

109TH CONGRESS  
1ST SESSION

# S. 21

To provide for homeland security grant coordination and simplification, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2005

Ms. COLLINS (for herself, Mr. CARPER, Mr. VOINOVICH, Mr. FEINGOLD, Mr. AKAKA, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide for homeland security grant coordination and simplification, 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 “Homeland Security  
5 Grant Enhancement Act of 2005”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions shall apply:

8 (1) **INSULAR AREA.**—The term “insular area”  
9 means American Samoa, the Commonwealth of the

1 Northern Mariana Islands, the Commonwealth of  
2 Puerto Rico, Guam, and the Virgin Islands.

3 (2) LARGE HIGH-THREAT STATE FUND.—The  
4 term “Large High-Threat State Fund” means the  
5 fund containing amounts authorized to be appro-  
6 priated for States that elect to receive Federal finan-  
7 cial assistance through a per capita share of 38.625  
8 percent of the amount appropriated for the State  
9 Homeland Security Grant Program.

10 (3) LOCAL GOVERNMENT.—The term “local  
11 government” has the same meaning given that term  
12 in section 2 of the Homeland Security Act of 2002  
13 (6 U.S.C. 101).

14 (4) MUNICIPAL SOLID WASTE.—The term “mu-  
15 nicipal solid waste” includes sludge (as defined in  
16 section 1004 of the Solid Waste Disposal Act (42  
17 U.S.C. 6903)).

18 (5) SECRETARY.—The term “Secretary” means  
19 the Secretary of Homeland Security.

20 (6) STATE.—The term “State” means each of  
21 the several States of the United States and the Dis-  
22 trict of Columbia.

23 (7) STATE HOMELAND SECURITY GRANT PRO-  
24 GRAM.—The term “State Homeland Security Grant  
25 Program” means the program receiving 75 percent

1 of the amount appropriated for the Threat-Based  
2 Homeland Security Grant Program.

3 (8) THREAT-BASED HOMELAND SECURITY  
4 GRANT PROGRAM.—The term “Threat-Based Home-  
5 land Security Grant Program” means the program  
6 authorized under section 6.

7 (9) URBAN AREA SECURITY INITIATIVE GRANT  
8 PROGRAM.—The term “Urban Area Security Initia-  
9 tive Grant Program” means the program receiving  
10 25 percent of the amount appropriated for the  
11 Threat-Based Homeland Security Grant Program.

12 **SEC. 3. PRESERVATION OF PRE-9/11 GRANT PROGRAMS FOR**  
13 **TRADITIONAL FIRST RESPONDER MISSIONS.**

14 (a) IN GENERAL.—This Act shall not be construed  
15 to affect any authority to award grants under any Federal  
16 grant program listed under subsection (b), which existed  
17 on September 10, 2001, to enhance traditional missions  
18 of State and local law enforcement, firefighters, ports,  
19 emergency medical services, or public health missions.

20 (b) PROGRAMS INCLUDED.—The programs referred  
21 to in subsection (a) are the following:

22 (1) The Firefighter Assistance Program author-  
23 ized under section 33 of the Federal Fire Prevention  
24 and Control Act of 1974 (15 U.S.C. 2229).

1           (2) The Emergency Management Performance  
2 Grant Program and the Urban Search and Rescue  
3 Grant program authorized under—

4           (A) title VI of the Robert T. Stafford Dis-  
5 aster Relief and Emergency Assistance Act (42  
6 U.S.C. 5195 et seq.);

7           (B) the Departments of Veterans Affairs  
8 and Housing and Urban Development, and  
9 Independent Agencies Appropriations Act, 2000  
10 (Public Law 106–74; 113 Stat. 1047 et seq.);  
11 and

12           (C) the Earthquake Hazards Reduction  
13 Act of 1977 (42 U.S.C. 7701 et seq.).

14           (3) The Edward Byrne Memorial State and  
15 Local Law Enforcement Assistance Programs au-  
16 thorized under part E of title I of the Omnibus  
17 Crime Control and Safe Streets Act of 1968 (42  
18 U.S.C. 3750 et seq.).

19           (4) The Public Safety and Community Policing  
20 (COPS ON THE BEAT) Grant Program authorized  
21 under part Q of title I of the Omnibus Crime Con-  
22 trol and Safe Streets Act of 1968 (42 U.S.C.  
23 3796dd et seq.).

24           (5) Grant programs under the Public Health  
25 Service Act regarding preparedness for bioterrorism

1 and other public health emergencies and the Emer-  
2 gency Response Assistance Program authorized  
3 under section 1412 of the Defense Against Weapons  
4 of Mass Destruction Act of 1996 (50 U.S.C. 2312).

