle A—Preparedness Goals, Essential Capabilities, Standards, and Strategies

SEC. 711. NATIONAL PREPAREDNESS GOAL.

(a) *DEVELOPMENT.*—To help ensure the preparedness of the Nation to prevent, respond to, and recover from major disasters and emergencies, including those caused by terrorist attacks, the Secretary, in coordination with the heads of other appropriate Federal departments and agencies and in consultation with State and local governments, shall develop a national domestic all-hazards preparedness goal not later than February 28, 2005.

(b) *ELEMENTS.*—

(1) *READINESS PRIORITIES AND TARGETS.*—The national preparedness goal shall establish measurable readiness priorities and targets that appropriately balance the potential threat and magnitude of major disasters and emergencies, including those caused by terrorist attacks, with the resources required to prevent, respond to, and recover from such disasters and emergencies.

(2) *READINESS METRICS AND MEASURES; ASSESSMENT SYSTEM.*—The national preparedness goal shall include—

(A) *readiness metrics and measures, including standards for preparedness assessments and strategies; and*

(B) *a system for assessing the Nation's overall preparedness to respond to major disasters and emergencies, including those caused by terrorist attacks.*

(3) *NATIONAL RESPONSE PLAN AND NATIONAL INCIDENT MANAGEMENT SYSTEM.*—The national preparedness goal, to the greatest extent practicable, shall be consistent with the National Response Plan and National Incident Management System.

(c) *ACTIVITIES OF FEDERAL DEPARTMENTS AND AGENCIES.*—Federal departments and agencies shall work to achieve the national preparedness goal by—

(1) *providing for effective, efficient, and timely delivery of Federal preparedness assistance to State and local governments; and*

(2) *supporting efforts to ensure first responders are prepared to respond to major disasters and emergencies, including those caused by terrorist attacks.*

SEC. 712. ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.

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

(1) *IN GENERAL.*—Not later than February 28, 2005, the Secretary shall establish guidance that clearly defines the essential capabilities for State and local government preparedness for major disasters and emergencies, including those caused by terrorist attacks.

(2) *PROVISION OF ESSENTIAL CAPABILITIES.*—The Secretary shall ensure that the guidance is provided promptly to the States and to Congress. The States shall make the guidance available as necessary and appropriate to local governments within their jurisdictions.

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

(1) *SPECIFICITY.*—The guidance 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 national preparedness goals.

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

(3) *MEASURABILITY.*—The guidance shall be designed to enable measurement of progress towards specific preparedness levels.

(c) *THREATS TO BE CONSIDERED.*—

(1) *IN GENERAL.*—In establishing the guidance under subsection (a)(1), the Secretary specifically shall consider the variables of risk, threat, vulnerability, and consequences with respect to the Nation's population (including transient commuting and tourist populations) and critical infrastructure.

(2) *CRITICAL INFRASTRUCTURE SECTORS.*—In carrying out paragraph (1), the Secretary specifically shall consider risks to

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) Information and telecommunications networks.*
- (J) Postal and shipping.*
- (K) Public health.*
- (L) Transportation.*
- (M) Water.*

(3) CONSIDERATION OF ADDITIONAL THREATS.—In carrying out paragraph (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. 713. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

(a) EQUIPMENT STANDARDS.—

(1) IN GENERAL.—The Secretary shall develop, promulgate, and update as necessary national voluntary consensus standards for first responder equipment intended for use in the field. Such standards—

(A) shall support nationwide interoperability and other capabilities consistent with the national preparedness goal, including the safety and health of first responders;

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

(C) shall, to the maximum extent practicable, utilize technologies already certified by other departments and agencies of the United States;

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

(E) 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.

(3) *DEADLINE.*—The Secretary shall promulgate initial standards under this subsection not later than September 30, 2005.

(b) *TRAINING STANDARDS.*—

(1) *IN GENERAL.*—The Secretary 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 preparedness as quickly as practicable. Such standards shall give priority to providing training in those areas where the Secretary has identified significant need, including training—

(A) to prevent, prepare for, respond to, and mitigate threats from chemical, biological, and radiological materials and explosive devices capable of inflicting significant human casualties; and

(B) to 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.

(3) *DEADLINE.*—The Secretary shall promulgate initial standards under this subsection not later than September 30, 2005.

(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.

SEC. 714. STATEWIDE PREPAREDNESS STRATEGIES.

As a condition for receipt of a covered grant under subtitle B after September 30, 2005, the Secretary shall require that a State develop a statewide comprehensive all-hazards preparedness strategy that—

(1) is consistent with the national preparedness goal and, as necessary, the State response plan;

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

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

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

(5) describes how the State intends—

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

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

(C) to give particular emphasis to regional planning and cooperation, including the activities of multi-jurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States; and

(6) is developed in consultation with and subject to appropriate comment by local, regional, and tribal governments within the State.

