

110TH CONGRESS
1ST SESSION

S. 608

To improve the allocation of grants through the Department of Homeland Security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2007

Mrs. FEINSTEIN (for herself, Mr. CORNYN, Mrs. BOXER, Mrs. HUTCHISON, Mr. LAUTENBERG, Mr. SCHUMER, Mrs. CLINTON, Mr. MENENDEZ, and Mr. OBAMA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To improve the allocation of grants through the Department of Homeland Security, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Risk-Based Homeland Security Grants Act of 2007”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Risk-based funding for homeland security.
- Sec. 3. Essential capabilities, task forces, and standards.
- Sec. 4. Effective administration of homeland security grants.
- Sec. 5. Implementation and definitions.

1 **SEC. 2. RISK-BASED FUNDING FOR HOMELAND SECURITY.**

2 (a) RISK-BASED FUNDING IN GENERAL.—The
 3 Homeland Security Act of 2002 (Public Law 107–296; 6
 4 U.S.C. 361 et seq.) is amended by adding at the end the
 5 following:

6 **“TITLE XX—RISK-BASED FUND-**
 7 **ING FOR HOMELAND SECU-**
 8 **RITY**

9 **“SEC. 2001. RISK-BASED FUNDING FOR HOMELAND SECU-**
 10 **RITY.**

11 “(a) RISK-BASED FUNDING.—The Secretary shall
 12 ensure that homeland security grants are allocated based
 13 on an assessment of threat, vulnerability, and consequence
 14 to the maximum extent practicable.

15 “(b) COVERED GRANTS.—This title applies to grants
 16 provided by the Department to States, regions, or directly
 17 eligible tribes for the primary purpose of improving the
 18 ability of first responders to prevent, prepare for, respond
 19 to, or mitigate threatened or actual terrorist attacks, espe-
 20 cially those involving weapons of mass destruction, and
 21 grants provided by the Department for improving home-
 22 land security, including the following:

23 “(1) STATE HOMELAND SECURITY GRANT PRO-
 24 GRAM.—The State Homeland Security Grant Pro-
 25 gram of the Department, or any successor to such
 26 grant program.

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

4 “(3) LAW ENFORCEMENT TERRORISM PREVEN-
5 TION PROGRAM.—The Law Enforcement Terrorism
6 Prevention Program of the Department, or any suc-
7 cessor to such grant program.

8 “(4) CITIZEN CORPS PROGRAM.—The Citizen
9 Corps Program of the Department, or any successor
10 to such grant program.

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

14 “(1) NONDEPARTMENT PROGRAMS.—Any Fed-
15 eral grant program that is not administered by the
16 Department.

17 “(2) FIRE GRANT PROGRAMS.—The fire grant
18 programs authorized by sections 33 and 34 of the
19 Federal Fire Prevention and Control Act of 1974
20 (15 U.S.C. 2229, 2229a).

21 “(3) EMERGENCY MANAGEMENT PLANNING
22 AND ASSISTANCE ACCOUNT GRANTS.—The Emer-
23 gency Management Performance Grant program and
24 the Urban Search and Rescue Grants program au-
25 thorized by title VI of the Robert T. Stafford Dis-

1 aster Relief and Emergency Assistance Act (42
 2 U.S.C. 5195 et seq.), the Departments of Veterans
 3 Affairs and Housing and Urban Development, and
 4 Independent Agencies Appropriations Act, 2000
 5 (113 Stat. 1047 et seq.), and the Earthquake Haz-
 6 ards Reduction Act of 1977 (42 U.S.C. 7701 et
 7 seq.).

8 “(d) EFFECT ON COVERED GRANTS.—Nothing in
 9 this Act shall be construed to require the elimination of
 10 a covered grant program.”.

11 (b) COVERED GRANT ELIGIBILITY AND CRITERIA.—
 12 The Homeland Security Act of 2002 (Public Law 107–
 13 296; 6 U.S.C. 361 et seq.), as amended by subsection (a),
 14 is amended by adding at the end the following:

15 **“SEC. 2002. COVERED GRANT ELIGIBILITY AND CRITERIA.**

16 “(a) GRANT ELIGIBILITY.—

17 “(1) IN GENERAL.—

18 “(A) GENERAL ELIGIBILITY.—Except as
 19 provided in subparagraphs (B) and (C), any
 20 State, region, or directly eligible tribe shall be
 21 eligible to apply for a covered grant.

22 “(B) URBAN AREA SECURITY INITIA-
 23 TIVE.—Only a region shall be eligible to apply
 24 for a grant under the Urban Area Security Ini-

1 tiative of the Department, or any successor to
2 such grant program.

3 “(C) STATE HOMELAND SECURITY GRANT
4 PROGRAM.—Only a State shall be eligible to
5 apply for a grant under the State Homeland
6 Security Grant Program of the Department, or
7 any successor to such grant program.

8 “(2) OTHER GRANT APPLICANTS.—

9 “(A) IN GENERAL.—Grants provided by
10 the Department for improving homeland secu-
11 rity, including to seaports, airports, and other
12 transportation facilities, shall be allocated as
13 described in section 2001(a).

14 “(B) CONSIDERATION.—Such grants shall
15 be considered, to the extent determined appro-
16 priate by the Secretary, pursuant to the proce-
17 dures and criteria established in this title, ex-
18 cept that the eligibility requirements of para-
19 graph (1) shall not apply.