5 **SEC. 4. INTERAGENCY COMMITTEE TO COORDINATE AND**  
6 **STREAMLINE HOMELAND SECURITY GRANT**  
7 **PROGRAMS.**

8 (a) IN GENERAL.—Title VIII of the Homeland Secu-  
9 rity Act of 2002 (6 U.S.C. 361 et seq.) is amended by  
10 inserting after section 801 the following:

11 **“SEC. 802. INTERAGENCY COMMITTEE TO COORDINATE**  
12 **AND STREAMLINE HOMELAND SECURITY**  
13 **GRANT PROGRAMS.**

14 “(a) ESTABLISHMENT.—

15 “(1) IN GENERAL.—The Secretary, in coordina-  
16 tion with the Attorney General, the Secretary of  
17 Health and Human Services, the Secretary of  
18 Transportation, the Administrator of the Environ-  
19 mental Protection Agency, and other agencies pro-  
20 viding assistance for first responder preparedness, as  
21 identified by the President, shall establish the Inter-  
22 agency Committee to Coordinate and Streamline  
23 Homeland Security Grant Programs (referred to in  
24 this subtitle as the ‘Interagency Committee’).

1           “(2) COMPOSITION.—The Interagency Com-  
2       mittee shall be composed of—

3                   “(A) a representative of the Department;

4                   “(B) a representative of the Department of  
5       Health and Human Services;

6                   “(C) a representative of the Department of  
7       Transportation;

8                   “(D) a representative of the Department of  
9       Justice;

10                  “(E) a representative of the Environmental  
11       Protection Agency; and

12                  “(F) a representative of any other depart-  
13       ment or agency determined to be necessary by  
14       the President.

15           “(3) RESPONSIBILITIES.—The Interagency  
16       Committee shall—

17                   “(A) report on findings to the Information  
18       Clearinghouse established under section 801(d);

19                   “(B) consult with State and local govern-  
20       ments and emergency response providers re-  
21       garding their homeland security needs and ca-  
22       pabilities;

23                   “(C) advise the Secretary on the develop-  
24       ment of performance measures for homeland se-

1 security grant programs and the national strategy  
2 for homeland security;

3 “(D) compile a list of homeland security  
4 assistance programs;

5 “(E) not later than 1 year after the effec-  
6 tive date of the Homeland Security Grant En-  
7 hancement Act of 2005—

8 “(i) develop a proposal to coordinate,  
9 to the maximum extent practicable, the  
10 planning, reporting, application, and other  
11 guidance documents contained in homeland  
12 security assistance programs to eliminate  
13 all redundant and duplicative require-  
14 ments; and

15 “(ii) submit the proposal developed  
16 under clause (i) to Congress and the Presi-  
17 dent.

18 “(b) ADMINISTRATION.—The Department shall pro-  
19 vide administrative support to the Interagency Committee,  
20 which shall include—

21 “(1) scheduling meetings;

22 “(2) preparing agenda;

23 “(3) maintaining minutes and records; and

24 “(4) producing reports.

1       “(c) CHAIRPERSON.—The Secretary shall designate  
2 a chairperson of the Interagency Committee.

3       “(d) MEETINGS.—The Interagency Committee shall  
4 meet—

5               “(1) at the call of the Secretary; or

6               “(2) not less frequently than once every  
7 month.”.

8       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
9 The table of contents for the Homeland Security Act of  
10 2002 (6 U.S.C. 101 et seq.) is amended by inserting after  
11 the item relating to section 801 the following:

“Sec. 802. Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs.”.

12 **SEC. 5. STREAMLINING FEDERAL HOMELAND SECURITY**  
13 **GRANTS.**

14       (a) DIRECTOR OF STATE AND LOCAL GOVERNMENT  
15 COORDINATION AND PREPAREDNESS.—Section 801(a) of  
16 the Homeland Security Act of 2002 (6 U.S.C. 361(a)) is  
17 amended to read as follows:

18       “(a) ESTABLISHMENT.—

19               “(1) IN GENERAL.—There is established within  
20 the Office of the Secretary the Office for State and  
21 Local Government Coordination and Preparedness,  
22 which shall oversee and coordinate departmental  
23 programs for, and relationships with, State and local  
24 governments.

1           “(2) EXECUTIVE DIRECTOR.—The Office estab-  
2           lished under paragraph (1) shall be headed by the  
3           Executive Director of State and Local Government  
4           Coordination and Preparedness, who shall be ap-  
5           pointed by the President, by and with the advice and  
6           consent of the Senate.”.

