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FIRE GRANTS REAUTHORIZATION ACT OF 2009

NOVEMBER 7, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GORDON of Tennessee, from the Committee on Science and Technology, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3791]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science and Technology, to whom was referred the bill (H.R. 3791) to amend sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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I. AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fire Grants Reauthorization Act of 2009".

SEC. 2. ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM REAUTHORIZATION.

(a) IN GENERAL.—Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended to read as follows:

"SEC. 33. FIREFIGHTER ASSISTANCE.

"(a) ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—In accordance with this section, the Director may—

"(A) make grants on a competitive basis directly to fire departments of a State, in consultation with the chief executive of the State, for the purpose of protecting the health and safety of the public and firefighting personnel throughout the Nation against fire and fire-related hazards;

"(B) make grants on a competitive basis directly to State fire training academies, in consultation with the chief executive of the State, in accordance with paragraph (11)(C);

"(C) provide assistance for fire prevention and firefighter safety research and development programs and fire prevention or fire safety programs and activities in accordance with paragraph (4); and

"(D) provide assistance for volunteer, non-fire service EMS and rescue organizations for the purpose of paragraph (3)(F).

"(2) ADMINISTRATIVE ASSISTANCE.—The Director shall establish specific criteria for the selection of recipients of assistance under this section and shall provide grant-writing assistance to applicants.

"(3) USE OF FIRE DEPARTMENT GRANT FUNDS.—The Director may make a grant under paragraph (1)(A) only if the applicant for the grant agrees to use the grant funds for one or more of the following purposes:

"(A) To hire additional firefighting personnel.

"(B) To train firefighting personnel in firefighting, emergency medical services and other emergency response (including response to a terrorism incident or use of a weapon of mass destruction), arson prevention and detection, maritime firefighting, or the handling of hazardous materials or to train firefighting personnel to provide any of the training described in this subparagraph.

"(C) To fund the creation of rapid intervention teams to protect firefighting personnel at the scenes of fires and other emergencies.

"(D) To certify fire and building inspectors employed by a fire department or serving as a volunteer building inspector with a fire department.

"(E) To establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel can carry out their duties, including programs dedicated to raising awareness of, and prevention of, job-related mental health issues.

"(F) To fund emergency medical services provided by fire departments and volunteer, non-fire service EMS and rescue organizations.

"(G) To acquire additional firefighting vehicles, including fire trucks.

"(H) To acquire additional firefighting equipment, including equipment for communications, monitoring, and response to a terrorism incident or use of a weapon of mass destruction.

"(I) To acquire personal protective equipment required for firefighting personnel by the Occupational Safety and Health Administration and other personal protective equipment for firefighting personnel, including protective equipment to respond to a terrorism incident or the use of a weapon of mass destruction.

"(J) To modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel.

"(K) To enforce fire codes and standards.

"(L) To fund fire prevention programs.

"(M) To educate the public about arson prevention and detection.

"(N) To provide incentives for the recruitment and retention of volunteer firefighting personnel for volunteer firefighting departments and other firefighting departments that utilize volunteers.

"(4) FIRE PREVENTION AND FIREFIGHTER SAFETY RESEARCH AND DEVELOPMENT PROGRAMS.—

"(A) IN GENERAL.—For each fiscal year, the Director shall use not less than 10 percent of the funds made available under subsection (e)—

"(i) to make grants to fire departments for the purpose described in paragraph (3)(L);

"(ii) to make grants to, or enter into contracts or cooperative agreements with, national, State, local, or community organizations that are not fire departments but—

"(I) that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and that partner with fire departments, for the purpose of carrying out such programs and activities;

"(II) engage in fire- and life safety-related activities as a primary purpose or function, for the purpose of carrying out fire prevention or fire safety programs and activities; or

"(III) that are recognized for their experience and expertise with respect to firefighter research and development programs, for the purpose of carrying out research on fire prevention or fire safety programs and activities or to improve firefighter health and life safety; and

"(iii) if the Director determines that it is necessary, to make grants or enter into contracts in accordance with subsection (c).

"(B) PRIORITY.—In selecting organizations described in subparagraph (A)(ii) to receive assistance under this paragraph, the Director shall give priority to organizations that focus on prevention of injuries to high risk groups from fire, as well as research programs that demonstrate the potential to improve firefighter safety.

"(C) GRANT LIMITATION.—A grant under this paragraph shall not exceed $1,500,000 for a fiscal year.

"(D) LIMITATION.—None of the funds made available under this paragraph may be provided to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, or allied organizations.

"(5) APPLICATION.—The Director may provide assistance to a fire department or organization (including a State fire training academy) under this subsection only if the fire department or organization seeking the assistance submits to the Director an application that meets the following requirements:

"(A) FORM.—The application shall be in such form as the Director may require.

"(B) INFORMATION.—The application shall include the following information:

"(i) Information that demonstrates the financial need of the applicant for the assistance for which applied.

"(ii) An analysis of the costs and benefits, with respect to public safety, of the use of the assistance.

"(iii) An agreement to provide information to the national fire incident reporting system for the period covered by the assistance.

"(iv) A list of other sources of Federal funding received by the applicant.

"(v) Any other information that the Director may require.

"(C) UNNECESSARY DUPLICATION.—The Director, in coordination with the Secretary of Homeland Security, shall use the list provided under subparagraph (B)(iv) to prevent the unnecessary duplication of grant funds.

"(6) MATCHING REQUIREMENT.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and paragraph (8), the Director may provide assistance under this subsection only if the applicant for such assistance agrees to match 10 percent of such assistance for any fiscal year with an equal amount of non-Federal funds.

"(B) REQUIREMENT FOR SMALL COMMUNITY ORGANIZATIONS.—In the case of an applicant whose personnel serve jurisdictions of 20,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 5 percent.

"(C) FIRE PREVENTION AND FIREFIGHTER SAFETY GRANTS EXCEPTION.—There shall be no matching requirement for a grant described in paragraph (4).

"(7) MAINTENANCE OF EXPENDITURES.—Subject to paragraph (8), the Director may provide assistance under this subsection only if the applicant for the assistance agrees to maintain in the fiscal year for which the assistance will be received the applicant's aggregate expenditures for the uses described in paragraph (3) or (4) at or above 80 percent of the average level of such expenditures in the 2 fiscal years preceding the fiscal year for which the assistance will be received.

"(8) ECONOMIC HARDSHIP WAIVER.—

"(A) IN GENERAL.—In exceptional circumstances, the Director may waive or reduce the matching requirement under paragraph (6) and the maintenance of expenditures requirement under paragraph (7) for applicants facing demonstrated economic hardship.

"(B) CRITERIA DEVELOPMENT.—The criteria under which the Director may waive or reduce such requirements shall be developed in consultation with individuals who are—

"(i) recognized for expertise in firefighting, emergency medical services provided by fire services, or the economic affairs of State and local governments; and

"(ii) members of national fire service organizations or national organizations representing the interests of State and local governments.

"(C) PUBLIC AVAILABILITY.—The Director shall make the criteria developed under subparagraph (B) publicly available.

"(9) VARIETY OF FIRE DEPARTMENT GRANT RECIPIENTS.—

"(A) IN GENERAL.—Of the amounts made available under subsection (e), the Director shall ensure that grants under paragraph (1)(A) for a fiscal year are allocated, to the extent that there are eligible applicants to carry out the activities under paragraph (3), as follows:

"(i) 25 percent shall be made available to career fire departments.

"(ii) 25 percent shall be made available to volunteer fire departments.

"(iii) 25 percent shall be made available to combination fire departments.

"(B) EVALUATION CRITERIA.—

"(i) IN GENERAL.—In awarding grants under paragraph (1)(A), the Director shall, within each category of applicants under subparagraph (A), consider a broad range of factors important to the applicant's ability to respond to fires and related hazards, such as population served, geographic response area, hazard vulnerability, call volume, financial situation, and need for training or equipment.

"(ii) HIGH POPULATION AND INCIDENT RESPONSE.—In considering such factors under clause (i), applicants serving areas with high population and with a high number of incidents requiring a response shall receive a higher level of consideration.

"(C) REMAINDER.—Of the amounts made available under subsection (e) that are not allocated for use and awarded under subparagraph (A) or designated for use under any other provision of this section, the Director shall provide for an open competition for grants among career fire departments, volunteer fire departments, and combination fire departments to carry out the activities under paragraph (3).

"(10) REPORT TO THE DIRECTOR.—The Director may provide assistance under this subsection only if the applicant for the assistance agrees to submit to the Director a report, including a description of how the assistance was used, with respect to each fiscal year for which the assistance was received.

"(11) GRANT LIMITATIONS.—

"(A) RECIPIENT LIMITATIONS.—A grant recipient under paragraph (1)(A)—

"(i) that serves a jurisdiction with 100,000 people or less may not receive grants in excess of $1,000,000 for any fiscal year;

"(ii) that serves a jurisdiction with more than 100,000 people but less than 500,000 people may not receive grants in excess of $2,000,000 for any fiscal year;

"(iii) that serves a jurisdiction with 500,000 people or more but less than 1,000,000 people may not receive grants in excess of $3,000,000 for any fiscal year;

"(iv) that serves a jurisdiction with 1,000,000 people or more but less than 2,500,000 people may not receive grants in excess of $6,000,000 for any fiscal year; and

"(v) that serves a jurisdiction with 2,500,000 people or more may not receive grants in excess of $9,000,000 for any fiscal year.

The Director may award grants in excess of the limitations provided in clauses (i), (ii), (iii), and (iv) if the Director determines that extraordinary need for assistance by a jurisdiction warrants a waiver.

"(B) LIMITATION ON EXPENDITURES FOR FIREFIGHTING VEHICLES.—Not more than 25 percent of the funds appropriated to provide grants under this section for a fiscal year may be used to assist grant recipients to purchase vehicles, as authorized by paragraph (3)(G).

"(C) STATE FIRE TRAINING ACADEMIES.—

"(i) IN GENERAL.—In accordance with clause (ii), the Director shall award not more than 3 percent of the amounts made available under subsection (e) for a fiscal year for grants under this subsection for State fire training academies.

"(ii) LIMITATION.—The Director shall—

"(I) award not more than 1 grant under this subparagraph per State in a fiscal year;

"(II) limit the amount of a grant to a State fire training academy to less than or equal to$1,000,000 in each fiscal year; and

"(III) ensure that any grant awarded to a State fire training academy shall be used for the purposes described in paragraphs 3(G), 3(H), or 3(I).

"(D) REQUIREMENTS FOR GRANTS FOR EMERGENCY MEDICAL SERVICES.—The Director shall award not more than 2 percent of the amounts made available under subsection (e) for a fiscal year to volunteer, non-fire service EMS and rescue organizations for the purposes described in paragraph (3)(F).

"(E) APPLICATION OF SELECTION CRITERIA TO GRANT APPLICATIONS FROM VOLUNTEER, NON-FIRE SERVICE EMS AND RESCUE ORGANIZATIONS.—In reviewing applications submitted by volunteer, non-fire service EMS and rescue organizations, the Director shall consider the extent to which other sources of Federal funding are available to provide the assistance requested in such grant applications.

"(F) CONSENSUS STANDARDS.—

"(i) IN GENERAL.—Any grant amounts used to obtain training under this section shall be limited to training that complies with applicable national voluntary consensus standards (if applicable national voluntary consensus standards have been established), unless a waiver has been granted under clause (ii).

"(ii) WAIVER.—

"(I) EXPLANATION FOR NON-STANDARD TRAINING.—If an applicant for a grant seeks to use the assistance provided under the grant to obtain training that does not meet or exceed applicable voluntary consensus standards, the applicant shall include in the application an explanation of why such training will serve the needs of the applicant better than training that does meet or exceed such standards.

"(II) PROCEDURES.—In making a determination whether or not to waive the requirement under clause (i) with respect to a specific standard, the Director shall, to the greatest extent practicable—

"(aa) consult with other members of the fire services regarding the impact on fire departments of the requirement to meet or exceed the specific standard;

"(bb) take into consideration the explanation provided by the applicant under subclause (I); and

"(cc) seek to minimize the impact of the requirement to meet or exceed the specific standard on the applicant, particularly if meeting the standard would impose additional costs.

"(III) ADDITIONAL REQUESTS.—Applicants that apply for a grant under the terms of subclause (I) may include a second grant request in the application to be considered by the Director in the event that the Director does not approve the primary grant request on the grounds of the training not meeting applicable voluntary consensus standards.

"(12) ELIGIBLE GRANTEE ON BEHALF OF ALASKA NATIVE VILLAGES.—The Alaska Village Initiatives, a non-profit organization incorporated in the State of Alaska, shall be considered an eligible grantee for purposes of receiving assistance under this section on behalf of Alaska Native villages.

"(13) ANNUAL MEETING.—The Director shall convene an annual meeting of individuals who are members of national fire service organizations and are recognized for expertise in firefighting or emergency medical services provided by fire services, and who are not employees of the Federal Government, for the purpose of recommending criteria for awarding grants under this section for the next fiscal year and any necessary administrative changes to the grant program.

"(14) GUIDELINES.—

"(A) IN GENERAL.—Each year, prior to making any grants under this section, the Director shall publish in the Federal Register—

"(i) guidelines that describe the process for applying for grants and the criteria for awarding grants;

"(ii) an explanation of any differences between the guidelines and the recommendations made pursuant to paragraph (13); and

"(iii) the criteria developed under paragraph (8) which the Director will use to evaluate applicants for waivers from program requirements.

"(B) SPECIFIC REQUIREMENT.—The criteria for awarding grants under paragraph (1)(A) shall include the extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property.

"(15) PEER REVIEW.—The Director, after consultation with national fire service organizations, shall appoint fire service personnel to conduct peer review of applications received under paragraph (5). In making grants under this section, the Director shall consider the results of such peer review evaluations.

"(16) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities under paragraphs (13) and (15).

"(17) ACCOUNTING DETERMINATION.—Notwithstanding any other provision of law, rule, regulation, or guidance, for purposes of receiving assistance under this section, equipment costs shall include all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.

"(b) AUDITS.—A recipient of a grant under this section shall be subject to audits to ensure that the grant proceeds are expended for the intended purposes and that the grant recipient complies with the requirements of paragraphs (6) and (7) of subsection (a) unless the Director has granted a waiver under subsection (a)(8).

"(c) FIRE SAFETY RESEARCH CENTERS.—

"(1) IN GENERAL.—The Director may make a grant under subsection (a)(4)(A)(iii) to an institution of higher education, a national fire service organization, or a national fire safety organization to establish and operate a fire safety research center.

"(2) OBJECTIVES.—A grant received under this subsection shall be used by such an institution or organization to advance significantly the Nation's ability to reduce the number of fire-related deaths and injuries among firefighters and the general public through research, development, and technology transfer activities.

"(3) LIMITATION.—The Director may establish no more than 3 fire safety research centers. An institution of higher education, a national fire service organization, or a national fire safety organization may not directly receive a grant under this section for a fiscal year for more than 1 fire safety research center.

"(4) APPLICATION.—In order to be eligible to receive a fire safety research center grant, an institution of higher education, a national fire service organization, or a national fire safety organization shall submit to the Director an application that is in such form and contains such information and assurances as the Director may require.

"(5) GENERAL SELECTION CRITERIA.—The Director shall select each recipient of a grant under this subsection through a competitive process on the basis of the following:

"(A) The demonstrated research and extension resources available to the recipient to carry out the research, development, and technology transfer activities.

"(B) The capability of the recipient to provide leadership in making national contributions to fire safety.

"(C) The recipient's ability to disseminate the results of fire safety research.

"(D) The strategic plan the recipient proposes to carry out under the grant.

"(6) CONSIDERATION.—The Director shall give special consideration under paragraph (5) to an applicant for a grant that consists of a partnership between

a national fire service organization or a national fire safety organization and at least 1 of the following:

"(A) An institution of higher education.

"(B) A minority-serving institution (defined as an eligible institution under section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a))).

"(7) RESEARCH NEEDS.—Within 90 days after the date of enactment of the Fire Grants Reauthorization Act of 2009, the Director shall convene a workshop of the fire safety research community, fire service organizations, and other appropriate stakeholders to identify and prioritize fire safety research needs. The results of the workshop shall be made public, and the Director shall consider such results in making awards under this section.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) CAREER FIRE DEPARTMENT.—The term 'career fire department' means a firefighting department that has an all professional force of firefighting personnel.

"(2) COMBINATION FIRE DEPARTMENT.—The term 'combination fire department' means a firefighting department that has a combined force of professional and volunteer firefighting personnel.

"(3) DIRECTOR.—The term 'Director' means the Director, acting through the Administrator.

"(4) FIREFIGHTING PERSONNEL.—The term 'firefighting personnel' means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

"(5) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

"(6) VOLUNTEER, NON-FIRE SERVICE EMS AND RESCUE ORGANIZATION.—The term 'volunteer, non-fire service EMS and rescue organization' means a public or private nonprofit emergency medical services organization that—

"(A) is not affiliated with a hospital;

"(B) does not serve a geographic area in which the Director finds that emergency medical services are adequately provided by a fire department; and

"(C) is staffed primarily by volunteers.

"(7) VOLUNTEER FIRE DEPARTMENT.—The term 'volunteer fire department' means a firefighting department that has an all volunteer force of firefighting personnel.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated for the purposes of this section $1,000,000,000 for each of the fiscal years 2010 through 2014.

"(2) ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—Of the funds appropriated pursuant to paragraph (1) for a fiscal year, the Director may use not more than 3 percent of the funds to cover salaries and expenses and other administrative costs incurred by the Director to make grants and provide assistance under this section.

"(B) FORMULA.—The Director shall subtract the amount to be used for subparagraph (A) from the amount appropriated pursuant to paragraph (1) before making any allocations or apportioning any funds under subsections (a) or (c).".

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) from fiscal years 2003 through 2008—

(A) the funding appropriated for activities under section 33 of the Federal Fire Prevention and Control Act of 1974 declined by approximately 30 percent; and

(B) the number of fire departments receiving awards declined by nearly 40 percent, while the number of applicants increased, resulting in a reduction in applicant success rates from over 43 percent to just 25 percent;

(2) the House-passed conference report for the Department of Homeland Security Appropriations Act, 2010 appropriates $390 million for activities under such section 33, a decrease of over 30 percent below that provided in fiscal year 2009;

(3) declining funding reduces the Director's ability to successfully carry out the primary purpose of such section, which is to protect the health and safety of the public and firefighting personnel throughout the Nation against fire and fire-related hazards; and

(4) halting and reversing the decline in appropriations to ensure a high level of funding for the activities under such section 33 should be a top priority.

SEC. 3. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM REAUTHORIZATION.

Section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a) is amended to read as follows:

"SEC. 34. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM.

"(a) EXPANDED AUTHORITY TO MAKE GRANTS.—

"(1) HIRING GRANTS.—

"(A) IN GENERAL.—The Director shall make grants directly to career, volunteer, and combination fire departments, in consultation with the chief executive of the State in which the applicant is located, for the purpose of increasing the number of firefighters to help communities meet industry minimum standards and attain 24-hour staffing to provide adequate protection from fire and fire-related hazards and to fulfill traditional missions of fire departments that antedate the creation of the Department of Homeland Security.

"(B) REQUIREMENTS.—

"(i) DURATION AND USE.—Grants made under this paragraph shall be for 3 years and shall be used for programs to hire new, additional firefighters.

"(ii) RETENTION.—Grant recipients are required to commit to retaining for at least the entire 3 years of the grant period those firefighters hired under this paragraph.

"(iii) MAXIMUM.—The portion of the cost of hiring firefighters provided by a grant under this paragraph may not exceed 80 percent of such cost for each fiscal year.

"(C) PREFERENCE.—In awarding grants under this subsection, the Director may give preferential consideration to applications that involve a non-Federal contribution exceeding the minimums under subparagraph (B)(iii).

"(D) TECHNICAL ASSISTANCE.—The Director may provide technical assistance to States, units of local government, Indian tribal governments, and other public entities in furtherance of the purposes of this section.

"(E) VOLUNTEER ACTIVITIES ALLOWED.—Notwithstanding any other provision of law, any firefighter hired with funds provided under this subsection shall not be discriminated against for, or be prohibited from, engaging in volunteer activities in another jurisdiction during off-duty hours.

"(F) COMPETITIVE BASIS.—The Director shall award all grants under this section on a competitive basis through a neutral peer review process.

"(G) SET ASIDE.—

"(i) IN GENERAL.—At the beginning of the fiscal year, the Director shall set aside 10 percent of the funds made available for carrying out this paragraph for departments with majority volunteer or all volunteer personnel.

"(ii) TRANSFER.—After awards have been made, if less than 10 percent of the funds made available for carrying out this paragraph are not awarded to departments with majority volunteer or all volunteer personnel, the Director shall transfer from funds made available for carrying out this paragraph to funds made available for carrying out paragraph (2) an amount equal to the difference between the amount that is provided to such fire departments and 10 percent.

"(2) RECRUITMENT AND RETENTION GRANTS.—

"(A) IN GENERAL.—In addition to any amounts transferred under paragraph (1)(G)(ii), the Director shall direct at least 10 percent of the total amount of funds made available under this section annually to a competitive grant program for the recruitment and retention of volunteer firefighters who are involved with or trained in the operations of firefighting and emergency response.

"(B) ELIGIBILITY.—Eligible entities shall include volunteer or combination fire departments and organizations on a local, statewide, or national basis that represent the interests of volunteer firefighters.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—No grant may be made under this section unless an application has been submitted to, and approved by, the Director.

"(2) CONTENTS.—An application for a grant under this section shall be submitted in such form and contain such information and assurances as the Director may prescribe.

"(3) REQUIREMENTS.—At a minimum, each application for a grant under this section shall—

"(A) explain the applicant's inability to address the need without Federal assistance;

"(B) in the case of a grant under subsection (a)(1), explain how the applicant plans to meet the requirements of subparagraphs (B)(ii) and (E) of such subsection;

"(C) specify long-term plans for retaining firefighters following the conclusion of Federal support provided under this section; and

"(D) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within firefighting.

"(c) LIMITATION ON USE OF FUNDS.—

"(1) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section to fire departments for salaries and benefits to hire new, additional firefighters shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this section, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

"(2) REPLACEMENT FUNDING PROHIBITED.—No grant shall be awarded pursuant to this section to a municipality or other recipient whose annual budget at the time of the application for fire-related programs and emergency response has been reduced below 80 percent of the average funding level in the 3 years prior to the date of application.

"(3) INDIAN COST-SHARE.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing firefighting functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this section.

"(d) WAIVER.—In exceptional circumstances, the Director may waive the requirements of subsections (a)(1)(B)(ii), (a)(1)(B)(iii), (c)(1), and (c)(2) if the Director determines that the jurisdiction is facing demonstrated economic hardship in accordance with section 33(a)(8).

"(e) PERFORMANCE EVALUATION.—The Director may require a grant recipient to submit any information the Director considers reasonably necessary to evaluate the program.

"(f) SUNSET; REPORTS.—

"(1) SUNSET.—The authority under this section to make grants shall lapse at the end of the 10-year period that begins on the date of enactment of the Fire Grants Reauthorization Act of 2009.

"(2) REPORT.—Not later than 6 years after such date of enactment, the Director shall submit to Congress a report concerning the experience with, and effectiveness of, such grants in meeting the objectives of this section. The report may include any recommendations the Director may have for amendments to this section and related provisions of law.

"(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Director determines that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application submitted under this section, the Director may revoke or suspend funding of that grant, in whole or in part.

"(h) ACCESS TO DOCUMENTS.—

"(1) IN GENERAL.—The Director shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this section and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this section.

"(2) APPLICATION.—Paragraph (1) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

"(i) DEFINITIONS.—In this section, the term—

"(1) 'Director' means the Director, acting through the Administrator;

"(2) 'firefighter' has the meaning given the term 'employee in fire protection activities' under section 3(y) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(y)); and

"(3) 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section $1,194,000,000 for each of the fiscal years 2010 through 2014.".

SEC. 4. STUDY AND REPORT.

(a) STUDY AND REPORT ON ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM.—

(1) STUDY.—The Administrator of the United States Fire Administration, in conjunction with the National Fire Protection Association, shall conduct a study to—

(A) define the current roles and activities associated with the fire services on a national, State, regional, and local level;

(B) identify the equipment, staffing, and training required to fulfill the roles and activities defined under subparagraph (A);

(C) conduct an assessment to identify gaps between what fire departments currently possess and what they require to meet the equipment, staffing, and training needs identified under subparagraph (B) on a national and State-by-State basis; and

(D) measure the impact of the grant program under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) in—

(i) meeting the needs of the fire services identified in the report submitted to Congress under section 3603(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; and

(ii) filling the gaps identified under subparagraph (C).

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on the findings of the study described in paragraph (1).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the United States Fire Administration a total of $300,000 for fiscal years 2010 and 2011 to carry out subsection (a).

II. PURPOSE OF THE BILL

The purpose of H.R. 3791, the Fire Grants Reauthorization Act of 2009, is to reauthorize the Assistance to Firefighters Grant (AFG) Program and the Staffing for Adequate Fire and Emergency Response (SAFER) Grant Program.

III. BACKGROUND AND NEED FOR THE LEGISLATION

ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM

Since the AFG program began in FY2001, over $4.8 billion in Federal funding has been competitively awarded to local fire departments to purchase firefighting and emergency response training and equipment. In FY2008, the Federal Emergency Management Agency (FEMA) received over 20,000 applications from fire departments for AFG funds, requesting over $3 billion. The program was created to assist local fire departments in meeting the challenge of expanding emergency response capabilities. Many local fire departments do not have adequate training and equipment. For instance, the National Fire Protection Association estimates that 65 percent of fire departments in the U.S. do not have enough portable radios to equip all firefighters on shift, and that 36 percent of fire departments involved in emergency medical response do not have enough adequately trained personnel to perform those duties [1]. The support for training, equipment, and apparatus provided by the AFG Program is especially needed to protect public safety as municipalities face severe budget constraints.

[1] The National Fire Protection Association, Four Years Later: A Second Needs Assessment of the U.S. Fire Service, October 2006.

STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE

Over the past five fiscal years, the Staffing for Adequate Fire and Emergency Response (SAFER) Program has competitively awarded nearly $700 million to local fire departments for the hiring, recruitment, and retention of firefighters. In FY2008, FEMA received over one thousand SAFER applications, with requests totaling over $500 million. This funding has helped fire departments hire firefighters to bring their organizations in line with national voluntary consensus standards for safe staffing levels. This support is particularly crucial, as a tough economy is forcing many localities to lay off personnel.

IV. Summary of Hearings

The Subcommittee on Technology and Innovation, Committee on Science and Technology held a hearing on the FIRE Grant programs during the 111th Congress on Wednesday, July 8, 2009. The hearing, entitled Reauthorization of the FIRE Grants Programs, discussed the priorities for AFG and SAFER in preparation for their reauthorization. The following witnesses provided testimony:

- The Honorable Bill Pascrell, Jr., Member, U.S. House of Representatives;
- The Honorable Timothy Manning, Deputy Administrator, National Preparedness Directorate, FEMA, Department of Homeland Security (DHS);
- Chief Jeffrey Johnson, First Vice President, International Association of Fire Chiefs (IAFC) and Chief, Tualatin Valley Fire and Rescue in Aloha, Oregon;
- Chief Jack Carriger, Stayton, Oregon Fire District Fire Vice Chairman, National Volunteer Fire Council (NVFC);
- Mr. Kevin O'Connor, Assistant to the General President, International Association of Fire Fighters (IAFF);
- Chief Curt Varone, Division Manager, Public Fire Protection Division, National Fire Protection Association (NFPA); and
- Mr. Ed Carlin, Training Officer, Spalding Rural Volunteer Fire Department, Spalding, Nebraska.

Technology and Innovation Subcommittee Vice-Chairman Luján opened the hearing by discussing the importance of the AFG and SAFER programs in helping communities staff and equip their fire departments, particularly as the emergency response mission of fire departments grows. He noted that the grants were essential as many communities faced the problem of providing services with shrinking budgets. Vice-Chairman Luján also stated that he hoped the hearing would provide insights on reducing the Nation's losses from fire and on changes to AFG and SAFER to enable the programs to benefit all fire departments.

The witnesses testified to the importance of Fire Grants in helping fire departments develop and maintain their response capabilities. They also expressed their concerns that current economic conditions made it difficult for local fire departments to safely and effectively carry out their missions. The priorities the witnesses gave for AFG and SAFER reflected the current economic concerns, and broader concerns on enabling more departments to take advantage of the funds. The priorities included: raising the maximum allow-

able amount for both AFG and SAFER awards; lowering the matching requirements; balancing the apportionment of AFG funding between all-career fire departments, all-volunteer, and combination career-volunteer; and creating authority for waivers for communities facing economic hardship.

V. Committee Actions

In the 111th Congress, the House Committee on Science and Technology, Subcommittee on Technology and Innovation, held a hearing on July 8, 2009 concerning the AFG and SAFER programs.

On October 13, 2009, Representative Harry Mitchell, for himself and Representatives Pascrell, Hoyer, Gordon, Wu, Andrews, Grayson, Tonko, Rothman, C. Wilson, Lipinski, Carnahan, Costello, Peters, Holden, Shea-Porter, Hirono, Hinchey, Michaud, Higgins, Halvorson, Ross, Foster, Langevin, McIntyre, Delahunt, Lowey, Kagen, B. Thompson, Richardson, Sutton, Cuellar, Kirkpatrick, Clarke, Loretta Sanchez, Luján, T. Ryan, Blackburn, Cleaver, Jackson-Lee, and Doyle, introduced H.R. 3791, the Fire Grants Reauthorization Act of 2009. The bill was referred to the Committee on Science and Technology, which referred the bill to the Subcommittee on Technology and Innovation.

The Subcommittee met to consider H.R. 3791 on October 14, 2009. The Subcommittee considered the following amendments:

1. Mr. Wu offered an amendment in the nature of a substitute. The amendment changed the style of the bill from a "cut and bite" series of amendments to a restatement of sections 33 and 34 of the Fire Prevention and Control Act of 1974. The amendment also added a provision authorizing the Administrator to establish up to 3 University Fire Safety Research Centers from the 10 percent set-aside of funding for the Fire Prevention and Safety Grants. The purpose of the Centers is to perform research, development, and technology transfer activities to significantly reduce fire-related deaths and injuries among firefighters and the general public. Finally, the amendment added a requirement that the U.S. Fire Administration to work with the National Fire Protection Association on a needs assessment for the fire service and report back to Congress on the results of that needs assessment. The amendment was agreed to by voice vote.

2. Mr. Smith (NE) offered an amendment to amend section 2 of the amendment in the nature of a substitute offered by Mr. Wu. The amendment modified the eligibility requirement for the Fire Prevention and Safety Grants, authorized under the amended paragraph (4) of section 33, requiring that entities that are not fire departments, or organizations whose primary purpose is fire safety related activities, or organizations recognized for their firefighter health and safety research, to partner with a fire department. The amendment was agreed to by voice vote.

3. Mr. Smith (NE) offered an amendment to amend section 2 of the amendment in the nature of a substitute offered by Mr. Wu. The amendment expanded the evaluation criteria in the amended subparagraph (9)(B) of section 33 to require the Director to consider a number of factors, such as population served, geographic response area, and financial situation, in developing the grant award criteria. The amendment further clarified that among the factors considered by the Director, applicants serving areas with high pop-

ulations and a high number of incidents shall receive a higher level of consideration. The amendment was agreed to by voice vote.

H.R. 3791, as amended, was agreed to by voice vote.

Mr. Wu moved that the Subcommittee favorably report H.R. 3791, as amended, to the Full Committee with the recommendation that the bill pass. The motion was agreed to by voice vote.

The Full Science and Technology Committee met to consider H.R. 3791 on October 21, 2009. The Full Committee considered the following amendments:

1. Mr. Mitchell offered an amendment in the nature of a substitute that made several modifications to the bill that was reported out of the Subcommittee. The amendment: modified the language in subsection (c) of section 33, on the University Fire Safety Research Centers, to include national fire service and fire safety organizations as eligible applicants for center funding; added a provision giving special consideration for this funding to partnerships between universities and national fire service or fire safety organizations; clarified that only one fire training academy per state will be able to receive funding under the amended section 33 set-aside for fire service training academies each fiscal year; added authority to waive the requirement that any training purchased with Fire Grant funding meet or exceed national voluntary consensus standards for such training; added a definition of "volunteer non-fire EMS"; and made other technical and conforming changes. The amendment was agreed to by voice vote.

2. Ms. Johnson (TX) offered an amendment to Mr. Mitchell's amendment in the nature of a substitute to include programs for raising awareness of preventing job-related mental-health issues in the existing provision authorizing section 33 funds to be used for firefighter wellness and fitness programs. The amendment added minority serving institutions to the special consideration language in Mr. Mitchell's amendment in the nature of a substitute under the fire safety research centers. The amendment was agreed to by voice vote.

3. Mr. Broun offered an amendment to Mr. Mitchell's amendment in the nature of a substitute prohibiting the Director from awarding any Fire Prevention and Safety grants to the Association of Community Organizations for Reform now (ACORN) or any of its affiliates, subsidiaries, or allied organizations. The amendment was agreed to by roll call vote (Y:33, N:5, Present:1).

4. Mr. Smith (NE) offered an amendment to Mr. Mitchell's amendment in the nature of a substitute to express the sense of Congress that funding for Assistance to Firefighter Grants program has declined over the past five years and that funding the program at a high level should be a high priority. The amendment was agreed to by voice vote.

Mr. Tonko (NY) moved that the Committee favorably report H.R. 3791, as amended, to the House with the recommendation that the bill pass. The motion was agreed to by voice vote.

VI. Summary of Major Provisions of the Bill

H.R. 3791 reauthorizes the Assistance to Firefighters Grant (AFG) Program and the Staffing for Adequate Fire and Emergency Response (SAFER) program.

For the AFG Program, H.R. 3791:

- Provides an authorization of $1 billion per fiscal year from FY2010 to FY2014;
- Requires the Director to apportion the total appropriation for AFG, minus 3 percent for administrative costs, in the following manner: 25 percent for career fire departments; 25 percent for combination departments; 25 percent for volunteer fire departments; 10 percent for Fire Prevention and Safety Grants; 2 percent for volunteer, non-fire service EMS and rescue organizations; 3 percent ceiling for state fire training academies; and 10 percent remaining open for competition among all types of fire departments;
- Sets the matching requirements for applicants from jurisdictions of a population of 20,000 or more at 10 percent, and at 5 percent for jurisdictions with populations of less than 20,000;
- Sets the maximum allowable size for AFG grants depending on the population of the area served by the applicants;
- Sets the maintenance of budget requirement at 80 percent or above the applicant's previous two fiscal year budgets;
- Establishes up to three University Fire Safety Research Centers to fund research and development to reduce fire related deaths and injuries among firefighters and the general public; and
- Gives the Director authority to, in exceptional circumstances, issue waivers to departments that are unable to meet the matching requirement or the maintenance of budget requirement.

For the SAFER Program, H.R. 3791 has the following provisions:

- Provides an authorization of $1.194 billion per fiscal year from FY2010 to FY2014;
- Sets the grant period at three years (with the requirement that the department retain the hire for the entire three-year grant period);
- Sets the local matching requirement at 20 percent per year of the grant;
- Eliminates an artificial cap on the maximum allowable grant size per firefighter;
- Includes an economic hardship waiver for departments that are unable to meet the matching requirements or maintenance of budget requirements. It also provides waivers for requirements that departments use the fund to supplement, rather than supplant, local funds, as well as the requirement that the funds be used to hire additional firefighters rather than retain existing personnel.

VII. Section-by-Section Analysis

SECTIONAL ANALYSIS OF THE FIRE GRANTS REAUTHORIZATION ACT OF 2009

Sec. 2

Amendment to Sec. 33 of the Federal Fire Prevention and Control Act of 1974

Assistance Program

(a) AUTHORITY: Allows the Director to make grants on a competitive basis to local fire departments and state fire training academies to protect against fire and fire-related hazards; to provide assistance for fire and fire prevention programs; and to provide assistance to volunteer non-fire service EMS and rescue organizations.

• USES: Allows the Director to make grants available for a variety of purposes related to fire fighting and fire safety, including equipment and training.

• FIRE PREVENTION AND SAFETY: Sets aside 10 percent of the appropriated funds for fire prevention and safety grants. Such grants may go to local fire departments, or other organizations, for fire prevention programs, as well as research on fire safety and firefighter health and safety. For the purposes of carrying out a grant, organizations that are not fire departments must be recognized for their expertise in fire prevention and safety programs and partner with a fire department. Or, they must engage in fire-related activities as a primary function or be recognized for their expertise in firefighter-related research. Such grants may not be above $1,500,000.

• APPLICATION: Fire departments or other organizations seeking grants must submit applications that contain information on the financial need of the applicant, the cost-to-benefit ratio of the intended purchase, an agreement to participate in the national fire data collection system, and a list of other sources of Federal funding received by the applicant.

• MATCHING REQUIREMENT: Fire departments must match any Federal funds received by 10 percent. Fire departments serving jurisdictions with fewer than 20,000 people, the matching requirement is 5 percent. There is no matching requirement for the Fire Prevention and Safety Grants.

• MAINTAINANCE OF EXPENDITURES: Grants may be awarded only if the applicant agrees to maintain its budget for the uses for which they are applying for the grant at, or above, 80 percent of its average for the previous two fiscal years.

• ECONOMIC HARDSHIP WAIVER: The Director may waive the matching requirement and the maintenance of expenditure requirement in cases of exceptional economic hardship. The Director shall develop the criteria for the waivers in consultation with fire service organizations and organizations representing State and local governments. The criteria for the waivers will be made publicly available.

• VARIETY OF FIRE DEPARTMENT GRANT RECIPIENTS: The grants shall be made to fire departments as follows (if enough qualified applicants apply in each category):

  ○ 25 percent to career fire departments;
  ○ 25 percent to combination fire departments;
  ○ 25 percent to volunteer fire departments; and
  ○ Any remainder not otherwise designated under this bill shall be open for competition among all fire types of departments.

The Director shall consider a broad range of factors in awarding the grants, but those applicants serving areas with high population

and with a high number of incidents will receive a higher level of consideration.

• REPORT TO THE DIRECTOR: Applicants must report to the Director how the assistance was used.

• GRANT LIMITATIONS: The maximum allowable grant size a fire department is eligible for will depend on the size of the population that department serves, as follows:

- A population of 100,000 or less may receive up to $1,000,000
- A population of 100,000 to 500,000 may receive up to $2,000,000
- A population of 500,000 to 1,000,000 may receive up to $3,000,000
- A population of 1,000,000 to 2,500,000 may receive up to $6,000,000
- A population of 2,500,000 or more may receive up to $9,000,000.