Subtitle B—Grant Programs

SEC. 731. COVERED GRANTS.

Under this subtitle, a covered grant is 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.

SEC. 732. AWARD OF COVERED GRANTS.

(a) **GRANT ELIGIBILITY.**—Beginning in fiscal year 2006, any State shall be eligible to apply for a covered grant.

(b) **GRANT CRITERIA.**—In awarding covered grants, the Secretary shall carry out the national preparedness goal and assist State, tribal, and local governments in achieving essential capabilities for first responders in accordance with the guidance developed under section 712.

(c) **APPLICATION FOR GRANT.**—

(1) **IN GENERAL.**—A State 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) **MINIMUM CONTENTS OF APPLICATION.**—The Secretary shall require that each State include in its application, at a minimum—

(A) a statewide preparedness strategy that has been approved by the Secretary;

(B) a description of the purpose for which the State seeks covered grant funds and the reasons why the State needs the covered grant to meet the essential capabilities for preparedness within the State;

(C) a description of how, by reference to the State's statewide preparedness strategy, the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 733(e)(1),

would assist in fulfilling the essential capabilities specified in such strategy;

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

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

(F) a statement of how the State intends to meet the matching requirement, if any, that applies under section 733(e)(2).

(3) *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-wide preparedness strategy.

(4) *EQUIPMENT STANDARDS.*—If a State proposes to upgrade or purchase, with assistance provided under a covered grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standard established by the Secretary under section 713(a), the State shall include in the application an explanation of why such equipment or systems will serve the needs of the State better than equipment or systems that meet or exceed such standards.

(d) *DEADLINE FOR AWARD.*—The Secretary shall make final determinations concerning the amount to be awarded to each State in covered grants for a fiscal year and award the grants as soon as practicable, but not later than June 30 of the fiscal year.

(e) *ALLOCATION.*—

(1) *MINIMUM AMOUNTS.*—Of the total amount made available for covered grants for a fiscal year, the Secretary shall award—

(A) to each State (other than a State referred to in subparagraph (B)) not less than 0.55 percent; and

(B) to each of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands not less than 0.18 percent.

(2) *ALLOCATION OF REMAINING AMOUNTS.*—In allocating amounts that remain available for covered grants for a fiscal year after setting aside amounts required under paragraph (1), the Secretary shall prioritize applications based on the degree to which a grant to a State will—

(A) lessen the risk, threat, vulnerability, and consequences of a major disaster or emergency, including those caused by terrorist attacks, to persons and critical infrastructure; and

(B) enhance or achieve the essential capabilities of first responders in the State in accordance with the guidance developed under section 712.

(3) *BASIS OF ALLOCATIONS.*—

(A) *PUBLICATION.*—The Secretary shall publish annually the basis on which funds are awarded under paragraph (2).

(B) *LIMITATION ON STATUTORY CONSTRUCTION.*—Nothing in this paragraph shall be construed as requiring the Secretary to disclose any classified information or other sensitive information.

SEC. 733. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

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

(1) *purchasing commercially available equipment that complies with, where applicable, national voluntary consensus standards, and that facilitates interoperability, coordination, and integration between emergency communications systems, including—*

(A) *mobile vehicles that contain equipment such as commercial telephone trunk lines, VHF and UHF radios, patch panels, and crosspatches, among other technologies and equipment; and*

(B) *communications system overlay software and hardware that allow multiple disparate communications networks to act as one network;*

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

(3) *conducting exercises to strengthen preparedness and response;*

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

(5) *developing or updating response plans;*

(6) *establishing or enhancing mechanisms for sharing terrorism threat information;*

(7) *developing 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 preparedness and response purposes;*

(8) *paying the 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;*

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

(10) *constructing or enhancing facilities to serve as emergency operations centers;*

(11) *developing educational curricula for first responders to ensure that they are prepared for all hazards;*

(12) *implementing 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;*

(13) *paying of administrative expenses directly related to administration of the grant, but not to exceed 3 percent of the amount of the grant; and*

(14) *other appropriate activities as determined by the Secretary.*

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

- (1) to supplant State, tribal, or local funds;
- (2) to construct buildings or other physical facilities, except as provided in subsection (a)(10);
- (3) to acquire land; or
- (4) for any State, tribal, 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 under covered grant be made available for responding to emergencies in surrounding States, reservations and tribal lands 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 GRANT FUNDS.*—Upon request of a State, the Secretary may authorize the State to transfer all or part of funds provided under a 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 furtherance of the statewide preparedness strategy.