7           (b) OFFICE FOR DOMESTIC PREPAREDNESS.—The  
8           Homeland Security Act of 2002 (6 U.S.C. 101 et seq.)  
9           is amended—

10           (1) by redesignating section 430 as section 803  
11           and transferring that section to the end of subtitle  
12           A of title VIII, as amended by section 4; and

13           (2) in section 803, as redesignated by para-  
14           graph (1)—

15           (A) in subsection (a), by striking “the Di-  
16           rectorate of Border and Transportation Secu-  
17           rity” and inserting “the Office for State and  
18           Local Government Coordination and Prepared-  
19           ness”;

20           (B) in subsection (b), by striking “who  
21           shall be appointed by the President” and all  
22           that follows and inserting “who shall report di-  
23           rectly to the Executive Director of State and  
24           Local Government Coordination and Prepared-  
25           ness.”;

- 1 (C) in subsection (c)—
- 2 (i) in paragraph (7)—
- 3 (I) by striking “other” and in-
- 4 sserting “the”;
- 5 (II) by striking “consistent with
- 6 the mission and functions of the Di-
- 7 rectorate”; and
- 8 (III) by striking “and” at the
- 9 end; and
- 10 (ii) in paragraph (8)—
- 11 (I) by inserting “carrying out”
- 12 before “those elements”; and
- 13 (II) by striking “and” at the end;
- 14 (iii) in paragraph (9), by striking the
- 15 period at the end and inserting “; and”;
- 16 and
- 17 (iv) by adding at the end the fol-
- 18 lowing:
- 19 “(10) managing the Homeland Security Infor-
- 20 mation Clearinghouse established under section
- 21 801(d).”;
- 22 (D) by redesignating subsection (d) as sub-
- 23 section (e); and
- 24 (E) by inserting after subsection (c) the
- 25 following:

1       “(d) TRAINING AND EXERCISES OFFICE WITHIN  
2 THE OFFICE FOR DOMESTIC PREPAREDNESS.—

3               “(1) IN GENERAL.—The Secretary shall create  
4 within the Office for Domestic Preparedness an in-  
5 ternal office that shall be the proponent for all na-  
6 tional domestic preparedness, training, education,  
7 and exercises within the Office for State and Local  
8 Government Coordination.

9               “(2) OFFICE HEAD.—The Secretary shall select  
10 an individual with recognized expertise in first-re-  
11 sponder training and exercises to head the office,  
12 and such person shall report directly to the Director  
13 of the Office of Domestic Preparedness.”.

14       “(e) TECHNICAL AND CONFORMING AMENDMENTS.—  
15 The table of contents for the Homeland Security Act of  
16 2002 (6 U.S.C. 101 et seq.) is amended—

17               (1) by striking the item relating to section 430;

18               (2) by amending the item relating to section  
19 801 to read as follows:

“Sec. 801. Office of State and Local Government Coordination and Prepared-  
ness.”;  
and

20               (3) by inserting after the item relating to sec-  
21 tion 802, as added by this Act, the following:

“Sec. 803. Office for Domestic Preparedness.”.

22       “(d) ESTABLISHMENT OF HOMELAND SECURITY IN-  
23 FORMATION CLEARINGHOUSE.—Section 801 of the Home-

1 land Security Act of 2002 (6 U.S.C. 361), as amended  
2 by subsection (a), is further amended by adding at the  
3 end the following:

4 “(d) HOMELAND SECURITY INFORMATION CLEAR-  
5 INGHOUSE.—

6 “(1) ESTABLISHMENT.—There is established  
7 within the Office for State and Local Government  
8 Coordination a Homeland Security Information  
9 Clearinghouse (referred to in this section as the  
10 ‘Clearinghouse’), which shall assist States, local gov-  
11 ernments, and first responders in accordance with  
12 paragraphs (2) through (5).

13 “(2) HOMELAND SECURITY GRANT INFORMA-  
14 TION.—The Clearinghouse shall create a new  
15 website or enhance an existing website, establish a  
16 toll-free number, and produce a single publication  
17 that each contain information regarding the home-  
18 land security grant programs identified under sec-  
19 tion 802(a)(4).

20 “(3) TECHNICAL ASSISTANCE.—The Clearing-  
21 house, in consultation with the Interagency Com-  
22 mittee established under section 802, shall provide  
23 information regarding—

24 “(A) technical assistance provided by any  
25 Federal agency to States and local governments

1 to conduct threat analyses and vulnerability as-  
2 sessments; and

3 “(B) templates for conducting threat anal-  
4 yses and vulnerability assessments.

5 “(4) BEST PRACTICES.—The Clearinghouse  
6 shall work with States, local governments, emer-  
7 gency response providers and the National Domestic  
8 Preparedness Consortium, and private organizations  
9 to gather, validate, and disseminate information re-  
10 garding successful State and local homeland security  
11 programs and practices.

12 “(5) USE OF FEDERAL FUNDS.—The Clearing-  
13 house shall compile information regarding equip-  
14 ment, training, and other services purchased with  
15 Federal funds provided under the homeland security  
16 grant programs identified under section 802(a)(4),  
17 and make such information, and information regard-  
18 ing voluntary standards of training, equipment, and  
19 exercises, available to States, local governments, and  
20 first responders.