Not more than 25 percent of the total appropriation may be used to purchase firefighting vehicles.

State fire training academies are eligible for no more than 3 percent of the total appropriation. Grants to State fire training academies shall be no more than $1,000,000.

Not less than 2 percent of the funds appropriated shall go to volunteer, non-fire service EMS and rescue organizations.

• ALASKA NATIVE VILLAGES: Allows Alaska Native Villages to be eligible for grants made under this Act.

• ANNUAL MEETING: Requires the Director to convene an annual meeting of fire service organizations to recommend criteria for awarding grants the following fiscal year.

• GUIDELINES: Requires the Director to make the grant criteria publicly available.

• PEER-REIVEW: Requires that the grants be subjected to a peer-review process.

• APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT: Exempts the annual meeting and the peer-review process from the requirements of the Federal Advisory Committee Act.

• ACCOUNTING DETERMINIATION: Requires that, for the purposes of receiving assistance under this Act, equipment costs encompass all components of the cost, including design and assembly (if not commercially available).

(b) AUDITS: Requires that grant recipients under the Act submit to audits.

(c) UNIVERSITY FIRE SAFETY RESEARCH CENTERS: Authorizes the Director to make grants to no institutions of higher education to establish and operate no more than three university fire safety research centers. The grants are to be used for R&D to reduce fire-related death and injuries among the general public and firefighters. The Director must also convene a workshop of fire safety experts to discuss research needs. The grant awards for fire safety research centers shall be made from the 10 percent allocated to the Fire Safety and Prevention program.

(d) DEFINITIONS: Definitions provided for Career Fire Department; Combination Fire Departments; Director; Firefighting Personnel; Institution of Higher Education; Volunteer, Non-fire Service EMS and Rescue Organization; and Volunteer Fire Department.

(e) AUTHORIZATION OF APPROPRIATIONS: Authorizes appropriations of $1,000,000 from 2010 to 2014, of which not more than 3 percent may be used for program administration purposes by the Director.

Sec. 3.

Amendments to Section 34 of the Federal Fire Prevention and Control Act of 1974.

• EXPANDED AUTHORITY TO MAKE HIRING GRANTS: Directs the Director to make competitive grants to career, volunteer, and combination fire departments to increase the number of firefighters to a level that enables 24-hour staffing of fire departments. The grants will be used to hire new, additional firefighters and will run for 3 years. The use of grant funds to hire firefighters in any jurisdiction may not exceed 80% of the total costs of hiring firefighters.

• RECRUITMENT AND RETENTION: Requires that at least 10% of the total appropriations must be used to recruit and retain volunteer firefighters at volunteer or combination fire departments and organizations that represent the interests of volunteer firefighters.

• APPLICATIONS: Requires that, at a minimum, applications must detail why the fire department needs federal assistance, how it plans to meet the three year retention requirement, and how it will allow the firefighters to volunteer in their off-time. The applications must also explain how the fire department will work to recruit and hire more minority groups and women, as well as how it will retain newly hired firefighters past the conclusion of the 3-year grant.

• LIMITATIONS ON USE OF FUNDS: Requires that the grant funds should represent an increase of, and not supplant, funds provided by state and local governments, or the Bureau of Indian Affairs. Also requires that municipalities and other recipients maintain their budgets for fire-related and emergency response programs at or above 80 percent of their previous 3-year average.

• WAIVER: Allows the Director to waive the following requirements for recipients facing exceptional economic hardship: the 3-year retention requirement of new firefighters hired with grant funds; the maintenance of expenditure requirement; and the "supplement versus supplant" requirement.

• PERFORMANCE EVALUATION: Allows the Director to request any information considered necessary from grant recipients.

• SUNSET; REPORTS: The Director's authority to make grants ends 10 years after the date of enactment; and, not later than 6 years after the date of enactment, the Director shall submit a report on the effectiveness of the grants and any recommendations for future provisions.

• REVOCATION OR SUSPENSION OF FUNDING: Allows the Director to revoke or suspend any portion of a grant if a recipient does not comply with all of the requirements at any time.

• ACCESS TO DOCUMENTS: Allows the Director to audit any grant recipient and provides access to any needed documents in carrying out the audit.

• DEFINITIONS: Defines: Director; firefighter; and Indian tribe.

• AUTHORIZATION OF APPROPRIATIONS: Authorizes $1,194,000,000 per year for FY2010 through FY2014 for Section 3.

Sec. 4. Study & Report

• STUDY AND REPORT IN ASSSTANCE TO FIREFIGHTERS GRANT PROGRAM: Directs the United States Fire Administration and the National Fire Protection Association to conduct a study defining the roles and activities of fire services; the equipment, staffing, and training needed to carry out these roles and activities; the gaps in existing resources required to meet these roles; and the impact of grants. Authorizes $300,000 per year for FY2010 and FY2011 to conduct the study.

VIII. Committee Views

The Assistance to Firefighters Grants (AFG) and the Staffing for Adequate Fire and Emergency Response (SAFER) Program are important sources of funding for fire departments, helping them to prepare and equip for fighting fires and responding to other emergencies. In many communities, this support has been instrumental in increasing the safety of firefighters and the public. AFG and SAFER are even more essential in this difficult economy as local officials across the country face providing services with smaller budgets. H.R. 3791 makes important changes to AFG and SAFER that will ensure fire departments can continue to take advantage of this funding and meet the demands of protecting public safety.

AFG APPORTIONMENT

H.R. 3791 requires, to the extent that qualified applicants apply, that each category of fire department—career, volunteer, and combination—will receive at least 25 percent of the total funding available for the AFG program each fiscal year. This reflects a desire by key stakeholders to increase the proportion of AFG funding awarded to larger departments that tend to protect higher populations of citizens. For the purpose of grouping applicants with a particular fire department category, fire departments whose personnel are paid-on-call or receive a stipend should be considered as combination departments. The total available funding is the amount remaining each fiscal year after the Administrator has set-aside up to 3 percent of the AFG appropriation for program administration. The remaining amount of the total available AFG funding that is not designated for use under paragraph (4), subparagraph (10)(C), and subparagraph (10)(D) of the amended Section 33, will be available for competition by any type of fire department.

AFG AND SAFER REQUIREMENTS

The modifications to AFG and SAFER requirements in H.R. 3791 will help ensure that those departments with greatest need can apply for Federal funding. The bill lowers the AFG matching requirement to 10 percent for departments serving communities of 20,000 people or more. Those fire departments serving communities of fewer than 20,000 will continue to pay a 5 percent match. Reducing the matching requirement opens the program to departments previously unable to afford the match and helps ensure that communities hit by the economic downturn will be able to compete for

AFG funding. H.R. 3791 also modifies the budget maintenance requirement for AFG. The bill requires fire departments to maintain their budgets for the activities described under paragraphs (3) and (4) at or above 80 percent of the two previous fiscal years in order to be eligible for an AFG award. Modifying the budget maintenance requirement allows flexibility to departments affected by the economic downturn and to those attempting to make multiple large purchases. However, it still ensures a strong local commitment to providing fire protection.

H.R. 3791 also modifies the matching requirement for SAFER to enable more departments to apply. Particularly in a tough economy, some communities are dissuaded from applying for SAFER funds due to the difficulty in planning for a 5-year commitment with an increasing local match. The change to a consistent 20 percent match over a 3-year period makes this planning easier for local officials and encourages fire departments to apply for the grants they need.

The waiver authority provision in H.R. 3791 also provides an important tool to increase the availability of these grants. The waiver may be used by the Administrator in exceptional circumstances to ensure that those communities with the greatest need can receive SAFER and AFG awards.

AWARD SIZES

The increases made in H.R. 3791 to the maximum size of the AFG awards will allow fire departments that serve large populations to apply for the amount of funding that will best meet their needs. In addition to helping America's metropolitan areas, this provision also helps areas that have consolidated multiple fire departments into a unified fire service to serve multiple towns, counties, or other jurisdictional divisions. In addition, the elimination of the $100,000-per-firefighter cap for SAFER grants reflects the differences in hiring costs for fire departments in different parts of the country.

FIRE PREVENTION AND SAFETY GRANTS

The Fire Prevention and Safety (FP&S) grants are an important component of AFG. Each year, approximately 3,000 people die in fires and at least 16,000 are injured. Statistics show that fire deaths and injuries more frequently affect minority populations, and those living in poverty. In addition, over 100 firefighters die each year in the line of duty. FP&S grants should work to reduce these deaths and injuries. The Fire Safety Research Centers included in H.R. 3791 could provide important research and technology transfer capabilities to increase the safety of firefighters and protect the public from fires.

It is the Committee's intention that, with respect to the requirement under this section that certain non-fire department entities partner with fire departments, the term "partner" may be passive, and carries no expectation of a commitment of people or resources on the part of the partnering fire department.

ASSISTANCE TO FIREFIGHTER GRANTS, GENERALLY

H.R. 3791 also includes state fire training academies as eligible for up to 3 percent of total available AFG funding. This reflects the important function academies perform in training the fire service and will ensure greater access to firefighting equipment and apparatus. In addition, up to 2 percent of the total available funding may go for volunteer, non-fire service affiliated EMS and rescue organizations. Such organizations provide vital assistance in areas not served by other EMS providers.

Section 33 of the Firefighter Assistance (a)(1)(A) makes grants on a competitive basis directly to fire departments of a State. Fire departments of a State include fire departments operated and maintained by state agencies or departments. The Committee recognizes state run fire departments are vital to enhancing the mutual aid system throughout the nation and allows for a better coordinated approach to both natural and intentional disasters. The Committee expects State operated or maintained fire departments will coordinate with local agencies to build regional capabilities.

Finally, new and innovative fire fighting and fire suppression technologies can be important tools to reduce safety risks to firefighters, reduce property damage, and lessen the environmental impact of fire suppression efforts. Therefore, applications to utilize these cutting edge technologies should be considered by the Administrator.

IX. Cost Estimate

A cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted to the Committee on Science and Technology prior to the filing of this report and is included in Section X of this report pursuant to House Rule XIII, clause 3(c)(3).

H.R. 3791 does not contain new budget authority, credit authority, or changes in revenues or tax expenditures. Assuming that sums authorized under the bill are appropriated, H.R. 3791 does authorize additional discretionary spending, as described in the Congressional Budget Office report on the bill, which is contained in Section X of this report.

X. Congressional Budget Office Cost Estimate

November 2, 2009.

Hon. Bart Gordon,
Chairman, Committee on Science and Technology,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3791, the Fire Grants Reauthorization Act of 2009.

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

Sincerely,

Douglas W. Elmendorf.

Enclosure.

H.R. 3791—Fire Grants Reauthorization Act of 2009

Summary: H.R. 3791 would authorize appropriations totalling $9.8 billion in addition to that already authorized under current law for the U.S. Fire Administration (USFA) to aid in preventing and responding to fires and other related hazards. CBO estimates that implementing the legislation would cost about $6.0 billion over the 2010–2014 period and $3.8 million thereafter, assuming appropriation of the specified amounts. Enacting H.R. 3791 would not affect direct spending or revenues.

H.R. 3791 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 3791 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—					
	2010	2011	2012	2013	2014	2010–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Assistance to Firefighters Grants						
Authorization Level	1,000	1,000	1,000	1,000	1,000	5,000
Estimated Outlays	50	550	800	950	990	3,340
Fire Grants (SAFER)						
Authorization Level [1]	0	1,194	1,194	1,194	1,194	4,776
Estimated Outlays	0	25	535	900	1,190	2,650
Studies and Reports						
Authorization Level	*	*	0	0	0	1
Estimated Outlays	*	*	*	0	0	1
Total Changes						
Authorization Level	1,000	2,194	2,194	2,194	2,194	9,777
Estimated Outlays	50	575	1,335	1,850	2,180	5,991

Note: SAFER = Staffing for Adequate Fire and Emergency Response; * = less than $500,000.

[1] H.R. 3791 would authorize the appropriation of $1,194 million for fiscal year 2010 for the SAFER program, which is equal to the amount authorized under current law for that year (see Public Law 108–136).

Basis of Estimate:

Assistance to Firefighters Grants: H.R. 3791 would authorize the appropriation of $1 billion in each of fiscal years 2010 through 2014 for the USFA to award grants to fire departments, state fire training academies, and other organizations. In 2009, the Congress provided $565 million for this purpose (see Public Law 110–329).

Established in 2000, the Assistance to Firefighters Grant (AFG) program provides funding to hire additional personnel, modify facilities, and obtain equipment, protective gear, emergency vehicles, training, and other resources to respond to fire and related hazards. H.R. 3791 would expand program eligibility to include state fire training academies and would increase minimum funding for fire prevention and safety programs from 5 percent to 10 percent. Additionally, the legislation would reduce the grantee matching requirement from 20 percent to 10 percent.

Based on historical spending patterns, CBO estimates that implementing the AFG program under the legislation would cost about $3.3 billion over the 2010–2014 period and about $1.7 billion thereafter, assuming appropriation of the specified amounts.

Fire Grants (SAFER): H.R. 3791 would authorize the appropriation of about $1.2 billion in each of fiscal years 2010 through 2014

for the USFA to award grants to departments staffed with all career members, with all volunteer members, and those with both career and volunteer members. In 2009, the Congress provided $210 million for this purpose (see Public Law 110–329). For 2010, the Congress has already authorized the appropriation of about $1.2 billion for the program (see Public Law 108–136).

Established in 2003, the Staffing for Adequate Fire and Emergency Response (SAFER) grant program provides funding to hire additional firefighters and to recruit and retain volunteer firefighters. H.R. 3791 would reduce the term of a SAFER grant from four years to three years and would require grantees to commit to retaining an additional hire for at least three years. Under current law, grantees are required to retain any subsidized personnel for one year beyond the termination of funding for that position. Additionally, the legislation would limit grant funding to 80 percent of the cost of hiring a firefighter for the duration of the grant. Under current law, grants cover 90 percent of the cost of a new hire in the first year. This proportion gradually decreases to 30 percent in the fourth year.

CBO estimates that implementing the SAFER program under the legislation would cost about $2.7 billion over the 2010–2014 period and about $2.1 billion thereafter, assuming appropriation of the specified amounts.

Studies and Reports; H.R. 3791 would authorize the appropriation of $300,000 for each of 2010 and 2011 for the USFA to conduct a study of the resources and needs of fire services at the national, regional, and local level, and the impact that grant programs have had on those areas. Based on the spending patterns of similar studies, and assuming the appropriation of the authorized amounts, CBO estimates that implementing this provision would cost $600,000 over the 2010–2012 period.

Intergovernmental and private-sector impact: H.R. 3791 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Those governments would benefit from the authorization of appropriations in this bill for grants and technical assistance. Any costs to those governments would be incurred voluntarily as conditions of federal assistance.

Estimate prepared by: Federal Costs: Daniel Hoople; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

XI. Compliance With Public Law 104–4

H.R. 3791 contains no unfunded mandates.

XII. Committee Oversight Findings and Recommendations

The Committee on Science and Technology's oversight findings and recommendations are reflected in the body of this report.

XIII. Statement on General Performance Goals and Objectives

Pursuant to clause (3)(c) of House rule XIII, the goal of H.R. 3791 is to improve the safety of firefighters and the public through a program of direct grant assistance to fire departments, and other organizations, to purchase equipment, vehicles, training, and engage in fire prevention and safety research and other activities, as well as to hire additional firefighters.

XIV. Constitutional Authority Statement

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 3791.

XV. Federal Advisory Committee Statement

H.R. 3791 does not establish nor authorize the establishment of an advisory committee, pursuant to 5 U.S.C. App.

XVI. Congressional Accountability Act

The Committee finds that H.R. 3791 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).

XVII. Earmark Identification

H.R. 3791 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in House rule XXI, clause 9.

XVIII. Statement on Preemption of State, Local, or Tribal Law

The bill is not intended to preempt any state, local, or tribal law.

XIX. 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):

FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974

* * * * * * *

[SEC. 33. FIREFIGHTER ASSISTANCE.

[(a) Definition of Firefighting Personnel.—In this section, the term "firefighting personnel" means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

[(b) Assistance Program.—

[(1) AUTHORITY.—In accordance with this section, the Director may—

[(A) make grants on a competitive basis directly to fire departments of a State, in consultation with the chief executive of the State, for the purpose of protecting the health and safety of the public and firefighting personnel throughout the Nation against fire and fire-related hazards;

[(B) provide assistance for fire prevention and firefighter safety research and development programs in accordance with paragraph (4); and

[(C) provide assistance for nonaffiliated EMS organizations for the purpose of paragraph (3)(F).

[(2) ADMINISTRATIVE ASSISTANCE.—The Director shall establish specific criteria for the selection of recipients of assistance under this section and shall provide grant-writing assistance to applicants.

[(3) USE OF FIRE DEPARTMENT GRANT FUNDS.—The Director may make a grant under paragraph (1)(A) only if the applicant for the grant agrees to use the grant funds for one or more of the following purposes:

[(A) To hire additional firefighting personnel.

[(B) To train firefighting personnel in firefighting, emergency response (including response to a terrorism incident or use of a weapon of mass destruction), arson prevention and detection, maritime firefighting, or the handling of hazardous materials, or to train firefighting personnel to provide any of the training described in this subparagraph.

[(C) To fund the creation of rapid intervention teams to protect firefighting personnel at the scenes of fires and other emergencies.

[(D) To certify fire inspectors.

[(E) To establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel can carry out their duties.

[(F) To fund emergency medical services provided by fire departments and nonaffiliated EMS organizations.

[(G) To acquire additional firefighting vehicles, including fire trucks.

[(H) To acquire additional firefighting equipment, including equipment for fighting fires with foam in remote areas without access to water, and equipment for communications, monitoring, and response to a terrorism incident or use of a weapon of mass destruction.

[(I) To acquire personal protective equipment required for firefighting personnel by the Occupational Safety and Health Administration, and other personal protective equipment for firefighting personnel, including protective equipment to respond to a terrorism incident or the use of a weapon of mass destruction.

[(J) To modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel.

[(K) To enforce fire codes.

[(L) To fund fire prevention programs.

[(M) To educate the public about arson prevention and detection.

[(N) To provide incentives for the recruitment and retention of volunteer firefighting personnel for volunteer firefighting departments and other firefighting departments that utilize volunteers.

[(4) FIRE PREVENTION AND FIREFIGHTER SAFETY RESEARCH AND DEVELOPMENT PROGRAMS.—

[(A) IN GENERAL.—For each fiscal year, the Director shall use not less than 5 percent of the funds made available under subsection (e)—

[(i) to make grants to fire departments for the purpose described in paragraph (3)(L); and

[(ii) to make grants to, or enter into contracts or cooperative agreements with, national, State, local, or community organizations that are not fire departments and that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities, and firefighter research and development programs, for the purpose of carrying out fire prevention programs and research to improve firefighter health and life safety.

[(B) PRIORITY.—In selecting organizations described in subparagraph (A)(ii) to receive assistance under this paragraph, the Director shall give priority to organizations that focus on prevention of injuries to high risk groups from fire, as well as research programs that demonstrate the potential to improve firefighter safety.

[(C) GRANT LIMITATION.—A grant under this paragraph shall not be greater than $1,000,000 for a fiscal year.

[(5) APPLICATION.—The Director may provide assistance to a fire department or organization under this subsection only if the fire department or organization seeking the assistance submits to the Director an application that meets the following requirements:

[(A) FORM.—The application shall be in such form as the Director may require.

[(B) INFORMATION.—The application shall include the following information:

[(i) FINANCIAL NEED.—Information that demonstrates the financial need of the applicant for the assistance for which applied.

[(ii) COST-BENEFIT ANALYSIS.—An analysis of the costs and benefits, with respect to public safety, of the use of the assistance.

[(iii) REPORTING SYSTEMS DATA.—An agreement to provide information to the national fire incident reporting system for the period covered by the assistance.

[(iv) OTHER FEDERAL SUPPORT.—A list of other sources of Federal funding received by the applicant. The Director, in coordination with the Secretary of Homeland Security, shall use such list to prevent unnecessary duplication of grant funds.

[(v) OTHER INFORMATION.—Any other information that the Director may require.

[(6) MATCHING REQUIREMENT.—

[(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Director may provide assistance under this subsection only if the applicant for such assistance agrees to match 20 percent of such assistance for any fiscal year with an equal amount of non-Federal funds.

[(B) REQUIREMENT FOR SMALL COMMUNITY ORGANIZATIONS.—In the case of an applicant whose personnel—

[(i) serve jurisdictions of 50,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 10 percent; and

[(ii) serve jurisdictions of 20,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 5 percent.

[(C) FIRE PREVENTION AND FIREFIGHTER SAFETY GRANTS.—There shall be no matching requirement for a grant described in paragraph (4)(A)(ii).

[(7) MAINTENANCE OF EXPENDITURES.—The Director may provide assistance under this subsection only if the applicant for the assistance agrees to maintain in the fiscal year for which the assistance will be received the applicant's aggregate expenditures for the uses described in paragraph (3) or (4) at or above the average level of such expenditures in the two fiscal years preceding the fiscal year for which the assistance will be received.

[(8) REPORT TO THE DIRECTOR.—The Director may provide assistance under this subsection only if the applicant for the assistance agrees to submit to the Director a report, including a description of how the assistance was used, with respect to each fiscal year for which the assistance was received.

[(9) VARIETY OF FIRE DEPARTMENT GRANT RECIPIENTS.—The Director shall ensure that grants under paragraph (1)(A) for a fiscal year are made to a variety of fire departments, including, to the extent that there are eligible applicants—

[(A) paid, volunteer, and combination fire departments;

[(B) fire departments located in communities of varying sizes; and

[(C) fire departments located in urban, suburban, and rural communities.

[(10) GRANT LIMITATIONS.—

[(A) RECIPIENT LIMITATIONS.—A grant recipient under subsection (b)(1)(A)—

[(i) that serves a jurisdiction with 500,000 people or less may not receive grants in excess of $1,000,000 for any fiscal year;

[(ii) that serves a jurisdiction with more than 500,000 but not more than 1,000,000 people may not receive grants in excess of $1,750,000 for any fiscal year; and

[(iii) that serves a jurisdiction with more than 1,000,000 people may not receive grants in excess of $2,750,000 for any fiscal year.

The Director may award grants in excess of the limitations provided in clause (i) and (ii) if the Director determines that extraordinary need for assistance by a jurisdiction warrants a waiver.

[(B) DISTRIBUTION.—Notwithstanding subparagraph (A), no single recipient may receive more than the lesser of $2,750,000 or one half of one percent of the funds appropriated under this section for a single fiscal year.

[(C) LIMITATION ON EXPENDITURES FOR FIREFIGHTING VEHICLES.—Not more than 25 percent of the funds appropriated to provide grants under this section for a fiscal year may be used to assist grant recipients to purchase vehicles, as authorized by paragraph (3)(G).

[(D) REQUIREMENTS FOR GRANTS FOR EMERGENCY MEDICAL SERVICES.—Subject to the restrictions in subparagraph (E), not less than 3.5 percent of the funds appropriated under this section for a fiscal year shall be awarded for purposes described in paragraph (3)(F).

[(E) NONAFFILIATED EMS LIMITATION.—Not more than 2 percent of the funds appropriated to provide grants under this section for a fiscal year shall be awarded to nonaffiliated EMS organizations.

[(F) APPLICATION OF SELECTION CRITERIA TO GRANT APPLICATIONS FROM NONAFFILIATED EMS ORGANIZATIONS.—In reviewing applications submitted by nonaffiliated EMS organizations, the Director shall consider the extent to which other sources of Federal funding are available to provide assistance requested in such grant applications.

[(11) RESERVATION OF GRANT FUNDS FOR VOLUNTEER DEPARTMENTS.—In making grants to firefighting departments, the Director shall ensure that those firefighting departments that have either all-volunteer forces of firefighting personnel or combined forces of volunteer and professional firefighting personnel receive a proportion of the total grant funding that is not less than the proportion of the United States population that those firefighting departments protect.

[(12) ELIGIBLE GRANTEE ON BEHALF OF ALASKA NATIVE VILLAGES.—The Alaska Village Initiatives, a non-profit organization incorporated in the State of Alaska, shall be considered an eligible grantee for purposes of receiving assistance under this section on behalf of Alaska Native villages.

[(13) ANNUAL MEETING.—The Director shall convene an annual meeting of individuals who are members of national fire service organizations and are recognized for expertise in firefighting or emergency medical services provided by fire services, and who are not employees of the Federal Government, for the purpose of recommending criteria for awarding grants under this section for the next fiscal year and recommending any necessary administrative changes to the grant program.

[(14) GUIDELINES.—(A) Each year, prior to making any grants under this section, the Director shall publish in the Federal Register—

[(i) guidelines that describe the process for applying for grants and the criteria for awarding grants; and

[(ii) an explanation of any differences between the guidelines and the recommendations made pursuant to paragraph (13).

[(B) The criteria for awarding grants under subsection (b)(1)(A) shall include the extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property.

[(15) PEER REVIEW.—The Director shall, after consultation with national fire service organizations, appoint fire service personnel to conduct peer review of applications received under paragraph (5). In making grants under this section, the Director shall consider the results of such peer review evaluations.

[(16) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities under paragraphs (13) and (15).

[(17) ACCOUNTING DETERMINATION.—Notwithstanding any other provision of law, rule, regulation, or guidance, for purposes of receiving assistance under this section, equipment costs shall include, but not be limited to, all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.

[(c) AUDITS.—A recipient of a grant under this section shall be subject to audits to ensure that the grant proceeds are expended for the intended purposes and that the grant recipient complies with the requirements of paragraphs (6) and (7) of subsection (b).

[(d) DEFINITIONS.—In this section—

[(1) the term "Director" means the Director, acting through the Administrator;

[(2) the term "nonaffiliated EMS organization" means a public or private nonprofit emergency medical services organization that is not affiliated with a hospital and does not serve a geographic area in which the Director finds that emergency medical services are adequately provided by a fire department; and

[(3) the term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

[(e) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There are authorized to be appropriated for the purposes of this section $900,000,000 for fiscal year 2005, $950,000,000 for fiscal year 2006, and $1,000,000,000 for each of the fiscal years 2007 through 2009. Of the amounts authorized in this paragraph, $3,000,000 shall be made available each year through fiscal year 2008 for foam firefighting equipment.

[(2) ADMINISTRATIVE EXPENSES.—Of the funds appropriated pursuant to paragraph (1) for a fiscal year, the Director may use not more than three percent of the funds to cover salaries and expenses and other administrative costs incurred by the Director to make grants and provide assistance under this section.

[SEC. 34. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM.

[(a) EXPANDED AUTHORITY TO MAKE GRANTS.—

[(1) HIRING GRANTS.—(A) The Administrator shall make grants directly to career, volunteer, and combination fire departments, in consultation with the chief executive of the State in which the applicant is located, for the purpose of increasing the number of firefighters to help communities meet industry minimum standards and attain 24-hour staffing to provide adequate protection from fire and fire-related hazards, and to fulfill traditional missions of fire departments that antedate the creation of the Department of Homeland Security.

[(B)(i) Grants made under this paragraph shall be for 4 years and be used for programs to hire new, additional firefighters.

[(ii) Grantees are required to commit to retaining for at least 1 year beyond the termination of their grants those firefighters hired under this paragraph.

[(C) In awarding grants under this subsection, the Administrator may give preferential consideration to applications that involve a non-Federal contribution exceeding the minimums under subparagraph (E).

[(D) The Administrator may provide technical assistance to States, units of local government, Indian tribal governments, and to other public entities, in furtherance of the purposes of this section.

[(E) The portion of the costs of hiring firefighters provided by a grant under this paragraph may not exceed—

[(i) 90 percent in the first year of the grant;

[(ii) 80 percent in the second year of the grant;

[(iii) 50 percent in the third year of the grant; and

[(iv) 30 percent in the fourth year of the grant.

[(F) Notwithstanding any other provision of law, any firefighter hired with funds provided under this subsection shall not be discriminated against for, or be prohibited from, engaging in volunteer activities in another jurisdiction during off-duty hours.

[(G) All grants made pursuant to this subsection shall be awarded on a competitive basis through a neutral peer review process.

[(H) At the beginning of the fiscal year, the Administrator shall set aside 10 percent of the funds appropriated for carrying out this paragraph for departments with majority volunteer or all volunteer personnel. After awards have been made, if less than 10 percent of the funds appropriated for carrying out this paragraph are not awarded to departments with majority volunteer or all volunteer personnel, the Administrator shall transfer from funds appropriated for carrying out this paragraph to funds available for carrying out paragraph (2) an amount equal to the difference between the amount that is provided to such fire departments and 10 percent.

[(2) RECRUITMENT AND RETENTION GRANTS.—In addition to any amounts transferred under paragraph (1)(H), the Administrator shall direct at least 10 percent of the total amount of funds appropriated pursuant to this section annually to a competitive grant program for the recruitment and retention of volunteer firefighters who are involved with or trained in the operations of firefighting and emergency response. Eligible enti-

ties shall include volunteer or combination fire departments, and organizations on a local or statewide basis that represent the interests of volunteer firefighters.

[(b) APPLICATIONS.—(1) No grant may be made under this section unless an application has been submitted to, and approved by, the Administrator.

[(2) An application for a grant under this section shall be submitted in such form, and contain such information, as the Administrator may prescribe.

[(3) At a minimum, each application for a grant under this section shall—

[(A) explain the applicant's inability to address the need without Federal assistance;

[(B) in the case of a grant under subsection (a)(1), explain how the applicant plans to meet the requirements of subsection (a)(1)(B)(ii) and (F);

[(C) specify long-term plans for retaining firefighters following the conclusion of Federal support provided under this section; and

[(D) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within firefighting.

[(c) LIMITATION ON USE OF FUNDS.—(1) Funds made available under this section to fire departments for salaries and benefits to hire new, additional firefighters shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this section, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

[(2) No grant shall be awarded pursuant to this section to a municipality or other recipient whose annual budget at the time of the application for fire-related programs and emergency response has been reduced below 80 percent of the average funding level in the 3 years prior to the date of enactment of this section.

[(3) Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing firefighting functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this section.

[(4)(A) Total funding provided under this section over 4 years for hiring a firefighter may not exceed $100,000.

[(B) The $100,000 cap shall be adjusted annually for inflation beginning in fiscal year 2005.

[(d) PERFORMANCE EVALUATION.—The Administrator may require a grant recipient to submit any information the Administrator considers reasonably necessary to evaluate the program.

[(e) SUNSET AND REPORTS.—The authority under this section to make grants shall lapse at the conclusion of 10 years from the date of enactment of this section. Not later than 6 years after the date of the enactment of this section, the Administrator shall submit a report to Congress concerning the experience with, and effectiveness of, such grants in meeting the objectives of this section. The

report may include any recommendations the Administrator may have for amendments to this section and related provisions of law.

[(f) REVOCATION OR SUSPENSION OF FUNDING.—If the Administrator determines that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application submitted under this section, the Administrator may revoke or suspend funding of that grant, in whole or in part.

[(g) ACCESS TO DOCUMENTS.—(1) The Administrator shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this section and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this section.

[(2) Paragraph (1) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

[(h) DEFINITIONS.—In this section, the term—

[(1) "firefighter" has the meaning given the term "employee in fire protection activities" under section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)); and

[(2) "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section—

[(1) $1,000,000,000 for fiscal year 2004;
[(2) $1,030,000,000 for fiscal year 2005;
[(3) $1,061,000,000 for fiscal year 2006;
[(4) $1,093,000,000 for fiscal year 2007;
[(5) $1,126,000,000 for fiscal year 2008;
[(6) $1,159,000,000 for fiscal year 2009; and
[(7) $1,194,000,000 for fiscal year 2010.]

SEC. 33. FIREFIGHTER ASSISTANCE.

(a) ASSISTANCE PROGRAM.—

(1) AUTHORITY.—In accordance with this section, the Director may—

(A) make grants on a competitive basis directly to fire departments of a State, in consultation with the chief executive of the State, for the purpose of protecting the health and safety of the public and firefighting personnel throughout the Nation against fire and fire-related hazards;

(B) make grants on a competitive basis directly to State fire training academies, in consultation with the chief executive of the State, in accordance with paragraph (11)(C);

(C) provide assistance for fire prevention and firefighter safety research and development programs and fire prevention or fire safety programs and activities in accordance with paragraph (4); and

(D) provide assistance for volunteer, non-fire service EMS and rescue organizations for the purpose of paragraph (3)(F).

(2) ADMINISTRATIVE ASSISTANCE.—The Director shall establish specific criteria for the selection of recipients of assistance under this section and shall provide grant-writing assistance to applicants.

(3) USE OF FIRE DEPARTMENT GRANT FUNDS.—The Director may make a grant under paragraph (1)(A) only if the applicant for the grant agrees to use the grant funds for one or more of the following purposes:

(A) To hire additional firefighting personnel.

(B) To train firefighting personnel in firefighting, emergency medical services and other emergency response (including response to a terrorism incident or use of a weapon of mass destruction), arson prevention and detection, maritime firefighting, or the handling of hazardous materials or to train firefighting personnel to provide any of the training described in this subparagraph.

(C) To fund the creation of rapid intervention teams to protect firefighting personnel at the scenes of fires and other emergencies.

(D) To certify fire and building inspectors employed by a fire department or serving as a volunteer building inspector with a fire department.

(E) To establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel can carry out their duties, including programs dedicated to raising awareness of, and prevention of, job-related mental health issues.

(F) To fund emergency medical services provided by fire departments and volunteer, non-fire service EMS and rescue organizations.

(G) To acquire additional firefighting vehicles, including fire trucks.

(H) To acquire additional firefighting equipment, including equipment for communications, monitoring, and response to a terrorism incident or use of a weapon of mass destruction.

(I) To acquire personal protective equipment required for firefighting personnel by the Occupational Safety and Health Administration and other personal protective equipment for firefighting personnel, including protective equipment to respond to a terrorism incident or the use of a weapon of mass destruction.

(J) To modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel.

(K) To enforce fire codes and standards.

(L) To fund fire prevention programs.

(M) To educate the public about arson prevention and detection.

(N) To provide incentives for the recruitment and retention of volunteer firefighting personnel for volunteer fire-

fighting departments and other firefighting departments that utilize volunteers.

(4) FIRE PREVENTION AND FIREFIGHTER SAFETY RESEARCH AND DEVELOPMENT PROGRAMS.—

(A) IN GENERAL.—For each fiscal year, the Director shall use not less than 10 percent of the funds made available under subsection (e)—

(i) to make grants to fire departments for the purpose described in paragraph (3)(L);

(ii) to make grants to, or enter into contracts or cooperative agreements with, national, State, local, or community organizations that are not fire departments but—

(I) that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and that partner with fire departments, for the purpose of carrying out such programs and activities;

(II) engage in fire- and life safety-related activities as a primary purpose or function, for the purpose of carrying out fire prevention or fire safety programs and activities; or

(III) that are recognized for their experience and expertise with respect to firefighter research and development programs, for the purpose of carrying out research on fire prevention or fire safety programs and activities or to improve firefighter health and life safety; and

(iii) if the Director determines that it is necessary, to make grants or enter into contracts in accordance with subsection (c).

(B) PRIORITY.—In selecting organizations described in subparagraph (A)(ii) to receive assistance under this paragraph, the Director shall give priority to organizations that focus on prevention of injuries to high risk groups from fire, as well as research programs that demonstrate the potential to improve firefighter safety.

(C) GRANT LIMITATION.—A grant under this paragraph shall not exceed $1,500,000 for a fiscal year.

(D) LIMITATION.—None of the funds made available under this paragraph may be provided to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, or allied organizations.

(5) APPLICATION.—The Director may provide assistance to a fire department or organization (including a State fire training academy) under this subsection only if the fire department or organization seeking the assistance submits to the Director an application that meets the following requirements:

(A) FORM.—The application shall be in such form as the Director may require.

(B) INFORMATION.—The application shall include the following information:

(i) Information that demonstrates the financial need of the applicant for the assistance for which applied.

(ii) An analysis of the costs and benefits, with respect to public safety, of the use of the assistance.

(iii) An agreement to provide information to the national fire incident reporting system for the period covered by the assistance.

(iv) A list of other sources of Federal funding received by the applicant.

(v) Any other information that the Director may require.

(C) UNNECESSARY DUPLICATION.—The Director, in coordination with the Secretary of Homeland Security, shall use the list provided under subparagraph (B)(iv) to prevent the unnecessary duplication of grant funds.

(6) MATCHING REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and paragraph (8), the Director may provide assistance under this subsection only if the applicant for such assistance agrees to match 10 percent of such assistance for any fiscal year with an equal amount of non-Federal funds.

(B) REQUIREMENT FOR SMALL COMMUNITY ORGANIZATIONS.—In the case of an applicant whose personnel serve jurisdictions of 20,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 5 percent.

(C) FIRE PREVENTION AND FIREFIGHTER SAFETY GRANTS EXCEPTION.—There shall be no matching requirement for a grant described in paragraph (4).

(7) MAINTENANCE OF EXPENDITURES.—Subject to paragraph (8), the Director may provide assistance under this subsection only if the applicant for the assistance agrees to maintain in the fiscal year for which the assistance will be received the applicant's aggregate expenditures for the uses described in paragraph (3) or (4) at or above 80 percent of the average level of such expenditures in the 2 fiscal years preceding the fiscal year for which the assistance will be received.

(8) ECONOMIC HARDSHIP WAIVER.—

(A) IN GENERAL.—In exceptional circumstances, the Director may waive or reduce the matching requirement under paragraph (6) and the maintenance of expenditures requirement under paragraph (7) for applicants facing demonstrated economic hardship.

(B) CRITERIA DEVELOPMENT.—The criteria under which the Director may waive or reduce such requirements shall be developed in consultation with individuals who are—

(i) recognized for expertise in firefighting, emergency medical services provided by fire services, or the economic affairs of State and local governments; and

(ii) members of national fire service organizations or national organizations representing the interests of State and local governments.

(C) PUBLIC AVAILABILITY.—The Director shall make the criteria developed under subparagraph (B) publicly available.

(9) VARIETY OF FIRE DEPARTMENT GRANT RECIPIENTS.—

(A) IN GENERAL.—Of the amounts made available under subsection (e), the Director shall ensure that grants under paragraph (1)(A) for a fiscal year are allocated, to the extent that there are eligible applicants to carry out the activities under paragraph (3), as follows:

(i) 25 percent shall be made available to career fire departments.

(ii) 25 percent shall be made available to volunteer fire departments.