20 “(3) CERTIFICATION OF REGIONS.—

21 “(A) IN GENERAL.—The Secretary shall
22 certify a geographic area as a region if—

23 “(i) the geographic area meets the cri-
24 teria under section 2007(10)(B) and (C);
25 and

1 “(ii) the Secretary determines, based
2 on an assessment of threat, vulnerability,
3 and consequence, that certifying the geo-
4 graphic area as a region under this title is
5 in the interest of national homeland secu-
6 rity.

7 “(B) EXISTING URBAN AREA SECURITY
8 INITIATIVE AREAS.—Notwithstanding subpara-
9 graphs (B) and (C) of section 2007(10), a geo-
10 graphic area that, on or before the date of en-
11 actment of the Risk-Based Homeland Security
12 Grants Act of 2007, was designated as a high-
13 threat urban area for purposes of the Urban
14 Area Security Initiative, shall be certified by
15 the Secretary as a region unless the Secretary
16 determines, based on an assessment of threat,
17 vulnerability, and consequence, that certifying
18 the geographic area as a region is not in the in-
19 terest of national homeland security.

20 “(b) GRANT CRITERIA.—In awarding covered grants,
21 the Secretary shall assist States, local governments, and
22 operators of airports, ports, or similar facilities in achiev-
23 ing, maintaining, and enhancing the essential capabilities
24 established by the Secretary under section 2003.

25 “(c) STATE HOMELAND SECURITY PLANS.—

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

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

8 “(B) demonstrates the needs of the State
9 necessary to achieve, maintain, or enhance the
10 essential capabilities that apply to the State;

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

14 “(D) describes how the State intends—

15 “(i) to address such needs at the city,
16 county, regional, tribal, State, and inter-
17 state level, including a precise description
18 of any regional structure the State has es-
19 tablished for the purpose of organizing
20 homeland security preparedness activities
21 funded by covered grants;

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

1 “(iii) to give particular emphasis to
2 regional planning and cooperation, includ-
3 ing the activities of multijurisdictional
4 planning agencies governed by local offi-
5 cials, both within its jurisdictional borders
6 and with neighboring States;

7 “(E) is developed in consultation with and
8 subject to appropriate comment by local govern-
9 ments within the State; and

10 “(F) with respect to the emergency pre-
11 paredness of first responders, addresses the
12 unique aspects of terrorism as part of a com-
13 prehensive State emergency management plan.

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

18 “(d) CONSISTENCY WITH STATE PLANS.—The Sec-
19 retary shall ensure that each covered grant is used to sup-
20 plement and support, in a consistent and coordinated
21 manner, the applicable State homeland security plan or
22 plans.

23 “(e) APPLICATION FOR GRANT.—

24 “(1) IN GENERAL.—Except as otherwise pro-
25 vided in this subsection, any State, region, directly

1 eligible tribe, or operator of an airport, port, or simi-
2 lar facility may apply for a covered grant by submit-
3 ting to the Secretary an application at such time, in
4 such manner, and containing such information as is
5 required under this subsection, or as the Secretary
6 may reasonably require.

7 “(2) DEADLINES FOR APPLICATIONS AND
8 AWARDS.—All applications for covered grants shall
9 be submitted at such time as the Secretary may rea-
10 sonably require for the fiscal year for which they are
11 submitted. The Secretary shall award covered grants
12 pursuant to all approved applications for such fiscal
13 year as soon as practicable, but not later than
14 March 1 of such year.

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

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

22 “(A) the purpose for which the applicant
23 seeks covered grant funds and the reasons why
24 the applicant needs the covered grant to meet
25 the essential capabilities for terrorism prepared-

1 ness within the State, region, or directly eligible
2 tribe or at the airport, port, or similar facility
3 to which the application pertains;

4 “(B) a description of how, by reference to
5 the applicable State homeland security plan or
6 plans under subsection (c), the allocation of
7 grant funding proposed in the application, in-
8 cluding, where applicable, the amount not
9 passed through under section 2006(g)(1), would
10 assist in fulfilling the essential capabilities spec-
11 ified in such plan or plans;

12 “(C) a statement of whether a mutual aid
13 agreement applies to the use of all or any por-
14 tion of the covered grant funds;

15 “(D) if the applicant is a State, a descrip-
16 tion of how the State plans to allocate the cov-
17 ered grant funds to regions, local governments,
18 and Indian tribes;

19 “(E) if the applicant is a region—

20 “(i) a precise geographical description
21 of the region and a specification of all par-
22 ticipating and nonparticipating local gov-
23 ernments within the geographical area
24 comprising that region;

1 “(ii) a specification of what govern-
 2 mental entity within the region will admin-
 3 ister the expenditure of funds under the
 4 covered grant;

5 “(iii) a designation of a specific indi-
 6 vidual to serve as regional liaison; and

7 “(iv) a description of how the govern-
 8 mental entity administering the expendi-
 9 ture of funds under the covered grant
 10 plans to allocate the covered grant funds to
 11 States, local governments, and Indian
 12 tribes;

13 “(F) a capital budget showing how the ap-
 14 plicant intends to allocate and expend the cov-
 15 ered grant funds; and

16 “(G) if the applicant is a directly eligible
 17 tribe, a designation of a specific individual to
 18 serve as the tribal liaison.

19 “(5) REGIONAL APPLICATIONS.—

20 “(A) RELATIONSHIP TO STATE APPLICA-
 21 TIONS.—A regional application—

22 “(i) shall be coordinated with an ap-
 23 plication submitted by the State or States
 24 of which such region is a part;

1 “(ii) shall supplement and avoid dupli-
2 cation with such State application; and

3 “(iii) shall address the unique regional
4 aspects of such region’s terrorism pre-
5 paredness needs beyond those provided for
6 in the application of such State or States.