21 “(6) OTHER INFORMATION.—The Clearing-  
22 house shall provide States, local governments, and  
23 first responders with any other information that the  
24 Secretary determines necessary.”.

1 **SEC. 6. THREAT-BASED HOMELAND SECURITY GRANT PRO-**  
2 **GRAM.**

3 (a) GRANTS AUTHORIZED.—The Secretary may  
4 award grants to States and local governments to enhance  
5 homeland security.

6 (b) USE OF FUNDS.—

7 (1) IN GENERAL.—Grants awarded under sub-  
8 section (a)—

9 (A) shall be used to address homeland se-  
10 curity matters related to acts of terrorism or  
11 major disasters and related capacity building;  
12 and

13 (B) shall not be used to supplant ongoing  
14 first responder expenses or general protective  
15 measures.

16 (2) ALLOWABLE USES.—Grants awarded under  
17 subsection (a) may be used to—

18 (A) develop State plans or risk assess-  
19 ments (including the development of the home-  
20 land security plan) to respond to terrorist at-  
21 tacks and strengthen all hazards emergency  
22 planning and community wide plans for re-  
23 sponding to terrorist or all hazards emergency  
24 events that are coordinated with the capacities  
25 of applicable Federal, State, and local govern-

1           ments, first responders, and State and local  
2           government health agencies;

3           (B) develop State, regional, or local mutual  
4           aid agreements;

5           (C) purchase or upgrade equipment based  
6           on State and local needs as identified under a  
7           State homeland security plan;

8           (D) conduct exercises to strengthen emer-  
9           gency preparedness of State and local first re-  
10          sponders including law enforcement, firefighting  
11          personnel, and emergency medical service work-  
12          ers, and other emergency responders identified  
13          in a State homeland security plan;

14          (E) pay for overtime expenses relating  
15          to—

16               (i) training activities consistent with  
17               the goals outlined in a State homeland se-  
18               curity plan;

19               (ii) as determined by the Secretary,  
20               activities relating to an increase in the  
21               threat level under the Homeland Security  
22               Advisory System; and

23               (iii) any other activity relating to the  
24               State Homeland Security Strategy, and ap-  
25               proved by the Secretary;

1 (F) promote training regarding homeland  
2 security preparedness including—

3 (i) emergency preparedness responses  
4 to a use or threatened use of a weapon of  
5 mass destruction; and

6 (ii) training in the use of equipment,  
7 including detection, monitoring, and decon-  
8 tamination equipment, and personal pro-  
9 tective gear; and

10 (G) conduct any activity permitted under  
11 the Law Enforcement Terrorism Prevention  
12 Grant Program.

13 (3) PROHIBITED USES.—

14 (A) CONSTRUCTION.—Grants awarded  
15 under subsection (a) may not be used to con-  
16 struct buildings or other physical facilities, ex-  
17 cept those described in section 611 of the Rob-  
18 ert T. Stafford Disaster Relief and Emergency  
19 Assistance Act (42 U.S.C. 5196) and approved  
20 by the Secretary in the homeland security plan  
21 certified under subsection (d), or to acquire  
22 land.

23 (B) COST SHARING.—Grant funds pro-  
24 vided under this section shall not be used for

1           any State or local government cost sharing con-  
2           tribution request under this section.

3           (c) APPLICATION.—

4           (1) SUBMISSION.—A State may apply for a  
5           grant under this section by submitting to the Sec-  
6           retary an application at such time, and in such man-  
7           ner, and containing such information the Secretary  
8           may reasonably require.

9           (2) REVISIONS.—A State may revise a home-  
10          land security plan certified under subsection (d) at  
11          the time an application is submitted under para-  
12          graph (1) after receiving approval from the Sec-  
13          retary.

14          (3) APPROVAL.—The Secretary shall not award  
15          a grant under this section unless the application  
16          submitted by the State includes a homeland security  
17          plan meeting the requirements of subsection (d).

18          (4) RELEASE OF FUNDS.—The Secretary shall  
19          release grant funds to States with approved plans  
20          after the approval of an application submitted under  
21          this subsection.

22          (d) HOMELAND SECURITY PLAN.—

23          (1) IN GENERAL.—An application submitted  
24          under subsection (c) shall include a certification that  
25          the State has prepared a 3-year State homeland se-

1 security plan (referred to in this subsection as the  
2 “plan”) to respond to terrorist attacks and strength-  
3 en all hazards emergency planning that has been ap-  
4 proved by the Secretary.