(iii) 25 percent shall be made available to combination fire departments.

(B) EVALUATION CRITERIA.—

(i) IN GENERAL.—In awarding grants under paragraph (1)(A), the Director shall, within each category of applicants under subparagraph (A), consider a broad range of factors important to the applicant's ability to respond to fires and related hazards, such as population served, geographic response area, hazard vulnerability, call volume, financial situation, and need for training or equipment.

(ii) HIGH POPULATION AND INCIDENT RESPONSE.—In considering such factors under clause (i), applicants serving areas with high population and with a high number of incidents requiring a response shall receive a higher level of consideration.

(C) REMAINDER.—Of the amounts made available under subsection (e) that are not allocated for use and awarded under subparagraph (A) or designated for use under any other provision of this section, the Director shall provide for an open competition for grants among career fire departments, volunteer fire departments, and combination fire departments to carry out the activities under paragraph (3).

(10) REPORT TO THE DIRECTOR.—The Director may provide assistance under this subsection only if the applicant for the assistance agrees to submit to the Director a report, including a description of how the assistance was used, with respect to each fiscal year for which the assistance was received.

(11) GRANT LIMITATIONS.—

(A) RECIPIENT LIMITATIONS.—A grant recipient under paragraph (1)(A)—

(i) that serves a jurisdiction with 100,000 people or less may not receive grants in excess of $1,000,000 for any fiscal year;

(ii) that serves a jurisdiction with more than 100,000 people but less than 500,000 people may not receive grants in excess of $2,000,000 for any fiscal year;

(iii) that serves a jurisdiction with 500,000 people or more but less than 1,000,000 people may not receive grants in excess of $3,000,000 for any fiscal year;

(iv) that serves a jurisdiction with 1,000,000 people or more but less than 2,500,000 people may not receive grants in excess of $6,000,000 for any fiscal year; and

(v) that serves a jurisdiction with 2,500,000 people or more may not receive grants in excess of $9,000,000 for any fiscal year.

The Director may award grants in excess of the limitations provided in clauses (i), (ii), (iii), and (iv) if the Director determines that extraordinary need for assistance by a jurisdiction warrants a waiver.

(B) LIMITATION ON EXPENDITURES FOR FIREFIGHTING VEHICLES.—Not more than 25 percent of the funds appropriated to provide grants under this section for a fiscal year may be used to assist grant recipients to purchase vehicles, as authorized by paragraph (3)(G).

(C) STATE FIRE TRAINING ACADEMIES.—

(i) IN GENERAL.—In accordance with clause (ii), the Director shall award not more than 3 percent of the amounts made available under subsection (e) for a fiscal year for grants under this subsection for State fire training academies.

(ii) LIMITATION.—The Director shall—

(I) award not more than 1 grant under this subparagraph per State in a fiscal year;

(II) limit the amount of a grant to a State fire training academy to less than or equal to$1,000,000 in each fiscal year; and

(III) ensure that any grant awarded to a State fire training academy shall be used for the purposes described in paragraphs 3(G), 3(H), or 3(I).

(D) REQUIREMENTS FOR GRANTS FOR EMERGENCY MEDICAL SERVICES.—The Director shall award not more than 2 percent of the amounts made available under subsection (e) for a fiscal year to volunteer, non-fire service EMS and rescue organizations for the purposes described in paragraph (3)(F).

(E) APPLICATION OF SELECTION CRITERIA TO GRANT APPLICATIONS FROM VOLUNTEER, NON-FIRE SERVICE EMS AND RESCUE ORGANIZATIONS.—In reviewing applications submitted by volunteer, non-fire service EMS and rescue organizations, the Director shall consider the extent to which other sources of Federal funding are available to provide the assistance requested in such grant applications.

(F) CONSENSUS STANDARDS.—

(i) IN GENERAL.—Any grant amounts used to obtain training under this section shall be limited to training that complies with applicable national voluntary consensus standards (if applicable national voluntary consensus standards have been established), unless a waiver has been granted under clause (ii).

(ii) WAIVER.—

(I) EXPLANATION FOR NON-STANDARD TRAINING.—If an applicant for a grant seeks to use the assistance provided under the grant to obtain training that does not meet or exceed applicable voluntary consensus standards, the applicant shall include in the application an explanation of why such training will serve the needs of the applicant better than training that does meet or exceed such standards.

(II) PROCEDURES.—In making a determination whether or not to waive the requirement under clause (i) with respect to a specific standard, the Director shall, to the greatest extent practicable—

(aa) consult with other members of the fire services regarding the impact on fire departments of the requirement to meet or exceed the specific standard;

(bb) take into consideration the explanation provided by the applicant under subclause (I); and

(cc) seek to minimize the impact of the requirement to meet or exceed the specific standard on the applicant, particularly if meeting the standard would impose additional costs.

(III) ADDITIONAL REQUESTS.—Applicants that apply for a grant under the terms of subclause (I) may include a second grant request in the application to be considered by the Director in the event that the Director does not approve the primary grant request on the grounds of the training not meeting applicable voluntary consensus standards.

(12) ELIGIBLE GRANTEE ON BEHALF OF ALASKA NATIVE VILLAGES.—The Alaska Village Initiatives, a non-profit organization incorporated in the State of Alaska, shall be considered an eligible grantee for purposes of receiving assistance under this section on behalf of Alaska Native villages.

(13) ANNUAL MEETING.—The Director shall convene an annual meeting of individuals who are members of national fire service organizations and are recognized for expertise in firefighting or emergency medical services provided by fire services, and who are not employees of the Federal Government, for the purpose of recommending criteria for awarding grants under this section for the next fiscal year and any necessary administrative changes to the grant program.

(14) GUIDELINES.—

(A) IN GENERAL.—Each year, prior to making any grants under this section, the Director shall publish in the Federal Register—

(i) guidelines that describe the process for applying for grants and the criteria for awarding grants;

(ii) an explanation of any differences between the guidelines and the recommendations made pursuant to paragraph (13); and

(iii) the criteria developed under paragraph (8) which the Director will use to evaluate applicants for waivers from program requirements.

(B) SPECIFIC REQUIREMENT.—The criteria for awarding grants under paragraph (1)(A) shall include the extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property.

(15) PEER REVIEW.—The Director, after consultation with national fire service organizations, shall appoint fire service personnel to conduct peer review of applications received under

paragraph (5). In making grants under this section, the Director shall consider the results of such peer review evaluations.

(16) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities under paragraphs (13) and (15).

(17) ACCOUNTING DETERMINATION.—Notwithstanding any other provision of law, rule, regulation, or guidance, for purposes of receiving assistance under this section, equipment costs shall include all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.

(b) AUDITS.—A recipient of a grant under this section shall be subject to audits to ensure that the grant proceeds are expended for the intended purposes and that the grant recipient complies with the requirements of paragraphs (6) and (7) of subsection (a) unless the Director has granted a waiver under subsection (a)(8).

(c) FIRE SAFETY RESEARCH CENTERS.—

(1) IN GENERAL.—The Director may make a grant under subsection (a)(4)(A)(iii) to an institution of higher education, a national fire service organization, or a national fire safety organization to establish and operate a fire safety research center.

(2) OBJECTIVES.—A grant received under this subsection shall be used by such an institution or organization to advance significantly the Nation's ability to reduce the number of fire-related deaths and injuries among firefighters and the general public through research, development, and technology transfer activities.

(3) LIMITATION.—The Director may establish no more than 3 fire safety research centers. An institution of higher education, a national fire service organization, or a national fire safety organization may not directly receive a grant under this section for a fiscal year for more than 1 fire safety research center.

(4) APPLICATION.—In order to be eligible to receive a fire safety research center grant, an institution of higher education, a national fire service organization, or a national fire safety organization shall submit to the Director an application that is in such form and contains such information and assurances as the Director may require.

(5) GENERAL SELECTION CRITERIA.—The Director shall select each recipient of a grant under this subsection through a competitive process on the basis of the following:

(A) The demonstrated research and extension resources available to the recipient to carry out the research, development, and technology transfer activities.

(B) The capability of the recipient to provide leadership in making national contributions to fire safety.

(C) The recipient's ability to disseminate the results of fire safety research.

(D) The strategic plan the recipient proposes to carry out under the grant.

(6) CONSIDERATION.—The Director shall give special consideration under paragraph (5) to an applicant for a grant that consists of a partnership between a national fire service organization or a national fire safety organization and at least 1 of the following:

(A) An institution of higher education.

(B) A minority-serving institution (defined as an eligible institution under section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a))).

(7) RESEARCH NEEDS.—Within 90 days after the date of enactment of the Fire Grants Reauthorization Act of 2009, the Director shall convene a workshop of the fire safety research community, fire service organizations, and other appropriate stakeholders to identify and prioritize fire safety research needs. The results of the workshop shall be made public, and the Director shall consider such results in making awards under this section.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) CAREER FIRE DEPARTMENT.—The term "career fire department" means a firefighting department that has an all professional force of firefighting personnel.

(2) COMBINATION FIRE DEPARTMENT.—The term "combination fire department" means a firefighting department that has a combined force of professional and volunteer firefighting personnel.

(3) DIRECTOR.—The term "Director" means the Director, acting through the Administrator.

(4) FIREFIGHTING PERSONNEL.—The term "firefighting personnel" means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

(5) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(6) VOLUNTEER, NON-FIRE SERVICE EMS AND RESCUE ORGANIZATION.—The term "volunteer, non-fire service EMS and rescue organization" means a public or private nonprofit emergency medical services organization that—

(A) is not affiliated with a hospital;

(B) does not serve a geographic area in which the Director finds that emergency medical services are adequately provided by a fire department; and

(C) is staffed primarily by volunteers.

(7) VOLUNTEER FIRE DEPARTMENT.—The term "volunteer fire department" means a firefighting department that has an all volunteer force of firefighting personnel.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the purposes of this section $1,000,000,000 for each of the fiscal years 2010 through 2014.

(2) ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—Of the funds appropriated pursuant to paragraph (1) for a fiscal year, the Director may use not more than 3 percent of the funds to cover salaries and expenses and other administrative costs incurred by the Director to make grants and provide assistance under this section.

(B) FORMULA.—The Director shall subtract the amount to be used for subparagraph (A) from the amount appro-

priated pursuant to paragraph (1) before making any allocations or apportioning any funds under subsections (a) or (c).

SEC. 34. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM.

(a) EXPANDED AUTHORITY TO MAKE GRANTS.—

(1) HIRING GRANTS.—

(A) IN GENERAL.—The Director shall make grants directly to career, volunteer, and combination fire departments, in consultation with the chief executive of the State in which the applicant is located, for the purpose of increasing the number of firefighters to help communities meet industry minimum standards and attain 24-hour staffing to provide adequate protection from fire and fire-related hazards and to fulfill traditional missions of fire departments that antedate the creation of the Department of Homeland Security.

(B) REQUIREMENTS.—

(i) DURATION AND USE.—Grants made under this paragraph shall be for 3 years and shall be used for programs to hire new, additional firefighters.

(ii) RETENTION.—Grant recipients are required to commit to retaining for at least the entire 3 years of the grant period those firefighters hired under this paragraph.

(iii) MAXIMUM.—The portion of the cost of hiring firefighters provided by a grant under this paragraph may not exceed 80 percent of such cost for each fiscal year.

(C) PREFERENCE.—In awarding grants under this subsection, the Director may give preferential consideration to applications that involve a non-Federal contribution exceeding the minimums under subparagraph (B)(iii).

(D) TECHNICAL ASSISTANCE.—The Director may provide technical assistance to States, units of local government, Indian tribal governments, and other public entities in furtherance of the purposes of this section.

(E) VOLUNTEER ACTIVITIES ALLOWED.—Notwithstanding any other provision of law, any firefighter hired with funds provided under this subsection shall not be discriminated against for, or be prohibited from, engaging in volunteer activities in another jurisdiction during off-duty hours.

(F) COMPETITIVE BASIS.—The Director shall award all grants under this section on a competitive basis through a neutral peer review process.

(G) SET ASIDE.—

(i) IN GENERAL.—At the beginning of the fiscal year, the Director shall set aside 10 percent of the funds made available for carrying out this paragraph for departments with majority volunteer or all volunteer personnel.

(ii) TRANSFER.—After awards have been made, if less than 10 percent of the funds made available for carrying out this paragraph are not awarded to departments with majority volunteer or all volunteer personnel, the Director shall transfer from funds made available for carrying out this paragraph to funds

made available for carrying out paragraph (2) an amount equal to the difference between the amount that is provided to such fire departments and 10 percent.

(2) RECRUITMENT AND RETENTION GRANTS.—

(A) IN GENERAL.—In addition to any amounts transferred under paragraph (1)(G)(ii), the Director shall direct at least 10 percent of the total amount of funds made available under this section annually to a competitive grant program for the recruitment and retention of volunteer firefighters who are involved with or trained in the operations of firefighting and emergency response.

(B) ELIGIBILITY.—Eligible entities shall include volunteer or combination fire departments and organizations on a local, statewide, or national basis that represent the interests of volunteer firefighters.

(b) APPLICATIONS.—

(1) IN GENERAL.—No grant may be made under this section unless an application has been submitted to, and approved by, the Director.

(2) CONTENTS.—An application for a grant under this section shall be submitted in such form and contain such information and assurances as the Director may prescribe.

(3) REQUIREMENTS.—At a minimum, each application for a grant under this section shall—

(A) explain the applicant's inability to address the need without Federal assistance;

(B) in the case of a grant under subsection (a)(1), explain how the applicant plans to meet the requirements of subparagraphs (B)(ii) and (E) of such subsection;

(C) specify long-term plans for retaining firefighters following the conclusion of Federal support provided under this section; and

(D) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within firefighting.

(c) LIMITATION ON USE OF FUNDS.—

(1) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section to fire departments for salaries and benefits to hire new, additional firefighters shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this section, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

(2) REPLACEMENT FUNDING PROHIBITED.—No grant shall be awarded pursuant to this section to a municipality or other recipient whose annual budget at the time of the application for fire-related programs and emergency response has been reduced below 80 percent of the average funding level in the 3 years prior to the date of application.

(3) INDIAN COST-SHARE.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing firefighting functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this section.

(d) WAIVER.—In exceptional circumstances, the Director may waive the requirements of subsections (a)(1)(B)(ii), (a)(1)(B)(iii), (c)(1), and (c)(2) if the Director determines that the jurisdiction is facing demonstrated economic hardship in accordance with section 33(a)(8).

(e) PERFORMANCE EVALUATION.—The Director may require a grant recipient to submit any information the Director considers reasonably necessary to evaluate the program.

(f) SUNSET; REPORTS.—

(1) SUNSET.—The authority under this section to make grants shall lapse at the end of the 10-year period that begins on the date of enactment of the Fire Grants Reauthorization Act of 2009.

(2) REPORT.—Not later than 6 years after such date of enactment, the Director shall submit to Congress a report concerning the experience with, and effectiveness of, such grants in meeting the objectives of this section. The report may include any recommendations the Director may have for amendments to this section and related provisions of law.

(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Director determines that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application submitted under this section, the Director may revoke or suspend funding of that grant, in whole or in part.

(h) ACCESS TO DOCUMENTS.—

(1) IN GENERAL.—The Director shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this section and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this section.

(2) APPLICATION.—Paragraph (1) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

(i) DEFINITIONS.—In this section, the term—

(1) "Director" means the Director, acting through the Administrator;

(2) "firefighter" has the meaning given the term "employee in fire protection activities" under section 3(y) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(y)); and

(3) "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section $1,194,000,000 for each of the fiscal years 2010 through 2014.

* * * * * * *

XX. COMMITTEE RECOMMENDATION

On October 21, 2009, the Committee on Science and Technology favorably reported the Fire Grants Reauthorization Act of 2009 by voice vote, and recommended its enactment.

XXI. ADDITIONAL VIEWS

ADDITIONAL VIEWS OFFERED BY REPRESENTATIVES RALPH HALL, DANA ROHRABACHER, ROSCOE BARTLETT, VERN EHLERS, JUDY BIGGERT, TODD AKIN, MICHAEL MCCAUL, MARIO DIAZ-BALART, BRIAN BILBRAY, ADRIAN SMITH, PAUL BROUN AND PETE OLSON

H.R. 3791, THE "FIRE GRANTS REAUTHORIZATION ACT OF 2009"

The Assistance to Firefighters Grant (AFG) program and the Staffing for Adequate Fire and Emergency Response (SAFER) program both provide much-needed assistance to fire departments across the nation.

The bill makes several modest changes to the Assistance to Firefighters Grant program as well as the SAFER program. These changes were developed in close coordination with the leading national fire service organizations—all of which have signed onto and endorsed this bill—a sign that we have struck the right balance and identified the right priorities. We support these changes and the underlying reauthorization effort.

Two amendments aimed at further strengthening the Fire Grants programs were offered and passed at Committee. One amendment which passed expresses the disappointment of the Committee with recent funding trends for the Assistance to Firefighters Grant program, and stating that halting and reversing these funding trends is a priority. Funding for this program has declined by 30 percent since 2004, and will decrease by an additional 30 percent if the current House-passed appropriated level is signed into law. This language was added to the bill to express support for funding this important program that allows grants to be made to fire departments to address a variety of needs such as equipment, training, or community outreach.

The other amendment, which was passed by the Committee on a vote of 33–5–1, ensures that funding awards under the Fire Prevention and Safety grants would not be given to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, or allied organizations.

On September 4, 2009, FEMA awarded ACORN a $1 million fire prevention and safety grant for the purpose of installing smoke detectors in low-income areas of New Orleans. However, current law requires that any non-fire department recipient "demonstrate expertise in fire prevention and safety" in order to be eligible for funding. Because of this, and because of ACORN's troubling reputation, Members voted to prevent ACORN's participation in this program.

Suggestions were made by some Members that this language would be viewed as an unconstitutional "bill of attainder" under Article I of the Constitution; we do not believe this would violate the Constitution. Although it does specify an organization for differential treatment, it does not confiscate property owned by the organization and is not intended as punitive. It prevents future grants to ACORN for a limited period of time as a way to ensure the best use of the taxpayer dollars authorized under this Act.

Based on a growing record of corruption, voter fraud, embezzlement, racketeering, and tax evasion, any and all presumptions of trust in the appropriateness of obligating public funds to ACORN have been lost. Accordingly, both Houses of Congress took bipartisan action under the initial fiscal year 2010 Continuing Resolution (P.L. 111–68) to stop funding for ACORN.

Prior to the Committee's markup of H.R. 3791, Representatives Paul Broun and Adrian Smith wrote to FEMA Administrator Fugate on October 8, 2009 requesting detailed information regarding the circumstances surrounding FEMA's decision to award the grant, including but not limited to documentation related to (1) the peer review scoring and program-level consideration of the grant, (2) FEMA's determination that ACORN is "recognized for their experience with respect to fire safety and fire prevention," as is required by current law, and (3) FEMA's actions to ensure that any grant funding awarded to ACORN in prior fiscal years was used for its intended purpose. This request was intended to provide FEMA an opportunity to justify its actions associated with the ACORN grant in advance of the full Committee markup of October 21st. FEMA did not provide a response, raising further questions regarding its oversight of the AFG program.

The concerns associated with the issuance of the ACORN grant are further exacerbated by the highly competitive nature of AFG Fire Prevention and Safety grants. From fiscal year 2005 through fiscal year 2007, $1.1 billion was requested for FP&S activities, and over 90 percent of applicants were fire departments. However, only $105 million, or 9.5 percent, was awarded, indicating the overwhelming majority of funding requested by fire departments under this program has declined.

For these reasons, Committee Republicans strongly supported this amendment and emphasize the priority of ensuring responsible stewardship of taxpayer dollars under the Assistance to Firefighters Grant (AFG) program. Ensuring this provision remains intact throughout the legislative process is a top priority.

RALPH M. HALL.
BRIAN P. BILBRAY.
VERNON J. EHLERS.
MICHAEL T. MCCAUL.
PAUL C. BROUN.
PETE OLSON.
ROSCOE G. BARTLETT.
DANA ROHRABACHER.
W. TODD AKIN.
MARIO DIAZ-BALART.
ADRIAN SMITH.
JUDY BIGGERT.

ADDITIONAL VIEWS OFFERED BY REPRESENTATIVE F. JAMES SENSENBRENNER

H.R. 3791, FIRE GRANTS REAUTHORIZATION ACT OF 2009

Ensuring responsible stewardship of taxpayer dollars under the Assistance to Firefighters Grant (AFG) program should be a top priority. To this end, an amendment was passed by the Committee on a vote of 33–5–1 that ensures that funding awards under the Fire Prevention and Safety grants would not be given to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, or allied organizations.

On September 4, 2009, FEMA awarded ACORN a $1 million fire prevention and safety grant for the purpose of installing smoke detectors in low-income areas of New Orleans. However, current law requires that any non-fire department recipient "demonstrate expertise in fire prevention and safety" in order to be eligible for funding. Because of this, and because of ACORN's troubling reputation, Members voted to prevent ACORN's participation in this program.

Suggestions were made by some Members that this language would be viewed as an unconstitutional "bill of attainder" under Article I of the Constitution; I do not believe this would violate the Constitution. Although it does specify an organization for differential treatment, it does not confiscate property owned by the organization and is not intended as punitive. It prevents future grants to ACORN for a limited period of time as a way to ensure the best use of the taxpayer dollars authorized under this Act.

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For these reasons, I strongly support this amendment and emphasize the priority of ensuring responsible stewardship of taxpayer dollars under the Assistance to Firefighters Grant (AFG) program. Ensuring this provision remains intact throughout the legislative process is a top priority.

F. JAMES SENSENBRENNER, Jr.

XXII. EXCHANGE OF COMMITTEE CORRESPONDENCE

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

James L. Oberstar
Chairman

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

John L. Mica
Ranking Republican Member

James W. Coon II, Republican Chief of Staff

November 12, 2009

The Honorable Bart Gordon
Chairman
Committee on Science and Technology
U.S. House of Representatives
2321 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Gordon:

I write to you regarding H.R. 3791, the "Fire Grants Reauthorization Act of 2009".

H.R. 3791 contains provisions that fall within the jurisdiction of the Committee on Transportation and Infrastructure. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, I agree to waive consideration of this bill with the mutual understanding that my decision to forgo a sequential referral of the bill does not waive, reduce, or otherwise affect the jurisdiction of the Committee on Transportation and Infrastructure over H.R. 3791.

Further, the Committee on Transportation and Infrastructure reserves the right to seek the appointment of conferees during any House-Senate conference convened on this legislation on provisions of the bill that are within the Committee's jurisdiction. I ask for your commitment to support any request by the Committee on Transportation and Infrastructure for the appointment of conferees on H.R. 3791 or similar legislation.

Please place a copy of this letter and your response acknowledging the Committee on Transportation and Infrastructure's jurisdictional interest in the Committee Report on H.R. 3791 and in the *Congressional Record* during consideration of the measure in the House.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

Jim Oberstar

James L. Oberstar, M.C.
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John L. Mica, Ranking Member
The Honorable Ralph M. Hall, Ranking Member, Committee on Science and Technology
The Honorable John Sullivan, Parliamentarian

BART GORDON, TENNESSEE
CHAIRMAN

RALPH M. HALL, TEXAS
RANKING MEMBER

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE AND TECHNOLOGY
SUITE 2321 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6301
(202) 225–6375
http://science.house.gov

November 12, 2009

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Oberstar:

Thank you for your November 12, 2009 letter regarding H.R. 3791, the Fire Grants Reauthorization Act of 2009. Your support for this legislation and your assistance in ensuring its timely consideration are greatly appreciated.

I agree that provisions in the bill are of jurisdictional interest to the Committee on Transportation and Infrastructure. I acknowledge that by forgoing a sequential referral, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Transportation and Infrastructure has jurisdiction in H.R. 3791. A copy of our letters will be placed in the Committee report on H.R. 3791 and in the *Congressional Record* during consideration of the bill on the House floor.

I value your cooperation and look forward to working with you as we move ahead with this important legislation.

Sincerely,

BART GORDON
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable Ralph M. Hall, Ranking Member
The Honorable John L. Mica, Ranking Member,
Committee on Transportation and Infrastructure
The Honorable John Sullivan, Parliamentarian

XXIII. PROCEEDINGS OF THE MARKUP BY THE SUBCOMMITTEE ON TECHNOLOGY AND INNOVATION ON H.R. 3791, THE FIRE GRANTS REAUTHORIZATION ACT OF 2009

WEDNESDAY, OCTOBER 14, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TECHNOLOGY AND INNOVATION,
COMMITTEE ON SCIENCE,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:04 p.m., in Room 2318 of the Rayburn House Office Building, Hon. David Wu [Chairman of the Subcommittee] presiding.

Chairman WU. Good afternoon. The Subcommittee will come to order. Pursuant to notice, the Subcommittee on Technology and Innovation meets to consider the following measure: H.R. 3791, the *Fire Grants Reauthorization Act of 2009.*

We have votes coming up on the Floor sometime soon, and the aspiration today will be to get through the markup in its entirety. If we are not able to do that, we will recess until probably sometime tomorrow to finish the markup, and to facilitate that, I am going to submit the vast majority of my opening statement to be entered into the record, but I just want to take one moment to recognize that the Subcommittee has been working on this legislation in cooperation with the various fire service organizations since this spring. I especially want to commend the staffs of this committee for the very hard work that they have put in to bring folks together. Both Ranking Member Smith and I have been working closely to make sure that all stakeholders have their needs met as well as possible, and this bill would not have been possible without the active work and cooperation of the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Volunteer Fire Council, the National Fire Protection Association and the entire Congressional Fire Services Institute, and I am very, very pleased and thankful that everybody pulled together to ensure that we have a bill that will benefit all of this nation.

With that, I will yield to our Ranking Member, Mr. Smith of Nebraska, for his hopefully brief opening remarks.

[The prepared statement of Chairman Wu follows:]

PREPARED STATEMENT OF CHAIRMAN DAVID WU

Good afternoon. Today the Subcommittee will consider H.R. 3791, the *Fire Grants Reauthorization Act of 2009.* This bill reauthorizes programs that provide critical resources to fire departments across the country. At a time when many cities and

towns are facing major budget shortfalls and cuts in services, federal support to fire departments is crucial to public safety.

This bill reauthorizes the Assistance to Firefighters Grants program—or AFG—and the Staffing for Adequate Fire and Emergency Response program, known as SAFER.

Since the AFG program was created in 2000, nearly $5 billion has gone directly to fire departments to purchase equipment, training, fire trucks, and other resources. AFG also supports fire prevention and safety grants, which are used for smoke detectors, fire prevention education, and research to reduce the causes of fire and fire-related injury and death. In 1973, nearly 12,000 Americans died each year in fires. We have made significant strides in reducing this number, but still over 3,000 people annually still die in fires, and over 16,000 are injured. The AFG program has been an essential component of our efforts to reduce fire-related injuries and fatalities.

The SAFER program provides funds to help fire departments hire personnel so that they can respond as quickly as possible to a fire with enough firefighters to meet the staffing levels that the firefighting community has deemed safe. The program has provided nearly $700 million to local fire departments in the past four years, funding that is especially critical during these difficult economic times.

The Subcommittee has been working on this legislation in cooperation with the major fire service organizations since the spring, and this bill reflects the needs and priorities identified by fire service experts in a Technology and Innovation Subcommittee hearing this July. Both Ranking Member Smith and I have been working closely with all of the stakeholders to ensure that their needs and concerns are addressed. This bill would not have been possible without the work and cooperation of the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Volunteer Fire Council, the National Fire Protection Association, and the Congressional Fire Services Institute. I am very pleased that everybody pulled together to ensure that we have legislation that will benefit the constituents of every Member of Congress. H.R. 3791 is a bipartisan bill with 40 original co-sponsors. I strongly support this bill and urge a yes vote.

I will now yield to the Ranking Member, Mr. Smith.

Mr. SMITH. Yes, I will make it as brief as I can and submit the rest for the record. Thank you, Mr. Chairman.

As we learned at our hearing in July and as I have heard in discussions with fire chiefs and firefighters in my District, the AFG program is frequently cited as a lifesaver and the only means by which many departments can acquire up-to-date equipment and training which requires a significant portion of their budget for their firefighters. Now, this is particularly true in rural areas of my District where many communities rely upon all-volunteer departments to respond to fires and other emergencies. The equipment needed to fight fires and save lives and property is costly and required for departments to meet certain minimum response capabilities regardless of whether they are protecting a community of a few hundred people or a large city of a few hundred thousand people. As such, firefighter grants have proven absolutely vital for rural and volunteer fire departments, which have small tax bases and the least ability to acquire such equipment.

The bill before us today makes several modest changes to the AFG and SAFER programs reflecting a compromise reached by the leading national fire service organizations who worked closely with the Committee to develop the legislation. I support the changes and the underlying reauthorization effort but I do have some concerns and priorities I hope to address as we go forward. In particular, for the reasons I just mentioned, I want to ensure the changes made in this legislation do not negatively impact the ability of smaller combination and volunteer departments to compete for and receive AFG grants, so I will be offering an amendment today which attempts to clarify the grant process in this respect.

I also want to note that the funding for the AFG program has declined over the last few years and is now far below both the currently authorized level as well as the level called for in this bill. I hope as we go forward we can find a way to reverse this decline while also better aligning authorization levels with realistic and responsible expectations for appropriations.

Thank you again, Mr. Chairman, and with unanimous consent I do have some items for the record.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF REPRESENTATIVE ADRIAN SMITH

Mr. Chairman, thank you for calling this markup today to reauthorize the Department of Homeland Security's Firefighters grants programs.

As we learned at our hearing in July and as I have heard in discussions with fire chiefs and firefighters in my District, the AFG program is frequently cited as a "lifesaver," and the only means by which many departments can acquire up-to-date equipment and training—which requires a significant portion of their budget—for their firefighters.

This is particularly true in the rural areas of my District where many communities rely upon all-volunteer departments to respond to fires and other emergencies. The equipment needed to fight fires and save lives and property is costly, and requires departments to have certain minimum response capabilities regardless of whether they are protecting a community of a few thousand people or a large city of a few hundred thousand people. As such, Firefighter grants have proven absolutely vital for rural and volunteer fire departments that have small tax bases and the least ability to acquire such equipment.

The bill before us today makes several modest changes to the AFG and SAFER programs, reflecting a compromise reached by the leading national fire service organizations that worked closely with the Committee to develop this legislation.

I support these changes and the underlying reauthorization effort, but I do have some concerns and priorities that I hope to address as we go forward. In particular, and for the reasons I just mentioned, I want to ensure that the changes made in this legislation do not negatively impact the ability of smaller combination and volunteer departments to compete for and receive AFG grants, so I will be offering an amendment today that attempts to clarify the grant process in this respect.

I also want to note that funding for the AFG program has declined over the last few years, and is now far below both the currently authorized level as well as the level called for in this bill. I hope that as we go forward we can find a way to reverse this decline while also better aligning authorization levels with realistic and responsible expectations for appropriations.

Thank you again, Mr. Chairman, for working with us on reauthorization of these programs. I hope for and expect a continued smooth process as we go forward. And ask unanimous consent to include my statements in the record.

Chairman WU. Thank you very much. Without objection, so ordered. The items will be entered into the record at this point, and now I would like to recognize the gentleman from Arizona, Mr. Mitchell, for a short statement.

Mr. MITCHELL. Thank you, Mr. Chairman.

The provisions of this bill reflect the needs of the front-line stakeholders who protect us all and our constituents from fires, and through the testimony from fire service representatives this July, the Subcommittee learned that changes to matching requirements would enable fire departments with the greatest need to take advantage of all the programs. And this bill, as I mentioned, is the result of a consensus among the fire service organizations including the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Fire Protection Association and the Congressional Fire Services Institute, and I would like to thank Chairman Wu and the Science and Technology Committee staff, especially Meghan Housewright and Mike Quear,

for their hard work, and I would ask unanimous consent for my complete statement to be put in the record, and I yield back the rest of my time.

[The prepared statement of Mr. Mitchell follows:]

PREPARED STATEMENT OF REPRESENTATIVE HARRY E. MITCHELL

Thank you Mr. Chairman.

Firefighters are often the first—and the last—to leave an emergency scene. Whether it's putting out a house fire or a wildfire—or responding to a terrorist attack or a car accident—we depend on firefighters every day.

But firefighters also depend on us. They depend on the public and their elected officials to make sure that they have the resources, the equipment and the training they need to do their job. Without those tools, we put them and all of us at unnecessary risk.

The provisions in this bill reflect the needs of the front-line stakeholders who protect us and our constituents from fires.

Through testimony from fire service representatives this July, the Subcommittee learned that changes to matching requirements would enable fire departments with the greatest need to take advantage of the programs.

Therefore, the bill sets the matching requirement for the Assistance to Firefighters Grant Program, from 20 percent to 10 percent, with fire departments serving populations under 20,000 paying a five percent match. This greatly benefits rural and less urban areas.

H.R. 3791 also modifies the snatching requirements for the SAFER program. Per the recommendations of fire service organizations, reflecting the hardships faced by our State and local governments, SAFER will require instead a 20 percent match each year for three years.

Again on the recommendations of fire service organizations, the bill also gives the Administrator the authority, to waive the matching requirements for both programs in cases of exceptional economic hardship.

Such waivers may also be given for the programs' budget maintenance requirements and SAFER provisions that restrict the funding to hiring only additional firefighters, rather than retaining current firefighters. This is a necessary step at a time when fire departments in many areas of the country are confronted with the prospect of laying-off firefighters.

The bill also changes the SAFER program to reflect the variations in first-year firefighter salaries across the country, via eliminating an artificial cap.

Additionally, H.R. 3791 increases the maximum size of the AFG award a fire department may be eligible for, depending on the size of the population the fire department serves.

This change addresses two issues raised at the Subcommittee's July hearing. First, it allows towns and cities of all sizes to apply for funding proportional to the size of their needs. Second, it allows areas that have consolidated multiple fire departments under one single jurisdiction to be eligible for an amount of money that reflects the true size of their departments.

This legislation also makes changes to the AFG program so it can assist all types of communities, from large cities to small towns. Currently, less than 20 percent of the funding goes to career fire departments that serve our most populated areas.

To ensure a more equitable distribution of the funding, the bill requires the funds be apportioned such that 25 percent would go to career fire departments, 25 percent would go to combination fire departments, and 25 percent would go to volunteer fire departments.

Ten percent would remain for open competition among all types of fire departments.

The final 15 percent of the funding serves three other important functions:

- Up to three percent may be used by fire service training academies for equipment and firefighting apparatus.
- Two percent of the funding will be used for EMS activities for volunteer, non-fire service EMS and rescue organizations.
- And, ten percent of the funding will used for the Fire Prevention and Safety grants, the maximum amount for each grant shall be $1.5 million. These grants may be used for activities that help reduce the number of fire related deaths and injuries among the. general public and among fire fighters, including fire education and prevention and fire safety research.

This bill is the result of consensus among the fire service organizations, including the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Fire Protection Association, and the Congressional Fire Services Institute.

I would like to thank Chairman Wu and the Science and Technology Committee staff, especially Meghan Housewright and Mike Quear, for their hard work.

I yield back the balance of my time.

Chairman WU. I thank the gentleman.

Does anyone else wish to be recognized If not, I ask unanimous consent that the bill is considered as read and open to amendment at any point and that the Members proceed with the amendments in the order of the roster. Without objection, so ordered.

The first amendment on the roster is an amendment in the nature of a substitute offered by the Chair.

The Clerk will report the amendment.

The CLERK. Amendment number 207, amendment in the nature of a substitute to H.R. 3791, offered by Mr. Wu of Oregon.

Chairman WU. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

I recognize myself for five minutes to explain the amendment. The amendment simply changes the form of the bill from a series of annotations, or cut-and-bite amendments, to the *Fire Prevention Control Act of 1974* so that it reads much more smoothly and understandably as Sections 33 and 34 of that Act reflecting all the changes that were made to the Act in H.R. 3791.

A couple of other things. In addition, this amendment adds a provision authorizing the Administrator to establish University Fire Safety Research Centers from the ten percent set aside of funding for the Fire Prevention Safety Grants. The Administrator may establish up to three of these centers. And finally, it adds language to require the U.S. Fire Administration to work with the National Fire Protection Association on a needs assessment for the fire service and report back to Congress on the results of that needs assessment.

Is there any further discussion of the amendment? If not, we will move on to specific amendments.

The second amendment on the roster is an amendment offered by the gentleman from Nebraska, Mr. Smith. Mr. Smith, are you ready to proceed with your amendment?

Mr. SMITH. Yes, sir.

Chairman WU. The Clerk will report the amendment.

The CLERK. Amendment number 210, amendment to the amendment in the nature of a substitute to H.R. 3791, *Fire Grants Reauthorization Act of 2009,* offered by Mr. Smith of Nebraska.

Chairman WU. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

I recognize the gentleman from Nebraska for five minutes to explain the amendment.

Mr. SMITH. Thank you, Mr. Chairman.

This amendment is intended to ensure a greater degree of confidence in the Fire Prevention and Safety portion of the AFG [Assistance to Firefighter Grant] program. The amendment would require non-fire department organizations which do not engage in fire-related activities as a primary function to partner with local fire departments in order to be eligible. This partnering would

allow local departments to so-called bless an applicant with its plan without adding an unreasonable burden and in doing so ensure a greater degree of confidence the proposal is worthy of funding.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF REPRESENTATIVE ADRIAN SMITH

This amendment is intended to ensure a greater degree of confidence in the Fire Prevention and Safety portion of the AFG program.

This amendment would require non-fire department organizations which do not engage in fire-related activities as a primary function to partner with local fire departments in order to be eligible. This partnering would allow local departments to "bless" an applicant and its plan without adding an unreasonable burden, and in doing so ensure a greater degree of confidence the proposal is worthy of funding.

Chairman WU. I thank the gentleman for the amendment. It is my intention to support it because I believe that it is a good idea to add the expertise of a fire department to any nonprofit organization that wants to do fire prevention and safety work. I do ask that the gentleman be open to working with me to ensure that the language does not have any unintended consequences for organizations like the Lions Club, the American Red Cross or others that are undoubtedly doing good work.

Mr. SMITH. Sure. Absolutely. I think it is important to note that all along the way but certainly the affiliation with the fire department I think certainly adds credibility to the entire thing.

Chairman WU. Thank you very much.

Is there any other discussion of this amendment? If not, the vote occurs on the amendment. All those in favor, say "aye." Those opposed, say "no." In the opinion of the Chair the ayes have it and is agreed to.

The third amendment on the roster is an amendment offered by the gentleman from Nebraska, and Mr. Smith, are you ready to proceed with your amendment?