7 “(B) STATE REVIEW AND SUBMISSION.—

8 To ensure the consistency required under sub-
9 section (d) and the coordination required under
10 subparagraph (A) of this paragraph, an appli-
11 cant that is a region shall submit its application
12 to each State of which any part is included in
13 the region for review and concurrence before
14 the submission of such application to the Sec-
15 retary. The regional application shall be trans-
16 mitted to the Secretary through each such
17 State within 30 days after receipt of the appli-
18 cation by that State, unless the Governor of
19 such a State notifies the Secretary, in writing,
20 that such regional application is inconsistent
21 with the State’s homeland security plan and
22 provides an explanation of the reasons therefor.

23 “(C) DISTRIBUTION OF REGIONAL
24 AWARDS.—If the Secretary approves a regional
25 application, then the Secretary shall distribute

1 a regional award to the State or States submit-
2 ting the applicable regional application under
3 subparagraph (B), and each such State shall,
4 not later than the end of the 45-day period be-
5 ginning on the date after receiving a regional
6 award, pass through to the region all covered
7 grant funds or resources purchased with such
8 funds, except those funds necessary for the
9 State to carry out its responsibilities with re-
10 spect to such regional application: *Provided*
11 That, in no such case shall the State or States
12 pass through to the region less than 80 percent
13 of the regional award.

14 “(D) CERTIFICATIONS REGARDING DIS-
15 TRIBUTION OF GRANT FUNDS TO REGIONS.—
16 Any State that receives a regional award under
17 subparagraph (C) shall certify to the Secretary,
18 by not later than 30 days after the expiration
19 of the period described in subparagraph (C)
20 with respect to the grant, that the State has
21 made available to the region the required funds
22 and resources in accordance with subparagraph
23 (C).

24 “(E) DIRECT PAYMENTS TO REGIONS.—If
25 any State fails to pass through a regional

1 award to a region as required by subparagraph
2 (C) within 45 days after receiving such award
3 and does not request or receive an extension of
4 such period under section 2006(h)(2), the re-
5 gion may petition the Secretary to receive di-
6 rectly the portion of the regional award that is
7 required to be passed through to such region
8 under subparagraph (C).

9 “(F) REGIONAL LIAISONS.—A regional li-
10 aision designated under paragraph (4)(E)(iii)
11 shall—

12 “(i) coordinate with Federal, State,
13 local, regional, and private officials within
14 the region concerning terrorism prepared-
15 ness;

16 “(ii) develop a process for receiving
17 input from Federal, State, local, regional,
18 and private sector officials within the re-
19 gion to assist in the development of the re-
20 gional application and to improve the re-
21 gion’s access to covered grants; and

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

1 “(6) TRIBAL APPLICATIONS.—

2 “(A) SUBMISSION TO THE STATE OR
3 STATES.—To ensure the consistency required
4 under subsection (d), an applicant that is a di-
5 rectly eligible tribe shall submit its application
6 to each State within the boundaries of which
7 any part of such tribe is located for direct sub-
8 mission to the Department along with the appli-
9 cation of such State or States.

10 “(B) OPPORTUNITY FOR STATE COM-
11 MENT.—Before awarding any covered grant to
12 a directly eligible tribe, the Secretary shall pro-
13 vide an opportunity to each State within the
14 boundaries of which any part of such tribe is lo-
15 cated to comment to the Secretary on the con-
16 sistency of the tribe’s application with the
17 State’s homeland security plan. Any such com-
18 ments shall be submitted to the Secretary con-
19 currently with the submission of the State and
20 tribal applications.

21 “(C) FINAL AUTHORITY.—The Secretary
22 shall have final authority to determine the con-
23 sistency of any application of a directly eligible
24 tribe with the applicable State homeland secu-
25 rity plan or plans, and to approve any applica-

1 tion of such tribe. The Secretary shall notify
2 each State within the boundaries of which any
3 part of such tribe is located of the approval of
4 an application by such tribe.

5 “(D) TRIBAL LIAISON.—A tribal liaison
6 designated under paragraph (4)(G) shall—

7 “(i) coordinate with Federal, State,
8 and private sector officials to assist in the
9 development of the application of such
10 tribe and to improve the tribe’s access to
11 covered grants; and

12 “(ii) administer, in consultation with
13 State, local, regional, and private officials,
14 covered grants awarded to such tribe.

15 “(E) LIMITATION ON THE NUMBER OF DI-
16 RECT GRANTS.—The Secretary may make cov-
17 ered grants directly to not more than 20 di-
18 rectly eligible tribes per fiscal year.

19 “(F) TRIBES NOT RECEIVING DIRECT
20 GRANTS.—An Indian tribe that does not receive
21 a grant directly under this section is eligible to
22 receive funds under a covered grant from the
23 State or States within the boundaries of which
24 any part of such tribe is located, consistent with
25 the homeland security plan of the State as de-

1 scribed in subsection (c). If a State fails to
2 comply with section 2006(g)(1), the tribe may
3 request payment under section 2006(h)(3) in
4 the same manner as a local government.

5 “(7) EQUIPMENT STANDARDS.—If an applicant
6 for a covered grant proposes to upgrade or purchase,
7 with assistance provided under the grant, new equip-
8 ment or systems that do not meet or exceed any ap-
9 plicable national voluntary consensus standards es-
10 tablished by the Secretary under section 2005(a),
11 the applicant shall include in the application an ex-
12 planation of why such equipment or systems will
13 serve the needs of the applicant better than equip-
14 ment or systems that meet or exceed such standards.