5 (2) CONTENTS.—The plan shall contain meas-  
6 urable goals and objectives that—

7 (A) establish a 3-year strategy to set prior-  
8 ities for the allocation of funding to political  
9 subdivisions based on the risk, capabilities, and  
10 needs described under paragraph (3)(C);

11 (B) provide for interoperable communica-  
12 tions;

13 (C) provide for local coordination of re-  
14 sponse and recovery efforts, including proce-  
15 dures for effective incident command in con-  
16 formance with the National Incident Manage-  
17 ment System;

18 (D) ensure that first responders and other  
19 emergency personnel have adequate training  
20 and appropriate equipment for the threats that  
21 may occur;

22 (E) provide for improved coordination and  
23 collaboration among police, fire, and public  
24 health authorities at State and local levels;

1 (F) coordinate emergency response and  
2 public health plans;

3 (G) mitigate risks to critical infrastructure  
4 that may be vulnerable to terrorist attacks;

5 (H) promote regional coordination among  
6 contiguous local governments;

7 (I) identify necessary protective measures  
8 by private owners of critical infrastructure;

9 (J) promote orderly evacuation procedures  
10 when necessary;

11 (K) ensure support from the public health  
12 community for measures needed to prevent, de-  
13 tect and treat bioterrorism, and radiological and  
14 chemical incidents;

15 (L) increase the number of local jurisdic-  
16 tions participating in local and statewide exer-  
17 cises;

18 (M) meet preparedness goals as deter-  
19 mined by the Secretary; and

20 (N) include a report from the relevant ad-  
21 visory committee established under paragraph  
22 (3)(D) that documents the areas of support,  
23 disagreement, or recommended changes to the  
24 plan before its submission to the Secretary.

25 (3) DEVELOPMENT PROCESS.—

1 (A) IN GENERAL.—In preparing the plan  
2 under this section, a State shall—

3 (i) provide for the consideration of all  
4 homeland security needs;

5 (ii) follow a process that is continuing,  
6 inclusive, cooperative, and comprehensive,  
7 as appropriate; and

8 (iii) coordinate the development of the  
9 plan with the homeland security planning  
10 activities of local governments.

11 (B) COORDINATION WITH LOCAL PLAN-  
12 NING ACTIVITIES.—The coordination under sub-  
13 paragraph (A)(iii) shall contain input from local  
14 stakeholders, including—

15 (i) local officials, including representa-  
16 tives of rural, high-population, and high-  
17 threat jurisdictions;

18 (ii) first responders and emergency re-  
19 sponse providers; and

20 (iii) private sector companies, such as  
21 railroads and chemical manufacturers.

22 (C) SCOPE OF PLANNING.—Each State  
23 preparing a plan under this section shall, in  
24 conjunction with the local stakeholders under  
25 subparagraph (B), address all the information

1 requested by the Secretary, and complete a  
2 comprehensive assessment of—

3 (i) risk, including a—

4 (I) vulnerability assessment;

5 (II) threat assessment; and

6 (III) public health assessment, in  
7 coordination with the State bioter-  
8 rorism plan; and

9 (ii) capabilities and needs, including—

10 (I) an evaluation of current pre-  
11 paredness, mitigation, and response  
12 capabilities based on such assessment  
13 mechanisms as shall be determined by  
14 the Secretary;

15 (II) an evaluation of capabilities  
16 needed to address the risks described  
17 under clause (i); and

18 (III) an assessment of the short-  
19 fall between the capabilities described  
20 under subclause (I) and the required  
21 capabilities described under subclause  
22 (II).

23 (D) ADVISORY COMMITTEE.—

24 (i) IN GENERAL.—Each State pre-  
25 paring a plan under this section shall es-

1           tabish an advisory committee to receive  
2           comments from the public and the local  
3           stakeholders identified under subparagraph  
4           (B).

5           (ii) COMPOSITION.—The Advisory  
6           Committee shall include local officials, local  
7           first responders, and emergency response  
8           providers that are representative of the  
9           counties, cities, and towns within the  
10          State, and which shall include representa-  
11          tives of rural, high-population, and high-  
12          threat jurisdictions.

13          (4) PLAN APPROVAL.—The Secretary shall ap-  
14          prove a plan upon finding that the plan meets the  
15          requirements of—

16                (A) paragraphs (2) and (3);

17                (B) the interim performance measurements  
18                under subsection (g)(1), or the national per-  
19                formance standards under subsection (g)(2);  
20                and

21                (C) any other criteria the Secretary deter-  
22                mines necessary to the approval of a State plan.

23          (5) REVIEW OF ADVISORY COMMITTEE RE-  
24          PORT.—The Secretary shall review the recommenda-  
25          tions of the advisory committee report incorporated

1 into a plan under subsection (d)(2)(N), including  
2 any dissenting views submitted by advisory com-  
3 mittee members, to ensure cooperation and coordina-  
4 tion between local and State jurisdictions in plan-  
5 ning the use of grant funds under this section.