Mr. SMITH. I have an amendment, yes.

Chairman WU. The Clerk will report the amendment.

The CLERK. Amendment number 209, amendment to the amendment in the nature of a substitute to H.R. 3791, *Fire Grants Authorization Act of 2009,* offered by Mr. Smith of Nebraska.

Chairman WU. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

I recognize the gentleman for five minutes to explain his amendment.

Mr. SMITH. Or less. Thank you.

This amendment adds language to the bill to clarify as FEMA reviews and considers applications under the AFG program, it must consider a broad range of factors related to a fire department's ability to respond to hazards. It is intended to complement language in the base bill stating departments protecting larger populations and running higher call volumes receive priority. It is important to clarify this consideration be accompanied by consideration of other factors as well such as a department's geographic response area, hazard vulnerability or financial situation. These are all factors which significantly impact a fire department's capabilities and therefore should remain part of the peer review and award process. Let me certainly emphasize, this addition is not intended to make

any changes to the AFG program but rather would codify existing practice.

[The prepared statement of Mr. Smith follows:]

THE PREPARED STATEMENT OF REPRESENTATIVE ADRIAN SMITH

This amendment adds language to the bill to clarify as FEMA reviews and considers applications under the AFG program, it must consider a broad range of factors related to a fire department's ability to respond to hazards.

It is intended to complement language in the base bill stating departments protecting larger populations and running higher call volumes receive priority.

It is important to clarify this consideration be accompanied by consideration of other factors as well—such as a department's geographic response area, hazard vulnerability, or financial situation. These are all factors which significantly impact a fire department's capabilities, and therefore should remain part of the peer review and award process.

Let me re-emphasize: this addition is not intended to make any changes to the AFG program but rather would codify existing practice.

Additional Comments

- I also want to express my concern with the funding trends associated with these programs.
- In 2004, the AFG program was funded at $750 million, just below its authorized level. The next year it suffered a $100 million cut, followed by a $90 million cut the following year. This has continued, and this year the Administration's request was $360 million, or almost 50 percent, lower than the 2004 funding for AFG.
- While we would rather not think the AFG and SAFER programs compete against each other for limited funds, it is essentially a reality, as the cuts which have occurred to AFG have been replaced by increases to SAFER on an almost one-to-one basis.
- This trend is particularly bothersome given the fact AFG awards go for equipment and training at all types of departments—rural and urban and large and small—while SAFER awards are overwhelmingly for departments in urban and suburban areas.
- I had originally intended to offer an amendment expressing the "Sense of Congress" that this steady decline in AFG funding relative to SAFER should be halted in the event that these programs are not fully funded at their authorized level.
- In working with Mr. Wu, I have agreed not to offer the amendment but I would like to continue working with you to ensure that the AFG program does not see its budget eroded at the expense of SAFER.

Chairman WU. Mr. Smith, I thank you for that explanation, and it is my intention to accept this amendment. I would note that the fire service has always been very active in developing this grant guidance with the U.S. Fire Administration. This amendment does not change that. They continue to be active in this role.

Is there any other discussion of this amendment? Yes, Mr. Luján.

Mr. LUJÁN. Mr. Chairman, just quickly, I very much appreciate Mr. Smith offering this amendment and really looking after some of the rural areas as well to make sure that we are all inclusive and that we are looking to see how we can improve fire service across the entire country as well. So I very much appreciate it, and thank you for your being supportive, Mr. Chairman.

Chairman WU. Thank you very much, Mr. Luján.

Anyone else wish to speak on this amendment? If not, the vote occurs on the amendment. All those in favor, please say "aye." Those opposed, say "no." In the opinion of the Chair, the ayes have it. The amendment is agreed to.

Are there any other amendments to the amendment in the nature of a substitute? If not, the vote occurs on the amendment in the nature of a substitute as amended.

Mr. SMITH. Well, Mr. Chairman, if we have time—no, I am just teasing.

Chairman WU. Apparently we have all the time in the world because we have—we just have all the time in the world. We always do.

If no, the vote occurs on the amendment in the nature of a substitute as amended. All in favor, say "aye." Those opposed, say "no." In the opinion of the Chair, the ayes have it and the amendment is agreed to.

The vote is now on the bill, H.R. 3791 as amended. All those in favor will say "aye." All those opposed will say "no." In the opinion of the Chair, the ayes have it. The ayes have it and the bill is agreed to.

I recognize myself to offer a motion. I move that the Subcommittee favorably report H.R. 3791 as amended to the Full Committee. Furthermore, I move that staff be instructed to prepare the Subcommittee report and make necessary technical and conforming change to the bill in accordance with the recommendations of the Subcommittee.

The question is on the motion to report the bill favorably. Those in favor of the motion will signify by saying "aye." Those opposed, "no." In the opinion of the Chair, the ayes have it and the bill is favorably reported.

Without objection, the motion to reconsider is laid upon the table. Members will have two subsequent calendar days in which to submit supplemental Minority or additional views on the measure. I want to thank all the Members for their hard work, their cooperation in bringing this to the Subcommittee and in moving this expeditiously to the Full Committee, and we look forward to Floor passage of this important piece of legislation, and this concludes our Subcommittee markup, and it would be wonderful if all markups were this cooperative and relatively quick, and I thank everyone for their cooperation. Thank you very much. This markup is adjourned.

[Whereupon, at 2:17 p.m., the Subcommittee was adjourned.]

Appendix:

H.R. 3791, Section-by-Section Analysis, Amendment Roster

I

111TH CONGRESS
1ST SESSION

H. R. 3791

To amend sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 13, 2009

Mr. MITCHELL (for himself, Mr. PASCRELL, Mr. HOYER, Mr. GORDON of Tennessee, Mr. WU, Mr. ANDREWS, Mr. GRAYSON, Mr. TONKO, Mr. ROTHMAN of New Jersey, Mr. WILSON of Ohio, Mr. LIPINSKI, Mr. CARNAHAN, Mr. COSTELLO, Mr. PETERS, Mr. HOLDEN, Ms. SHEA-PORTER, Ms. HIRONO, Mr. HINCHEY, Mr. MICHAUD, Mr. HIGGINS, Mrs. HALVORSON, Mr. ROSS, Mr. FOSTER, Mr. LANGEVIN, Mr. MCINTYRE, Mr. DELAHUNT, Mrs. LOWEY, Mr. KAGEN, Mr. THOMPSON of Mississippi, Ms. RICHARDSON, Ms. SUTTON, Mr. CUELLAR, Mrs. KIRKPATRICK of Arizona, Ms. CLARKE, Ms. LORETTA SANCHEZ of California, Mr. LUJÁN, Mr. RYAN of Ohio, Mrs. BLACKBURN, Mr. CLEAVER, Ms. JACKSON-LEE of Texas, and Mr. DOYLE) introduced the following bill; which was referred to the Committee on Science and Technology

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A BILL

To amend sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Fire Grants Reauthor-
5 ization Act of 2009".

SEC. 2. AMENDMENT OF FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.).

SEC. 3. ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM AMENDMENTS.

(a) GRANT RECIPIENTS.—Section 33(b)(1) is amended—

(1) in subparagraph (A), by striking ''State, in consultation'' and inserting ''State or State fire training academies, in consultation''; and

(2) in subparagraph (C), by striking ''non-affiliated EMS'' and inserting ''volunteer, non-fire service EMS and rescue''.

(b) USE OF GRANT FUNDS.—Section 33(b)(3) is amended—

(1) in subparagraph (B), by striking ''in firefighting,'' and by inserting ''in firefighting, emergency medical services and other'';

(2) in subparagraph (D), by striking ''inspectors'' and inserting ''and building inspectors em-

ployed by a fire department or serving as a volunteer building inspector with a fire department";

(3) in subparagraph (F), by striking "non-affiliated EMS" and inserting "volunteer, non-fire service EMS and rescue";

(4) in subparagraph (H), by striking "for fighting fires with foam in remote areas without access to water, and equipment"; and

(5) in subparagraph (K), by striking "codes" and inserting "codes and standards".

(c) FIRE PREVENTION AND FIREFIGHTER SAFETY PROGRAMS.—Section 33(b)(4) is amended—

(1) in subparagraph (A), by striking "5 percent" and inserting "10 percent"; and

(2) in subparagraph (C), by striking "$1,000,000" and inserting "$1,500,000".

(d) MATCHING REQUIREMENT.—Section 33(b)(6) is amended—

(1) in subparagraph (A), by striking "20 percent" and inserting "10 percent";

(2) by amending subparagraph B to read as follows:

"(B) REQUIREMENT FOR SMALL COMMUNITY ORGANIZATIONS.—In the case of an applicant whose personnel serve jurisdictions of

20,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 5 percent.''; and

(3) in subparagraph (C), by striking ''(A)(ii)''.

(e) MAINTENANCE OF EXPENDITURES.—Section 33(b)(7) is amended by striking ''above the'' and inserting ''above 80 percent of the''.

(f) VARIETY OF FIRE DEPARTMENT GRANT RECIPIENTS.—Section 33(b)(9) is amended to read as follows:

''(9) VARIETY OF FIRE DEPARTMENT GRANT RECIPIENTS.—

''(A) IN GENERAL.—Of the amounts made available under subsection (e), the Director shall ensure that grants under paragraph (1)(A) for a fiscal year are allocated, to the extent that there are eligible applicants to carry out the activities under paragraph (3), as follows:

''(i) 25 percent shall be made available to career fire departments;

''(ii) 25 percent shall be made available to volunteer fire departments; and

''(iii) 25 percent shall be made available to combination fire departments.

"(B) PRIORITY FOR HIGH POPULATION AND INCIDENT RESPONSE.—In awarding grants under paragraph (1)(A), the Director shall give priority within each category of applicants under subparagraph (A) to an applicant that is serving an area with high population and with a high number of incidents requiring a response.

"(C) REMAINDER.—Of the amounts made available under subsection (e) that are not allocated for use and awarded under subparagraph (A) or designated for use under any other provision of this section, the Director shall provide for an open competition for grants among career fire departments, volunteer fire departments, and combination fire departments to carry out the activities under paragraph (3).".

(g) RECIPIENT LIMITATIONS.—Section 33(b)(10) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) RECIPIENT LIMITATIONS.—A grant recipient under paragraph (1)(A)—

"(i) that serves a jurisdiction with 100,000 people or less may not receive

grants in excess of $1,000,000 for any fiscal year;

"(ii) that serves a jurisdiction with more than 100,000 people but less than 500,000 people may not receive grants in excess of $2,000,000 for any fiscal year;

"(iii) that serves a jurisdiction with 500,000 people or more but less than 1,000,000 people may not receive grants in excess of $3,000,000 for any fiscal year;

"(iv) that serves a jurisdiction with 1,000,000 people or more but less than 2,500,000 people may not receive grants in excess of $6,000,000 for any fiscal year; and

"(v) that serves a jurisdiction with 2,500,000 people or more may not receive grants in excess of $9,000,000 for any fiscal year.

The Director may award grants in excess of the limitations provided in clauses (i), (ii), (iii), and (iv) if the Director determines that extraordinary need for assistance by a jurisdiction warrants a waiver.";

(2) by striking subparagraph (B);

(3) by redesignating subparagraph (C) as subparagraph (B);

(4) by inserting after subparagraph (B), as redesignated by paragraph (3) of this Act, the following new subparagraph:

"(C) STATE FIRE TRAINING ACADEMIES.—

"(i) IN GENERAL.—To the extent that there are eligible applicants and in accordance with clause (ii), the Director shall award not more than 3 percent of the amounts made available under subsection (e) for grants under this subsection for State fire training academies.

"(ii) LIMITATION.—The Director shall not make a grant to a State fire training academy in excess of $1,000,000 and shall ensure that any grant awarded to a State fire training academy shall be used for the purposes described in paragraphs 3(G), 3(H), and 3(I).";

(5) in subparagraph (E)—

(A) in the heading, by striking "NON-AFFILIATED EMS" and inserting "VOLUNTEER, NON-FIRE SERVICE EMS AND RESCUE ORGANIZATIONS"; and

(B) in the text, by striking ''nonaffiliated EMS'' and inserting ''volunteer, non-fire service EMS and rescue'';

(6) in subparagraph (F)—

(A) in the heading, by striking ''NON-AFFILIATED EMS'' and inserting ''VOLUNTEER, NON-FIRE SERVICE EMS AND RESCUE''; and

(B) in the text, by striking ''nonaffiliated EMS'' and inserting ''volunteer, non-fire service EMS and rescue''; and

(7) by adding at the end the following:

''(G) CONSENSUS STANDARDS.—Any grant amounts used to obtain training under this section shall be limited to training that complies with applicable national voluntary consensus standards (if applicable national voluntary consensus standards have been established).''.

(h) ECONOMIC HARDSHIP WAIVER.—Section 33(b)(11) is amended to read as follows:

''(11) ECONOMIC HARDSHIP WAIVER.—

''(A) IN GENERAL.—In exceptional circumstances, the Director may waive or reduce the matching requirement under paragraph (6) and the maintenance of expenditures require-

ment under paragraph (7) for applicants facing demonstrated economic hardship.

"(B) CRITERIA DEVELOPMENT.—The criteria under which the Director may waive or reduce such requirements shall be developed in consultation with individuals who are—

"(i) recognized for expertise in firefighting, emergency medical services provided by fire services, or the economic affairs of State and local governments; and

"(ii) members of national fire service organizations or national organizations representing the interests of State and local governments.

"(C) PUBLIC AVAILABILITY.—Criteria developed under subparagraph (B) shall be made publicly available.".

(i) GUIDELINES.—Section 33(b)(14)(A) is amended—

(1) in clause (i), by striking "and" after the semicolon;

(2) in clause (ii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) the criteria developed under paragraph (11) which the Director will use to evaluate applicants for waivers from program requirements.".

(j) DEFINITIONS.—Section 33(d) is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(4) the term 'career fire department' means a firefighting department that has an all professional force of firefighting personnel;

"(5) the term 'combination fire department' means a firefighting department that has a combined force of professional and volunteer firefighting personnel; and

"(6) the term 'volunteer fire department' means a firefighting department that has an all volunteer force of firefighting personnel.".

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 33(e) is amended to read as follows:

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated for the purposes of this section

$1,000,000,000 for each of the fiscal years 2010 through 2014.

"(2) ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—Of the funds appropriated pursuant to paragraph (1) for a fiscal year, the Director may use not more than 3 percent of the funds to cover salaries and expenses and other administrative costs incurred by the Director to make grants and provide assistance under this section.

"(B) FORMULA.—The Director shall subtract the amount to be used for subparagraph (A) from the amount appropriated pursuant to paragraph (1) before making any allocations or apportioning any funds under subsection (b).".

SEC. 4. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM.

(a) AMENDMENTS TO SUBSECTION (a).—Section 34(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) in clause (i), by striking "4 years" and inserting "3 years";

(ii) in clause (ii), by striking "1 year beyond the termination of their grants"

and inserting "the entire 3 years of the grant period"; and

(iii) by adding at the end the following new clause:

"(iii) The portion of the cost of hiring firefighters provided by a grant under this paragraph may not exceed 80 percent of such cost for each fiscal year.";

(B) in subparagraph (C), by striking "subparagraph (E)" and inserting "subparagraph (B)(iii)";

(C) by striking subparagraph (E); and

(D) by redesignating subparagraphs (F) through (H) as subparagraphs (E) through (G), respectively; and

(2) in paragraph (2)—

(A) by striking "paragraph (1)(H)" and inserting "paragraph (1)(G)"; and

(B) by striking "departments, and organizations on a local or statewide" and inserting "departments and organizations on a local, statewide, or national".

(b) AMENDMENT TO SUBSECTION (b).—Section 34(b)(3)(B) is amended by striking "subsection

1 (a)(1)(B)(ii) and (F)" and inserting "subparagraphs
2 (B)(ii) and (E) of such subsection".

3 (c) AMENDMENT TO SUBSECTION (c).—Section
4 34(c)(4) is amended to read as follows:

5 "(4) WAIVER.—In exceptional circumstances,
6 the Administrator may waive the requirements of
7 subsections (a)(1)(B)(ii), (a)(1)(B)(iii), and para-
8 graphs (1) and (2) of this subsection if the Admini-
9 trator determines that the jurisdiction is facing dem-
10 onstrated economic hardship in accordance with sec-
11 tion 33(a)(11).".

12 (d) AMENDMENT TO SUBSECTION (e).—Section 34(e)
13 is amended by striking "of this section" each place it ap-
14 pears and by inserting "of the Fire Grants Reauthoriza-
15 tion Act of 2009".

16 (e) AMENDMENT TO SUBSECTION (i).—Section 34(i)
17 is amended by striking "this section" and all that follows
18 through the period at the end and inserting "this section
19 $1,194,000,000 for each of fiscal years 2010 through
20 2014."

21 (f) TECHNICAL AND CONFORMING AMENDMENT.—
22 Section 34 is amended—

23 (1) by striking "Administrator" each place it
24 appears and inserting "Director"; and

25 (2) in subsection (h)—

1 (A) by redesignating paragraphs (1) and
2 (2) as paragraphs (2) and (3), respectively; and
3 (B) by inserting before paragraph (2) (as
4 so redesignated) the following:
5 "(1) 'Director' means the Director, acting
6 through the Administrator;".

○

SECTION-BY-SECTION ANALYSIS OF
H.R. 3791, THE FIRE GRANTS REAUTHORIZATION ACT OF 2009

Sec. 2

Amendment to Sec. 33 of the Federal Fire Prevention and Control Act of 1974

Assistance Program

AUTHORITY: Allows the Director to make grants on a competitive basis to local fire departments and state fire training academies to protect against fire and fire-related hazards; to provide assistance for fire and fire prevention programs; and to provide assistance to volunteer, non-fire service EMS and rescue organizations.

USES: Allows the Director to make grants available for a variety of purposes related to fire fighting and fire safety, including equipment and training.

FIRE PREVENTION AND SAFETY: Sets aside 10 percent of the appropriated funds for fire prevention and safety grants. Such grants may go to local fire departments or other organizations for fire prevention programs, as well as research on fire safety and firefighter health and safety. Such grants may not be above $1,500,000.

APPLICATION: Fire departments or other organizations seeking grants must submit applications that contain information on the financial need of the applicant, the cost-to-benefit ratio of the intended purchase, an agreement to participate in the national fire data collection system, and a list of other sources of federal funding received by the applicant.

MATCHING REQUIREMENT: Fire departments must match 10 percent of any federal funds received. Fire departments serving jurisdictions with fewer than 20,000 people, the matching requirement is five percent. There is no matching requirement for the Fire Prevention and Safety Grants.

MAINTAINANCE OF EXPENDITURES: Grants may be awarded only if the applicant agrees to maintain its budget for the uses for which they are applying for the grant at, or above, 80 percent of its average for the previous two fiscal years.

ECONOMIC HARDSHIP WAIVER: The Director may waive the matching requirement and the maintenance of expenditure requirement in cases of economic hardship. The Director shall develop the criteria for the waivers in consultation with fire service organizations and organizations representing State and local governments. The criteria for the waivers will be made publicly available.

VARIETY OF FIRE DEPARTMENT GRANT RECIPIENTS: The grants shall be made to fire departments as follows (if enough qualified applicant apply in each category):

25 percent to career fire departments;

25 percent to combination fire departments;

25 percent to volunteer fire departments;

Any remainder not otherwise designated under this bill shall be open for competition among all fire types of departments. The Director shall prioritize those applications from departments representing areas of high population and receiving a high call-volume.

REPORT TO THE DIRECTOR: Applicants must report to the Director how the assistance was used.

GRANT LIMITATIONS: The maximum allowable grant size a fire department is eligible for will depend on the size of the population that department serves, as follows:

A population of 100,000 or less may receive up to $1,000,000

A population of 100,000 to 500,000 may receive up to $2,000,000

A population of 500,000 to 1,000,000 may receive up to $3,000,000

A population of 1,000,000 to 2,500,000 may receive up to $6,000,000

A population of 2,500,000 or more may receive up to $9,000,000.

Not more than 25 percent of the total appropriation may be used to purchase fire-fighting vehicles.

State fire training academies are eligible for no more than three percent of the total appropriation. Grants to State fire training academies shall be no more than $1,000,000.

Not less than two percent of the funds appropriated shall go to volunteer, non-fire service EMS and rescue organizations.

ALASKA NATIVE VILLAGES: Allows Alaska Native Villages to be eligible for grants made under this Act.

ANNUAL MEETING: Requires the Director to convene an annual meeting of fire service organizations to recommend criteria for awarding grants the following fiscal year.

GUIDELINES: Requires the Director to make the grant criteria publicly available.

PEER-REVIEW: Requires that the grants be subjected to a peer-review process.

APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT: Exempts the annual meeting and the peer-review process from the requirements of the *Federal Advisory Committee Act.*

ACCOUNTING DETERMINATION: Requires that, for the purposes of receiving assistance under this Act, equipment costs encompass all components of the cost, including design and assembly (if not commercially available).

AUDITS: Requires that grant recipients under the Act submit to audits.

UNIVERSITY FIRE SAFETY RESEARCH CENTERS: Authorizes the Director to make grants to institutions of higher education to establish and operate no more than three university fire safety research centers. The grants are to be used for R&D to reduce fire-related death and injuries among the general public and firefighters. The Director must also convene a workshop of fire safety experts to discuss research needs. The grant awards for fire safety research centers shall be made from the 10 percent allocated to the Fire Safety and Prevention program.

DEFINITIONS: Definitions provided for Career Fire Department; Combination Fire Departments; Director; Firefighting Personnel; Institution of Higher Education; Volunteer, Non-fire Service EMS and Rescue Organization; and Volunteer Fire Department.

AUTHORIZATION OF APPROPRIATIONS: Authorizes appropriations of $1,000,000 from 2010 to 2014, of which not more than three percent may be used for program administration purposes by the Director.

Sec. 3.

Amendments to Section 34 of the Federal Fire Prevention and Control Act of 1974.

EXPANDED AUTHORITY TO MAKE HIRING GRANTS: Directs the Director to make competitive grants to career, volunteer, and combination fire departments to increase the number of firefighters to a level that enables 24-hour staffing of fire departments. The grants will be used to hire new, additional firefighters and will run for three years. The use of grant funds to hire firefighters in any jurisdiction may not exceed 80 percent of the total costs of hiring firefighters.

RECRUITMENT AND RETENTION: Requires that at least 10 percent of the total appropriations must be used to recruit and retain volunteer firefighters at volunteer or combination fire departments and organizations that represent the interests of volunteer firefighters.

APPLICATIONS: Requires that, at a minimum, applications must detail why the fire department needs federal assistance, how it plans to meet the three year retention requirement, and how it will allow the firefighters to volunteer in their off-time. The applications must also explain how the fire department will work to recruit and hire more minority groups and women, as well as how it will retain newly hired firefighters past the conclusion of the three-year grant.

LIMITATIONS ON USE OF FUNDS: Requires that the grant funds should represent an increase of, and not supplant, funds provided by State and local governments, or the Bureau of Indian Affairs. Also requires that municipalities and other recipients maintain their budgets for fire-related and emergency response programs at or above 80 percent of their previous three year average.

WAIVER: Allows the Director to waive the following requirements for recipients facing economic hardship: the three year retention requirement of new firefighters hired with grant funds; the maintenance of expenditure requirement; and the "supplement versus supplant" requirement.

PERFORMANCE EVALUATION: Allows the Director to request any information considered necessary from grant recipients.

SUNSET; REPORTS: The Director's authority to make grants ends 10 years after the date of enactment; and, not later than six years after the date of enactment, the Director shall submit a report on the effectiveness of the grants and any recommendations for future provisions.

REVOCATION OR SUSPENSION OF FUNDING: Allows the Director to revoke or suspend any portion of a grant if a recipient does not comply with all of the requirements at any time.

ACCESS TO DOCUMENTS: Allows the Director to audit any grant recipient and provides access to any needed documents in carrying out the audit.

DEFINITIONS: Defines: Director; firefighter; and Indian tribe.

AUTHORIZATION OF APPROPRIATIONS: Authorizes $1,194,000,000 per year for FY 2010 through FY 2014 for Section 3.

Sec. 4. Study & Report

STUDY AND REPORT IN ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM: Directs the United States Fire Administration and the National Fire Protection Association to conduct a study defining the roles and activities of fire services; the equipment, staffing, and training needed to carry out these roles and activities; the gaps in existing resources required to meet these roles; and the impact of grants. Authorizes $300,000 per year for FY 2010 and FY 2011 to conduct the study.

COMMITTEE ON SCIENCE AND TECHNOLOGY
SUBCOMMITTEE ON TECHNOLOGY AND INNOVATION
MARKUP
October 14, 2009

AMENDMENT ROSTER

H.R. 3791, the Fire Grants Reauthorization Act of 2009

No.	Sponsor	Description	Results
1	Mr. Wu	Amendment in the Nature of a Substitute changes the bill format from cut and bite amendments to sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974, to substitute text for sections 33 and 34 of that Act. In addition, adds a section authorizing the establishment of up to three University Fire Safety Research Centers.	Agreed to by voice vote.
2	Mr. Smith (210)	Amends Section 2 ("Assistance to Firefighters Grant Program Reauthorization") by modifying the grant eligibility requirements for national, state, local, or community organizations that are not fire departments.	Agreed to by voice vote.
3	Mr. Smith (209)	Amends Section 2 ("Assistance to Firefighters Grant Program Reauthorization") by modifying the evaluation criteria to be considered by the Director in awarding grants.	Agreed to by voice vote.

AMENDMENT IN THE NATURE OF A SUBSTITUTE

TO H.R. 3791

OFFERED BY Mr. Wu

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fire Grants Reauthorization Act of 2009".

SEC. 2. ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM REAUTHORIZATION.

Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended to read as follows:

"SEC. 33. FIREFIGHTER ASSISTANCE.

"(a) ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—In accordance with this section, the Director may—

"(A) make grants on a competitive basis directly to fire departments of a State or State fire training academies, in consultation with the chief executive of the State, for the purpose of protecting the health and safety of the public

1 and firefighting personnel throughout the Na-
2 tion against fire and fire-related hazards;
3 "(B) provide assistance for fire prevention
4 and firefighter safety research and development
5 programs in accordance with paragraph (4);
6 and
7 "(C) provide assistance for volunteer, non-
8 fire service EMS and rescue organizations for
9 the purpose of paragraph (3)(F).
10 "(2) ADMINISTRATIVE ASSISTANCE.—The Di-
11 rector shall establish specific criteria for the selec-
12 tion of recipients of assistance under this section
13 and shall provide grant-writing assistance to appli-
14 cants.
15 "(3) USE OF FIRE DEPARTMENT GRANT
16 FUNDS.—The Director may make a grant under
17 paragraph (1)(A) only if the applicant for the grant
18 agrees to use the grant funds for one or more of the
19 following purposes:
20 "(A) To hire additional firefighting per-
21 sonnel.
22 "(B) To train firefighting personnel in
23 firefighting, emergency medical services and
24 other emergency response (including response
25 to a terrorism incident or use of a weapon of

1 mass destruction), arson prevention and detec-
2 tion, maritime firefighting, or the handling of
3 hazardous materials or to train firefighting per-
4 sonnel to provide any of the training described
5 in this subparagraph.
6 "(C) To fund the creation of rapid inter-
7 vention teams to protect firefighting personnel
8 at the scenes of fires and other emergencies.
9 "(D) To certify fire and building inspec-
10 tors employed by a fire department or serving
11 as a volunteer building inspector with a fire de-
12 partment.
13 "(E) To establish wellness and fitness pro-
14 grams for firefighting personnel to ensure that
15 the firefighting personnel can carry out their
16 duties.
17 "(F) To fund emergency medical services
18 provided by fire departments and volunteer,
19 non-fire service EMS and rescue organizations.
20 "(G) To acquire additional firefighting ve-
21 hicles, including fire trucks.
22 "(H) To acquire additional firefighting
23 equipment, including equipment for communica-
24 tions, monitoring, and response to a terrorism

1 incident or use of a weapon of mass destruc-
2 tion.
3 "(I) To acquire personal protective equip-
4 ment required for firefighting personnel by the
5 Occupational Safety and Health Administration
6 and other personal protective equipment for
7 firefighting personnel, including protective
8 equipment to respond to a terrorism incident or
9 the use of a weapon of mass destruction.
10 "(J) To modify fire stations, fire training
11 facilities, and other facilities to protect the
12 health and safety of firefighting personnel.
13 "(K) To enforce fire codes and standards.
14 "(L) To fund fire prevention programs.
15 "(M) To educate the public about arson
16 prevention and detection.
17 "(N) To provide incentives for the recruit-
18 ment and retention of volunteer firefighting
19 personnel for volunteer firefighting departments
20 and other firefighting departments that utilize
21 volunteers.
22 "(4) FIRE PREVENTION AND FIREFIGHTER
23 SAFETY RESEARCH AND DEVELOPMENT PRO-
24 GRAMS.—

"(A) IN GENERAL.—For each fiscal year, the Director shall use not less than 10 percent of the funds made available under subsection (e)—

"(i) to make grants to fire departments for the purpose described in paragraph (3)(L);

"(ii) to make grants to, or enter into contracts or cooperative agreements with, national, State, local, or community organizations that are not fire departments and that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and firefighter research and development programs for the purpose of carrying out fire prevention programs and research to improve firefighter health and life safety; and

"(iii) if the Director determines that it is necessary, to make grants or enter into contracts in accordance with subsection (c).

"(B) PRIORITY.—In selecting organizations described in subparagraph (A)(ii) to re-

1 ceive assistance under this paragraph, the Di-
2 rector shall give priority to organizations that
3 focus on prevention of injuries to high risk
4 groups from fire, as well as research programs
5 that demonstrate the potential to improve fire-
6 fighter safety.
7 "(C) GRANT LIMITATION.—A grant under
8 this paragraph shall not exceed $1,500,000 for
9 a fiscal year.
10 "(5) APPLICATION.—The Director may provide
11 assistance to a fire department or organization
12 under this subsection only if the fire department or
13 organization seeking the assistance submits to the
14 Director an application that meets the following re-
15 quirements:
16 "(A) FORM.—The application shall be in
17 such form as the Director may require.
18 "(B) INFORMATION.—The application shall
19 include the following information:
20 "(i) Information that demonstrates
21 the financial need of the applicant for the
22 assistance for which applied.
23 "(ii) An analysis of the costs and ben-
24 efits, with respect to public safety, of the
25 use of the assistance.

1 "(iii) An agreement to provide information to the national fire incident reporting system for the period covered by the assistance.

5 "(iv) A list of other sources of Federal funding received by the applicant. The Director, in coordination with the Secretary of Homeland Security, shall use such list to prevent unnecessary duplication of grant funds.

11 "(v) Any other information that the Director may require.

13 "(6) MATCHING REQUIREMENT.—

14 "(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and paragraph (8), the Director may provide assistance under this subsection only if the applicant for such assistance agrees to match 10 percent of such assistance for any fiscal year with an equal amount of non-Federal funds.

21 "(B) REQUIREMENT FOR SMALL COMMUNITY ORGANIZATIONS.—In the case of an applicant whose personnel serve jurisdictions of 20,000 or fewer residents, the percent applied

1 under the matching requirement of subpara-
2 graph (A) shall be 5 percent.
3 "(C) FIRE PREVENTION AND FIREFIGHTER
4 SAFETY GRANTS EXCEPTION.—There shall be
5 no matching requirement for a grant described
6 in paragraph (4).
7 "(7) MAINTENANCE OF EXPENDITURES.—Sub-
8 ject to paragraph (8), the Director may provide as-
9 sistance under this subsection only if the applicant
10 for the assistance agrees to maintain in the fiscal
11 year for which the assistance will be received the ap-
12 plicant's aggregate expenditures for the uses de-
13 scribed in paragraph (3) or (4) at or above 80 per-
14 cent of the average level of such expenditures in the
15 2 fiscal years preceding the fiscal year for which the
16 assistance will be received.
17 "(8) ECONOMIC HARDSHIP WAIVER.—
18 "(A) IN GENERAL.—In exceptional cir-
19 cumstances, the Director may waive or reduce
20 the matching requirement under paragraph (6)
21 and the maintenance of expenditures require-
22 ment under paragraph (7) for applicants facing
23 demonstrated economic hardship.
24 "(B) CRITERIA DEVELOPMENT.—The cri-
25 teria under which the Director may waive or re-

1 duce such requirements shall be developed in
2 consultation with individuals who are—
3 "(i) recognized for expertise in fire-
4 fighting, emergency medical services pro-
5 vided by fire services, or the economic af-
6 fairs of State and local governments; and
7 "(ii) members of national fire service
8 organizations or national organizations
9 representing the interests of State and
10 local governments.
11 "(C) PUBLIC AVAILABILITY.—Criteria de-
12 veloped under subparagraph (B) shall be made
13 publicly available.
14 "(9) VARIETY OF FIRE DEPARTMENT GRANT
15 RECIPIENTS.—
16 "(A) IN GENERAL.—Of the amounts made
17 available under subsection (e), the Director
18 shall ensure that grants under paragraph
19 (1)(A) for a fiscal year are allocated, to the ex-
20 tent that there are eligible applicants to carry
21 out the activities under paragraph (3), as fol-
22 lows:
23 "(i) 25 percent shall be made avail-
24 able to career fire departments;

1 "(ii) 25 percent shall be made avail-
2 able to volunteer fire departments; and
3 "(iii) 25 percent shall be made avail-
4 able to combination fire departments.
5 "(B) PRIORITY FOR HIGH POPULATION
6 AND INCIDENT RESPONSE.—In awarding grants
7 under paragraph (1)(A), the Director shall give
8 priority within each category of applicants
9 under subparagraph (A) to an applicant that is
10 serving an area with high population and with
11 a high number of incidents requiring a re-
12 sponse.
13 "(C) REMAINDER.—Of the amounts made
14 available under subsection (e) that are not allo-
15 cated for use and awarded under subparagraph
16 (A) or designated for use under any other pro-
17 vision of this section, the Director shall provide
18 for an open competition for grants among ca-
19 reer fire departments, volunteer fire depart-
20 ments, and combination fire departments to
21 carry out the activities under paragraph (3).
22 "(10) REPORT TO THE DIRECTOR.—The Direc-
23 tor may provide assistance under this subsection
24 only if the applicant for the assistance agrees to sub-
25 mit to the Director a report, including a description

1 of how the assistance was used, with respect to each
2 fiscal year for which the assistance was received.
3 "(11) GRANT LIMITATIONS.—
4 "(A) RECIPIENT LIMITATIONS.—A grant
5 recipient under paragraph (1)(A)—
6 "(i) that serves a jurisdiction with
7 100,000 people or less may not receive
8 grants in excess of $1,000,000 for any fis-
9 cal year;
10 "(ii) that serves a jurisdiction with
11 more than 100,000 people but less than
12 500,000 people may not receive grants in
13 excess of $2,000,000 for any fiscal year;
14 "(iii) that serves a jurisdiction with
15 500,000 people or more but less than
16 1,000,000 people may not receive grants in
17 excess of $3,000,000 for any fiscal year;
18 "(iv) that serves a jurisdiction with
19 1,000,000 people or more but less than
20 2,500,000 people may not receive grants in
21 excess of $6,000,000 for any fiscal year;
22 and
23 "(v) that serves a jurisdiction with
24 2,500,000 people or more may not receive

1 grants in excess of $9,000,000 for any fis-
2 cal year.
3 The Director may award grants in excess of the
4 limitations provided in clauses (i), (ii), (iii), and
5 (iv) if the Director determines that extraor-
6 dinary need for assistance by a jurisdiction war-
7 rants a waiver.
8 "(B) LIMITATION ON EXPENDITURES FOR
9 FIREFIGHTING VEHICLES.—Not more than 25
10 percent of the funds appropriated to provide
11 grants under this section for a fiscal year may
12 be used to assist grant recipients to purchase
13 vehicles, as authorized by paragraph (3)(G).
14 "(C) STATE FIRE TRAINING ACADEMIES.—
15 "(i) IN GENERAL.—To the extent that
16 there are eligible applicants and in accord-
17 ance with clause (ii), the Director shall
18 award not more than 3 percent of the
19 amounts made available under subsection
20 (e) for grants under this subsection for
21 State fire training academies.
22 "(ii) LIMITATION.—The Director shall
23 not make a grant to a State fire training
24 academy in excess of $1,000,000 and shall
25 ensure that any grant awarded to a State

1 fire training academy shall be used for the
2 purposes described in paragraphs 3(G),
3 3(H), and 3(I).
4 "(D) REQUIREMENTS FOR GRANTS FOR
5 EMERGENCY MEDICAL SERVICES.—Subject to
6 the restrictions in subparagraph (E), not less
7 than 2 percent of the funds appropriated under
8 this section for a fiscal year shall be awarded
9 for the purposes described in paragraph (3)(F).
10 "(E) VOLUNTEER, NON-FIRE SERVICE EMS
11 AND RESCUE ORGANIZATIONS LIMITATION.—
12 Not more than 2 percent of the funds appro-
13 priated to provide grants under this section for
14 a fiscal year shall be awarded to volunteer, non-
15 fire service EMS and rescue organizations.
16 "(F) APPLICATION OF SELECTION CRI-
17 TERIA TO GRANT APPLICATIONS FROM VOLUN-
18 TEER, NON-FIRE SERVICE EMS AND RESCUE OR-
19 GANIZATIONS.—In reviewing applications sub-
20 mitted by volunteer, non-fire service EMS and
21 rescue organizations, the Director shall consider
22 the extent to which other sources of Federal
23 funding are available to provide assistance re-
24 quested in such grant applications.