15 “(f) HOMELAND SECURITY GRANTS BOARD.—

16 “(1) ESTABLISHMENT OF BOARD.—The Sec-
17 retary shall establish a Homeland Security Grants
18 Board, consisting of—

19 “(A) the Secretary;

20 “(B) the Deputy Secretary of Homeland
21 Security;

22 “(C) the Under Secretary for Emergency
23 Preparedness and Response;

24 “(D) the Under Secretary for Border and
25 Transportation Security;

1 “(E) the Under Secretary for Information
2 Analysis and Infrastructure Protection;

3 “(F) the Under Secretary for Science and
4 Technology; and

5 “(G) the Director of the Office of State
6 and Local Government Coordination.

7 “(2) CHAIRMAN.—

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

10 “(B) EXERCISE OF AUTHORITIES BY DEP-
11 UTY SECRETARY.—The Deputy Secretary of
12 Homeland Security may exercise the authorities
13 of the Chairman, if the Secretary so directs.

14 “(3) RISK-BASED RANKING OF GRANT APPLICA-
15 TIONS.—

16 “(A) PRIORITIZATION OF GRANTS.—The
17 Board—

18 “(i) shall evaluate and annually
19 prioritize all pending applications for cov-
20 ered grants based upon the degree to
21 which they would, by achieving, maintain-
22 ing, or enhancing the essential capabilities
23 of the applicants on a nationwide basis,
24 lessen the threat to, vulnerability of, and

1 consequences for persons and critical infra-
2 structure; and

3 “(ii) in evaluating the threat to per-
4 sons and critical infrastructure for pur-
5 poses of prioritizing covered grants, shall
6 give greater weight to threats of terrorism
7 based on their specificity and credibility,
8 including any pattern of repetition.

9 “(B) MINIMUM AMOUNTS.—

10 “(i) IN GENERAL.—After evaluating
11 and prioritizing grant applications under
12 subparagraph (A), the Board shall ensure
13 that, for each fiscal year, each State that
14 has an approved State homeland security
15 plan receives no less than 0.25 percent of
16 the funds available for the State Homeland
17 Security Grant Program, as described in
18 section 2001(b)(1), for that fiscal year for
19 purposes of implementing its homeland se-
20 curity plan in accordance with the
21 prioritization of additional needs under
22 subsection (c)(1)(C).

23 “(ii) OTHER ENTITIES.—Notwith-
24 standing clause (i), the Board shall ensure
25 that, for each fiscal year, American Samoa,

1 the Commonwealth of the Northern Mar-
 2 iana Islands, Guam, and the Virgin Islands
 3 each receive 0.08 percent of the funds
 4 available for the State Homeland Security
 5 Grant Program, as described in section
 6 2001(b)(1), for that fiscal year for pur-
 7 poses of implementing its homeland secu-
 8 rity plan in accordance with the
 9 prioritization of additional needs under
 10 subsection (c)(1)(C).

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

16 **SEC. 3. ESSENTIAL CAPABILITIES, TASK FORCES, AND**
 17 **STANDARDS.**

18 The Homeland Security Act of 2002 (Public Law
 19 107–296; 6 U.S.C. 361 et seq.), as amended by section
 20 2, is amended by adding at the end the following:

21 **“SEC. 2003. ESSENTIAL CAPABILITIES FOR HOMELAND SE-**
 22 **CURITY.**

23 “(a) ESTABLISHMENT OF ESSENTIAL CAPABILI-
 24 TIES.—

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

5 “(A) the Task Force on Essential Capabili-
6 ties established under section 2004;

7 “(B) the Under Secretaries for Emergency
8 Preparedness and Response, Border and Trans-
9 portation Security, Information Analysis and
10 Infrastructure Protection, and Science and
11 Technology, and the Director of the Office of
12 State and Local Government Coordination;

13 “(C) the Secretary of Health and Human
14 Services;

15 “(D) other appropriate Federal agencies;

16 “(E) State and local first responder agen-
17 cies and officials; and

18 “(F) consensus-based standard making or-
19 ganizations responsible for setting standards
20 relevant to the first responder community.

21 “(2) DEADLINES.—The Secretary shall—

22 “(A) establish essential capabilities under
23 paragraph (1) within 30 days after receipt of
24 the report under section 2004(b); and

1 “(B) regularly update such essential capa-
2 bilities as necessary, but not less than every 3
3 years.

4 “(3) PROVISION OF ESSENTIAL CAPABILI-
5 TIES.—The Secretary shall ensure that a detailed
6 description of the essential capabilities established
7 under paragraph (1) is provided promptly to the
8 States and to Congress. The States shall make the
9 essential capabilities available as necessary and ap-
10 propriate to local governments and operators of air-
11 ports, ports, and other similar facilities within their
12 jurisdictions.

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

16 “(1) SPECIFICITY.—The determination of es-
17 sential capabilities specifically shall describe the
18 training, planning, personnel, and equipment that
19 different types of communities in the Nation should
20 possess, or to which they should have access, in
21 order to meet the Department’s goals for terrorism
22 preparedness based upon—

23 “(A) the most current risk assessment
24 available by the Directorate for Information

1 Analysis and Infrastructure Protection of the
2 threats of terrorism against the United States;

3 “(B) the types of threats, vulnerabilities,
4 geography, size, and other factors that the Sec-
5 retary has determined to be applicable to each
6 different type of community; and

7 “(C) the principles of regional coordination
8 and mutual aid among State and local govern-
9 ments.

10 “(2) FLEXIBILITY.—The establishment of es-
11 sential capabilities shall be sufficiently flexible to
12 allow State and local government officials to set pri-
13 orities based on particular needs, while reaching na-
14 tionally determined terrorism preparedness levels
15 within a specified time period.