(e) *STATE RESPONSIBILITIES.*—

(1) *PASS-THROUGH.*—The Secretary shall require a State to obligate or otherwise make available to tribal and local governments, first responders, and other local groups, to the extent required under the statewide preparedness strategy specified in the application for the grant, not less than 80 percent of the grant funds or 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, as soon as practicable but not later than 60 days after the date of receipt of the grant funds by the State. A State shall provide funds, or resources purchased with funds, made available under section 732 directly to an Indian tribe.

(2) *CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.*—Any State that receives a covered grant shall certify to the Secretary that the State has made available for expenditure by tribal and local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

(3) *REPORT ON PREPAREDNESS SPENDING.*—Each State shall submit a report to the Secretary not later than 60 days after the end of each fiscal year. Each report shall 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 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 State's statewide preparedness strategy 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 State's statewide preparedness strategy remain unmet.*

(4) *INCLUSION OF RESTRICTED ANNEXES.—A State may submit to the Secretary an annex to the report under paragraph (3) that is subject to appropriate handling restrictions, if the State believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.*

(5) *PROVISION OF REPORTS.—The Secretary shall ensure that each report under paragraph (3) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.*

(f) *COST SHARING.—*

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

(2) *INTERIM RULE.—*

(A) *IN GENERAL.—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.*

(B) *LIMITATION.—This paragraph shall not apply to funds used for construction or enhancement of facilities for emergency operations centers.*

(3) *IN-KIND MATCHING.—Each State 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 any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.*

SEC. 734. RESTRICTIONS ON EXISTING PROGRAMS.

Determinations on the allocation, award, and use of grants made under the following programs shall be made in accordance with their authorizing statutes and without priority given to terrorism preparedness activities:

(1) *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).*

(2) *The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of this Act.*

(3) *The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).*

SEC. 735. AUTHORIZATION OF APPROPRIATIONS.

For making covered grants under this subtitle, there is authorized to be appropriated to the Secretary of Homeland Security \$3,400,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2009.

Subtitle C—Reporting and Other Requirements

SEC. 751. REQUIRED COORDINATION.

The Secretary shall ensure that there is effective and ongoing coordination of Federal preparedness and response efforts for major disasters and emergencies, including those caused by terrorist attacks, among the divisions of the Department, including the Emergency Preparedness and Response Directorate and the Office of State and Local Government Preparedness and Coordination.

SEC. 752. ANNUAL REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than September 30, 2005, and annually thereafter, the Secretary shall transmit to Congress an annual report on the Nation's level of preparedness, including State capabilities, the readiness of Federal civil response assets, and the utilization of mutual-aid agreements.

(b) CONTENTS.—Each report shall include—

(1) an assessment of how the Federal first responder preparedness assistance programs support the national preparedness goal;

(2) an estimate of the amount of Federal, State, tribal, and local expenditures required to attain the essential capabilities established under section 712(a);

(3) a detailed description of the amount of Federal funds provided as covered grants that were directed to each State in the preceding fiscal year;

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

(5) a description on a nationwide and State-by-State basis—

(A) the extent to which essential capabilities identified in applicable statewide preparedness strategy were created or enhanced as the result of the expenditure of covered grant funds during the preceding fiscal year; and

(B) the extent to which essential capabilities identified in applicable statewide preparedness strategy remain unmet.

(6) USE OF QUANTIFIABLE PERFORMANCE MEASUREMENT.—Each report shall be based on quantifiable performance measurements.

TITLE [VII] VIII—MISCELLANEOUS

AUTHORITY TO PRESCRIBE RULES AND ACCEPT GIFTS

SEC. [701] 801. (a) * * *

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TECHNICAL AMENDMENTS

SEC. [702] 802. (a) * * *

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REPEAL OF EXISTING LAW

SEC. [703] 803. The Disaster Relief Act of 1970, as amended (84 Stat. 1744), is hereby repealed, except sections 231, 233, 234, 235,

236, 237, 301, 302, 303, and 304. Notwithstanding such repeal the provisions of the Disaster Relief Act of 1970 shall continue in effect with respect to any major disaster declared prior to the enactment of this Act.

PRIOR ALLOCATION OF FUNDS

SEC. [704] 804. Funds heretofore appropriated and available under Public Laws 91-606, as amended, and 92-385 shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act.

SEC. [705] 805. DISASTER GRANT CLOSEOUT PROCEDURES.

(a) * * *

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HOMELAND SECURITY ACT OF 2002

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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.

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TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

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

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203. *Homeland Security Advisory System.*

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SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) * * *

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

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TITLE I—DEPARTMENT OF HOMELAND SECURITY

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SEC. 102. SECRETARY; FUNCTIONS.

(a) * * *

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(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 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.*

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TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

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

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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.

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