1 "(G) CONSENSUS STANDARDS.—Any grant
2 amounts used to obtain training under this sec-
3 tion shall be limited to training that complies
4 with applicable national voluntary consensus
5 standards (if applicable national voluntary con-
6 sensus standards have been established).
7 "(12) ELIGIBLE GRANTEE ON BEHALF OF
8 ALASKA NATIVE VILLAGES.—The Alaska Village Ini-
9 tiatives, a non-profit organization incorporated in
10 the State of Alaska, shall be considered an eligible
11 grantee for purposes of receiving assistance under
12 this section on behalf of Alaska Native villages.
13 "(13) ANNUAL MEETING.—The Director shall
14 convene an annual meeting of individuals who are
15 members of national fire service organizations and
16 are recognized for expertise in firefighting or emer-
17 gency medical services provided by fire services, and
18 who are not employees of the Federal Government,
19 for the purpose of recommending criteria for award-
20 ing grants under this section for the next fiscal year
21 and any necessary administrative changes to the
22 grant program.
23 "(14) GUIDELINES.—

1 "(A) IN GENERAL.—Each year, prior to
2 making any grants under this section, the Di-
3 rector shall publish in the Federal Register——
4 "(i) guidelines that describe the proc-
5 ess for applying for grants and the criteria
6 for awarding grants;
7 "(ii) an explanation of any differences
8 between the guidelines and the rec-
9 ommendations made pursuant to para-
10 graph (13); and
11 "(iii) the criteria developed under
12 paragraph (8) which the Director will use
13 to evaluate applicants for waivers from
14 program requirements.
15 "(B) SPECIFIC REQUIREMENT.—The cri-
16 teria for awarding grants under paragraph
17 (1)(A) shall include the extent to which the
18 grant would enhance the daily operations of the
19 applicant and the impact of such a grant on the
20 protection of lives and property.
21 "(15) PEER REVIEW.—The Director shall, after
22 consultation with national fire service organizations,
23 appoint fire service personnel to conduct peer review
24 of applications received under paragraph (5). In

1 making grants under this section, the Director shall
2 consider the results of such peer review evaluations.
3 "(16) APPLICABILITY OF FEDERAL ADVISORY
4 COMMITTEE ACT.—The Federal Advisory Committee
5 Act (5 U.S.C. App.) shall not apply to activities
6 under paragraphs (13) and (15).
7 "(17) ACCOUNTING DETERMINATION.—Not-
8 withstanding any other provision of law, rule, regu-
9 lation, or guidance, for purposes of receiving assist-
10 ance under this section, equipment costs shall in-
11 clude all costs attributable to any design, purchase
12 of components, assembly, manufacture, and trans-
13 portation of equipment not otherwise commercially
14 available.
15 "(b) AUDITS.—A recipient of a grant under this sec-
16 tion shall be subject to audits to ensure that the grant
17 proceeds are expended for the intended purposes and that
18 the grant recipient complies with the requirements of
19 paragraphs (6) and (7) of subsection (a) unless the Direc-
20 tor has granted a waiver under subsection (a)(8).
21 "(c) UNIVERSITY FIRE SAFETY RESEARCH CEN-
22 TERS.—
23 "(1) IN GENERAL.—The Director may make
24 grants under subsection (a)(4)(A)(iii) to institutions

1 of higher education to establish and operate univer-
2 sity fire safety research centers.
3 "(2) OBJECTIVES.—Grants received under this
4 subsection shall be used by institutions of higher
5 education to advance significantly the Nation's abil-
6 ity to reduce the number of fire-related deaths and
7 injuries among firefighters and the general public
8 through research, development, and technology
9 transfer activities.
10 "(3) LIMITATION.—The Director may establish
11 no more than 3 university fire safety research cen-
12 ters. An institution of higher education may not di-
13 rectly receive a grant under this section for a fiscal
14 year for more than 1 university fire safety research
15 center.
16 "(4) APPLICATION.—In order to be eligible to
17 receive a university fire safety research center grant,
18 an institution of higher education shall submit to the
19 Director an application that is in such form and
20 contains such information and assurances as the Di-
21 rector may require.
22 "(5) GENERAL SELECTION CRITERIA.—The Di-
23 rector shall select each recipient of a grant under
24 this subsection through a competitive process on the
25 basis of the following:

1 "(A) The demonstrated research and ex-
2 tension resources available to the recipient to
3 carry out the research, development, and tech-
4 nology transfer activities.
5 "(B) The capability of the recipient to pro-
6 vide leadership in making national contributions
7 to fire safety.
8 "(C) The recipient's ability to disseminate
9 the results of fire safety research.
10 "(D) The strategic plan the recipient pro-
11 poses to carry out under the grant.
12 "(6) RESEARCH NEEDS.—Within 90 days after
13 the date of enactment of the Fire Grants Reauthor-
14 ization Act of 2009, the Director shall convene a
15 workshop of the fire safety research community, fire
16 service organizations, and other appropriate stake-
17 holders to identify and prioritize fire safety research
18 needs. The results of the workshop shall be made
19 public, and the Director shall consider such results
20 in making awards under this section.
21 "(7) AMOUNT OF GRANTS.—The Director shall
22 make a grant to an institution of higher education
23 to establish and operate a university fire safety re-
24 search center of not more than $2,000,000 per fiscal
25 year.

1 "(d) DEFINITIONS.—In this section, the following
2 definitions apply:
3 "(1) CAREER FIRE DEPARTMENT.—The term
4 'career fire department' means a firefighting depart-
5 ment that has an all professional force of fire-
6 fighting personnel.
7 "(2) COMBINATION FIRE DEPARTMENT.—The
8 term 'combination fire department' means a fire-
9 fighting department that has a combined force of
10 professional and volunteer firefighting personnel.
11 "(3) DIRECTOR.—The term 'Director' means
12 the Director, acting through the Administrator.
13 "(4) FIREFIGHTING PERSONNEL.—The term
14 'firefighting personnel' means individuals, including
15 volunteers, who are firefighters, officers of fire de-
16 partments, or emergency medical service personnel
17 of fire departments.
18 "(5) INSTITUTION OF HIGHER EDUCATION.—
19 The term 'institution of higher education' has the
20 meaning given such term in section 101 of the High-
21 er Education Act of 1965 (20 U.S.C. 1001).
22 "(6) VOLUNTEER, NON-FIRE SERVICE EMS AND
23 RESCUE ORGANIZATION.—The term 'volunteer, non-
24 fire service EMS and rescue organization' means a
25 public or private nonprofit emergency medical serv-

1 ices organization that is not affiliated with a hospital
2 and does not serve a geographic area in which the
3 Director finds that emergency medical services are
4 adequately provided by a fire department.
5 "(7) VOLUNTEER FIRE DEPARTMENT.—The
6 term 'volunteer fire department' means a firefighting
7 department that has an all volunteer force of fire-
8 fighting personnel.
9 "(e) AUTHORIZATION OF APPROPRIATIONS.—
10 "(1) IN GENERAL.—There are authorized to be
11 appropriated for the purposes of this section
12 $1,000,000,000 for each of the fiscal years 2010
13 through 2014.
14 "(2) ADMINISTRATIVE EXPENSES.—
15 "(A) IN GENERAL.—Of the funds appro-
16 priated pursuant to paragraph (1) for a fiscal
17 year, the Director may use not more than 3
18 percent of the funds to cover salaries and ex-
19 penses and other administrative costs incurred
20 by the Director to make grants and provide as-
21 sistance under this section.
22 "(B) FORMULA.—The Director shall sub-
23 tract the amount to be used for subparagraph
24 (A) from the amount appropriated pursuant to
25 paragraph (1) before making any allocations or

1 apportioning any funds under subsections (a) or
2 (c).".

3 **SEC. 3. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE**
4 **GRANT PROGRAM REAUTHORIZATION.**

5 Section 34 of the Federal Fire Prevention and Con-
6 trol Act of 1974 (15 U.S.C. 2229a) is amended to read
7 as follows:

8 **"SEC. 34. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE**
9 **GRANT PROGRAM.**

10 "(a) EXPANDED AUTHORITY TO MAKE GRANTS.—
11 "(1) HIRING GRANTS.—
12 "(A) IN GENERAL.—The Director shall
13 make grants directly to career, volunteer, and
14 combination fire departments, in consultation
15 with the chief executive of the State in which
16 the applicant is located, for the purpose of in-
17 creasing the number of firefighters to help com-
18 munities meet industry minimum standards and
19 attain 24-hour staffing to provide adequate pro-
20 tection from fire and fire-related hazards and to
21 fulfill traditional missions of fire departments
22 that antedate the creation of the Department of
23 Homeland Security.
24 "(B) REQUIREMENTS.—

1 "(i) DURATION AND USE.—Grants
2 made under this paragraph shall be for 3
3 years and shall be used for programs to
4 hire new, additional firefighters.
5 "(ii) RETENTION.—Grantees are re-
6 quired to commit to retaining for at least
7 the entire 3 years of the grant period those
8 firefighters hired under this paragraph.
9 "(iii) MAXIMUM.—The portion of the
10 cost of hiring firefighters provided by a
11 grant under this paragraph may not exceed
12 80 percent of such cost for each fiscal
13 year.
14 "(C) PREFERENCE.—In awarding grants
15 under this subsection, the Director may give
16 preferential consideration to applications that
17 involve a non-Federal contribution exceeding
18 the minimums under subparagraph (B)(iii).
19 "(D) TECHNICAL ASSISTANCE.—The Di-
20 rector may provide technical assistance to
21 States, units of local government, Indian tribal
22 governments, and other public entities in fur-
23 therance of the purposes of this section.
24 "(E) VOLUNTEER ACTIVITIES ALLOWED.—
25 Notwithstanding any other provision of law, any

1 firefighter hired with funds provided under this
2 subsection shall not be discriminated against
3 for, or be prohibited from, engaging in volun-
4 teer activities in another jurisdiction during off-
5 duty hours.
6 "(F) COMPETITIVE BASIS.—All grants
7 made pursuant to this subsection shall be
8 awarded on a competitive basis through a neu-
9 tral peer review process.
10 "(G) SET ASIDE.—
11 "(i) IN GENERAL.—At the beginning
12 of the fiscal year, the Director shall set
13 aside 10 percent of the funds appropriated
14 for carrying out this paragraph for depart-
15 ments with majority volunteer or all volun-
16 teer personnel.
17 "(ii) TRANSFER.—After awards have
18 been made, if less than 10 percent of the
19 funds appropriated for carrying out this
20 paragraph are not awarded to departments
21 with majority volunteer or all volunteer
22 personnel, the Director shall transfer from
23 funds appropriated for carrying out this
24 paragraph to funds available for carrying
25 out paragraph (2) an amount equal to the

1 difference between the amount that is pro-
2 vided to such fire departments and 10 per-
3 cent.
4 "(2) RECRUITMENT AND RETENTION
5 GRANTS.—In addition to any amounts transferred
6 under paragraph (1)(G), the Director shall direct at
7 least 10 percent of the total amount of funds appro-
8 priated pursuant to this section annually to a com-
9 petitive grant program for the recruitment and re-
10 tention of volunteer firefighters who are involved
11 with or trained in the operations of firefighting and
12 emergency response. Eligible entities shall include
13 volunteer or combination fire departments and orga-
14 nizations on a local, statewide, or national basis that
15 represent the interests of volunteer firefighters.
16 "(b) APPLICATIONS.—
17 "(1) IN GENERAL.—No grant may be made
18 under this section unless an application has been
19 submitted to, and approved by, the Director.
20 "(2) CONTENTS.—An application for a grant
21 under this section shall be submitted in such form
22 and contain such information and assurances as the
23 Director may prescribe.
24 "(3) REQUIREMENTS.—At a minimum, each
25 application for a grant under this section shall—

1 "(A) explain the applicant's inability to ad-
2 dress the need without Federal assistance;
3 "(B) in the case of a grant under sub-
4 section (a)(1), explain how the applicant plans
5 to meet the requirements of subparagraphs
6 (B)(ii) and (E) of such subsection;
7 "(C) specify long-term plans for retaining
8 firefighters following the conclusion of Federal
9 support provided under this section; and
10 "(D) provide assurances that the applicant
11 will, to the extent practicable, seek, recruit, and
12 hire members of racial and ethnic minority
13 groups and women in order to increase their
14 ranks within firefighting.
15 "(c) LIMITATION ON USE OF FUNDS.—
16 "(1) SUPPLEMENT, NOT SUPPLANT.—Funds
17 made available under this section to fire depart-
18 ments for salaries and benefits to hire new, addi-
19 tional firefighters shall not be used to supplant State
20 or local funds, or, in the case of Indian tribal gov-
21 ernments, funds supplied by the Bureau of Indian
22 Affairs, but shall be used to increase the amount of
23 funds that would, in the absence of Federal funds
24 received under this section, be made available from
25 State or local sources, or in the case of Indian tribal

1 governments, from funds supplied by the Bureau of
2 Indian Affairs.
3 "(2) REPLACEMENT FUNDING PROHIBITED.—
4 No grant shall be awarded pursuant to this section
5 to a municipality or other recipient whose annual
6 budget at the time of the application for fire-related
7 programs and emergency response has been reduced
8 below 80 percent of the average funding level in the
9 3 years prior to the date of enactment of this sec-
10 tion.
11 "(3) INDIAN COST-SHARE.—Funds appro-
12 priated by the Congress for the activities of any
13 agency of an Indian tribal government or the Bu-
14 reau of Indian Affairs performing firefighting func-
15 tions on any Indian lands may be used to provide
16 the non-Federal share of the cost of programs or
17 projects funded under this section.
18 "(d) WAIVER.—In exceptional circumstances, the Di-
19 rector may waive the requirements of subsections
20 (a)(1)(B)(ii), (a)(1)(B)(iii), (c)(1), and (c)(2) if the Direc-
21 tor determines that the jurisdiction is facing demonstrated
22 economic hardship in accordance with section 33(a)(8).
23 "(e) PERFORMANCE EVALUATION.—The Director
24 may require a grant recipient to submit any information

1 the Director considers reasonably necessary to evaluate
2 the program.
3 "(f) SUNSET; REPORTS.—
4 "(1) SUNSET.—The authority under this sec-
5 tion to make grants shall lapse at the end of the 10-
6 year period that begins on the date of enactment of
7 the Fire Grants Reauthorization Act of 2009.
8 "(2) REPORT.—Not later than 6 years after
9 such date of enactment, the Director shall submit to
10 Congress a report concerning the experience with,
11 and effectiveness of, such grants in meeting the ob-
12 jectives of this section. The report may include any
13 recommendations the Director may have for amend-
14 ments to this section and related provisions of law.
15 "(g) REVOCATION OR SUSPENSION OF FUNDING.—
16 If the Director determines that a grant recipient under
17 this section is not in substantial compliance with the terms
18 and requirements of an approved grant application sub-
19 mitted under this section, the Director may revoke or sus-
20 pend funding of that grant, in whole or in part.
21 "(h) ACCESS TO DOCUMENTS.—
22 "(1) IN GENERAL.—The Director shall have ac-
23 cess for the purpose of audit and examination to any
24 pertinent books, documents, papers, or records of a
25 grant recipient under this section and to the perti-

1 nent books, documents, papers, or records of State
2 and local governments, persons, businesses, and
3 other entities that are involved in programs,
4 projects, or activities for which assistance is pro-
5 vided under this section.
6 "(2) APPLICATION.—Paragraph (1) shall apply
7 with respect to audits and examinations conducted
8 by the Comptroller General of the United States or
9 by an authorized representative of the Comptroller
10 General.
11 "(i) DEFINITIONS.—In this section, the term—
12 "(1) 'Director' means the Director, acting
13 through the Administrator;
14 "(2) 'firefighter' has the meaning given the
15 term 'employee in fire protection activities' under
16 section 3(y) of the Fair Labor Standards Act (29
17 U.S.C. 203(y)); and
18 "(3) 'Indian tribe' means a tribe, band, pueblo,
19 nation, or other organized group or community of
20 Indians, including an Alaska Native village (as de-
21 fined in or established under the Alaska Native
22 Claims Settlement Act (43 U.S.C. 1601 et seq.)),
23 that is recognized as eligible for the special pro-
24 grams and services provided by the United States to
25 Indians because of their status as Indians.

1 "(j) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated for the purposes of car-
3 rying out this section $1,194,000,000 for each of the fiscal
4 years 2010 through 2014.".

5 **SEC. 4. STUDY AND REPORT.**

6 (a) STUDY AND REPORT ON ASSISTANCE TO FIRE-
7 FIGHTERS GRANT PROGRAM.—

8 (1) STUDY.—The Administrator of the United
9 States Fire Administration, in conjunction with the
10 National Fire Protection Association, shall conduct a
11 study to—

12 (A) define the current roles and activities
13 associated with the fire services on a national,
14 State, regional, and local level;

15 (B) identify the equipment, staffing, and
16 training required to fulfill the roles and activi-
17 ties defined under subparagraph (A);

18 (C) conduct an assessment to identify gaps
19 between what fire departments currently pos-
20 sess and what they require to meet the equip-
21 ment, staffing, and training needs identified
22 under subparagraph (B) on a national and
23 State-by-State basis; and

24 (D) measure the impact of the grant pro-
25 gram under section 33 of the Federal Fire Pre-

1 vention and Control Act of 1974 (15 U.S.C.
2 2229) in—
3 (i) meeting the needs of the fire serv-
4 ices identified in the report submitted to
5 Congress under section 3603(a) of the
6 Ronald W. Reagan National Defense Au-
7 thorization Act for Fiscal Year 2005; and
8 (ii) filling the gaps identified under
9 subparagraph (C).
10 (2) REPORT.—Not later than 18 months after
11 the date of enactment of this Act, the Administrator
12 shall submit to the Committee on Commerce,
13 Science, and Transportation of the Senate and the
14 Committee on Science and Technology of the House
15 of Representatives a report on the findings of the
16 study described in paragraph (1).
17 (b) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the United States
19 Fire Administration a total of $300,000 for fiscal years
20 2010 and 2011 to carry out subsection (a).

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3791 (FIRE GRANTS REAUTHORIZATION ACT OF 2009)

OFFERED BY MR. SMITH

Page 5, amend lines 8 through 19 to read as follows:

1 "(ii) to make grants to, or enter into
2 contracts or cooperative agreements with,
3 national, State, local, or community orga-
4 nizations that are not fire departments
5 but—
6 "(I) that are recognized for their
7 experience and expertise with respect
8 to fire prevention or fire safety pro-
9 grams and activities and that partner
10 with fire departments, for the purpose
11 of carrying out such programs and ac-
12 tivities;
13 "(II) engage in fire-related activi-
14 ties as a primary purpose or function,
15 for the purpose of carrying out fire
16 prevention or fire safety programs and
17 activities; or

1 "(III) that are recognized for
2 their experience and expertise with re-
3 spect to firefighter research and devel-
4 opment programs, for the purpose of
5 carrying out research on fire preven-
6 tion or fire safety programs and ac-
7 tivities or to improve firefighter health
8 and life safety; and

☒

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3791 (FIRE GRANTS REAUTHORIZATION ACT OF 2009) OFFERED BY Mr. Smith

Page 10, amend lines 5 through 12 to read as follows:

1 "(B) EVALUATION CRITERIA.—
2 "(i) IN GENERAL.—In awarding
3 grants under paragraph (1)(A), the Direc-
4 tor shall, within each category of appli-
5 cants under subparagraph (A), consider a
6 broad range of factors important to the ap-
7 plicant's ability to respond to fires and re-
8 lated hazards, such as population served,
9 geographic response area, hazard vulner-
10 ability, call volume, financial situation, and
11 need for training or equipment.
12 "(ii) HIGH POPULATION AND INCI-
13 DENT RESPONSE.—In considering such
14 factors under clause (i), applicants serving
15 areas with high population and with a high
16 number of incidents requiring a response

1 shall receive a higher level of consider-
2 ation.''.

☒

XXIV. PROCEEDINGS OF THE FULL COMMITTEE MARKUP ON H.R. 3791, THE FIRE GRANTS REAUTHORIZATION ACT OF 2009

WEDNESDAY, OCTOBER 21, 2009

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC.

The Committee met, pursuant to call, at 10:18 a.m., in Room 2318 of the Rayburn House Office Building, Hon. Bart Gordon [Chairman of the Committee] presiding.

Chairman GORDON. Good morning. The Committee will come to order.

Pursuant to notice, the Committee on Science and Technology meets to consider the following measures: H.R. 3791, the *Fire Grants Reauthorization Act of 2009,* and H.R. 3820, the *Natural Hazards Risk Reduction Act of 2009.*

As I just noted today, the Committee will consider two important bills. Both of these bills address pressing national needs, and both are the product of bipartisan cooperation and stakeholder input.

The first bill the Committee will consider today is H.R. 3791. This bill reauthorizes the Assistance to Firefighters Grant [AFG] Program and the Staffing for Adequate Fire and Emergency Response [SAFER] Program. Over the past nine years, these programs have provided over $5 billion to purchase firefighting equipment and training for communities and to hire additional firefighters. The federal support is even more important in this tough economy as local officials struggle to provide services in the face of decreasing budgets.

H.R. 3791 is the product of much hard work by the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Volunteer Fire Council and the National Fire Protection Association, as well as the Congressional Fire Services Institute. It represents the consensus of these organizations on how these programs should be improved. I am pleased that the bill has been endorsed by so many of these groups, and I look forward to working with them as we move to get this bill enacted.

The second bill the Committee will consider today, H.R. 3820, reauthorizes two important programs that support research, development and technology transfer activities to mitigate against the potential damage caused by earthquakes and severe windstorms. The impact of natural hazards on communities can be devastating. In the past two years in my district in Middle Tennessee, tornadoes have killed 24 people and injured over 100. Making households,

businesses, and communities resistant to these forces of nature can save lives and billions of dollars.

H.R. 3820 reauthorizes the National Earthquake Hazards Reduction Program and the National Windstorm Impact Reduction Program. The National Earthquake Hazards Reduction Program, known as NEHRP, has been responsible for development of a variety of codes and standards to enable buildings and other infrastructures to withstand earthquakes. This reauthorization addresses some of the biggest challenges in earthquake mitigation: developing methods to retrofit existing structures, secure infrastructure, and, most importantly, convince people in earthquake-prone areas to invest in preparedness and mitigation measures.

H.R. 3820 also reauthorizes the National Windstorm Impact Reduction Program. The goal of this reauthorization is to enable this program, created in 2004, to achieve the same success. Support for R&D for wind hazard mitigation has lagged behind that for other hazards. The activities authorized in this bill can lead to improved building practices that will protect life, and contain the ever-increasing costs of hurricanes, tornadoes, and other severe windstorms.

At a Technology and Innovation Subcommittee hearing this June, witnesses testified that much of the challenge in natural disaster mitigation was not in more research, but in implementing the knowledge that already exists. This bill includes a strong focus on the lessons learned from the different natural hazards and encourages implementation of those lessons.

I strongly support both of these bills and I would urge a yes vote.

I now recognize Mr. Hall to present his opening remarks.

[The prepared statement of Chairman Gordon follows:]

PREPARED STATEMENT OF CHAIRMAN BART GORDON

The Committee on Science and Technology meets to consider the following measures: H.R. 3791, the *Fire Grants Reauthorization Act of 2009,* and H.R. 3820, the *Natural Hazards Risk Reduction Act of 2009.*

Both of these bills address pressing national needs, and both are the product of bipartisan cooperation and stakeholder input.

The first bill the Committee will consider today is H.R. 3791. This bill reauthorizes the Assistance to Firefighters Grant Program and the Staffing for Adequate Fire and Emergency Response Program. Over the past nine years, these programs have provided over $5 billion to purchase firefighting equipment and training for communities and to hire additional firefighters. The federal support is even more important in this tough economy as local officials struggle to provide services in the face of decreasing budgets.

H.R. 3791 is the product of much hard work by the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Volunteer Fire Council and the National Fire Protection Association, as well as the Congressional Fire Services Institute. It represents the consensus of these organizations on how these programs should be improved. I am pleased that the bill has been endorsed by so many of these groups, and I look forward to working with them as we move to get this bill enacted.

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At a Technology and Innovation Subcommittee hearing this June, witnesses testified that much of the challenge in natural disaster mitigation was not in more research, but in implementing the knowledge that already exists. This bill includes a strong focus on the lessons learned from the different natural hazards and encourages implementation of those lessons.

I strongly support both of these bills and I would urge a yes vote.

I now recognize Mr. Hall to present his opening remarks.

Mr. HALL. Mr. Chairman, thank you, and I appreciate this markup, especially the very bipartisan spirit in which the bills before us today have been handled, so I can be brief.

We are here of course to consider two bills that reauthorize four important programs that have been created by the Committee over the years. The common thread among these programs is leveraging federal resources to reduce our vulnerability to hazards, principally earthquakes, windstorms and fires. The first bill before us, H.R. 3820, makes modest changes to improve coordination among federal agencies responsible for earthquake and windstorm research and hazard mitigation. The second bill, H.R. 3791, reauthorizes the Fire Grants Program which I know have provided critical support to a lot of departments including in my district, and I am going to note my strong support for both of these bills and express my appreciation to Chairman Gordon and to his staff for working with our us and with outside stakeholders to get the details right on both of the bills. I look forward to the discussion of the proposed amendments and working with our colleagues to see these bills through the rest of the legislative process.

I thank you, and I yield back.

[The prepared statement of Mr. Hall follows:]

PREPARED STATEMENT OF REPRESENTATIVE RALPH M. HALL

Good morning, Mr. Chairman. I want to thank you for scheduling this markup and for the bipartisan spirit in which the bills before us today have been handled. I'll be brief.

We are here to consider two bills that reauthorize four important programs that have been created by this committee over the years. The common thread among these programs is leveraging federal resources to reduce our vulnerability to hazards—primarily earthquakes, windstorms, and fires.

The first bill before us, H.R. 3820, makes modest changes to improve coordination among Federal agencies responsible for earthquake and windstorm research and hazard mitigation. The second bill, H.R. 3791, reauthorizes the "Fire Grants programs," which I know have provided critical support to fire departments in my district.

I want to note my strong support for both of these bills, and express my appreciation to Chairman Gordon and his staff for working with us and with outside stakeholders to get the details right on both of these bills. I look forward to discussion on the proposed amendments and to working with our colleagues to see these bills through the rest of the legislative process. I yield back.

Chairman GORDON. Thank you, Mr. Hall. And Members may place statements in the record at this point.

We will now consider H.R. 3791, the *Fire Grants Reauthorization Act of 2009,* and I recognize the gentleman from Arizona, Mr. Mitchell, to describe the bill.

Mr. MITCHELL. Mr. Chairman, I have an amendment at the desk.

Chairman GORDON. Would you like to describe the bill, Mr. Mitchell?

Mr. MITCHELL. Yes. This amendment is in the nature of a substitute amendment. It makes some minor technical changes to the version of House Bill 3791 that was reported out of Subcommittee this last week. This amendment adds to the Fire Safety Research Centers provisions——

Chairman GORDON. Mr. Mitchell, I think you have a very good amendment there but we are going to start with the bill, so if you would like to make comments concerning the bill, that is where we will get started.

Mr. MITCHELL. Thank you. You know, firefighters are often the first and the last to leave an emergency scene. Whether it is putting out a house fire or a wildfire, responding to a terrorist attack or a car accident, we depend on firefighters every day. But firefighters are also dependent on us. They depend on the public and their elected officials to make sure that they have the resources, equipment and the training they need to do their job. Without those tools, we put them and all of us at unnecessary risk. The provisions in this bill reflect the needs of the front-line stakeholders who protect us and our constituents from fires.

Through testimony from fire service representatives this July, the Technology and Innovation Subcommittee learned that changes to matching requirements would enable fire departments with the greatest need to take advantage of the programs. Therefore, the bill sets the matching requirements for the Assistance to Firefighters Grant Program from 20 percent to 10 percent with fire departments serving populations under 20,000 paying a five percent match, which greatly benefits rural and less-urban areas.

H.R. 3791 also modifies the matching requirements for the SAFER Program. Through recommendations of the fire service organizations reflecting the hardships faced by our State and local governments, SAFER will require instead a 20 percent match each year for three years. Again on the recommendation of the fire service organizations, the bill also gives the Administrator the authority to waive the matching requirements for both programs in cases of exceptional economic hardship. Such waivers may also be given for the program's budget maintenance requirements and SAFER provisions that restrict the funding to hiring only additional firefighters rather than retaining career firefighters. This is a necessary step at a time when fire departments in many areas of the country are confronted with the prospect of laying off firefighters. This bill is the result of a consensus among the fire service organizations including the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Fire Protection Association and the Congressional Fire Services Institute.

H.R. 3791 passed the Technology and Innovation Subcommittee unanimously last week, and I urge my colleagues to support this important measure.

I would like to take a moment to thank Chairman Gordon, Chairman Wu and the Committee staff for their hard work, and I yield back the balance of my time.

Chairman GORDON. Thank you, Mr. Mitchell, and let me also put a special thanks in to Mr. Wu for his tireless effort in negotiating and bringing this bill together, so thank you, Mr. Wu.

And I will now recognize Mr. Hall to present any remarks on the bill.

Mr. HALL. Mr. Chairman, I thank you.

The Assistance to Firefighters Grant Program and the Staffing for Adequate Fire and Emergency Response, both of these bills provide much needed assistance to fire departments across the Nation, and I want to thank you, Mr. Chairman, for working closely with us and especially with our Ranking Member Smith to develop this very agreeable compromise. I yield back.

Chairman GORDON. I ask unanimous consent that the—oh, excuse me. Does anyone else wish to be recognized? If not, I ask unanimous consent that the bill is considered as read and open to amendment at any point and that the Members proceed with the amendments in order of the roster. Without objection, so ordered.

The first amendment on the roster is an amendment in the nature of a substitute offered by the gentleman from Arizona, Mr. Mitchell. Are you ready to proceed with your amendment?

Mr. MITCHELL. Mr. Chairman, I have an amendment at the desk.

Chairman GORDON. The Clerk will report the amendment.

The CLERK. Amendment number 217, Manager's Amendment to H.R. 3791, as amended, offered by Mr. Mitchell of Arizona.

Chairman GORDON. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

I recognize the gentleman for five minutes to explain the amendment.

Mr. MITCHELL. Thank you, Mr. Chairman.

This amendment in the nature of a substitute makes some minor and technical changes to the version of H.R. 3791 that was reported out of Subcommittee last week. This amendment adds to the Fire Safety Research Centers provision in subsection (c) of Section 33, language to include national fire service and fire safety organizations as eligible applicants for center funding. It also adds a provision giving special consideration for the funding to partnerships between universities and national fire service or fire safety organizations. Including fire safety and fire service organizations brings to this center the expertise of organizations that are closest to the needs of firefighters.

In addition, this amendment clarifies that only one fire training academy per state should be able to receive funding under the Assistance to Firefighter Grant funds set aside for fire service training academies each fiscal year.

And finally, the amendment gives the Director the authority to waive the requirement that any training purchased with Fire Grants funding meet or surpass national voluntary consensus standards for such training. The Director already has this authority in guiding the applications to purchase equipment. This language affords the program the same flexibility for training grants, and I yield back the balance of my time.

Chairman GORDON. Is there further discussion on the amendment?

Mr. BILBRAY. Mr. Chairman.

Chairman GORDON. I hear you but I don't see you. Oh, Mr. Bilbray is recognized.

Mr. BILBRAY. Thank you, Mr. Chairman.

Mr. Chairman, I don't—won't oppose the amendment. I just want to point out, though, that there is a concern in my constituency in two factors. First of all, when you talk about state by state, it may seem very simple, but when you talk about the fact that the 500,000 people in Wyoming will have the ability to have one training facility within that state but the 32 million people in California may have where those firefighters in San Diego have to travel almost 1,000 miles up to Shasta to address those things. And I just want to sensitize that there is a whole difference here and that what may seem simple on the face is much more technical.

The other issue, San Diego County is ranked, when we talk about rural or urban, is ranked as an urban county because there is three million people in that county, larger than 20 states of the union, but 80 percent of the land mass is rural area, but it is counted as urban because of its large population. I just want to say that as we draw these arbitrary lines, many times they don't fall into the proper place, and I understand that. I won't oppose the legislation. But I wanted to sensitize the Committee to the fact that many of these arbitrary lines which may look good in your district or your state sometimes look absolutely ridiculous. And I know there are things we do in California that look absolutely ridiculous to a lot of people in this country but the fact is, the fact of having a country with two Carolinas, two Dakotas and two Virginias but only one California can also look rather bizarre. But I just wanted to recognize that there are concerns I had with this underlying bill but I support the amendment and will support the underlying bill, and I yield back.

Chairman GORDON. Thank you, Mr. Bilbray.

Anyone else wish to make a comment? If not, the second amendment on the roster is an amendment offered by the gentlelady from Texas, Ms. Johnson. Are you ready to proceed with your amendment?

Ms. JOHNSON. Yes, Mr. Chairman, I have an amendment at the desk.

Chairman GORDON. The Clerk will report the amendment.

The CLERK. Amendment 088, amendment to the Manager's Amendment to H.R. 3791, offered by Ms. Eddie Bernice Johnson of Texas.

Chairman GORDON. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

I recognize the gentlelady for five minutes to explain the amendment.

Ms. JOHNSON. Thank you, Mr. Chairman and Ranking Member, for considering my amendment.

The amendment accomplishes two objectives. First, it clarifies Section 2 of the bill dealing with the Assistance to Firefighters Grant Program reauthorization. The Section outlines the uses of the fire department grant funds, and one of those uses is to estab-

lish wellness and fitness programs for firefighting personnel to ensure that they can carry out their duties. My amendment would add that those wellness programs may include activities dedicated to raising awareness of and prevention of job-related mental health issues. The language is simple in order to avoid possible Committee jurisdictional problems. As a former chief psychiatric nurse, which has helped me a great deal at the VA in Dallas, I know very well that mental and physical health go hand-in-hand, and firefighting is an intense profession and these individuals jump into burning buildings. They see people dying. They personally observe and endure trauma as a routine part of their jobs. It seems to me that mental wellness is even more critical or as critical as physical fitness. My amendment would clarify that programs dedicating to protecting the mental health of our nation's firefighters is an appropriate use of the fire department's grant funds.

The second portion of the amendment is regarding Fire Safety Research Centers. As you know, the bill authorizes grants to establish no more than three of these centers. Research at the centers is intended to advance the Nation's ability to reduce the number of fire-related deaths and injuries among firefighter. The institutional grants will authorize research, development and technology transfer activities, and subsection (c) of this part of the bill states that the Director shall give special consideration to grant application consisting of a partnership between a university and a national fire service organization or as a national fire safety organization, and my amendment would revise this section to encourage partnerships also with minority-serving institutions.

This section would instead state that special consideration would be given to partnerships between a national fire service organization or a national fire safety organization with a university and/or a minority-serving institution. We want to be sure to work with the fire organizations so that the research centers are doing work that will in a short time actually help firefighters do their jobs better. At the same time, we want to give the minority-serving institutions a realistic change to participate in the research. You may know that the majority of students at minority-service institutions study at smaller two-year institutions. Those students could come to the larger universities to engage in research on fire safety and gain some important career experience. Undergraduate research experience is key to gaining admission to a graduate degree program. So the more we encourage partnerships with the minority-serving institutions of these activities, the more diverse the workforce we cultivate for fire safety research. To me, this creates a win-win situation.

Mr. Chairman and Ranking Member, I appreciate your consideration of this amendment and I encourage my colleagues to support it, and I yield back the balance of my time.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF REPRESENTATIVE EDDIE BERNICE JOHNSON

Thank you, Mr. Chairman and Ranking Member for considering my amendment. The amendment accomplishes two objectives.

First, it clarifies Section 2 of the bill, dealing with the, "Assistance to Firefighters Grant Program Reauthorization."

That section outlines the uses of the fire department grant funds.

One of those uses is to "establish wellness and fitness programs for firefighting personnel to ensure that they can carry out their duties."

My amendment would add that those wellness programs may include activities dedicated to raising awareness of, and prevention of, job-related mental health issues.

The language is simple, in order to avoid possible Committee jurisdictional problems.

As the former chief psychiatric nurse at the V.A. in Dallas, I know very well that mental and physical health go hand-in-hand.

Firefighting is an intense profession. These individuals jump into burning buildings. They see people dying.

They personally observe and endure trauma as a routine part of their jobs.

It seems to me that the mental wellness is even more critical—or as critical—as the physical fitness.

My amendment would clarify that programs dedicated to protecting the mental health of our nation's firefighters is an appropriate use of fire department grant funds.

The second portion of the amendment is regarding the Fire Safety Research Centers.

As you know, the bill authorizes grants to establish no more than three of these centers.

Research at the centers is intended to advance the Nation's ability to reduce the number of fire-related deaths and injuries among firefighters.

The institutional grants will authorize research, development, and technology transfer activities.

Subsection 6 of this part of the bill states that the Director shall give special consideration to grant applications consisting of a partnership between a university and a national fire service organization or a national fire safety organization.

My amendment would revise this section to encourage partnership with Minority Serving Institutions.

The section would instead say that special consideration would be given to partnerships between a national fire service organization or a national fire safety organization with a university and/or a minority serving institution.

We want to be sure to work with the fire organizations so that the research centers are doing work that will, in short time, actually help firefighters do their jobs even better.

At the same time, we want to give the minority serving institutions a realistic chance to participate in the research.

You may know that the majority of students at MSIs study at smaller, two-year institutions.

Those students could come to the larger universities to engage in research on fire safety and gain some important career experience.

Undergraduate research experience is key to getting admission into a graduate degree program.

So the more we encourage partnerships with MSIs in these activities, the more diverse the workforce we cultivate for fire safety research.

To me, this creates a win-win situation.

Mr. Chairman and Ranking Member, I appreciate your considering this amendment.

I encourage my colleagues to support it and yield back the balance of my time.

Chairman GORDON. Thank you, Ms. Johnson.

Is there further discussion on the amendment?

Mr. HALL. Mr. Chairman.

Chairman GORDON. Mr. Hall is recognized.

Mr. HALL. I also thank Ms. Johnson for her input, and this amendment, cries out, I think the value of having someone like her on this committee with her background, her knowledge, personal knowledge that brings out or spawns amendments like this. I understand that she is looking to clarify the fire departments if they might include prevention of mental health issues as well as eligible activity under the program and that the minority-serving institutions might receive special consideration under FEMA's fire safety research program. I certainly support the amendment and I thank Ms. Johnson for lending her history, her background, her medical

background, her long tenure as a very valuable nurse to amendments like this. It is very helpful. I support it.

[The prepared statement of Mr. Hall follows:]

PREPARED STATEMENT OF REPRESENTATIVE RALPH M. HALL

I would like to thank my friend and colleague, Ms. Johnson, for offering this amendment. I understand she is looking to clarify that fire departments may include prevention of mental health issues as an eligible activity under this program, and that minority-serving institutions may receive special consideration under FEMA's fire safety research program. I have no objections to this amendment and am prepared to support it.

Ms. JOHNSON. Thank you.

Chairman GORDON. That is a strong statement, Ms. Johnson.

Does anyone else wish to be heard? If not, the vote occurs on the amendment. All in favor, say aye. Opposed, no. The ayes have it. The amendment is agreed to.

The third amendment on the roster is an amendment offered by the gentleman from Georgia, Dr. Broun. Are you ready to proceed with your amendment?

Mr. BROUN. Mr. Chairman, I would like to withdraw amendment 213 and proceed directly with amendment 212, the amendment that is at the desk.

Chairman GORDON. Okay. The Clerk will report the amendment.