16 “(3) MEASURABILITY.—The establishment of
17 essential capabilities shall be designed to enable
18 measurement of progress toward specific terrorism
19 preparedness goals.

20 “(4) COMPREHENSIVENESS.—The determina-
21 tion of essential capabilities for terrorism prepared-
22 ness shall be made within the context of a com-
23 prehensive State emergency management system.

24 “(c) FACTORS TO BE CONSIDERED.—

1 “(1) IN GENERAL.—In establishing essential ca-
2 pabilities under subsection (a)(1), the Secretary spe-
3 cifically shall consider the variables of threat, vulner-
4 ability, and consequences with respect to the Na-
5 tion’s population (including transient commuting
6 and tourist populations) and critical infrastructure.
7 Such consideration shall be based upon the most
8 current risk assessment available by the Directorate
9 for Information Analysis and Infrastructure Protec-
10 tion of the threats of terrorism against the United
11 States.

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

16 “(A) Agriculture.

17 “(B) Banking and finance.

18 “(C) Chemical industries.

19 “(D) The defense industrial base.

20 “(E) Emergency services.

21 “(F) Energy.

22 “(G) Food.

23 “(H) Government.

24 “(I) Postal and shipping.

25 “(J) Public health.

1 “(K) Information and telecommunications
2 networks.

3 “(L) Transportation.

4 “(M) Water.

5 The order in which the critical infrastructure sectors
6 are listed in this paragraph shall not be construed
7 as an order of priority for consideration of the im-
8 portance of such sectors.

9 “(3) TYPES OF THREAT.—The Secretary spe-
10 cifically shall consider the following types of threat
11 to the critical infrastructure sectors described in
12 paragraph (2), and to populations in all areas of the
13 Nation, urban and rural:

14 “(A) Biological threats.

15 “(B) Nuclear threats.

16 “(C) Radiological threats.

17 “(D) Incendiary threats.

18 “(E) Chemical threats.

19 “(F) Explosives.

20 “(G) Suicide bombers.

21 “(H) Cyber threats.

22 “(I) Any other threats based on proximity
23 to specific past acts of terrorism or the known
24 activity of any terrorist group.

1 The order in which the types of threat are listed in
2 this paragraph shall not be construed as an order of
3 priority for consideration of the importance of such
4 threats.

5 “(4) CONSIDERATION OF ADDITIONAL FAC-
6 TORS.—In establishing essential capabilities under
7 subsection (a)(1), the Secretary shall take into ac-
8 count any other specific threat to a population (in-
9 cluding a transient commuting or tourist population)
10 or critical infrastructure sector that the Secretary
11 has determined to exist.

12 **“SEC. 2004. TASK FORCE ON ESSENTIAL CAPABILITIES.**

13 “(a) ESTABLISHMENT.—To assist the Secretary in
14 establishing essential capabilities under section
15 2003(a)(1), the Secretary shall establish an advisory body
16 pursuant to section 871(a) not later than 60 days after
17 the date of the enactment of this section, which shall be
18 known as the Task Force on Essential Capabilities.

19 “(b) REPORT.—

20 “(1) IN GENERAL.—The Task Force shall sub-
21 mit to the Secretary, not later than 9 months after
22 its establishment by the Secretary under subsection
23 (a) and every 3 years thereafter, a report on its rec-
24 ommendations for essential capabilities for prepared-
25 ness for terrorism.

1 “(2) CONTENTS.—The report shall—

2 “(A) include a priority ranking of essential
3 capabilities in order to provide guidance to the
4 Secretary and to Congress on determining the
5 appropriate allocation of, and funding levels for,
6 first responder needs;

7 “(B) set forth a methodology by which any
8 State or local government will be able to deter-
9 mine the extent to which it possesses or has ac-
10 cess to the essential capabilities that States and
11 local governments having similar risks should
12 obtain;

13 “(C) describe the availability of national
14 voluntary consensus standards, and whether
15 there is a need for new national voluntary con-
16 sensus standards, with respect to first re-
17 sponder training and equipment;

18 “(D) include such additional matters as
19 the Secretary may specify in order to further
20 the terrorism preparedness capabilities of first
21 responders; and

22 “(E) include such revisions to the contents
23 of past reports as are necessary to take into ac-
24 count changes in the most current risk assess-
25 ment available by the Directorate for Informa-

1 tion Analysis and Infrastructure Protection or
2 other relevant information as determined by the
3 Secretary.

4 “(3) CONSISTENCY WITH FEDERAL WORKING
5 GROUP.—The Task Force shall ensure that its rec-
6 ommendations for essential capabilities are, to the
7 extent feasible, consistent with any preparedness
8 goals or recommendations of the Federal working
9 group established under section 319F(a) of the Pub-
10 lic Health Service Act (42 U.S.C. 247d–6(a)).

11 “(4) COMPREHENSIVENESS.—The Task Force
12 shall ensure that its recommendations regarding es-
13 sential capabilities for terrorism preparedness are
14 made within the context of a comprehensive State
15 emergency management system.

16 “(5) PRIOR MEASURES.—The Task Force shall
17 ensure that its recommendations regarding essential
18 capabilities for terrorism preparedness take into ac-
19 count any capabilities that State or local officials
20 have determined to be essential and have undertaken
21 since September 11, 2001, to prevent or prepare for
22 terrorist attacks.