6 (e) TENTATIVE ALLOCATION.—

7 (1) URBAN AREA SECURITY INITIATIVE GRANT  
8 PROGRAM.—

9 (A) IN GENERAL.—The Secretary shall al-  
10 locate 25 percent of the funds appropriated  
11 under the Threat-Based Homeland Security  
12 Grant Program for discretionary grants to be  
13 provided directly to local governments, includ-  
14 ing multistate entities established by a compact  
15 between 2 or more States, in high threat areas,  
16 as determined by the Secretary based on the  
17 criteria under subparagraph (B).

18 (B) CRITERIA.—The Secretary shall en-  
19 sure that each local government receiving a  
20 grant under this paragraph—

21 (i) has a large population or high pop-  
22 ulation density;

23 (ii) has a high degree of threat, risk,  
24 and vulnerability related to critical infra-  
25 structure or not less than 1 key asset iden-

1           tified by the Secretary or State homeland  
2           security plan;

3           (iii) has an international border with  
4           Canada or Mexico, or coastline bordering  
5           international waters of Canada, Mexico, or  
6           bordering the Atlantic Ocean, the Pacific  
7           Ocean, or the Gulf of Mexico; or

8           (iv) are subject to other threat factors  
9           specified in writing by the Secretary.

10          (C) CONSISTENCY.—Any grant awarded  
11          under this paragraph shall be used to supple-  
12          ment and support, in a consistent and coordi-  
13          nated manner, those activities and objectives  
14          described under subsection (b) or a State home-  
15          land security plan.

16          (D) COORDINATION.—The Secretary shall  
17          ensure that any grants made under this para-  
18          graph encourage multiple contiguous units of  
19          local government and mutual aid partners to  
20          coordinate any homeland security activities.

21          (2) STATE HOMELAND SECURITY GRANT PRO-  
22          GRAM.—

23                (A) STATES.—Each State whose applica-  
24                tion is approved under subsection (c) shall re-  
25                ceive, for each fiscal year, the greater of—

1 (i) 0.75 percent of the amounts ap-  
2 propriated for the State Homeland Secu-  
3 rity Grant Program; or

4 (ii) the State's per capita share, as  
5 defined by the 2002 census population esti-  
6 mate, of 38.625 percent of the State  
7 Homeland Security Grant Program.

8 (B) INSULAR AREAS.—Each insular area  
9 shall receive, for each fiscal year, the greater  
10 of—

11 (i) 0.075 percent of the amounts ap-  
12 propriated for the State Homeland Secu-  
13 rity Grant Program; or

14 (ii) the insular area's per capita  
15 share, as defined by the 2002 census popu-  
16 lation estimate, of 38.625 percent of the  
17 State Homeland Security Grant Program.

18 (3) SECONDARY DISTRIBUTION.—After the dis-  
19 tribution of funds under paragraph (2), the Sec-  
20 retary shall, from the remaining funds for the State  
21 Homeland Security Grant Program and 10.8 percent  
22 of the amount appropriated for the Threat-Based  
23 Homeland Security Grant Program pursuant to sub-  
24 section (j)(1), distribute amounts to each State  
25 that—

1 (A) has a substantial percentage of its  
2 population residing in Metropolitan Statistical  
3 Areas, as defined by the Office of Management  
4 and Budget;

5 (B) has a high degree of threat, risk, and  
6 vulnerability related to critical infrastructure or  
7 not less than 1 key asset identified by the Sec-  
8 retary or State homeland security plan;

9 (C) has an international border with Can-  
10 ada or Mexico, or coastline bordering inter-  
11 national waters of Canada, Mexico, or bordering  
12 the Atlantic Ocean, the Pacific Ocean, or the  
13 Gulf of Mexico; or

14 (D) are subject to other threat factors  
15 specified in writing by the Secretary.

16 (4) DISTRIBUTION OF FUNDS.—If the amounts  
17 tentatively allocated under paragraphs (1) through  
18 (3) equal the sum of the amounts appropriated pur-  
19 suant to subsection (j), the Secretary shall distribute  
20 the appropriated amounts based on the tentative al-  
21 location.

22 (5) PROPORTIONAL REDUCTION.—If the  
23 amount appropriated for the Large High-Threat  
24 State Fund pursuant to subsection (j)(2) is less  
25 than 10.8 percent of the amount appropriated for

1 the Threat-Based Homeland Security Grant Pro-  
2 gram pursuant to subsection (j)(1), the Secretary  
3 shall proportionately reduce the amounts tentatively  
4 allocated under paragraphs (1) through (3) so that  
5 the amount distributed is equal to the sum of the  
6 amounts appropriated for such programs.

7 (6) FUNDING FOR LOCAL ENTITIES AND FIRST  
8 RESPONDERS.—The Secretary shall require recipi-  
9 ents of the State Homeland Security Grant to pro-  
10 vide local governments and first responders, con-  
11 sistent with the applicable State homeland security  
12 plan, with not less than 80 percent of the grant  
13 funds, the resources purchased with such grant  
14 funds, or a combination thereof, not later than 60  
15 days after receiving grant funding.