The CLERK. Amendment 212, amendment to the amendment in the nature of a substitute to H.R. 3791 offered by Mr. Broun of Georgia.

Chairman GORDON. Pardon me. Did you say—just to make sure we are on the same page. You said 212?

The CLERK. Yes.

Chairman GORDON. Mr. Broun, is that where you want to be?

Mr. BROUN. Yes.

Chairman GORDON. Okay. Thank you. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

I recognize the gentleman for five minutes to explain the amendment.

Mr. BROUN. Thank you, Mr. Chairman.

This amendment is very simple. Some weeks ago, the House overwhelmingly voted to prohibit ACORN from receiving any money in the Continuing Resolution with overwhelming support from both Democrats as well as Republicans. My amendment today would ensure that ACORN will not receive any money from FEMA under the Assistance to Firefighters Grant Program after the C.R. expires.

On September 4, FEMA ordered a $1 million fire prevention and SAFER grant to ACORN. Given the recent events surrounding this organization, not to mention its past history of corruption, I find this inexcusable. This organization's expertise in fire prevention safety, which is required by law, is a prerequisite for the grant. Certainly, this is very, very questionable. Any money ACORN receives from this program takes away from reputable and qualified organizations like fire departments and ultimately sacrifices the core mission of this program.

On October 8, Representative Adrian Smith and I sent a letter to the Director of FEMA asking for documents and answers about this award and the process that led to its issuance. I have yet to

receive the first document, not one single one. Without that confidence that, number one, this grant was awarded appropriately, number two, that this recipient had sufficient expertise, and three, that FEMA has developed adequate criteria to define that expertise, I believe it is prudent to ensure that ACORN does not receive a single dime of the taxpayers' money from this program. This program is far too important overextended to be lining the coffers of a corrupt organization. Because FEMA has been less than responsive to my inquiry, I hope that my Majority colleagues will join our request to help expedite a response from FEMA.

With that, Mr. Chairman, I yield back, and I encourage all of my colleagues, Democrat and Republican alike, to support this amendment. It is a common sense, very simple amendment and it just follows the vote that we had overwhelmingly in Congress on the C.R. Thank you, Mr. Chairman.

[The prepared statement of Mr. Broun follows:]

PREPARED STATEMENT OF REPRESENTATIVE PAUL C. BROUN

Thank you Mr. Chairman. This amendment is very simple. Several weeks ago, the House voted to prohibit ACORN from receiving any money in the Continuing Resolution (CR).

My amendment today would ensure that ACORN will not receive any money from FEMA under the Assistance to Firefighters Grant program after the CR expires.

On September 4th, FEMA awarded a one million dollar Fire Prevention and Safety Grant to ACORN. Given the recent events surrounding this organization (not to mention its past history of corruption) I find this inexcusable.

This organization's "expertise in Fire Prevention and Safety"—which is required by law as a pre-requisite for the grant—is certainly questionable. Any money ACORN receives from this program takes away from reputable and qualified organizations like Fire Departments and ultimately sacrifices the core mission of this program.

On October 8th, Representative Adrian Smith and I sent a letter to the Director of FEMA asking for documents and answers about this award and the process that led to its issuance. I have yet to receive a single document.

Without the confidence that 1) this grant was awarded appropriately, 2) that this recipient had sufficient expertise, and 3) that FEMA has developed adequate criteria to define that expertise, I believe it is prudent to ensure that ACORN does not receive a single dime of the taxpayer's money from this program.

This program is far too important and overextended to be lining the coffers of corrupt organizations.

Because FEMA has been less than responsive to my inquiry, I hope that my majority colleagues will join our request to help expedite a response from FEMA.

Chairman GORDON. Thank you, Dr. Broun.

Is there further discussion on the amendment? Ms. Woolsey is recognized.

Ms. WOOLSEY. Thank you, Mr. Chairman.

Well, as far as ACORN is considered and every other individual or organization in this country, the United States of America, which is a democracy, we are all considered innocent until proven guilty. That is the very cornerstone of our American judicial system. It is not our role as the Congress to judge the innocence or guilt of ACORN. In fact, the Constitution prohibits Congress from passing any legislation that punishes an individual before they have been convicted of a crime, and that is why I ask every Member of this committee to oppose the Broun amendment.

Chairman GORDON. Is there further discussion on the amendment?

Mr. HALL. Mr. Chairman.

Chairman GORDON. Mr. Hall is recognized.

Mr. HALL. I support the gentleman's amendment and I think we are pretty well aware of the problems with ACORN and its stewardship of taxpayers' dollars. I don't know how anybody could support that when the original person that spawned ACORN from day one over in the State of Arkansas, the activities of those people are disgusting to Democrats and Republicans alike. When his own brother stole $1 million and nothing happened to him and just moved him around rather than going to the courts with it, that is just—that is the closest indication of the leadership of ACORN and that goes down to every single person that benefited from ACORN or that supported ACORN. We are all aware of the problems with ACORN, its stewardship of taxpayers' dollars. We found out a couple of weeks ago that ACORN received a fire prevention and SAFER grant under the same portion of this program that hundreds of fire departments had applied for but were rejected, and these are the people Ms. Johnson and I are talking about that we are trying to support, trying to help and trying to make aid to them easily available to minorities have been shut out prior to work of Members of Congress like Eddie Bernice Johnson. Mr. Broun and Mr. Smith wrote to FEMA requesting information on how this happened but they still haven't received a response. So we have an opportunity here today I think to fix a problem or work toward fixing a problem and ensure that this doesn't happen again.

The language in Dr. Broun's amendment is nearly exact to what was overwhelmingly supported by the Full House in the C.R. I believe the Senate overwhelmingly supported it. I am not positive about that but that is my recollection. I urge passage of the amendment, and I thank the gentleman for offering it. Yield back.

Chairman GORDON. The Chairman recognizes himself. Dr. Broun, I think the amendment that was accepted by Mr. Smith in Subcommittee takes care of your problem. However, as you and Mr. Hall both pointed out, I think the House spoke to this issue in a firm way earlier and so I am sure that you will be successful here in this amendment here today also.

Mr. BROUN. Mr. Chairman, will you yield?

Chairman GORDON. Yes.

Mr. BROUN. I thank you, sir, for yielding, and I hope we do prevail on the vote on this amendment. To answer Ms. Woolsey, this is not calling them guilty of anything. This is preserving money for firefighters and taking it away from a small grant program. It is not punitive in any way. It doesn't indict or convict anybody in any way and it is just preserving money for firefighters and things that this grant program is supposed to be directed towards, and I think it is extremely important, and frankly, as far as I am concerned, FEMA went outside the law when they granted ACORN the grant to begin with back in September. ACORN has no expertise in firefighting. And so this is a very simple amendment. It is one that doesn't punish anybody. It doesn't convict anybody or any organization. It just says that they will not receive funds from this grant as we have already seen them get from the grant that was awarded by FEMA.

Thank you, Mr. Chairman. I appreciate your yielding.

Chairman GORDON. Ms. Fudge is recognized.

Ms. FUDGE. Thank you, Mr. Chairman.

I really just have a question, Mr. Chairman. I can understand—agree or disagree with the whole ACORN issue but in the language it indicates that allied organizations would not receive any money. I am not sure—I would like an example of who an allied organization would be.

Mr. BROUN. Would you yield?

Ms. FUDGE. Yes.

Mr. BROUN. ACORN, if you look at it, they have a tremendous web of allied organizations that are very difficult to sort down through but it is any allied organization that is part of the ACORN group that they have as their tentacles of the organization. It is just very convoluted. They have many sub-organizations. And this wouldn't—it wouldn't prevent grants from anybody else but it is just those allied organizations, and I hope any reputable organizations sever their ties to ACORN. So if they haven't, they should immediately because of the corruption that is coming to surface with this——

Ms. FUDGE. Reclaiming my time if I may.

Mr. BROUN. Yes, ma'am.

Ms. FUDGE. But since we don't know who these allied organizations you are referring to are, it gives me cause and pause because there are very certain many reputable organizations who are in fact aligned in some way with ACORN, and I may agree with you that maybe they should, maybe they shouldn't, but if they have not in some way distanced themselves from ACORN, I can't see that organizations that do good work who have been productive and who should probably qualify for these would be left out because we put in language that is very, very subjective and we don't even know—you admitted yourself, we don't know who those organizations are. You say it is such a web. If I don't know who they are, I can't vote against them receiving dollars.

Mr. BROUN. Would the gentlelady yield?

Ms. FUDGE. Yes.

Mr. BROUN. We do know that ACORN has at least 361 affiliates in their web and in this tremendous organization that just——

Ms. FUDGE. If I may, I am not talking about affiliates. I am talking about——

Mr. BROUN. Well, I know, and affiliated organizations so it does not prevent any group that is not affiliated or part of ACORN from getting the funds, but they should be—any organization under this grant program under current law should have the expertise, and certainly ACORN doesn't have that either. I find it is despicable to me that FEMA ordered the grant to begin with, but——

Ms. FUDGE. Reclaiming my time. I am not arguing the ACORN point. I am arguing the language "allied organizations," which to this point you have not told me who those would be or an example of who would be an allied organization.

Mr. HALL. Would the gentlelady yield?

Ms. FUDGE. Yes.

Mr. HALL. I understand your opposition and your problem with it. It is the same language that passed in the C.R. and the way to amend that and the way to take care of it is in report language, and I think you will have a shot at that some time later.

Ms. FUDGE. Thank you. I yield back.

Chairman GORDON. Is anyone else to my—Mr. Bilbray is recognized.

Mr. BILBRAY. Mr. Chairman, I appreciate your consideration on this item, and I think we are talking about the credibility of the program. The fact is that the concept that somehow there is a constitutional right for access to taxpayers' funds I think is something that a lot of people across the country are upset with. There is not a constitutional right to have access to funds that we forcibly remove from private possession, that citizens give up this under the force of law, and when we start doling it out we have a responsibility that goes far beyond what is traditionally considered in the criminal courts, and that is the fact that there is not a right but a privilege to receive public funds under our Constitution and with that privilege comes added responsibilities that private individuals normally don't bear, and the organizations that access well, public and private organizations that access the public treasury have a responsibility beyond those that are just asking to operate outside of public funding. So I just think we need to clarify that, and I appreciate your support on this because I think that this is where we need to clarify that look, there is this added obligation, and when in doubt we are going to be conservative in the application of the public funds by saying we want this clarified, and I just think that we need to clarify that this is not a partisan issue. What is happening in Nevada is actually something that has been totally handled by your party in a very responsible manner where actually the head of the organization has gone state's witness on this issue. So I think we have got to point out that this is not a Democrat or a Republican issue, it is an American issue, the fact that this standard of access for public funds is one that is higher than the general public and this continues.

So I again ask for support of it and recognize that when we talk about this affiliated issue, the board of directors actually serve on different boards but the same people are on the boards and the same directors are on different agencies and so this has been very well documented and will become obviously more public as it goes over, so I just ask everybody take a look at what is going on in Las Vegas right now and understand this is something we need to address and we should do it bipartisan, and that is why I appreciate——

Chairman GORDON. Would the gentleman yield?

Mr. BILBRAY. Go ahead, Mr. Chairman.

Chairman GORDON. It is my understanding that there has been some staff discussion about some clarification and so that there will be mutually agreeable report language that will help to fine-tune any, you know, concerns in that regard there might be. And I yield back. Thank you.

Mr. BILBRAY. And I think all of us agree that there is a problem here identified right now with one name but we know it is a shell game here where there is so many people playing the same game, the same people under different titles, and the intention of this amendment is to make sure that the shell game isn't played with American taxpayers' funds.

I yield back, Mr. Chairman.

Chairman GORDON. Mr. Luján is recognized.

Mr. LUJÁN. Thank you very much, Mr. Chairman.

Mr. Chairman, I heard the distinguished Ranking Member say that this amendment is nearly exact of the language that was adopted on the House Floor, and I would yield to Mr. Broun if you could tell me how it differs from what was introduced—what was adopted in the C.R. on the House Floor.

Mr. BROUN. The difference is, this is prospective instead of retrospective, and other than that, it's essentially the same. It is what many, many, most Democrats voted for, I think. I didn't look at the total vote but it is what Republicans and Democrats, both parties voted to prohibit ACORN from getting funds, and this is just prospective so that in the future on this grant program ACORN cannot get any of these grants. It is focused at this program whereas the C.R. was a broader amendment also.

Mr. LUJÁN. And reclaiming my time. Does the language that was adopted on the House Floor in the C.R. contain the language "or allied organizations"? And I would yield to Mr. Broun.

Mr. BROUN. I am sorry. State that again, please.

Mr. LUJÁN. Does the language that was adopted on the C.R. contain the language "or allied organizations"?

Mr. BROUN. In fact, if the gentleman would yield——

Mr. LUJÁN. Yes.

Mr. BROUN. Okay. This is the C.R. language verbatim. "None of the funds made available by this Joint Resolution and any prior act may be provided to the Association of Community Organizations for Reform Now, ACORN, or any of its affiliates, subsidiaries or allied organizations." That is the language, and I yield back.

Mr. LUJÁN. Thank you very much, Mr. Chairman. I yield back my time.

Mr. BARTLETT. Mr. Chairman.

Chairman GORDON. Dr. Bartlett is recognized.

Mr. BARTLETT. You know, when you made the sale, it is probably wise to stop selling it. I would like to move the question.

Chairman GORDON. Dr. Bartlett once again brings wisdom to the—is there no further discussion?

Ms. EDWARDS. Mr. Chairman.

Chairman GORDON. Ms. Edwards is recognized.

Ms. EDWARDS. Thank you, Mr. Chairman.

I am actually taking a look right now at what passed on the House Floor, and there are definitions but there is no definition for "allied organization." It is actually not even in the language of what was passed in the House, and I think it is a very dangerous road that we go down where we include a de-funding mechanism that states that it is attached to an allied organization so does that mean that if an organization serves in a coalition in a state or community with an ACORN group or one of its affiliates that it would be an allied organization? This is a very dangerous road to go down. It is not what we actually passed on the House Floor and I would say I didn't vote for that, but I think it is not really useful for this committee to include language that requires further definition and explanation that no doubt will lead to further—to litigation. I mean, it seems that if I were an organization that was associated in any way, in a coalition, in an informal working group

could be defined as or identified as an allied organization, I would challenge this statute and the language of it applying to me for the purposes of achieving federal funds. I would also say that there are current prohibitions in law that go to issues around debarment when there has been a criminal violation or other kind of sanction that enables anyone of our federal agencies to deny funds under current law. And so it is actually the truth that this is totally unnecessary, and we have plenty of examples of corporations in this country and nonprofit organizations that have engaged in wrongdoing, have been found to engage in wrongdoing and prohibited from engaging in other contracting. We also have plenty of examples where that has been true and they have gotten other contracts and so I am really not sure what this amendment is trying to get to with respect to one single organization because I don't want to see federal funds misused by anyone under any circumstances whether it is ACORN or any other group but let us have a finding in law that there has been a violation and then let the current statutes that exist that prohibit giving contracts and funding to organizations, institutions and corporations that have committed wrongdoing and apply that law. I think this is complete redundancy with respect to one single organization and I don't even believe that what we are doing, especially with respect to so-called allied organizations, even achieves the result that we are looking for except capturing in the widest possible way in a net that has no boundaries, organizations and institutions that may be perfectly—operating perfectly legally and legitimately under the terms of their agreements receiving federal funds. And so I think it is a really dangerous road to go down and I don't understand frankly why this committee has to engage in this kind of way with respect to a single organization when we should be saying that no organization that is engaged in wrongdoing or a corporation that is engaged in wrongdoing should be receiving further federal funds.

Chairman GORDON. Would the gentlelady yield?

Ms. EDWARDS. I do. Thank you.

Chairman GORDON. I think you raised many very valid points. There is going to be an effort, an agreed-upon effort through report language to try to clean up some of your concerns. I just want to be sure that you were aware of that, and I yield back.

Ms. EDWARDS. Thank you, Mr. Chairman, and let me close by saying, Mr. Chairman, that I think that we have a lot of really important business to do on this committee and in this Congress and I would not put this at the top of the stack of the really important work of the American people. Thank you.

Mr. LUJÁN. Mr. Chairman, would the gentlelady yield?

Ms. EDWARDS. I yield.

Mr. LUJÁN. Mr. Chairman, the one thing that I just noticed though is that the language that was adopted in the C.R. says ACORN-related affiliate as opposed to allied organization. It doesn't appear, Mr. Chairman, that the language is verbatim and I just again would urge the question as to how that differs, Mr. Chairman. Thank you very much. I thank the gentlelady for yielding.

Ms. EDWARDS. Thank you. You are absolutely correct. The definitions in the measure that we are talking about has a definition for

covered organizations and affiliated organizations, not allied organizations. There is actually no such term in that measure.

Chairman GORDON. Does anyone else wish to be recognized?

Mr. EHLERS. Mr. Chairman.

Chairman GORDON. Dr. Ehlers.

Mr. EHLERS. Mr. Chairman, thank you. I am feeling a bit left out of this. Even though I don't have anything to add, at least I haven't had a chance to say it yet. But I am just astounded at this discussion. I recall some years ago before I was in the Congress when we had a situation where the Pentagon paid $200 for a hammer, they paid $500 for a toilet seat. No one questioned whether they were guilty. No one questioned whether they were convicted. Congress just went bonkers and punished them by withholding funds. That is what we are doing here. We are not convicting, we are not flinging with a broad brush. It is simply an organization that has behaved improperly. The Congress took action against them in a generic way and now we are just simply saying look, they shouldn't be getting any of this money to train firefighters, there are many other organizations that can probably do it better and certainly have a better record of honesty. So I don't see why individuals are taking up the cause for the so-called allied organizations. That will quickly get sorted out if there are qualified organizations that somehow are labeled allied. These things are easy to straighten out. But I don't see how in any way you can defend the actions of ACORN and say or any allied organizations. Let us get with it and recognize fraud when you see it and let us act accordingly. We would do that with any organization that was here that was misusing federal funds. We have a firm, solid line, a nonpartisan line of saying we are not going to provide funds to any organizations that are going to misuse those funds, and that is all we are about here. Let us not make it into something that it isn't.

Mr. BROUN. Would the gentleman yield?

Mr. EHLERS. I would be pleased to yield to the author of the amendment.

Mr. BROUN. I thank you, Dr. Ehlers, for yielding.

Removing the language or changing it about the allied organizations would basically gut my amendment and give a huge loophole for ACORN to gain money through shell organizations that we all know that ACORN has already employed, and back to what Dr. Ehlers was just saying, we are talking about, if ACORN gets these grants, it is going to take money away from the firefighters. When we come to a vote on this, a vote against my amendment is voting against firefighters and for ACORN, and it is one that I am not sure that is in the best interest of anybody to do so. But it is absolutely critical that we put the money where it is supposed to be and that is with firefighting, with the firefighters and not with organizations like ACORN, and Dr. Ehlers made a great point. This is about being responsible with taxpayers' money. We already see that ACORN is under tremendous amounts of investigation and we already know of embezzlement and other things going on with this organization, but this is not punitive. It is just denying them funds with this one grant program, and it is just a common sense, simple amendment, and I encourage people to—all Members, Democrats, Republicans alike, to support this amendment and I yield back.

Chairman GORDON. Mr. Wu is recognized.

Mr. WU. Thank you, Mr. Chairman.

I want to recognize the concerns of my Democratic colleagues about, in their words, convicting an organization before there has been a conviction elsewhere. But I just want to point out for the benefit of all my friends that in the words of Oliver Wendell Holmes more than, oh, about a century ago, in a case involving a Boston policeman that you have a right to do that but you don't have a right to be a Boston policeman. So there might be a different standard when one is talking about federal funding and the allocation of federal funds.

The flip side of this is, it is also my recollection that in a series of Supreme Court cases in the 1950s or 1960s the Court was very careful to not involve organizations in loose terminology, and it seems to me that if we have defined terms for controlled affiliates that using an undefined term is legally imprecise and it is a matter of policy unwise. So the gentleman who offered the amendment with whom I have worked on a number of other issues in our subcommittee, I was just wondering if the gentleman would be amenable on a consent basis to a slight tweaking of his language to make it a little bit more precise and to consider those organizations legally controlled by ACORN, and I believe that that is a term that should cover all of his legitimate concerns, and I yield to the gentleman for his response.

Mr. BROUN. Well, I thank the gentleman for yielding. No, I won't be accepting that suggestion——

Mr. WU. Reclaiming my time. I would like to understand the basis of that rejection because this seems to address all of his legitimate concerns, and I yield to the gentleman.

Mr. BROUN. Thank you. Well, I just want to remind the gentleman that you did vote for this very——

Mr. WU. Reclaiming my time. Of course I did. I voted for a common sense amendment that was precisely drawn, and I am trying to offer the gentleman the same opportunity to make his amendment more careful, and I yield to the gentleman.

Mr. BROUN. I will work with the—if this amendment does pass, as the Chairman has already stated, our side and your side will work together to make—to tighten up the language but I will just leave the amendment as it stands.

Chairman GORDON. If there is no further discussion——

Mr. WU. Reclaiming my time. I will depend on the gentleman and the good graces of the Chairman to make this language more analytically correct and reflect the will of the Committee and of the House. And I yield back.

Chairman GORDON. If there is no further discussion, then the vote is on the——

Mr. GRAYSON. Sir, Mr. Chairman.

Chairman GORDON. Mr. Grayson is recognized.

Mr. GRAYSON. Thank you. I would like to ask the gentleman from Georgia a few questions, and I will yield to him for the purpose of having answers to these questions. Does the gentleman from Georgia know what a bill of attainder is?

Mr. BROUN. A bill of—the answer is yes. In fact, it has been very explicitly described by the courts.

Mr. GRAYSON. What is it?

Mr. BROUN. The courts have applied a two-prong test, number one, whether specific individuals or entities are affected by the statute, and number two, whether the legislation effects a, quote, punishment, unquote, on those individuals. It serves no regulatory purpose.

Mr. GRAYSON. What does the Constitution say about bills of attainder?

Mr. BROUN. I suggest that this is not a bill of attainder. It certainly does focus upon a specific entity but it does not inflict punishment by any means. In fact——

Mr. GRAYSON. Will the gentleman from Georgia explain what the Constitution says about bills of attainder?

Mr. BILBRAY. Mr. Chairman. Will the gentleman yield for a second, the gentleman from Florida?

Mr. GRAYSON. No, I would like an answer to my question.

Mr. BILBRAY. Well, frankly I can't wait to see the discussion when it comes to——

Mr. GRAYSON. I did not yield, and I would like an answer from the gentleman from Georgia.

Chairman GORDON. If we could, let us get back. The time is the gentleman from Florida, who has yielded to the gentleman from Georgia.

Mr. GRAYSON. Right. What does the Constitution say about bills of attainder? It is a simple question.

Mr. BROUN. The Constitution says that Congress shall pass no bills of attainder, but this is not one.

Mr. GRAYSON. All right. Now, would you agree with me that it is unconstitutional to single out one or more persons without the benefit of trial?

Mr. BROUN. No, sir, there is a two-prong test, and this is not a bill of attainder so——

Mr. GRAYSON. Well, when I said—I will reclaim my time. I just quoted William Rehnquist writing the book, the Supreme Court. He wrote that book and said you cannot single out one or more persons without the benefit of trial. Will the gentleman agree that bills of attainder are contrary to every principal of sound legislation?

Mr. BROUN. There are too many criteria which courts would likely look in order to determine whether legislation is a bill of attainder. One is whether a specific individual entity is affected by the statute; number two, whether the legislation effects a punishment on those individuals and——

Mr. GRAYSON. Will the gentleman please tell me whether you agree or not that bills of attainder are contrary to every principal of sound legislation?

Mr. BROUN. Bills of attainder are unconstitutional.

Mr. GRAYSON. And contrary to every principal of sound legislation. Is that correct?

Mr. BROUN. That is correct.

Mr. GRAYSON. All right. And you know who said that?

Mr. BROUN. Tell me.

Mr. GRAYSON. James Madison in the Federalist Papers. Now, does the gentleman agree that the bill of attainder clause was in-

tended not as a narrow or technical provision but rather as an implementation of a separation of powers and a general safeguard against legislative exercise of the judicial function or, more simply, trial by legislature. Will the gentleman agree with me about that?

Mr. SENSENBRENNER. Will the gentleman yield?

Mr. GRAYSON. No.

Mr. BROUN. Would the gentleman restate the question?

Mr. GRAYSON. The question is, will the gentleman from Georgia agree with me that the bill of attainder clause was intended not as a narrow or technical provision but as an implementation of separation of powers, a general safeguard against legislative exercise of the judicial function, or more simply, trial by legislature? Will the gentleman agree to that?

Mr. BROUN. No, sir, I will not, and I asked counsel to help us with this, and I think all this is a determination of the court and I would like to yield to Mr. Sensenbrenner.

Mr. GRAYSON. Well, I am sorry, but it is my time, not yours or Mr. Sensenbrenner's, so I will reclaim my time and I will point out that what you just said you would not agree to is from a Supreme Court case called United States v. Brown, something I would expect you might know about, given your name. Listen——

Mr. BROUN. Would the gentleman yield?

Mr. GRAYSON. No. Listen, we are trampling on people's constitutional rights, and I think it is unfortunate that the mania that exists on the other side of the aisle regarding this organization, and we know why that mania exists. It is because they have registered an awful lot of Democrats, continues to distort and waste the time of this committee and many other committees here in Congress. Enough is enough. I yield my remaining five seconds.

Mr. SENSENBRENNER. Mr. Chairman.

Mr. GRAYSON. My time is expired.

Chairman GORDON. The gentleman's time is expired but Mr. Sensenbrenner can claim his own time.

Mr. SENSENBRENNER. Mr. Chairman, I would move to strike the last word.

Chairman GORDON. The gentleman is recognized for five minutes.

Mr. SENSENBRENNER. Mr. Chairman, as former Chairman of the Judiciary Committee, we have dealt with questions of bills of attainder quite a bit, and I noticed that earlier this year there was such a bill of attainder passed called the AIG tax or more properly to impose an additional tax on bonuses received from certain TARP recipients. The bill passed the House of Representatives. Even the President of the United States, who used to be a law professor, as I recall, referred to this as a bill of attainder, and I noticed that the gentleman from Florida voted "aye." So I guess we have different bills of attainder. Some are good and some are bad.

Mr. GRAYSON. Will the gentleman yield?

Mr. SENSENBRENNER. They all are unconstitutional. Of course I am happy to yield, unlike you.

Mr. GRAYSON. Well, sir, I would point out that unlike you, I did not vote for the war in Iraq on the basis of weapons of mass destruction that didn't exist or make any of the other mistakes that you might have made over——

Mr. SENSENBRENNER. I will reclaim my time and I will just say that the whole business of the gentleman from Florida's debate shows how irrelevant it is to the question of whether we are going to make a priority determination on whether to give federal funds to ACORN or federal funds to firefighters, and Mr. Broun of Georgia——

Mr. GRAYSON. Will the gentleman yield?

Mr. SENSENBRENNER. I would like to finish my sentence, please. Mr. Broun of Georgia, I think, has stated that this is a question of where we spend scarce federal dollars. Now, a bill of attainder has always been taking away property that already belongs to somebody such as imposing a confiscatory and punitive tax rather than saying that an organization and its affiliates are not going to get any funds in the future. Now, Mr. Broun's amendment does say that ACORN and its affiliates are not getting any funds in the future. We are not taking away the funds that they already have, even though that might have been a mistake for Congress to appropriate it. We are just saying enough is enough, no more funds for ACORN and its affiliates and let us spend the funds on the firefighters. So that is why this amendment is not a bill of attainder. It is good policy and we all want to vote for it, and I yield back the balance of my time.

Chairman GORDON. The Chairman has the authority to call a previous question at any time. He has never done that and doesn't want to do it because I want us to have full, open conversations here, but as Dr. Ehlers pointed out several minutes ago, I think everything has been said, just everyone hasn't said it, and so——

Mr. EHLERS. Mr. Chairman, I will move the previous question.

Chairman GORDON. Well, if there no further discussion, then that won't be necessary. I think Ms. Johnson had a question.

Ms. JOHNSON. Thank you very much. Strike the last word.

Mr. Chairman, I am getting more and more confused. The part that I heard about ACORN, weren't there some locations and not all of the country that they were guilty of anything? Can someone—my point here is that we are punishing the entire organization for something that perhaps two or three people might have done and they haven't proven they have done but might have done in a particular location. Are you saying that every ACORN chapter is guilty of the same?

Mr. BROUN. I assume the gentlelady is asking a question here. This is not a punishment. It just says that ACORN will not get the funds in this grant program and that the firefighters should and would, so it is not convicting anybody, it is not indicting anybody. It just says that these funds will be utilized for firefighters and for what they need to perform their job and keep us safe, and so that is what it is all about. It is directed towards ACORN and all affiliates. It says what it says, and that is it.

Ms. JOHNSON. Thank you, Mr. Chairman.

Chairman GORDON. As I said earlier, we will continue efforts to perfect this language. If there is no further discussion, the vote is on the amendment. All in favor, say aye. Opposed, no. The ayes have it. The——

Mr. GRAYSON. Mr. Chairman?

Chairman GORDON. The Clerk will call the roll.

The CLERK. Chairman Gordon?
Chairman GORDON. Aye.
The CLERK. Chairman Gordon votes aye. Mr. Costello?
Mr. COSTELLO. Aye.
The CLERK. Mr. Costello votes aye. Ms. Johnson?
Ms. JOHNSON. No.
The CLERK. Ms. Johnson votes no. Ms. Woolsey?
Ms. WOOLSEY. No.
The CLERK. Ms. Woolsey votes no. Mr. Wu?
Mr. WU. Aye.
The CLERK. Mr. Wu votes aye. Mr. Baird?
Mr. BAIRD. No.
The CLERK. Mr. Baird votes no. Mr. Miller?
Mr. MILLER. Aye.
The CLERK. Mr. Miller votes aye. Mr. Lipinski?
Mr. LIPINSKI. Aye.
The CLERK. Mr. Lipinski votes aye. Ms. Giffords?
Ms. GIFFORDS. Aye.
The CLERK. Ms. Giffords votes aye. Ms. Edwards?
Ms. EDWARDS. No.
The CLERK. Ms. Edwards votes no. Ms. Fudge?
Ms. FUDGE. No.
The CLERK. Ms. Fudge votes no. Mr. Luján?
Mr. LUJÁN. Aye.
The CLERK. Mr. Luján votes aye. Mr. Tonko?
Mr. TONKO. Aye.
The CLERK. Mr. Tonko votes aye. Mr. Griffith?
Mr. GRIFFITH. Aye.
The CLERK. Mr. Griffith votes aye. Mr. Rothman?
[No response.]
The CLERK. Mr. Matheson?
Mr. MATHESON. Aye.
The CLERK. Mr. Matheson votes aye. Mr. Davis?
Mr. DAVIS. Aye.
The CLERK. Mr. Davis votes aye. Mr. Chandler?
Mr. CHANDLER. Aye.
The CLERK. Mr. Chandler votes aye. Mr. Carnahan?
Mr. CARNAHAN. Aye.
The CLERK. Mr. Carnahan votes aye. Mr. Hill?
Mr. HILL. Aye.
The CLERK. Mr. Hill votes aye. Mr. Mitchell?
Mr. MITCHELL. Aye.
The CLERK. Mr. Mitchell votes aye. Mr. Wilson?
Mr. WILSON. Aye.
The CLERK. Mr. Wilson votes aye. Ms. Dahlkemper?
Ms. DAHLKEMPER. Aye.
The CLERK. Ms. Dahlkemper votes aye. Mr. Grayson?
Mr. GRAYSON. Present.
The CLERK. Mr. Grayson votes present. Ms. Kosmas?
Ms. KOSMAS. Aye.
The CLERK. Ms. Kosmas votes aye. Mr. Peters?
Mr. PETERS. Aye.
The CLERK. Mr. Peters votes aye. Mr. Hall?
Mr. HALL. Aye.

The CLERK. Mr. Hall votes aye. Mr. Sensenbrenner?
Mr. SENSENBRENNER. Aye.
The CLERK. Mr. Sensenbrenner votes aye. Mr. Lamar Smith?
[No response.]
The CLERK. Mr. Rohrabacher?
[No response.]
The CLERK. Mr. Bartlett?
The CLERK. Mr. Bartlett votes aye. Mr. Ehlers?
Mr. EHLERS. Aye.
The CLERK. Mr. Ehlers votes aye. Mr. Lucas?
[No response.]
The CLERK. Ms. Biggert?
Ms. BIGGERT. Aye.
The CLERK. Ms. Biggert votes aye. Mr. Akin?
[No response.]
The CLERK. Mr. Neugebauer?
Mr. NEUGEBAUER. Aye.
The CLERK. Mr. Neugebauer votes aye. Mr. Inglis?
Mr. INGLIS. Aye.
The CLERK. Mr. Inglis votes aye. Mr. McCaul?
Mr. MCCAUL. Aye.
The CLERK. Mr. McCaul votes aye. Mr. Diaz-Balart?
Mr. DIAZ-BALART. Aye.
The CLERK. Mr. Diaz-Balart votes aye. Mr. Bilbray?
Mr. BILBRAY. Aye.
The CLERK. Mr. Bilbray votes aye. Mr. Adrian Smith?
Mr. SMITH OF NEBRASKA. Aye.
The CLERK. Mr. Adrian Smith votes aye. Mr. Broun?
Mr. BROUN. Aye.
The CLERK. Mr. Broun votes aye. Mr. Olson?
Mr. OLSON. Aye.
The CLERK. Mr. Olson votes aye.
Chairman GORDON. How is Mr. Rohrabacher recorded?
The CLERK. Mr. Rohrabacher is not recorded.
Mr. ROHRABACHER. Well, I guess he should be recorded yes.
The CLERK. Mr. Rohrabacher votes yes.

Chairman GORDON. And I saw Mr. Rothman somewhere. Is he still with us? Is there anybody else here who has not been recorded? Then the Clerk will report the vote.

The CLERK. Mr. Chairman, 33 Members vote aye, 5 Members vote no, and one Member votes present.

COMMITTEE ON SCIENCE AND TECHNOLOGY - 111th

DATE 10/21/09 **AMENDMENT NO. 212** **ROLL CALL NO.___**

Bill: H.R. 3791 - The Fire Grants Reauthorization Act of 2009.

SPONSOR of AMEND – Mr. Broun

PASSED X VOICE VOTE
DEFEATED WITHDRWAN

Quorum – 15 to vote – 22 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. GORDON, Chair	X			
2 Mr. COSTELLO - *IL*	X			
3 Ms. JOHNSON - *TX*		X		
4 Ms. WOOLSEY - *CA*		X		
5 Mr. WU - *OR*	X			
6 Mr. BAIRD - *WA*		X		
7 Mr. MILLER - *NC*	X			
8 Mr. LIPINSKI - *IL*	X			
9 Ms. GIFFORDS - *AZ*	X			
10 Ms. EDWARDS - *MD*		X		
11 Ms. FUDGE - *OH*		X		
12 Mr. LUJÁN - *NM*	X			
13 Mr. TONKO - *NY*	X			
14 Mr. GRIFFITH - *AL*	X			
15 Mr. ROTHMAN - *NJ*				
16 Mr. MATHESON - *UT*	X			
17 Mr. DAVIS - *TN*	X			
18 Mr. CHANDLER - *KY*	X			
19 Mr. CARNAHAN - *MO*	X			
20 Mr. HILL - *IN*	X			
21 Mr. MITCHELL - *AZ*	X			
22 Mr. WILSON - *OH*	X			
23 Mrs. DAHLKEMPER- *PA*	X			
24 Mr. GRAYSON – *FL*			X	
25 Ms. KOSMAS - *FL*	X			
26 Mr. PETERS - *MI*	X			
27 Vacancy				

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL- *TX*	X			
2 Mr. SENSENBRENNER-*WI*	X			
3 Mr. LAMAR SMITH- *TX*				
4 Mr. ROHRABACHER- *CA*	X			
5 Mr. BARTLETT- *MD*	X			
6 Mr. EHLERS- *MI*	X			
7 Mr. LUCAS- *OK*				
8 Mrs. BIGGERT- *IL*	X			
9 Mr. AKIN- *MO*				
10 Mr. NEUGEBAUER- *TX*	X			
11 Mr. INGLIS- *SC*	X			
12 Mr. McCAUL- *TX*	X			
13 Mr. DIAZ-BALART- *FL*	X			
14 Mr. BILBRAY- *CA*	X			
15 Mr. ADRIAN SMITH- *NE*	X			
16 Mr. BROUN - *GA*	X			
17 Mr. OLSON- *TX*	X			
TOTALS	33	5	1	

Mr. Chairman, Members vote Aye and vote No

Chairman GORDON. The amendment passes. And my understanding now, we are going to move to the sixth amendment offered by the gentleman from Nebraska, Mr. Smith.

Mr. BROUN. Mr. Chairman.

Chairman GORDON. Dr. Broun.

Mr. BROUN. I ask unanimous consent that Mr. Smith's and my letter to FEMA be entered into the record.

[The information follows:]

BART GORDON, TENNESSEE
CHAIRMAN

RALPH M. HALL, TEXAS
RANKING MEMBER

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON SCIENCE AND TECHNOLOGY

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October 8, 2009

The Honorable W. Craig Fugate
Administrator
Federal Emergency Management Agency
Department of Homeland Security
Washington, DC 20472

Dear Administrator Fugate:

On September 4, 2009 the Federal Emergency Management Agency issued a Fire Prevention and Safety grant of $997,402 to the Association of Community Organizations for Reform Now (ACORN) Institute of New Orleans, Louisiana.[1] In light of recent revelations surrounding this organization, we have concerns and several questions regarding the issuance of this grant.

Based on a growing record of corruption, voter fraud, embezzlement, racketeering, and tax evasion, both Houses of Congress recently took bipartisan action to stop funding for ACORN.[2] While the grant was awarded prior to the Congressional prohibition, questions regarding the organization's reputation should have raised red flags. Because of this, both the U.S. Census Bureau and the Internal Revenue Service recently ended partnerships with ACORN.[3] [4] Additionally, ongoing Congressional and Justice Department investigations regarding misconduct and illegal activity by the organization are ongoing, as well as a separate investigation of embezzlement of taxpayer funds by the Louisiana State Attorney General.[5] This extensive record of problems begs the question of why your agency awarded a grant to an entity embroiled in such controversy.

The House Science and Technology Committee maintains legislative and oversight responsibility for the Assistance to Firefighters Grant (AFG) program through its jurisdiction over the Federal Fire Prevention and Control Act of 1974. Your timely cooperation regarding this inquiry is appreciated as our Committee plans to reauthorize the AFG program later this month. In preparation for this reauthorization, please address the following questions and requests.