23 “(c) MEMBERSHIP.—

24 “(1) IN GENERAL.—The Task Force shall con-
25 sist of 35 members appointed by the Secretary, and

1 shall, to the extent practicable, represent a geo-
2 graphic and substantive cross section of govern-
3 mental and nongovernmental first responder dis-
4 ciplines from the State and local levels, including as
5 appropriate—

6 “(A) members selected from the emergency
7 response field, including fire service and law en-
8 forcement, hazardous materials response, emer-
9 gency medical services, and emergency manage-
10 ment personnel (including public works per-
11 sonnel routinely engaged in emergency re-
12 sponse);

13 “(B) health scientists, emergency and in-
14 patient medical providers, and public health
15 professionals, including experts in emergency
16 health care response to chemical, biological, ra-
17 diological, and nuclear terrorism, and experts in
18 providing mental health care during emergency
19 response operations;

20 “(C) experts from Federal, State, and local
21 governments, and the private sector, rep-
22 resenting standards-setting organizations, in-
23 cluding representation from the voluntary con-
24 sensus codes and standards development com-

1 munity, particularly those with expertise in first
2 responder disciplines; and

3 “(D) State and local officials with exper-
4 tise in terrorism preparedness, subject to the
5 condition that if any such official is an elected
6 official representing 1 of the 2 major political
7 parties, an equal number of elected officials
8 shall be selected from each such party.

9 “(2) COORDINATION WITH THE DEPARTMENT
10 OF HEALTH AND HUMAN SERVICES.—In the selec-
11 tion of members of the Task Force who are health
12 professionals, including emergency medical profes-
13 sionals, the Secretary shall coordinate the selection
14 with the Secretary of Health and Human Services.

15 “(3) EX OFFICIO MEMBERS.—The Secretary
16 and the Secretary of Health and Human Services
17 shall each designate 1 or more officers of their re-
18 spective Departments to serve as ex officio members
19 of the Task Force. One of the ex officio members
20 from the Department of Homeland Security shall be
21 the designated officer of the Federal Government for
22 purposes of subsection (e) of section 10 of the Fed-
23 eral Advisory Committee Act (5 App. U.S.C.).

24 “(d) APPLICABILITY OF FEDERAL ADVISORY COM-
25 MITTEE ACT.—Notwithstanding section 871(a), the Fed-

1 eral Advisory Committee Act (5 U.S.C. App.), including
2 subsections (a), (b), and (d) of section 10 of such Act,
3 and section 552b(e) of title 5, United States Code, shall
4 apply to the Task Force.

5 **“SEC. 2005. NATIONAL STANDARDS FOR FIRST RESPONDER**
6 **EQUIPMENT AND TRAINING.**

7 “(a) EQUIPMENT STANDARDS.—

8 “(1) IN GENERAL.—The Secretary, in consulta-
9 tion with the Under Secretaries for Emergency Pre-
10 paredness and Response and Science and Tech-
11 nology and the Director of the Office of State and
12 Local Government Coordination, shall, not later
13 than 6 months after the date of enactment of this
14 section, support the development of, promulgate, and
15 update as necessary national voluntary consensus
16 standards for the performance, use, and validation
17 of first responder equipment for purposes of section
18 2002(e)(7). Such standards—

19 “(A) shall be, to the maximum extent prac-
20 ticable, consistent with any existing voluntary
21 consensus standards;

22 “(B) shall take into account, as appro-
23 priate, new types of terrorism threats that may
24 not have been contemplated when such existing
25 standards were developed;

1 “(C) shall be focused on maximizing inter-
2 operability, interchangeability, durability, flexi-
3 bility, efficiency, efficacy, portability, sustain-
4 ability, and safety; and

5 “(D) shall cover all appropriate uses of the
6 equipment.

7 “(2) REQUIRED CATEGORIES.—In carrying out
8 paragraph (1), the Secretary shall specifically con-
9 sider the following categories of first responder
10 equipment:

11 “(A) Thermal imaging equipment.

12 “(B) Radiation detection and analysis
13 equipment.

14 “(C) Biological detection and analysis
15 equipment.

16 “(D) Chemical detection and analysis
17 equipment.

18 “(E) Decontamination and sterilization
19 equipment.

20 “(F) Personal protective equipment, in-
21 cluding garments, boots, gloves, and hoods, and
22 other protective clothing.

23 “(G) Respiratory protection equipment.

1 “(H) Interoperable communications, in-
2 cluding wireless and wireline voice, video, and
3 data networks.

4 “(I) Explosive mitigation devices and ex-
5 plosive detection and analysis equipment.

6 “(J) Containment vessels.

7 “(K) Contaminant-resistant vehicles.

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

11 “(b) TRAINING STANDARDS.—

12 “(1) IN GENERAL.—The Secretary, in consulta-
13 tion with the Under Secretaries for Emergency Pre-
14 paredness and Response and Science and Tech-
15 nology and the Director of the Office of State and
16 Local Government Coordination, shall support the
17 development of, promulgate, and regularly update as
18 necessary national voluntary consensus standards for
19 first responder training carried out with amounts
20 provided under covered grant programs, that will en-
21 able State and local government first responders to
22 achieve optimal levels of terrorism preparedness as
23 quickly as practicable. Such standards shall give pri-
24 ority to providing training to—

1 “(A) enable first responders to prevent,
2 prepare for, respond to, and mitigate terrorist
3 threats, including threats from chemical, bio-
4 logical, nuclear, and radiological weapons and
5 explosive devices capable of inflicting significant
6 human casualties; and

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

11 “(2) REQUIRED CATEGORIES.—In carrying out
12 paragraph (1), the Secretary specifically shall in-
13 clude the following categories of first responder ac-
14 tivities:

15 “(A) Regional planning.

16 “(B) Joint exercises.

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

19 “(D) Emergency notification of affected
20 populations.