16 (7) SUPPLEMENT NOT SUPPLANT.—Amounts  
17 appropriated for grants under this subsection shall  
18 be used to supplement and not supplant other State  
19 and local public funds obligated for the purposes  
20 provided under this Act.

21 (8) LAW ENFORCEMENT TERRORISM PREVEN-  
22 TION PROGRAM.—

23 (A) IN GENERAL.—The Secretary shall  
24 designate not more than 25 percent of the  
25 amounts allocated through the State Homeland

1 Security Grant Program to be used for the Law  
2 Enforcement Terrorism Prevention Program to  
3 provide grants to law enforcement agencies to  
4 enhance capabilities for terrorism prevention.

5 (B) USE OF FUNDS.—Grants awarded  
6 under this paragraph may be used for—

7 (i) information sharing to preempt  
8 terrorist attacks;

9 (ii) target hardening to reduce the  
10 vulnerability of selected high value targets;

11 (iii) threat recognition to recognize  
12 the potential or development of a threat;

13 (iv) intervention activities to interdict  
14 terrorists before they can execute a threat;

15 (v) interoperable communication sys-  
16 tems;

17 (vi) overtime expenses related to the  
18 State Homeland Security Strategy ap-  
19 proved by the Secretary; and

20 (vii) any other terrorism prevention  
21 activity authorized by the Secretary.

22 (f) REPORT ON HOMELAND SECURITY SPENDING.—  
23 Each recipient of a grant under this section shall annually  
24 submit a report to the Secretary that contains—

1           (1) an accounting of the amount of State and  
2 local funds spent on homeland security activities  
3 under the applicable State homeland security plan;  
4 and

5           (2) information regarding the use of grant  
6 funds by units of local government as required by  
7 the Secretary.

8 (g) ACCOUNTABILITY.—

9           (1) INTERIM PERFORMANCE MEASURES.—

10           (A) IN GENERAL.—Before establishing per-  
11 formance standards under paragraph (2), the  
12 Secretary shall assist each State in establishing  
13 interim performance measures based upon—

14                   (i) the goals and objectives under sub-  
15 section (d)(2); and

16                   (ii) any other factors determined by  
17 the Secretary.

18           (B) ANNUAL REPORT.—Before establishing  
19 performance measures under paragraph (2),  
20 each State with an approved State plan shall  
21 submit to the Secretary a report detailing the  
22 progress the State has made in meeting the in-  
23 terim performance measures established under  
24 subparagraph (A).

25           (2) NATIONAL PERFORMANCE STANDARDS.—

1           (A) IN GENERAL.—Not later than 1 year  
2 after the date of enactment of this Act, the Sec-  
3 retary shall set national performance standards  
4 based in part on the goals and objectives under  
5 subsection (d)(2) and any other factors the Sec-  
6 retary determines relevant.

7           (B) COMPLIANCE.—The Secretary shall  
8 ensure that State plans are in conformance  
9 with the standards set under subparagraph (A).

10          (C) ANNUAL REPORT.—After the establish-  
11 ment of performance standards under subpara-  
12 graph (A), each State with an approved State  
13 homeland security plan shall submit to the Sec-  
14 retary a report on the progress the State has  
15 made in meeting such standards.

16          (3) GENERAL ACCOUNTING OFFICE ACCESS TO  
17 INFORMATION.—Each recipient of a grant under this  
18 section and the Department of Homeland Security  
19 shall provide the General Accounting Office with full  
20 access to information regarding the activities carried  
21 out under this section.

22          (4) AUDIT.—Grant recipients that expend  
23 \$500,000 or more in Federal funds during any fiscal  
24 year shall submit to the Secretary an organization  
25 wide financial and compliance audit report in con-

1 formance with the requirements of chapter 75 of  
2 title 31, United States Code.

3 (h) REMEDIES FOR NON-COMPLIANCE.—

4 (1) IN GENERAL.—If the Secretary finds, after  
5 reasonable notice and an opportunity for a hearing,  
6 that a recipient of a grant under this section has  
7 failed to substantially comply with any provision of  
8 this section, the Secretary shall—

9 (A) terminate any payment of grant funds  
10 to be made to the recipient under this section;

11 (B) reduce the amount of payment of  
12 grant funds to the recipient by an amount equal  
13 to the amount of grants funds that were not ex-  
14 pended by the recipient in accordance with this  
15 section; or

16 (C) limit the use of grant funds received  
17 under this section to programs, projects, or ac-  
18 tivities not affected by the failure to comply.

19 (2) DURATION OF PENALTY.—The Secretary  
20 shall apply an appropriate penalty under paragraph  
21 (1) until such time as the Secretary determines that  
22 the grant recipient is in full compliance with this  
23 section.