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[1] http://www.firegrantsupport.com/fps/award/08/
[2] P.L. 111-68
[3] "Census Bureau severs ties with ACORN in 2010 count." *Associated Press*. September 11, 2009
[4] "IRS, ACORN sever ties over scandal." *Associated Press*. September 23, 2009
[5] Franke-Ruta, G and Davis, A. Justice Dept. "Inspector General Plans Internal ACORN Probe." *Washington Post*. September 22, 2009

Hon. W. Craig Fugate
Page 2
October 8, 2009

1) Section 33(A)(4)(A)(ii) of the Federal Fire Prevention and Control Act of 1974 calls for grants to be made to organizations that are "recognized for their experience and expertise with respect to fire prevention or fire safety programs."[6]
   a) What justification did the ACORN Institute provide to FEMA to demonstrate it met this requirement?

2) Under the most recent Continuing Resolution (CR) Congress prohibited federal funding of ACORN.[7]
   a) Do you interpret this prohibition to prevent any FY2008 and FY2009 money from ever going to ACORN, or do you believe the prohibition will expire with the CR?

3) FEMA recently indicated that it has not finally awarded the grant.[8]
   a. Is the grant on "hold" or has it been rescinded?
   b. When was this determination made? Was it before, or after congressional inquiry?
   c. Is there a possibility that the funds could be reissued to the organization at a later date?

4) FEMA also awarded a similar grant to ACORN in 2007.
   a. Please provide a list of all other grants the Agency awarded to the organization, as well as the amounts and terms of those grants.
   b. Please indicate how the Agency ensured that grant funding was used for its intended purpose.
   c. Please provide documentation showing that the statutorily required five percent match was provided by ACORN for previous grants.

5) Are there any other applications before your agency from the organization for any fiscal year?

In addition to addressing the previous questions, please provide all records (defined by the attachment), generated or received, relating to the application, review, and award of the 2008 Fire Prevention and Safety Grant to the ACORN Institute. This should include, but not be limited to, the following:

1) ACORN's entire grant application package submitted to FEMA's AFG Program Office for consideration, to include but not limited to, the Application Overview, Applicant Information, Applicant Characteristics, Request Details, Application Budget, and Application Narrative Statement.

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[6] P.L. 93-498
[7] P.L. 111-68
[8] Romm, Tony. "FEMA to GOP: We never gave grant to ACORN." *The Hill.* October 7, 2009.

2) The AFG program's computer generated score of the application.

3) The peer review score as well as the peer review comments of the application.

4) The AFG program personnel technical review comments of the application.

5) All award documents the AFG Program Office issued ACORN regarding the grant.

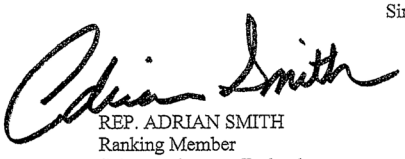
6) All official and unofficial correspondence the AFG Program Office has had with ACORN concerning this grant to include all records referenced in the attachment.

7) All official and unofficial correspondence ACORN has had with the AFG Program Office concerning this grant to include all records referenced in the attachment.

Please provide two copies of these records no later than October 15, 2009, as our Committee plans to take up the AFG reauthorization later this month.

If you have any questions relating to this inquiry, please contact Mr. Dan Byers, Professional Staff, Subcommittee on Technology and Innovation, or Mr. Tom Hammond, Professional Staff, Subcommittee on Investigations and Oversight at (202) 225-6371.

Sincerely,



REP. ADRIAN SMITH
Ranking Member
Subcommittee on Technology
and Innovation

REP. PAUL BROUN
Ranking Member
Subcommittee on Investigations
and Oversight

cc: REP. DAVID WU
Chairman
Subcommittee on Technology and Innovation

REP. BRAD MILLER
Chairman
Subcommittee on Investigations and Oversight

Attachment

ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.

2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

Chairman GORDON. Without objection, so ordered.

Mr. BROUN. Thank you, Mr. Chairman.

Chairman GORDON. So Mr. Smith, we will proceed with you having the last amendment.

Mr. SMITH OF NEBRASKA. Yes. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman GORDON. The Clerk will report the amendment.

The CLERK. Amendment 012, amendment to the amendment in the nature of a substitute to H.R. 3791, offered by Mr. Smith of Nebraska.

Chairman GORDON. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

I recognize the gentleman for five minutes to explain his amendment.

Mr. SMITH OF NEBRASKA. Thank you, Mr. Chairman, and thank you as to my colleagues on both sides of the aisle for cooperation in this amendment. It is very simple. It is a sense of Congress emphasizing restoring funding to the Assistance to Firefighters Grant Programs should be a priority. The program is authorized in this legislation at $1 billion per year. However, its appropriated funding has never reached that amount and in fact it steadily declined in recent years, and that is why in 2003 $750 million was appropriated for AFG. Since this time, funding has steadily declined. Last year it was $565 million and this year the Administration

only requested $390 million. This represents a 48 percent decline since fiscal year 2003. Given the importance of AFG in helping fire departments around the country meet minimum response requirements, especially those in rural areas with limited tax bases, this trend is troubling and should certainly be reversed. The underlying reauthorization legislation attempts to do that, and I support it.

This amendment adds to the bill by explicitly calling attention to this issue and stating that addressing this funding decline should be a priority. I urge Members to support it. Thank you. I yield back.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF REPRESENTATIVE ADRIAN SMITH

This amendment is very simple. It is a sense of Congress emphasizing restoring funding for the Assistance to Firefighters Grant program should be a priority. The program is authorized in this legislation at a billion dollars per year. However, its appropriated funding has never reached that amount, and in fact has steadily declined in recent years. In FY 2003, $750 million was appropriated for AFG. Last year, it was $565 million, and this year the Administration only requested $390 million. This represents a 48 percent decline since FY 2003.

Given the importance of AFG in helping fire departments around the country meet minimum response requirements—especially those in rural areas with limited tax bases—this trend is troubling, and should be reversed. The underlying reauthorization legislation attempts do that—and I support it—but this amendment adds to the bill by explicitly calling attention to this funding decline. I urge Members to support it.

Chairman GORDON. Is there further discussion on the amendment? Mr. Hall is recognized.

Mr. HALL. Thank you. I will be very brief.

This is simply a sense of Congress expressing disappointment with the declining funding for assistance to firefighters. I think we are all for that, and restoring this funding ought to be a priority. I think we all support that program. And I understand funding is always limited to competing needs but Mr. Smith is simply trying to emphasize that this program warrants priority attention and I think that is a good move. I certainly support it and I yield back, and I thank the Chairman.

Chairman GORDON. The record will show that Mr. Hall supports more funding for firefighters.

Does anyone else wish to be recognized? If not, then the vote occurs on the amendment. All in favor say aye. Opposed, no. The ayes have it and the amendment is agreed to.

Are there any further amendments? If not, then the vote occurs on the amendment in the nature of a substitute offered by the gentleman from Arizona as amended. All in favor, say aye. Opposed, no. The ayes have it. The amendment is agreed to.

The vote is now on the bill, H.R. 3791 as amended. All those in favor, say aye. All those opposed, no. In the opinion of the Chair, the ayes have it.

I recognize Mr. Tonko for a motion.

Mr. TONKO. Yes, Mr. Chairman, I move that the Committee favorably report H.R. 3791 as amended to the House with the recommendation that the bill do pass. Furthermore, I move that staff be instructed to prepare the legislative report and make necessary technical and conforming changes and that the Chair take all necessary steps to bring the bill before the House for consideration.

Chairman GORDON. The question is on the motion to report the bill favorably. Those in favor of the motion will signify by saying aye. Opposed, no. The ayes have it. The bill is favorably reported.

Before he gets away, Mr. Neugebauer, we welcome you back and glad to see you look fit, trim and ready for action.

Without objection, the motion to reconsider is laid upon the table. Members will have two subsequent calendar days in which to submit supplemental, Minority or additional views on the measure.

Chairman GORDON. I want to thank all the Members for being here and taking part in this good markup. Thank you.

[Whereupon, at 11:35 a.m., the Committee was adjourned.]

Appendix:

H.R. 3791 AS AMENDED, AMENDMENT ROSTER

H.R. 3791, As Amended by the Technology and Innovation Subcommittee on October 14, 2009

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the ''Fire Grants Reauthor-
3 ization Act of 2009''.

4 **SEC. 2. ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM**
5 **REAUTHORIZATION.**

6 Section 33 of the Federal Fire Prevention and Con-
7 trol Act of 1974 (15 U.S.C. 2229) is amended to read
8 as follows:

9 **''SEC. 33. FIREFIGHTER ASSISTANCE.**

10 ''(a) ASSISTANCE PROGRAM.—

11 ''(1) AUTHORITY.—In accordance with this sec-
12 tion, the Director may—

13 ''(A) make grants on a competitive basis
14 directly to fire departments of a State or State
15 fire training academies, in consultation with the
16 chief executive of the State, for the purpose of
17 protecting the health and safety of the public
18 and firefighting personnel throughout the Na-
19 tion against fire and fire-related hazards;

1 "(B) provide assistance for fire prevention
2 and firefighter safety research and development
3 programs in accordance with paragraph (4);
4 and
5 "(C) provide assistance for volunteer, non-
6 fire service EMS and rescue organizations for
7 the purpose of paragraph (3)(F).
8 "(2) ADMINISTRATIVE ASSISTANCE.—The Di-
9 rector shall establish specific criteria for the selec-
10 tion of recipients of assistance under this section
11 and shall provide grant-writing assistance to appli-
12 cants.
13 "(3) USE OF FIRE DEPARTMENT GRANT
14 FUNDS.—The Director may make a grant under
15 paragraph (1)(A) only if the applicant for the grant
16 agrees to use the grant funds for one or more of the
17 following purposes:
18 "(A) To hire additional firefighting per-
19 sonnel.
20 "(B) To train firefighting personnel in
21 firefighting, emergency medical services and
22 other emergency response (including response
23 to a terrorism incident or use of a weapon of
24 mass destruction), arson prevention and detec-
25 tion, maritime firefighting, or the handling of

1 hazardous materials or to train firefighting per-
2 sonnel to provide any of the training described
3 in this subparagraph.
4 "(C) To fund the creation of rapid inter-
5 vention teams to protect firefighting personnel
6 at the scenes of fires and other emergencies.
7 "(D) To certify fire and building inspec-
8 tors employed by a fire department or serving
9 as a volunteer building inspector with a fire de-
10 partment.
11 "(E) To establish wellness and fitness pro-
12 grams for firefighting personnel to ensure that
13 the firefighting personnel can carry out their
14 duties.
15 "(F) To fund emergency medical services
16 provided by fire departments and volunteer,
17 non-fire service EMS and rescue organizations.
18 "(G) To acquire additional firefighting ve-
19 hicles, including fire trucks.
20 "(H) To acquire additional firefighting
21 equipment, including equipment for communica-
22 tions, monitoring, and response to a terrorism
23 incident or use of a weapon of mass destruc-
24 tion.

1 "(I) To acquire personal protective equip-
2 ment required for firefighting personnel by the
3 Occupational Safety and Health Administration
4 and other personal protective equipment for
5 firefighting personnel, including protective
6 equipment to respond to a terrorism incident or
7 the use of a weapon of mass destruction.
8 "(J) To modify fire stations, fire training
9 facilities, and other facilities to protect the
10 health and safety of firefighting personnel.
11 "(K) To enforce fire codes and standards.
12 "(L) To fund fire prevention programs.
13 "(M) To educate the public about arson
14 prevention and detection.
15 "(N) To provide incentives for the recruit-
16 ment and retention of volunteer firefighting
17 personnel for volunteer firefighting departments
18 and other firefighting departments that utilize
19 volunteers.
20 "(4) FIRE PREVENTION AND FIREFIGHTER
21 SAFETY RESEARCH AND DEVELOPMENT PRO-
22 GRAMS.—
23 "(A) IN GENERAL.—For each fiscal year,
24 the Director shall use not less than 10 percent

of the funds made available under subsection (e)—

"(i) to make grants to fire departments for the purpose described in paragraph (3)(L);

"(ii) to make grants to, or enter into contracts or cooperative agreements with, national, State, local, or community organizations that are not fire departments but—

"(I) that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and that partner with fire departments, for the purpose of carrying out such programs and activities;

"(II) engage in fire-related activities as a primary purpose or function, for the purpose of carrying out fire prevention or fire safety programs and activities; or

"(III) that are recognized for their experience and expertise with respect to firefighter research and devel-

1 opment programs, for the purpose of
2 carrying out research on fire preven-
3 tion or fire safety programs and ac-
4 tivities or to improve firefighter health
5 and life safety; and
6 "(iii) if the Director determines that
7 it is necessary, to make grants or enter
8 into contracts in accordance with sub-
9 section (c).
10 "(B) PRIORITY.—In selecting organiza-
11 tions described in subparagraph (A)(ii) to re-
12 ceive assistance under this paragraph, the Di-
13 rector shall give priority to organizations that
14 focus on prevention of injuries to high risk
15 groups from fire, as well as research programs
16 that demonstrate the potential to improve fire-
17 fighter safety.
18 "(C) GRANT LIMITATION.—A grant under
19 this paragraph shall not exceed $1,500,000 for
20 a fiscal year.
21 "(5) APPLICATION.—The Director may provide
22 assistance to a fire department or organization
23 under this subsection only if the fire department or
24 organization seeking the assistance submits to the

1 Director an application that meets the following re-
2 quirements:
3 "(A) FORM.—The application shall be in
4 such form as the Director may require.
5 "(B) INFORMATION.—The application shall
6 include the following information:
7 "(i) Information that demonstrates
8 the financial need of the applicant for the
9 assistance for which applied.
10 "(ii) An analysis of the costs and ben-
11 efits, with respect to public safety, of the
12 use of the assistance.
13 "(iii) An agreement to provide infor-
14 mation to the national fire incident report-
15 ing system for the period covered by the
16 assistance.
17 "(iv) A list of other sources of Federal
18 funding received by the applicant. The Di-
19 rector, in coordination with the Secretary
20 of Homeland Security, shall use such list
21 to prevent unnecessary duplication of grant
22 funds.
23 "(v) Any other information that the
24 Director may require.
25 "(6) MATCHING REQUIREMENT.—

1 "(A) IN GENERAL.—Subject to subpara-
2 graphs (B) and (C) and paragraph (8), the Di-
3 rector may provide assistance under this sub-
4 section only if the applicant for such assistance
5 agrees to match 10 percent of such assistance
6 for any fiscal year with an equal amount of
7 non-Federal funds.
8 "(B) REQUIREMENT FOR SMALL COMMU-
9 NITY ORGANIZATIONS.—In the case of an appli-
10 cant whose personnel serve jurisdictions of
11 20,000 or fewer residents, the percent applied
12 under the matching requirement of subpara-
13 graph (A) shall be 5 percent.
14 "(C) FIRE PREVENTION AND FIREFIGHTER
15 SAFETY GRANTS EXCEPTION.—There shall be
16 no matching requirement for a grant described
17 in paragraph (4).
18 "(7) MAINTENANCE OF EXPENDITURES.—Sub-
19 ject to paragraph (8), the Director may provide as-
20 sistance under this subsection only if the applicant
21 for the assistance agrees to maintain in the fiscal
22 year for which the assistance will be received the ap-
23 plicant's aggregate expenditures for the uses de-
24 scribed in paragraph (3) or (4) at or above 80 per-
25 cent of the average level of such expenditures in the

1 2 fiscal years preceding the fiscal year for which the
2 assistance will be received.
3 "(8) ECONOMIC HARDSHIP WAIVER.—
4 "(A) IN GENERAL.—In exceptional cir-
5 cumstances, the Director may waive or reduce
6 the matching requirement under paragraph (6)
7 and the maintenance of expenditures require-
8 ment under paragraph (7) for applicants facing
9 demonstrated economic hardship.
10 "(B) CRITERIA DEVELOPMENT.—The cri-
11 teria under which the Director may waive or re-
12 duce such requirements shall be developed in
13 consultation with individuals who are—
14 "(i) recognized for expertise in fire-
15 fighting, emergency medical services pro-
16 vided by fire services, or the economic af-
17 fairs of State and local governments; and
18 "(ii) members of national fire service
19 organizations or national organizations
20 representing the interests of State and
21 local governments.
22 "(C) PUBLIC AVAILABILITY.—Criteria de-
23 veloped under subparagraph (B) shall be made
24 publicly available.

1 "(9) VARIETY OF FIRE DEPARTMENT GRANT
2 RECIPIENTS.—
3 "(A) IN GENERAL.—Of the amounts made
4 available under subsection (e), the Director
5 shall ensure that grants under paragraph
6 (1)(A) for a fiscal year are allocated, to the ex-
7 tent that there are eligible applicants to carry
8 out the activities under paragraph (3), as fol-
9 lows:
10 "(i) 25 percent shall be made avail-
11 able to career fire departments;
12 "(ii) 25 percent shall be made avail-
13 able to volunteer fire departments; and
14 "(iii) 25 percent shall be made avail-
15 able to combination fire departments.
16 "(B) EVALUATION CRITERIA.—
17 "(i) IN GENERAL.—In awarding
18 grants under paragraph (1)(A), the Direc-
19 tor shall, within each category of appli-
20 cants under subparagraph (A), consider a
21 broad range of factors important to the ap-
22 plicant's ability to respond to fires and re-
23 lated hazards, such as population served,
24 geographic response area, hazard vulner-

1 ability, call volume, financial situation, and
2 need for training or equipment.
3 "(ii) HIGH POPULATION AND INCI-
4 DENT RESPONSE.—In considering such
5 factors under clause (i), applicants serving
6 areas with high population and with a high
7 number of incidents requiring a response
8 shall receive a higher level of consideration.
9 "(C) REMAINDER.—Of the amounts made
10 available under subsection (e) that are not allo-
11 cated for use and awarded under subparagraph
12 (A) or designated for use under any other pro-
13 vision of this section, the Director shall provide
14 for an open competition for grants among ca-
15 reer fire departments, volunteer fire depart-
16 ments, and combination fire departments to
17 carry out the activities under paragraph (3).
18 "(10) REPORT TO THE DIRECTOR.—The Direc-
19 tor may provide assistance under this subsection
20 only if the applicant for the assistance agrees to sub-
21 mit to the Director a report, including a description
22 of how the assistance was used, with respect to each
23 fiscal year for which the assistance was received.
24 "(11) GRANT LIMITATIONS.—

1 "(A) RECIPIENT LIMITATIONS.—A grant
2 recipient under paragraph (1)(A)—
3 "(i) that serves a jurisdiction with
4 100,000 people or less may not receive
5 grants in excess of $1,000,000 for any fis-
6 cal year;
7 "(ii) that serves a jurisdiction with
8 more than 100,000 people but less than
9 500,000 people may not receive grants in
10 excess of $2,000,000 for any fiscal year;
11 "(iii) that serves a jurisdiction with
12 500,000 people or more but less than
13 1,000,000 people may not receive grants in
14 excess of $3,000,000 for any fiscal year;
15 "(iv) that serves a jurisdiction with
16 1,000,000 people or more but less than
17 2,500,000 people may not receive grants in
18 excess of $6,000,000 for any fiscal year;
19 and
20 "(v) that serves a jurisdiction with
21 2,500,000 people or more may not receive
22 grants in excess of $9,000,000 for any fis-
23 cal year.
24 The Director may award grants in excess of the
25 limitations provided in clauses (i), (ii), (iii), and

1 (iv) if the Director determines that extraor-
2 dinary need for assistance by a jurisdiction war-
3 rants a waiver.
4 "(B) LIMITATION ON EXPENDITURES FOR
5 FIREFIGHTING VEHICLES.—Not more than 25
6 percent of the funds appropriated to provide
7 grants under this section for a fiscal year may
8 be used to assist grant recipients to purchase
9 vehicles, as authorized by paragraph (3)(G).
10 "(C) STATE FIRE TRAINING ACADEMIES.—
11 "(i) IN GENERAL.—To the extent that
12 there are eligible applicants and in accord-
13 ance with clause (ii), the Director shall
14 award not more than 3 percent of the
15 amounts made available under subsection
16 (e) for grants under this subsection for
17 State fire training academies.
18 "(ii) LIMITATION.—The Director shall
19 not make a grant to a State fire training
20 academy in excess of $1,000,000 and shall
21 ensure that any grant awarded to a State
22 fire training academy shall be used for the
23 purposes described in paragraphs 3(G),
24 3(H), and 3(I).

1 "(D) REQUIREMENTS FOR GRANTS FOR
2 EMERGENCY MEDICAL SERVICES.—Subject to
3 the restrictions in subparagraph (E), not less
4 than 2 percent of the funds appropriated under
5 this section for a fiscal year shall be awarded
6 for the purposes described in paragraph (3)(F).
7 "(E) VOLUNTEER, NON-FIRE SERVICE EMS
8 AND RESCUE ORGANIZATIONS LIMITATION.—
9 Not more than 2 percent of the funds appro-
10 priated to provide grants under this section for
11 a fiscal year shall be awarded to volunteer, non-
12 fire service EMS and rescue organizations.
13 "(F) APPLICATION OF SELECTION CRI-
14 TERIA TO GRANT APPLICATIONS FROM VOLUN-
15 TEER, NON-FIRE SERVICE EMS AND RESCUE OR-
16 GANIZATIONS.—In reviewing applications sub-
17 mitted by volunteer, non-fire service EMS and
18 rescue organizations, the Director shall consider
19 the extent to which other sources of Federal
20 funding are available to provide assistance re-
21 quested in such grant applications.
22 "(G) CONSENSUS STANDARDS.—Any grant
23 amounts used to obtain training under this sec-
24 tion shall be limited to training that complies
25 with applicable national voluntary consensus

1 standards (if applicable national voluntary con-
2 sensus standards have been established).
3 "(12) ELIGIBLE GRANTEE ON BEHALF OF
4 ALASKA NATIVE VILLAGES.—The Alaska Village Ini-
5 tiatives, a non-profit organization incorporated in
6 the State of Alaska, shall be considered an eligible
7 grantee for purposes of receiving assistance under
8 this section on behalf of Alaska Native villages.
9 "(13) ANNUAL MEETING.—The Director shall
10 convene an annual meeting of individuals who are
11 members of national fire service organizations and
12 are recognized for expertise in firefighting or emer-
13 gency medical services provided by fire services, and
14 who are not employees of the Federal Government,
15 for the purpose of recommending criteria for award-
16 ing grants under this section for the next fiscal year
17 and any necessary administrative changes to the
18 grant program.
19 "(14) GUIDELINES.—
20 "(A) IN GENERAL.—Each year, prior to
21 making any grants under this section, the Di-
22 rector shall publish in the Federal Register——
23 "(i) guidelines that describe the proc-
24 ess for applying for grants and the criteria
25 for awarding grants;

1 "(ii) an explanation of any differences
2 between the guidelines and the rec-
3 ommendations made pursuant to para-
4 graph (13); and
5 "(iii) the criteria developed under
6 paragraph (8) which the Director will use
7 to evaluate applicants for waivers from
8 program requirements.
9 "(B) SPECIFIC REQUIREMENT.—The cri-
10 teria for awarding grants under paragraph
11 (1)(A) shall include the extent to which the
12 grant would enhance the daily operations of the
13 applicant and the impact of such a grant on the
14 protection of lives and property.
15 "(15) PEER REVIEW.—The Director shall, after
16 consultation with national fire service organizations,
17 appoint fire service personnel to conduct peer review
18 of applications received under paragraph (5). In
19 making grants under this section, the Director shall
20 consider the results of such peer review evaluations.
21 "(16) APPLICABILITY OF FEDERAL ADVISORY
22 COMMITTEE ACT.—The Federal Advisory Committee
23 Act (5 U.S.C. App.) shall not apply to activities
24 under paragraphs (13) and (15).

1 "(17) ACCOUNTING DETERMINATION.—Not-
2 withstanding any other provision of law, rule, regu-
3 lation, or guidance, for purposes of receiving assist-
4 ance under this section, equipment costs shall in-
5 clude all costs attributable to any design, purchase
6 of components, assembly, manufacture, and trans-
7 portation of equipment not otherwise commercially
8 available.
9 "(b) AUDITS.—A recipient of a grant under this sec-
10 tion shall be subject to audits to ensure that the grant
11 proceeds are expended for the intended purposes and that
12 the grant recipient complies with the requirements of
13 paragraphs (6) and (7) of subsection (a) unless the Direc-
14 tor has granted a waiver under subsection (a)(8).
15 "(c) UNIVERSITY FIRE SAFETY RESEARCH CEN-
16 TERS.—
17 "(1) IN GENERAL.—The Director may make
18 grants under subsection (a)(4)(A)(iii) to institutions
19 of higher education to establish and operate univer-
20 sity fire safety research centers.
21 "(2) OBJECTIVES.—Grants received under this
22 subsection shall be used by institutions of higher
23 education to advance significantly the Nation's abil-
24 ity to reduce the number of fire-related deaths and
25 injuries among firefighters and the general public

1 through research, development, and technology
2 transfer activities.
3 "(3) LIMITATION.—The Director may establish
4 no more than 3 university fire safety research cen-
5 ters. An institution of higher education may not di-
6 rectly receive a grant under this section for a fiscal
7 year for more than 1 university fire safety research
8 center.
9 "(4) APPLICATION.—In order to be eligible to
10 receive a university fire safety research center grant,
11 an institution of higher education shall submit to the
12 Director an application that is in such form and
13 contains such information and assurances as the Di-
14 rector may require.
15 "(5) GENERAL SELECTION CRITERIA.—The Di-
16 rector shall select each recipient of a grant under
17 this subsection through a competitive process on the
18 basis of the following:
19 "(A) The demonstrated research and ex-
20 tension resources available to the recipient to
21 carry out the research, development, and tech-
22 nology transfer activities.
23 "(B) The capability of the recipient to pro-
24 vide leadership in making national contributions
25 to fire safety.

1 "(C) The recipient's ability to disseminate
2 the results of fire safety research.
3 "(D) The strategic plan the recipient pro-
4 poses to carry out under the grant.
5 "(6) RESEARCH NEEDS.—Within 90 days after
6 the date of enactment of the Fire Grants Reauthor-
7 ization Act of 2009, the Director shall convene a
8 workshop of the fire safety research community, fire
9 service organizations, and other appropriate stake-
10 holders to identify and prioritize fire safety research
11 needs. The results of the workshop shall be made
12 public, and the Director shall consider such results
13 in making awards under this section.
14 "(7) AMOUNT OF GRANTS.—The Director shall
15 make a grant to an institution of higher education
16 to establish and operate a university fire safety re-
17 search center of not more than $2,000,000 per fiscal
18 year.
19 "(d) DEFINITIONS.—In this section, the following
20 definitions apply:
21 "(1) CAREER FIRE DEPARTMENT.—The term
22 'career fire department' means a firefighting depart-
23 ment that has an all professional force of fire-
24 fighting personnel.

1 "(2) COMBINATION FIRE DEPARTMENT.—The
2 term 'combination fire department' means a fire-
3 fighting department that has a combined force of
4 professional and volunteer firefighting personnel.
5 "(3) DIRECTOR.—The term 'Director' means
6 the Director, acting through the Administrator.
7 "(4) FIREFIGHTING PERSONNEL.—The term
8 'firefighting personnel' means individuals, including
9 volunteers, who are firefighters, officers of fire de-
10 partments, or emergency medical service personnel
11 of fire departments.
12 "(5) INSTITUTION OF HIGHER EDUCATION.—
13 The term 'institution of higher education' has the
14 meaning given such term in section 101 of the High-
15 er Education Act of 1965 (20 U.S.C. 1001).
16 "(6) VOLUNTEER, NON-FIRE SERVICE EMS AND
17 RESCUE ORGANIZATION.—The term 'volunteer, non-
18 fire service EMS and rescue organization' means a
19 public or private nonprofit emergency medical serv-
20 ices organization that is not affiliated with a hospital
21 and does not serve a geographic area in which the
22 Director finds that emergency medical services are
23 adequately provided by a fire department.
24 "(7) VOLUNTEER FIRE DEPARTMENT.—The
25 term 'volunteer fire department' means a firefighting

1 department that has an all volunteer force of fire-
2 fighting personnel.
3 "(e) AUTHORIZATION OF APPROPRIATIONS.—
4 "(1) IN GENERAL.—There are authorized to be
5 appropriated for the purposes of this section
6 $1,000,000,000 for each of the fiscal years 2010
7 through 2014.
8 "(2) ADMINISTRATIVE EXPENSES.—
9 "(A) IN GENERAL.—Of the funds appro-
10 priated pursuant to paragraph (1) for a fiscal
11 year, the Director may use not more than 3
12 percent of the funds to cover salaries and ex-
13 penses and other administrative costs incurred
14 by the Director to make grants and provide as-
15 sistance under this section.
16 "(B) FORMULA.—The Director shall sub-
17 tract the amount to be used for subparagraph
18 (A) from the amount appropriated pursuant to
19 paragraph (1) before making any allocations or
20 apportioning any funds under subsections (a) or
21 (c).".

1 **SEC. 3. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE**
2 **GRANT PROGRAM REAUTHORIZATION.**

3 Section 34 of the Federal Fire Prevention and Con-
4 trol Act of 1974 (15 U.S.C. 2229a) is amended to read
5 as follows:

6 **"SEC. 34. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE**
7 **GRANT PROGRAM.**

8 "(a) EXPANDED AUTHORITY TO MAKE GRANTS.—
9 "(1) HIRING GRANTS.—
10 "(A) IN GENERAL.—The Director shall
11 make grants directly to career, volunteer, and
12 combination fire departments, in consultation
13 with the chief executive of the State in which
14 the applicant is located, for the purpose of in-
15 creasing the number of firefighters to help com-
16 munities meet industry minimum standards and
17 attain 24-hour staffing to provide adequate pro-
18 tection from fire and fire-related hazards and to
19 fulfill traditional missions of fire departments
20 that antedate the creation of the Department of
21 Homeland Security.
22 "(B) REQUIREMENTS.—
23 "(i) DURATION AND USE.—Grants
24 made under this paragraph shall be for 3
25 years and shall be used for programs to
26 hire new, additional firefighters.

1 "(ii) RETENTION.—Grantees are re-
2 quired to commit to retaining for at least
3 the entire 3 years of the grant period those
4 firefighters hired under this paragraph.
5 "(iii) MAXIMUM.—The portion of the
6 cost of hiring firefighters provided by a
7 grant under this paragraph may not exceed
8 80 percent of such cost for each fiscal
9 year.
10 "(C) PREFERENCE.—In awarding grants
11 under this subsection, the Director may give
12 preferential consideration to applications that
13 involve a non-Federal contribution exceeding
14 the minimums under subparagraph (B)(iii).
15 "(D) TECHNICAL ASSISTANCE.—The Di-
16 rector may provide technical assistance to
17 States, units of local government, Indian tribal
18 governments, and other public entities in fur-
19 therance of the purposes of this section.
20 "(E) VOLUNTEER ACTIVITIES ALLOWED.—
21 Notwithstanding any other provision of law, any
22 firefighter hired with funds provided under this
23 subsection shall not be discriminated against
24 for, or be prohibited from, engaging in volun-

1 teer activities in another jurisdiction during off-
2 duty hours.
3 "(F) COMPETITIVE BASIS.—All grants
4 made pursuant to this subsection shall be
5 awarded on a competitive basis through a neu-
6 tral peer review process.
7 "(G) SET ASIDE.—
8 "(i) IN GENERAL.—At the beginning
9 of the fiscal year, the Director shall set
10 aside 10 percent of the funds appropriated
11 for carrying out this paragraph for depart-
12 ments with majority volunteer or all volun-
13 teer personnel.
14 "(ii) TRANSFER.—After awards have
15 been made, if less than 10 percent of the
16 funds appropriated for carrying out this
17 paragraph are not awarded to departments
18 with majority volunteer or all volunteer
19 personnel, the Director shall transfer from
20 funds appropriated for carrying out this
21 paragraph to funds available for carrying
22 out paragraph (2) an amount equal to the
23 difference between the amount that is pro-
24 vided to such fire departments and 10 per-
25 cent.

1 "(2) RECRUITMENT AND RETENTION
2 GRANTS.—In addition to any amounts transferred
3 under paragraph (1)(G), the Director shall direct at
4 least 10 percent of the total amount of funds appro-
5 priated pursuant to this section annually to a com-
6 petitive grant program for the recruitment and re-
7 tention of volunteer firefighters who are involved
8 with or trained in the operations of firefighting and
9 emergency response. Eligible entities shall include
10 volunteer or combination fire departments and orga-
11 nizations on a local, statewide, or national basis that
12 represent the interests of volunteer firefighters.
13 "(b) APPLICATIONS.—
14 "(1) IN GENERAL.—No grant may be made
15 under this section unless an application has been
16 submitted to, and approved by, the Director.
17 "(2) CONTENTS.—An application for a grant
18 under this section shall be submitted in such form
19 and contain such information and assurances as the
20 Director may prescribe.
21 "(3) REQUIREMENTS.—At a minimum, each
22 application for a grant under this section shall—
23 "(A) explain the applicant's inability to ad-
24 dress the need without Federal assistance;

1 "(B) in the case of a grant under sub-
2 section (a)(1), explain how the applicant plans
3 to meet the requirements of subparagraphs
4 (B)(ii) and (E) of such subsection;
5 "(C) specify long-term plans for retaining
6 firefighters following the conclusion of Federal
7 support provided under this section; and
8 "(D) provide assurances that the applicant
9 will, to the extent practicable, seek, recruit, and
10 hire members of racial and ethnic minority
11 groups and women in order to increase their
12 ranks within firefighting.
13 "(c) LIMITATION ON USE OF FUNDS.—
14 "(1) SUPPLEMENT, NOT SUPPLANT.—Funds
15 made available under this section to fire depart-
16 ments for salaries and benefits to hire new, addi-
17 tional firefighters shall not be used to supplant State
18 or local funds, or, in the case of Indian tribal gov-
19 ernments, funds supplied by the Bureau of Indian
20 Affairs, but shall be used to increase the amount of
21 funds that would, in the absence of Federal funds
22 received under this section, be made available from
23 State or local sources, or in the case of Indian tribal
24 governments, from funds supplied by the Bureau of
25 Indian Affairs.

1 "(2) REPLACEMENT FUNDING PROHIBITED.—
2 No grant shall be awarded pursuant to this section
3 to a municipality or other recipient whose annual
4 budget at the time of the application for fire-related
5 programs and emergency response has been reduced
6 below 80 percent of the average funding level in the
7 3 years prior to the date of enactment of this sec-
8 tion.
9 "(3) INDIAN COST-SHARE.—Funds appro-
10 priated by the Congress for the activities of any
11 agency of an Indian tribal government or the Bu-
12 reau of Indian Affairs performing firefighting func-
13 tions on any Indian lands may be used to provide
14 the non-Federal share of the cost of programs or
15 projects funded under this section.
16 "(d) WAIVER.—In exceptional circumstances, the Di-
17 rector may waive the requirements of subsections
18 (a)(1)(B)(ii), (a)(1)(B)(iii), (c)(1), and (c)(2) if the Direc-
19 tor determines that the jurisdiction is facing demonstrated
20 economic hardship in accordance with section 33(a)(8).
21 "(e) PERFORMANCE EVALUATION.—The Director
22 may require a grant recipient to submit any information
23 the Director considers reasonably necessary to evaluate
24 the program.
25 "(f) SUNSET; REPORTS.—

1 "(1) SUNSET.—The authority under this sec-
2 tion to make grants shall lapse at the end of the 10-
3 year period that begins on the date of enactment of
4 the Fire Grants Reauthorization Act of 2009.
5 "(2) REPORT.—Not later than 6 years after
6 such date of enactment, the Director shall submit to
7 Congress a report concerning the experience with,
8 and effectiveness of, such grants in meeting the ob-
9 jectives of this section. The report may include any
10 recommendations the Director may have for amend-
11 ments to this section and related provisions of law.
12 "(g) REVOCATION OR SUSPENSION OF FUNDING.—
13 If the Director determines that a grant recipient under
14 this section is not in substantial compliance with the terms
15 and requirements of an approved grant application sub-
16 mitted under this section, the Director may revoke or sus-
17 pend funding of that grant, in whole or in part.
18 "(h) ACCESS TO DOCUMENTS.—
19 "(1) IN GENERAL.—The Director shall have ac-
20 cess for the purpose of audit and examination to any
21 pertinent books, documents, papers, or records of a
22 grant recipient under this section and to the perti-
23 nent books, documents, papers, or records of State
24 and local governments, persons, businesses, and
25 other entities that are involved in programs,

1 projects, or activities for which assistance is pro-
2 vided under this section.
3 "(2) APPLICATION.—Paragraph (1) shall apply
4 with respect to audits and examinations conducted
5 by the Comptroller General of the United States or
6 by an authorized representative of the Comptroller
7 General.
8 "(i) DEFINITIONS.—In this section, the term—
9 "(1) 'Director' means the Director, acting
10 through the Administrator;
11 "(2) 'firefighter' has the meaning given the
12 term 'employee in fire protection activities' under
13 section 3(y) of the Fair Labor Standards Act (29
14 U.S.C. 203(y)); and
15 "(3) 'Indian tribe' means a tribe, band, pueblo,
16 nation, or other organized group or community of
17 Indians, including an Alaska Native village (as de-
18 fined in or established under the Alaska Native
19 Claims Settlement Act (43 U.S.C. 1601 et seq.)),
20 that is recognized as eligible for the special pro-
21 grams and services provided by the United States to
22 Indians because of their status as Indians.
23 "(j) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated for the purposes of car-

1 rying out this section $1,194,000,000 for each of the fiscal
2 years 2010 through 2014.''.

3 **SEC. 4. STUDY AND REPORT.**

4 (a) STUDY AND REPORT ON ASSISTANCE TO FIRE-
5 FIGHTERS GRANT PROGRAM.—

6 (1) STUDY.—The Administrator of the United
7 States Fire Administration, in conjunction with the
8 National Fire Protection Association, shall conduct a
9 study to—

10 (A) define the current roles and activities
11 associated with the fire services on a national,
12 State, regional, and local level;

13 (B) identify the equipment, staffing, and
14 training required to fulfill the roles and activi-
15 ties defined under subparagraph (A);

16 (C) conduct an assessment to identify gaps
17 between what fire departments currently pos-
18 sess and what they require to meet the equip-
19 ment, staffing, and training needs identified
20 under subparagraph (B) on a national and
21 State-by-State basis; and

22 (D) measure the impact of the grant pro-
23 gram under section 33 of the Federal Fire Pre-
24 vention and Control Act of 1974 (15 U.S.C.
25 2229) in—

(i) meeting the needs of the fire services identified in the report submitted to Congress under section 3603(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; and

(ii) filling the gaps identified under subparagraph (C).