21 “(E) Detection of biological, nuclear, radi-
22 ological, and chemical weapons of mass destruc-
23 tion.

24 “(F) Such other activities for which the
25 Secretary determines that national voluntary

1 consensus training standards would be appro-
2 priate.

3 “(3) CONSISTENCY.—In carrying out this sub-
4 section, the Secretary shall ensure that such training
5 standards are consistent with the principles of emer-
6 gency preparedness for all hazards.

7 “(c) CONSULTATION WITH STANDARDS ORGANIZA-
8 TIONS.—In establishing national voluntary consensus
9 standards for first responder equipment and training
10 under this section, the Secretary shall consult with rel-
11 evant public and private sector groups, including—

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

14 “(2) the National Fire Protection Association;

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

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

19 “(5) the American National Standards Insti-
20 tute;

21 “(6) the National Institute of Justice;

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

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

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

3 “(10) ASTM International;

4 “(11) the International Safety Equipment Asso-
5 ciation;

6 “(12) the Emergency Management Accredita-
7 tion Program;

8 “(13) the National Domestic Preparedness Con-
9 sortium; and

10 “(14) to the extent the Secretary considers ap-
11 propriate, other national voluntary consensus stand-
12 ards development organizations, other interested
13 Federal, State, and local agencies, and other inter-
14 ested persons.

15 “(d) COORDINATION WITH SECRETARY OF HHS.—
16 In establishing any national voluntary consensus stand-
17 ards under this section for first responder equipment or
18 training that involve or relate to health professionals, in-
19 cluding emergency medical professionals, the Secretary
20 shall coordinate activities under this section with the Sec-
21 retary of Health and Human Services.”.

22 **SEC. 4. EFFECTIVE ADMINISTRATION OF HOMELAND SECU-**
23 **RITY GRANTS.**

24 (a) USE OF GRANT FUNDS AND ACCOUNTABILITY.—
25 The Homeland Security Act of 2002 (Public Law 107–

1 296; 6 U.S.C. 361 et seq.), as amended by sections 2 and
2 3, is amended by adding at the end the following:

3 **“SEC. 2006. USE OF FUNDS AND ACCOUNTABILITY RE-**
4 **QUIREMENTS.**

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

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

10 “(2) exercises to strengthen terrorism prepared-
11 ness and response;

12 “(3) training for prevention (including detec-
13 tion) of, preparedness for, or response to attacks in-
14 volving weapons of mass destruction, including train-
15 ing in the use of equipment and computer software;

16 “(4) developing or updating response plans;

17 “(5) establishing or enhancing mechanisms for
18 sharing terrorism threat information;

19 “(6) systems architecture and engineering, pro-
20 gram planning and management, strategy formula-
21 tion and strategic planning, life-cycle systems de-
22 sign, product and technology evaluation, and proto-
23 type development for terrorism preparedness and re-
24 sponse purposes;

25 “(7) additional personnel costs resulting from—

1 “(A) elevations in the threat alert level of
2 the Homeland Security Advisory System by the
3 Secretary, or a similar elevation in threat alert
4 level issued by a State, region, or local govern-
5 ment with the approval of the Secretary;

6 “(B) travel to and participation in exer-
7 cises and training in the use of equipment and
8 on prevention activities;

9 “(C) the temporary replacement of per-
10 sonnel during any period of travel to and par-
11 ticipation in exercises and training in the use of
12 equipment and on prevention activities; and

13 “(D) participation in information, inves-
14 tigative, and intelligence-sharing activities spe-
15 cifically related to terrorism prevention;

16 “(8) the costs of equipment (including software)
17 required to receive, transmit, handle, and store clas-
18 sified information;

19 “(9) target hardening to reduce the vulner-
20 ability of high-value targets, as determined by the
21 Secretary;

22 “(10) protecting critical infrastructure against
23 potential attack by the addition of barriers, fences,
24 gates, and other such devices, except that the cost
25 of such measures may not exceed the greater of—

1 “(A) \$1,000,000 per project; or

2 “(B) such greater amount as may be ap-
3 proved by the Secretary, which may not exceed
4 10 percent of the total amount of the covered
5 grant;

6 “(11) the costs of commercially available inter-
7 operable communications equipment (which, where
8 applicable, is based on national, voluntary consensus
9 standards) that the Secretary, in consultation with
10 the Chairman of the Federal Communications Com-
11 mission, deems best suited to facilitate interoper-
12 ability, coordination, and integration between and
13 among emergency communications systems, and that
14 complies with prevailing grant guidance of the De-
15 partment for interoperable communications;

16 “(12) educational curricula development for
17 first responders to ensure that they are prepared for
18 terrorist attacks;

19 “(13) training and exercises to assist public ele-
20 mentary and secondary schools in developing and
21 implementing programs to instruct students regard-
22 ing age-appropriate skills to prepare for and respond
23 to an act of terrorism;

24 “(14) paying of administrative expenses directly
25 related to administration of the grant, except that

1 such expenses may not exceed 3 percent of the
2 amount of the grant; and

3 “(15) other appropriate activities as determined
4 by the Secretary.