24 (3) DIRECT FUNDING.—If a State fails to sub-  
25 stantially comply with any provision of this section,

1 including failing to provide local governments with  
2 grant funds or resources purchased with grant funds  
3 in a timely fashion, a local government entitled to  
4 receive such grant funds or resources may petition  
5 the Secretary, at such time and in such manner as  
6 determined by the Secretary, to request that grant  
7 funds or resources be provided directly to the local  
8 government.

9 (i) REPORTS TO CONGRESS.—The Secretary shall  
10 submit an annual report to Congress that provides—

11 (1) findings relating to the performance stand-  
12 ards established under subsection (g);

13 (2) the status of preparedness goals and objec-  
14 tives;

15 (3) an evaluation of how States and local gov-  
16 ernments are meeting preparedness goals and objec-  
17 tives;

18 (4) the total amount of resources provided to  
19 the States;

20 (5) the total amount of resources provided to  
21 units of local government; and

22 (6) a list of how these resources were expended.

23 (j) AUTHORIZATION OF APPROPRIATIONS.—

24 (1) THREAT-BASED HOMELAND SECURITY  
25 GRANT PROGRAM.—There are authorized to be ap-



1 (b) REVIEWS OF THREAT-BASED HOMELAND SECUR-  
2 RITY FUNDING.—The Secretary, through the appropriate  
3 agency, shall conduct periodic reviews of grants made  
4 through the Threat Based Homeland Security Grant Pro-  
5 gram to ensure that recipients allocate funds consistent  
6 with the guidelines established by the Department of  
7 Homeland Security.

8 (c) REMEDIES FOR NON-COMPLIANCE.—If the Sec-  
9 retary determines, after reasonable notice and an oppor-  
10 tunity for a hearing, that a recipient of a Threat Based  
11 Homeland Security Grant has failed to substantially com-  
12 ply with any regulations or guidelines issues by the De-  
13 partment regarding eligible expenditures, the Secretary  
14 shall—

15 (1) terminate any payment of grant funds  
16 scheduled to be made to the recipient;

17 (2) reduce the amount of payment of grant  
18 finds to the recipient by an amount equal to the  
19 amount of grant funds that were not expended by  
20 the recipient in accordance with such guidelines; or

21 (3) limit the use of grant funds received under  
22 the Threat Based Homeland Security Grant Pro-  
23 gram to programs, projects, or activities not affected  
24 by the failure to comply.

1 (d) DURATION OF PENALTY.—The Secretary shall  
2 apply an appropriate penalty under subsection (c) until  
3 such time as the Secretary determines that the grant re-  
4 cipient is in full compliance with the guidelines established  
5 by the Department of Homeland Security.

6 **SEC. 8. FLEXIBILITY IN UNSPENT HOMELAND SECURITY**  
7 **FUNDS.**

8 (a) REALLOCATION OF FUNDS.—The Director of the  
9 Office for Domestic Preparedness, Department of Home-  
10 land Security, shall allow any State to request approval  
11 to reallocate funds received pursuant to appropriations for  
12 the State Homeland Security Grant Program under Public  
13 Laws 105–277 (112 Stat. 2681 et seq.), 106–113 (113  
14 Stat. 1501A–3 et seq.), 106–553 (114 Stat. 2762A–3 et  
15 seq.), 107–77 (115 Stat. 78 et seq.), or the Consolidated  
16 Appropriations Resolution of 2003 (Public Law 108–7),  
17 among the 4 categories of equipment, training, exercises,  
18 and planning.

19 (b) APPROVAL OF REALLOCATION REQUESTS.—The  
20 Director shall approve reallocation requests under sub-  
21 section (a) in accordance with the State plan and any  
22 other relevant factors that the Secretary determines to be  
23 necessary.

24 (c) LIMITATION.—A waiver under this section shall  
25 not affect the obligation of a State to pass through 80

1 percent of the amount appropriated for equipment to units  
2 of local government.

3 **SEC. 9. CERTIFICATION RELATIVE TO THE SCREENING OF**  
4 **MUNICIPAL SOLID WASTE TRANSPORTED**  
5 **INTO THE UNITED STATES.**

6 The Secretary shall deny entry into the United States  
7 of any commercial motor vehicle (as defined in section  
8 31101(1) of title 49, United States Code) carrying munic-  
9 ipal solid waste unless and until the Secretary certifies to  
10 Congress that the methodologies and technologies used by  
11 the Bureau of Customs and Border Protection of the De-  
12 partment of Homeland Security to screen for and detect  
13 the presence of chemical, nuclear, biological, and radio-  
14 logical weapons in such waste are as effective as the meth-  
15 odologies and technologies used by the Bureau to screen  
16 for such materials in other items of commerce entering  
17 into the United States by commercial motor vehicle trans-  
18 port.

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