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on the findings of the study described in paragraph (1).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Fire Administration a total of $300,000 for fiscal years 2010 and 2011 to carry out subsection (a).

COMMITTEE ON SCIENCE AND TECHNOLOGY
FULL COMMITTEE MARKUP
October 21, 2009

AMENDMENT ROSTER

H. R. 3791, the *Fire Grants Reauthorization Act of 2009*

No.	Amendment	Summary	Results
1	Mr. Mitchell (Amendment in the Nature of a Substitute) (217)	Makes several technical and clarifying changes to the bill. Adds to the fire safety research centers provision in subsection (c) of Section 33 language to include national fire service and fire safety organizations as eligible applicants for center funding. Adds a provision giving special consideration for this funding to partnerships between universities and national fire service or fire safety organizations. Clarifies that only one fire training academy per state shall be able to receive funding under the Assistance to Firefighter Grant funds set-aside for fire service training academies each fiscal year. Gives the Director the authority to waive the requirement that any training purchased with Fire Grant funding meet or surpass national voluntary consensus standards for such training.	Agreed to by voice vote.
2	Ms. Johnson (088)	Amends Section 2 ("Assistance to Firefighters Grant Program Reauthorization") to specify that the firefighter wellness and fitness programs for which the grant funds may be used include "programs dedicated to raising awareness of, and prevention of, job related mental health issues." Amends Section 2 to require that the Director give special consideration to a grant applicant consisting of a partnership between a national fire service or safety organization and at least one of the following: an institution of higher education and/or a minority serving institution.	Agreed to by voice vote.
3	Mr. Broun (212)	Amends Section 2 ("Assistance to Firefighters Grant Program Reauthorization") to state that "none of the funds made available under this paragraph may be provided to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, or allied organizations."	Agreed to by roll call vote: Y-33 N-5 Present-1
4	Mr. Smith (012)	Adds a new section to the bill stating that it is the sense of Congress that halting and reversing a recent decline in appropriations should be a top priority to ensure a high level of funding for the activities under Section 33 of the Federal Fire Prevention and Control Act of 1974.	Agreed to by voice vote.

MANAGER'S AMENDMENT TO H.R. 3791, AS AMENDED

OFFERED BY MR. MITCHELL (AZ)

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Fire Grants Reauthor-
3 ization Act of 2009".

4 **SEC. 2. ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM**
5 **REAUTHORIZATION.**

6 Section 33 of the Federal Fire Prevention and Con-
7 trol Act of 1974 (15 U.S.C. 2229) is amended to read
8 as follows:

9 **"SEC. 33. FIREFIGHTER ASSISTANCE.**

10 "(a) ASSISTANCE PROGRAM.—

11 "(1) AUTHORITY.—In accordance with this sec-
12 tion, the Director may—

13 "(A) make grants on a competitive basis
14 directly to fire departments of a State, in con-
15 sultation with the chief executive of the State,
16 for the purpose of protecting the health and
17 safety of the public and firefighting personnel

1 throughout the Nation against fire and fire-re-
2 lated hazards;
3 "(B) make grants on a competitive basis
4 directly to State fire training academies, in con-
5 sultation with the chief executive of the State,
6 in accordance with paragraph (11)(C);
7 "(C) provide assistance for fire prevention
8 and firefighter safety research and development
9 programs and fire prevention or fire safety pro-
10 grams and activities in accordance with para-
11 graph (4); and
12 "(D) provide assistance for volunteer, non-
13 fire service EMS and rescue organizations for
14 the purpose of paragraph (3)(F).
15 "(2) ADMINISTRATIVE ASSISTANCE.—The Di-
16 rector shall establish specific criteria for the selec-
17 tion of recipients of assistance under this section
18 and shall provide grant-writing assistance to appli-
19 cants.
20 "(3) USE OF FIRE DEPARTMENT GRANT
21 FUNDS.—The Director may make a grant under
22 paragraph (1)(A) only if the applicant for the grant
23 agrees to use the grant funds for one or more of the
24 following purposes:

1 "(A) To hire additional firefighting per-
2 sonnel.
3 "(B) To train firefighting personnel in
4 firefighting, emergency medical services and
5 other emergency response (including response
6 to a terrorism incident or use of a weapon of
7 mass destruction), arson prevention and detec-
8 tion, maritime firefighting, or the handling of
9 hazardous materials or to train firefighting per-
10 sonnel to provide any of the training described
11 in this subparagraph.
12 "(C) To fund the creation of rapid inter-
13 vention teams to protect firefighting personnel
14 at the scenes of fires and other emergencies.
15 "(D) To certify fire and building inspec-
16 tors employed by a fire department or serving
17 as a volunteer building inspector with a fire de-
18 partment.
19 "(E) To establish wellness and fitness pro-
20 grams for firefighting personnel to ensure that
21 the firefighting personnel can carry out their
22 duties.
23 "(F) To fund emergency medical services
24 provided by fire departments and volunteer,
25 non-fire service EMS and rescue organizations.

1 "(G) To acquire additional firefighting ve-
2 hicles, including fire trucks.
3 "(H) To acquire additional firefighting
4 equipment, including equipment for communica-
5 tions, monitoring, and response to a terrorism
6 incident or use of a weapon of mass destruc-
7 tion.
8 "(I) To acquire personal protective equip-
9 ment required for firefighting personnel by the
10 Occupational Safety and Health Administration
11 and other personal protective equipment for
12 firefighting personnel, including protective
13 equipment to respond to a terrorism incident or
14 the use of a weapon of mass destruction.
15 "(J) To modify fire stations, fire training
16 facilities, and other facilities to protect the
17 health and safety of firefighting personnel.
18 "(K) To enforce fire codes and standards.
19 "(L) To fund fire prevention programs.
20 "(M) To educate the public about arson
21 prevention and detection.
22 "(N) To provide incentives for the recruit-
23 ment and retention of volunteer firefighting
24 personnel for volunteer firefighting departments

1 and other firefighting departments that utilize
2 volunteers.
3 "(4) FIRE PREVENTION AND FIREFIGHTER
4 SAFETY RESEARCH AND DEVELOPMENT PRO-
5 GRAMS.—
6 "(A) IN GENERAL.—For each fiscal year,
7 the Director shall use not less than 10 percent
8 of the funds made available under subsection
9 (e)—
10 "(i) to make grants to fire depart-
11 ments for the purpose described in para-
12 graph (3)(L);
13 "(ii) to make grants to, or enter into
14 contracts or cooperative agreements with,
15 national, State, local, or community orga-
16 nizations that are not fire departments
17 but—
18 "(I) that are recognized for their
19 experience and expertise with respect
20 to fire prevention or fire safety pro-
21 grams and activities and that partner
22 with fire departments, for the purpose
23 of carrying out such programs and ac-
24 tivities;

1 "(II) engage in fire- and life
2 safety-related activities as a primary
3 purpose or function, for the purpose
4 of carrying out fire prevention or fire
5 safety programs and activities; or
6 "(III) that are recognized for
7 their experience and expertise with re-
8 spect to firefighter research and devel-
9 opment programs, for the purpose of
10 carrying out research on fire preven-
11 tion or fire safety programs and ac-
12 tivities or to improve firefighter health
13 and life safety; and
14 "(iii) if the Director determines that
15 it is necessary, to make grants or enter
16 into contracts in accordance with sub-
17 section (c).
18 "(B) PRIORITY.—In selecting organiza-
19 tions described in subparagraph (A)(ii) to re-
20 ceive assistance under this paragraph, the Di-
21 rector shall give priority to organizations that
22 focus on prevention of injuries to high risk
23 groups from fire, as well as research programs
24 that demonstrate the potential to improve fire-
25 fighter safety.

1 "(C) GRANT LIMITATION.—A grant under
2 this paragraph shall not exceed $1,500,000 for
3 a fiscal year.
4 "(5) APPLICATION.—The Director may provide
5 assistance to a fire department or organization (in-
6 cluding a State fire training academy) under this
7 subsection only if the fire department or organiza-
8 tion seeking the assistance submits to the Director
9 an application that meets the following require-
10 ments:
11 "(A) FORM.—The application shall be in
12 such form as the Director may require.
13 "(B) INFORMATION.—The application shall
14 include the following information:
15 "(i) Information that demonstrates
16 the financial need of the applicant for the
17 assistance for which applied.
18 "(ii) An analysis of the costs and ben-
19 efits, with respect to public safety, of the
20 use of the assistance.
21 "(iii) An agreement to provide infor-
22 mation to the national fire incident report-
23 ing system for the period covered by the
24 assistance.

1 "(iv) A list of other sources of Federal
2 funding received by the applicant.
3 "(v) Any other information that the
4 Director may require.
5 "(C) UNNECESSARY DUPLICATION.—The
6 Director, in coordination with the Secretary of
7 Homeland Security, shall use the list provided
8 under subparagraph (B)(iv) to prevent the un-
9 necessary duplication of grant funds.
10 "(6) MATCHING REQUIREMENT.—
11 "(A) IN GENERAL.—Subject to subpara-
12 graphs (B) and (C) and paragraph (8), the Di-
13 rector may provide assistance under this sub-
14 section only if the applicant for such assistance
15 agrees to match 10 percent of such assistance
16 for any fiscal year with an equal amount of
17 non-Federal funds.
18 "(B) REQUIREMENT FOR SMALL COMMU-
19 NITY ORGANIZATIONS.—In the case of an appli-
20 cant whose personnel serve jurisdictions of
21 20,000 or fewer residents, the percent applied
22 under the matching requirement of subpara-
23 graph (A) shall be 5 percent.
24 "(C) FIRE PREVENTION AND FIREFIGHTER
25 SAFETY GRANTS EXCEPTION.—There shall be

1 no matching requirement for a grant described
2 in paragraph (4).
3 "(7) MAINTENANCE OF EXPENDITURES.—Sub-
4 ject to paragraph (8), the Director may provide as-
5 sistance under this subsection only if the applicant
6 for the assistance agrees to maintain in the fiscal
7 year for which the assistance will be received the ap-
8 plicant's aggregate expenditures for the uses de-
9 scribed in paragraph (3) or (4) at or above 80 per-
10 cent of the average level of such expenditures in the
11 2 fiscal years preceding the fiscal year for which the
12 assistance will be received.
13 "(8) ECONOMIC HARDSHIP WAIVER.—
14 "(A) IN GENERAL.—In exceptional cir-
15 cumstances, the Director may waive or reduce
16 the matching requirement under paragraph (6)
17 and the maintenance of expenditures require-
18 ment under paragraph (7) for applicants facing
19 demonstrated economic hardship.
20 "(B) CRITERIA DEVELOPMENT.—The cri-
21 teria under which the Director may waive or re-
22 duce such requirements shall be developed in
23 consultation with individuals who are—
24 "(i) recognized for expertise in fire-
25 fighting, emergency medical services pro-

1 vided by fire services, or the economic af-
2 fairs of State and local governments; and
3 "(ii) members of national fire service
4 organizations or national organizations
5 representing the interests of State and
6 local governments.
7 "(C) PUBLIC AVAILABILITY.—The Director
8 shall make the criteria developed under sub-
9 paragraph (B) publicly available.
10 "(9) VARIETY OF FIRE DEPARTMENT GRANT
11 RECIPIENTS.—
12 "(A) IN GENERAL.—Of the amounts made
13 available under subsection (e), the Director
14 shall ensure that grants under paragraph
15 (1)(A) for a fiscal year are allocated, to the ex-
16 tent that there are eligible applicants to carry
17 out the activities under paragraph (3), as fol-
18 lows:
19 "(i) 25 percent shall be made avail-
20 able to career fire departments.
21 "(ii) 25 percent shall be made avail-
22 able to volunteer fire departments.
23 "(iii) 25 percent shall be made avail-
24 able to combination fire departments.
25 "(B) EVALUATION CRITERIA.—

1 "(i) IN GENERAL.—In awarding
2 grants under paragraph (1)(A), the Direc-
3 tor shall, within each category of appli-
4 cants under subparagraph (A), consider a
5 broad range of factors important to the ap-
6 plicant's ability to respond to fires and re-
7 lated hazards, such as population served,
8 geographic response area, hazard vulner-
9 ability, call volume, financial situation, and
10 need for training or equipment.
11 "(ii) HIGH POPULATION AND INCI-
12 DENT RESPONSE.—In considering such
13 factors under clause (i), applicants serving
14 areas with high population and with a high
15 number of incidents requiring a response
16 shall receive a higher level of consideration.
17 "(C) REMAINDER.—Of the amounts made
18 available under subsection (e) that are not allo-
19 cated for use and awarded under subparagraph
20 (A) or designated for use under any other pro-
21 vision of this section, the Director shall provide
22 for an open competition for grants among ca-
23 reer fire departments, volunteer fire depart-
24 ments, and combination fire departments to
25 carry out the activities under paragraph (3).

1 "(10) REPORT TO THE DIRECTOR.—The Direc-
2 tor may provide assistance under this subsection
3 only if the applicant for the assistance agrees to sub-
4 mit to the Director a report, including a description
5 of how the assistance was used, with respect to each
6 fiscal year for which the assistance was received.
7 "(11) GRANT LIMITATIONS.—
8 "(A) RECIPIENT LIMITATIONS.—A grant
9 recipient under paragraph (1)(A)—
10 "(i) that serves a jurisdiction with
11 100,000 people or less may not receive
12 grants in excess of $1,000,000 for any fis-
13 cal year;
14 "(ii) that serves a jurisdiction with
15 more than 100,000 people but less than
16 500,000 people may not receive grants in
17 excess of $2,000,000 for any fiscal year;
18 "(iii) that serves a jurisdiction with
19 500,000 people or more but less than
20 1,000,000 people may not receive grants in
21 excess of $3,000,000 for any fiscal year;
22 "(iv) that serves a jurisdiction with
23 1,000,000 people or more but less than
24 2,500,000 people may not receive grants in

1 excess of $6,000,000 for any fiscal year;
2 and
3 "(v) that serves a jurisdiction with
4 2,500,000 people or more may not receive
5 grants in excess of $9,000,000 for any fis-
6 cal year.
7 The Director may award grants in excess of the
8 limitations provided in clauses (i), (ii), (iii), and
9 (iv) if the Director determines that extraor-
10 dinary need for assistance by a jurisdiction war-
11 rants a waiver.
12 "(B) LIMITATION ON EXPENDITURES FOR
13 FIREFIGHTING VEHICLES.—Not more than 25
14 percent of the funds appropriated to provide
15 grants under this section for a fiscal year may
16 be used to assist grant recipients to purchase
17 vehicles, as authorized by paragraph (3)(G).
18 "(C) STATE FIRE TRAINING ACADEMIES.—
19 "(i) IN GENERAL.—In accordance
20 with clause (ii), the Director shall award
21 not more than 3 percent of the amounts
22 made available under subsection (e) for a
23 fiscal year for grants under this subsection
24 for State fire training academies.

1 "(ii) LIMITATION.—The Director
2 shall—
3 "(I) award not more than 1
4 grant under this subparagraph per
5 State in a fiscal year;
6 "(II) limit the amount of a grant
7 to a State fire training academy to
8 less than or equal to$1,000,000 in
9 each fiscal year; and
10 "(III) ensure that any grant
11 awarded to a State fire training acad-
12 emy shall be used for the purposes de-
13 scribed in paragraphs 3(G), 3(H), or
14 3(I).
15 "(D) REQUIREMENTS FOR GRANTS FOR
16 EMERGENCY MEDICAL SERVICES.—The Director
17 shall award not more than 2 percent of the
18 amounts made available under subsection (e)
19 for a fiscal year to volunteer, non-fire service
20 EMS and rescue organizations for the purposes
21 described in paragraph (3)(F).
22 "(E) APPLICATION OF SELECTION CRI-
23 TERIA TO GRANT APPLICATIONS FROM VOLUN-
24 TEER, NON-FIRE SERVICE EMS AND RESCUE OR-
25 GANIZATIONS.—In reviewing applications sub-

1 mitted by volunteer, non-fire service EMS and
2 rescue organizations, the Director shall consider
3 the extent to which other sources of Federal
4 funding are available to provide the assistance
5 requested in such grant applications.
6 "(F) CONSENSUS STANDARDS.—
7 "(i) IN GENERAL.—Any grant
8 amounts used to obtain training under this
9 section shall be limited to training that
10 complies with applicable national voluntary
11 consensus standards (if applicable national
12 voluntary consensus standards have been
13 established), unless a waiver has been
14 granted under clause (ii).
15 "(ii) WAIVER.—
16 "(I) EXPLANATION FOR NON-
17 STANDARD TRAINING.—If an appli-
18 cant for a grant seeks to use the as-
19 sistance provided under the grant to
20 obtain training that does not meet or
21 exceed applicable voluntary consensus
22 standards, the applicant shall include
23 in the application an explanation of
24 why such training will serve the needs
25 of the applicant better than training

1 that does meet or exceed such stand-
2 ards.
3 "(II) PROCEDURES.—In making
4 a determination whether or not to
5 waive the requirement under clause (i)
6 with respect to a specific standard,
7 the Director shall, to the greatest ex-
8 tent practicable—
9 "(aa) consult with other
10 members of the fire services re-
11 garding the impact on fire de-
12 partments of the requirement to
13 meet or exceed the specific stand-
14 ard;
15 "(bb) take into consideration
16 the explanation provided by the
17 applicant under subclause (I);
18 and
19 "(cc) seek to minimize the
20 impact of the requirement to
21 meet or exceed the specific stand-
22 ard on the applicant, particularly
23 if meeting the standard would
24 impose additional costs.

1 "(III) ADDITIONAL REQUESTS.—
2 Applicants that apply for a grant
3 under the terms of subclause (I) may
4 include a second grant request in the
5 application to be considered by the
6 Director in the event that the Direc-
7 tor does not approve the primary
8 grant request on the grounds of the
9 training not meeting applicable vol-
10 untary consensus standards.
11 "(12) ELIGIBLE GRANTEE ON BEHALF OF
12 ALASKA NATIVE VILLAGES.—The Alaska Village Ini-
13 tiatives, a non-profit organization incorporated in
14 the State of Alaska, shall be considered an eligible
15 grantee for purposes of receiving assistance under
16 this section on behalf of Alaska Native villages.
17 "(13) ANNUAL MEETING.—The Director shall
18 convene an annual meeting of individuals who are
19 members of national fire service organizations and
20 are recognized for expertise in firefighting or emer-
21 gency medical services provided by fire services, and
22 who are not employees of the Federal Government,
23 for the purpose of recommending criteria for award-
24 ing grants under this section for the next fiscal year

1 and any necessary administrative changes to the
2 grant program.
3 "(14) GUIDELINES.—
4 "(A) IN GENERAL.—Each year, prior to
5 making any grants under this section, the Di-
6 rector shall publish in the Federal Register—
7 "(i) guidelines that describe the proc-
8 ess for applying for grants and the criteria
9 for awarding grants;
10 "(ii) an explanation of any differences
11 between the guidelines and the rec-
12 ommendations made pursuant to para-
13 graph (13); and
14 "(iii) the criteria developed under
15 paragraph (8) which the Director will use
16 to evaluate applicants for waivers from
17 program requirements.
18 "(B) SPECIFIC REQUIREMENT.—The cri-
19 teria for awarding grants under paragraph
20 (1)(A) shall include the extent to which the
21 grant would enhance the daily operations of the
22 applicant and the impact of such a grant on the
23 protection of lives and property.
24 "(15) PEER REVIEW.—The Director, after con-
25 sultation with national fire service organizations,

1 shall appoint fire service personnel to conduct peer
2 review of applications received under paragraph (5).
3 In making grants under this section, the Director
4 shall consider the results of such peer review evalua-
5 tions.
6 "(16) APPLICABILITY OF FEDERAL ADVISORY
7 COMMITTEE ACT.—The Federal Advisory Committee
8 Act (5 U.S.C. App.) shall not apply to activities
9 under paragraphs (13) and (15).
10 "(17) ACCOUNTING DETERMINATION.—Not-
11 withstanding any other provision of law, rule, regu-
12 lation, or guidance, for purposes of receiving assist-
13 ance under this section, equipment costs shall in-
14 clude all costs attributable to any design, purchase
15 of components, assembly, manufacture, and trans-
16 portation of equipment not otherwise commercially
17 available.
18 "(b) AUDITS.—A recipient of a grant under this sec-
19 tion shall be subject to audits to ensure that the grant
20 proceeds are expended for the intended purposes and that
21 the grant recipient complies with the requirements of
22 paragraphs (6) and (7) of subsection (a) unless the Direc-
23 tor has granted a waiver under subsection (a)(8).
24 "(c) FIRE SAFETY RESEARCH CENTERS.—

1 "(1) IN GENERAL.—The Director may make a
2 grant under subsection (a)(4)(A)(iii) to an institu-
3 tion of higher education, a national fire service orga-
4 nization, or a national fire safety organization to es-
5 tablish and operate a fire safety research center.
6 "(2) OBJECTIVES.—A grant received under this
7 subsection shall be used by such an institution or or-
8 ganization to advance significantly the Nation's abil-
9 ity to reduce the number of fire-related deaths and
10 injuries among firefighters and the general public
11 through research, development, and technology
12 transfer activities.
13 "(3) LIMITATION.—The Director may establish
14 no more than 3 fire safety research centers. An in-
15 stitution of higher education, a national fire service
16 organization, or a national fire safety organization
17 may not directly receive a grant under this section
18 for a fiscal year for more than 1 fire safety research
19 center.
20 "(4) APPLICATION.—In order to be eligible to
21 receive a fire safety research center grant, an insti-
22 tution of higher education, a national fire service or-
23 ganization, or a national fire safety organization
24 shall submit to the Director an application that is in

1 such form and contains such information and assur-
2 ances as the Director may require.
3 "(5) GENERAL SELECTION CRITERIA.—The Di-
4 rector shall select each recipient of a grant under
5 this subsection through a competitive process on the
6 basis of the following:
7 "(A) The demonstrated research and ex-
8 tension resources available to the recipient to
9 carry out the research, development, and tech-
10 nology transfer activities.
11 "(B) The capability of the recipient to pro-
12 vide leadership in making national contributions
13 to fire safety.
14 "(C) The recipient's ability to disseminate
15 the results of fire safety research.
16 "(D) The strategic plan the recipient pro-
17 poses to carry out under the grant.
18 "(6) CONSIDERATION.—The Director shall give
19 special consideration under paragraph (5) to an ap-
20 plicant for a grant that consists of a partnership be-
21 tween an institution of higher education and a na-
22 tional fire service organization or a national fire
23 safety organization.
24 "(7) RESEARCH NEEDS.—Within 90 days after
25 the date of enactment of the Fire Grants Reauthor-

1 ization Act of 2009, the Director shall convene a
2 workshop of the fire safety research community, fire
3 service organizations, and other appropriate stake-
4 holders to identify and prioritize fire safety research
5 needs. The results of the workshop shall be made
6 public, and the Director shall consider such results
7 in making awards under this section.
8 "(8) AMOUNT OF GRANTS.—Notwithstanding
9 the requirement in subsection (a)(4)(C), the Director
10 shall make a grant under this subsection to establish
11 and operate a fire safety research center of not more
12 than $1,500,000 per fiscal year.
13 "(d) DEFINITIONS.—In this section, the following
14 definitions apply:
15 "(1) CAREER FIRE DEPARTMENT.—The term
16 'career fire department' means a firefighting depart-
17 ment that has an all professional force of fire-
18 fighting personnel.
19 "(2) COMBINATION FIRE DEPARTMENT.—The
20 term 'combination fire department' means a fire-
21 fighting department that has a combined force of
22 professional and volunteer firefighting personnel.
23 "(3) DIRECTOR.—The term 'Director' means
24 the Director, acting through the Administrator.

1 "(4) FIREFIGHTING PERSONNEL.—The term
2 'firefighting personnel' means individuals, including
3 volunteers, who are firefighters, officers of fire de-
4 partments, or emergency medical service personnel
5 of fire departments.
6 "(5) INSTITUTION OF HIGHER EDUCATION.—
7 The term 'institution of higher education' has the
8 meaning given such term in section 101 of the High-
9 er Education Act of 1965 (20 U.S.C. 1001).
10 "(6) VOLUNTEER, NON-FIRE SERVICE EMS AND
11 RESCUE ORGANIZATION.—The term 'volunteer, non-
12 fire service EMS and rescue organization' means a
13 public or private nonprofit emergency medical serv-
14 ices organization that—
15 "(A) is not affiliated with a hospital;
16 "(B) does not serve a geographic area in
17 which the Director finds that emergency med-
18 ical services are adequately provided by a fire
19 department; and
20 "(C) is staffed primarily by volunteers.
21 "(7) VOLUNTEER FIRE DEPARTMENT.—The
22 term 'volunteer fire department' means a firefighting
23 department that has an all volunteer force of fire-
24 fighting personnel.
25 "(e) AUTHORIZATION OF APPROPRIATIONS.—

1 "(1) IN GENERAL.—There are authorized to be
2 appropriated for the purposes of this section
3 $1,000,000,000 for each of the fiscal years 2010
4 through 2014.
5 "(2) ADMINISTRATIVE EXPENSES.—
6 "(A) IN GENERAL.—Of the funds appro-
7 priated pursuant to paragraph (1) for a fiscal
8 year, the Director may use not more than 3
9 percent of the funds to cover salaries and ex-
10 penses and other administrative costs incurred
11 by the Director to make grants and provide as-
12 sistance under this section.
13 "(B) FORMULA.—The Director shall sub-
14 tract the amount to be used for subparagraph
15 (A) from the amount appropriated pursuant to
16 paragraph (1) before making any allocations or
17 apportioning any funds under subsections (a) or
18 (c).".
19 **SEC. 3. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE**
20 **GRANT PROGRAM REAUTHORIZATION.**
21 Section 34 of the Federal Fire Prevention and Con-
22 trol Act of 1974 (15 U.S.C. 2229a) is amended to read
23 as follows:

1 **"SEC. 34. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE**
2 **GRANT PROGRAM.**
3 "(a) EXPANDED AUTHORITY TO MAKE GRANTS.—
4 "(1) HIRING GRANTS.—
5 "(A) IN GENERAL.—The Director shall
6 make grants directly to career, volunteer, and
7 combination fire departments, in consultation
8 with the chief executive of the State in which
9 the applicant is located, for the purpose of in-
10 creasing the number of firefighters to help com-
11 munities meet industry minimum standards and
12 attain 24-hour staffing to provide adequate pro-
13 tection from fire and fire-related hazards and to
14 fulfill traditional missions of fire departments
15 that antedate the creation of the Department of
16 Homeland Security.
17 "(B) REQUIREMENTS.—
18 "(i) DURATION AND USE.—Grants
19 made under this paragraph shall be for 3
20 years and shall be used for programs to
21 hire new, additional firefighters.
22 "(ii) RETENTION.—Grant recipients
23 are required to commit to retaining for at
24 least the entire 3 years of the grant period
25 those firefighters hired under this para-
26 graph.

1 "(iii) MAXIMUM.—The portion of the
2 cost of hiring firefighters provided by a
3 grant under this paragraph may not exceed
4 80 percent of such cost for each fiscal
5 year.
6 "(C) PREFERENCE.—In awarding grants
7 under this subsection, the Director may give
8 preferential consideration to applications that
9 involve a non-Federal contribution exceeding
10 the minimums under subparagraph (B)(iii).
11 "(D) TECHNICAL ASSISTANCE.—The Di-
12 rector may provide technical assistance to
13 States, units of local government, Indian tribal
14 governments, and other public entities in fur-
15 therance of the purposes of this section.
16 "(E) VOLUNTEER ACTIVITIES ALLOWED.—
17 Notwithstanding any other provision of law, any
18 firefighter hired with funds provided under this
19 subsection shall not be discriminated against
20 for, or be prohibited from, engaging in volun-
21 teer activities in another jurisdiction during off-
22 duty hours.
23 "(F) COMPETITIVE BASIS.—The Director
24 shall award all grants under this section on a

1 competitive basis through a neutral peer review
2 process.
3 "(G) SET ASIDE.—
4 "(i) IN GENERAL.—At the beginning
5 of the fiscal year, the Director shall set
6 aside 10 percent of the funds made avail-
7 able for carrying out this paragraph for
8 departments with majority volunteer or all
9 volunteer personnel.
10 "(ii) TRANSFER.—After awards have
11 been made, if less than 10 percent of the
12 funds made available for carrying out this
13 paragraph are not awarded to departments
14 with majority volunteer or all volunteer
15 personnel, the Director shall transfer from
16 funds made available for carrying out this
17 paragraph to funds made available for car-
18 rying out paragraph (2) an amount equal
19 to the difference between the amount that
20 is provided to such fire departments and
21 10 percent.
22 "(2) RECRUITMENT AND RETENTION
23 GRANTS.—
24 "(A) IN GENERAL.—In addition to any
25 amounts transferred under paragraph

1 (1)(G)(ii), the Director shall direct at least 10
2 percent of the total amount of funds made
3 available under this section annually to a com-
4 petitive grant program for the recruitment and
5 retention of volunteer firefighters who are in-
6 volved with or trained in the operations of fire-
7 fighting and emergency response.
8 "(B) ELIGIBILITY.—Eligible entities shall
9 include volunteer or combination fire depart-
10 ments and organizations on a local, statewide,
11 or national basis that represent the interests of
12 volunteer firefighters.
13 "(b) APPLICATIONS.—
14 "(1) IN GENERAL.—No grant may be made
15 under this section unless an application has been
16 submitted to, and approved by, the Director.
17 "(2) CONTENTS.—An application for a grant
18 under this section shall be submitted in such form
19 and contain such information and assurances as the
20 Director may prescribe.
21 "(3) REQUIREMENTS.—At a minimum, each
22 application for a grant under this section shall—
23 "(A) explain the applicant's inability to ad-
24 dress the need without Federal assistance;

1 "(B) in the case of a grant under sub-
2 section (a)(1), explain how the applicant plans
3 to meet the requirements of subparagraphs
4 (B)(ii) and (E) of such subsection;
5 "(C) specify long-term plans for retaining
6 firefighters following the conclusion of Federal
7 support provided under this section; and
8 "(D) provide assurances that the applicant
9 will, to the extent practicable, seek, recruit, and
10 hire members of racial and ethnic minority
11 groups and women in order to increase their
12 ranks within firefighting.
13 "(c) LIMITATION ON USE OF FUNDS.—
14 "(1) SUPPLEMENT, NOT SUPPLANT.—Funds
15 made available under this section to fire depart-
16 ments for salaries and benefits to hire new, addi-
17 tional firefighters shall not be used to supplant State
18 or local funds, or, in the case of Indian tribal gov-
19 ernments, funds supplied by the Bureau of Indian
20 Affairs, but shall be used to increase the amount of
21 funds that would, in the absence of Federal funds
22 received under this section, be made available from
23 State or local sources, or in the case of Indian tribal
24 governments, from funds supplied by the Bureau of
25 Indian Affairs.

1 "(2) REPLACEMENT FUNDING PROHIBITED.—
2 No grant shall be awarded pursuant to this section
3 to a municipality or other recipient whose annual
4 budget at the time of the application for fire-related
5 programs and emergency response has been reduced
6 below 80 percent of the average funding level in the
7 3 years prior to the date of application.
8 "(3) INDIAN COST-SHARE.—Funds appro-
9 priated by the Congress for the activities of any
10 agency of an Indian tribal government or the Bu-
11 reau of Indian Affairs performing firefighting func-
12 tions on any Indian lands may be used to provide
13 the non-Federal share of the cost of programs or
14 projects funded under this section.
15 "(d) WAIVER.—In exceptional circumstances, the Di-
16 rector may waive the requirements of subsections
17 (a)(1)(B)(ii), (a)(1)(B)(iii), (c)(1), and (c)(2) if the Direc-
18 tor determines that the jurisdiction is facing demonstrated
19 economic hardship in accordance with section 33(a)(8).
20 "(e) PERFORMANCE EVALUATION.—The Director
21 may require a grant recipient to submit any information
22 the Director considers reasonably necessary to evaluate
23 the program.
24 "(f) SUNSET; REPORTS.—

1 "(1) SUNSET.—The authority under this sec-
2 tion to make grants shall lapse at the end of the 10-
3 year period that begins on the date of enactment of
4 the Fire Grants Reauthorization Act of 2009.
5 "(2) REPORT.—Not later than 6 years after
6 such date of enactment, the Director shall submit to
7 Congress a report concerning the experience with,
8 and effectiveness of, such grants in meeting the ob-
9 jectives of this section. The report may include any
10 recommendations the Director may have for amend-
11 ments to this section and related provisions of law.
12 "(g) REVOCATION OR SUSPENSION OF FUNDING.—
13 If the Director determines that a grant recipient under
14 this section is not in substantial compliance with the terms
15 and requirements of an approved grant application sub-
16 mitted under this section, the Director may revoke or sus-
17 pend funding of that grant, in whole or in part.
18 "(h) ACCESS TO DOCUMENTS.—
19 "(1) IN GENERAL.—The Director shall have ac-
20 cess for the purpose of audit and examination to any
21 pertinent books, documents, papers, or records of a
22 grant recipient under this section and to the perti-
23 nent books, documents, papers, or records of State
24 and local governments, persons, businesses, and
25 other entities that are involved in programs,

1 projects, or activities for which assistance is pro-
2 vided under this section.
3 "(2) APPLICATION.—Paragraph (1) shall apply
4 with respect to audits and examinations conducted
5 by the Comptroller General of the United States or
6 by an authorized representative of the Comptroller
7 General.
8 "(i) DEFINITIONS.—In this section, the term—
9 "(1) 'Director' means the Director, acting
10 through the Administrator;
11 "(2) 'firefighter' has the meaning given the
12 term 'employee in fire protection activities' under
13 section 3(y) of the Fair Labor Standards Act of
14 1938 (29 U.S.C. 203(y)); and
15 "(3) 'Indian tribe' means a tribe, band, pueblo,
16 nation, or other organized group or community of
17 Indians, including an Alaska Native village (as de-
18 fined in or established under the Alaska Native
19 Claims Settlement Act (43 U.S.C. 1601 et seq.)),
20 that is recognized as eligible for the special pro-
21 grams and services provided by the United States to
22 Indians because of their status as Indians.
23 "(j) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated for the purposes of car-

1 rying out this section $1,194,000,000 for each of the fiscal
2 years 2010 through 2014.".

3 **SEC. 4. STUDY AND REPORT.**

4 (a) STUDY AND REPORT ON ASSISTANCE TO FIRE-
5 FIGHTERS GRANT PROGRAM.—

6 (1) STUDY.—The Administrator of the United
7 States Fire Administration, in conjunction with the
8 National Fire Protection Association, shall conduct a
9 study to—

10 (A) define the current roles and activities
11 associated with the fire services on a national,
12 State, regional, and local level;

13 (B) identify the equipment, staffing, and
14 training required to fulfill the roles and activi-
15 ties defined under subparagraph (A);

16 (C) conduct an assessment to identify gaps
17 between what fire departments currently pos-
18 sess and what they require to meet the equip-
19 ment, staffing, and training needs identified
20 under subparagraph (B) on a national and
21 State-by-State basis; and

22 (D) measure the impact of the grant pro-
23 gram under section 33 of the Federal Fire Pre-
24 vention and Control Act of 1974 (15 U.S.C.
25 2229) in—

1 (i) meeting the needs of the fire serv-
2 ices identified in the report submitted to
3 Congress under section 3603(a) of the
4 Ronald W. Reagan National Defense Au-
5 thorization Act for Fiscal Year 2005; and
6 (ii) filling the gaps identified under
7 subparagraph (C).
8 (2) REPORT.—Not later than 2 years after the
9 date of enactment of this Act, the Administrator
10 shall submit to the Committee on Commerce,
11 Science, and Transportation of the Senate and the
12 Committee on Science and Technology of the House
13 of Representatives a report on the findings of the
14 study described in paragraph (1).
15 (b) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to the Administrator of
17 the United States Fire Administration a total of $300,000
18 for fiscal years 2010 and 2011 to carry out subsection
19 (a).

AMENDMENT TO THE MANAGER'S AMENDMENT TO H.R. 3791 OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

In section 2 of the bill, in the matter proposed to be inserted in section 33(a)(3)(E), strike the period at the end and insert the following: ", including programs dedicated to raising awareness of, and prevention of, job-related mental health issues."

In section 2 of the bill, amend the matter proposed to be inserted in section 33(c)(6) as follows:

1 "(6) CONSIDERATION.—The Director shall give
2 special consideration under paragraph (5) to an ap-
3 plicant for a grant that consists of a partnership be-
4 tween a national fire service organization or a na-
5 tional fire safety organization and at least 1 of the
6 following:
7 "(A) An institution of higher education.
8 "(B) A minority-serving institution (de-
9 fined as an eligible institution under section

371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a))).".

☒

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

AMENDMENT

OFFERED BY MR. BROUN OF GEORGIA

In section 2 of the bill, in the matter proposed to be inserted in section 33(a)(4), add at the end the following new subparagraph:

1 "(D) LIMITATION.—None of the funds
2 made available under this paragraph may be
3 provided to the Association of Community Or-
4 ganizations for Reform Now (ACORN) or any
5 of its affiliates, subsidiaries, or allied organiza-
6 tions.

☒

Amendment to the Amendment in the Nature of a Substitute

AMENDMENT

OFFERED BY MR. SMITH OF NEBRASKA

At the appropriate place in the bill, insert the following new section:

1 **SEC. ___. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) from fiscal years 2003 through 2008—

4 (A) the funding appropriated for activities

5 under section 33 of the Federal Fire Prevention

6 and Control Act of 1974 declined by approxi-

7 mately 30 percent; and

8 (B) the number of fire departments receiv-

9 ing awards declined by nearly 40 percent, while

10 the number of applicants increased, resulting in

11 a reduction in applicant success rates from over

12 43 percent to just 25 percent;

13 (2) the House-passed conference report for the

14 Department of Homeland Security Appropriations

15 Act, 2010 appropriates $390 million for activities

16 under such section 33, a decrease of over 30 percent

17 below that provided in fiscal year 2009;

18 (3) declining funding reduces the Director's

19 ability to successfully carry out the primary purpose

of such section, which is to protect the health and safety of the public and firefighting personnel throughout the Nation against fire and fire-related hazards; and

(4) halting and reversing the decline in appropriations to ensure a high level of funding for the activities under such section 33 should be a top priority.