5 “(b) PROHIBITED USES.—Funds provided as a cov-
6 ered grant may not be used—

7 “(1) to supplant State or local funds that have
8 been obligated for a homeland security or other first
9 responder-related project;

10 “(2) to construct buildings or other physical fa-
11 cilities, except for—

12 “(A) activities under section 611 of the
13 Robert T. Stafford Disaster Relief and Emer-
14 gency Assistance Act (42 U.S.C. 5196); and

15 “(B) upgrading facilities to protect
16 against, test for, and treat the effects of biologi-
17 cal agents, which shall be included in the home-
18 land security plan approved by the Secretary
19 under section 2002(c);

20 “(3) to acquire land; or

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

23 “(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this
24 section shall be construed to preclude State and local gov-
25 ernments from using covered grant funds in a manner

1 that also enhances first responder preparedness for emer-
2 gencies and disasters unrelated to acts of terrorism, if
3 such use assists such governments in achieving essential
4 capabilities for terrorism preparedness established by the
5 Secretary under section 2003.

6 “(d) REIMBURSEMENT OF COSTS.—In addition to
7 the activities described in subsection (a), a covered grant
8 may be used to provide a reasonable stipend to paid-on-
9 call or volunteer first responders who are not otherwise
10 compensated for travel to or participation in training cov-
11 ered by this section. Any such reimbursement shall not
12 be considered compensation for purposes of rendering
13 such a first responder an employee under the Fair Labor
14 Standards Act of 1938 (29 U.S.C. 201 et seq.).

15 “(e) ASSISTANCE REQUIREMENT.—The Secretary
16 may not request that equipment paid for, wholly or in
17 part, with funds provided as a covered grant be made
18 available for responding to emergencies in surrounding
19 States, regions, and localities, unless the Secretary under-
20 takes to pay the costs directly attributable to transporting
21 and operating such equipment during such response.

22 “(f) FLEXIBILITY IN UNSPENT HOMELAND SECUR-
23 ITY GRANT FUNDS.—Upon request by the recipient of
24 a covered grant, the Secretary may authorize the grantee
25 to transfer all or part of funds provided as the covered

1 grant from uses specified in the grant agreement to other
2 uses authorized under this section, if the Secretary deter-
3 mines that such transfer is in the interests of homeland
4 security.

5 “(g) STATE, REGIONAL, AND TRIBAL RESPONSIBIL-
6 ITIES.—

7 “(1) PASS-THROUGH.—The Secretary shall re-
8 quire a recipient of a covered grant that is a State
9 to obligate or otherwise make available to local gov-
10 ernments, first responders, and other local groups,
11 to the extent required under the State homeland se-
12 curity plan or plans specified in the application for
13 the grant, not less than 80 percent of the grant
14 funds, resources purchased with the grant funds
15 having a value equal to at least 80 percent of the
16 amount of the grant, or a combination thereof, by
17 not later than the end of the 45-day period begin-
18 ning on the date the grant recipient receives the
19 grant funds.

20 “(2) CERTIFICATIONS REGARDING DISTRIBU-
21 TION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—

22 Any State that receives a covered grant shall certify
23 to the Secretary, by not later than 30 days after the
24 expiration of the period described in paragraph (1)
25 with respect to the grant, that the State has made

1 available for expenditure by local governments, first
2 responders, and other local groups the required
3 amount of grant funds pursuant to paragraph (1).

4 “(3) QUARTERLY REPORT ON HOMELAND SECUR-
5 RITY SPENDING.—Each recipient of a covered grant
6 shall submit a quarterly report to the Secretary not
7 later than 30 days after the end of each fiscal quar-
8 ter. Each such report shall include, for each recipi-
9 ent of a covered grant or a pass-through under para-
10 graph (1)—

11 “(A) the amount obligated to that recipient
12 in that quarter;

13 “(B) the amount expended by that recipi-
14 ent in that quarter; and

15 “(C) a summary description of the items
16 purchased by such recipient with such amount.

17 “(4) ANNUAL REPORT ON HOMELAND SECUR-
18 RITY SPENDING.—Each recipient of a covered grant
19 shall submit an annual report to the Secretary not
20 later than 60 days after the end of each fiscal year.
21 Each recipient of a covered grant that is a region
22 shall simultaneously submit its report to each State
23 of which any part is included in the region. Each re-
24 cipient of a covered grant that is a directly eligible
25 tribe shall simultaneously submit its report to each

1 State within the boundaries of which any part of
2 such tribe is located. Each report shall include the
3 following:

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

7 “(B) The amount and the dates of dis-
8 bursements of all such funds expended in com-
9 pliance with paragraph (1) or pursuant to mu-
10 tual aid agreements or other sharing arrange-
11 ments that apply within the State, region, or di-
12 rectly eligible tribe, as applicable, during the
13 previous fiscal year.

14 “(C) How the funds were utilized by each
15 ultimate recipient or beneficiary during the pre-
16 ceding fiscal year.

17 “(D) The extent to which essential capa-
18 bilities identified in the applicable State home-
19 land security plan or plans were achieved, main-
20 tained, or enhanced as the result of the expend-
21 iture of grant funds during the preceding fiscal
22 year.

23 “(E) The extent to which essential capa-
24 bilities identified in the applicable State home-
25 land security plan or plans remain unmet.

1 “(5) INCLUSION OF RESTRICTED ANNEXES.—A
2 recipient of a covered grant may submit to the Sec-
3 retary an annex to the annual report under para-
4 graph (4) that is subject to appropriate handling re-
5 strictions, if the recipient believes that discussion in
6 the report of unmet needs would reveal sensitive but
7 unclassified information.

8 “(6) PROVISION OF REPORTS.—The Secretary
9 shall ensure that each annual report under para-
10 graph (4) is provided to the Under Secretary for
11 Emergency Preparedness and Response and the Di-
12 rector of the Office of State and Local Government
13 Coordination.

14 “(h) INCENTIVES TO EFFICIENT ADMINISTRATION
15 OF HOMELAND SECURITY GRANTS.—

16 “(1) PENALTIES FOR DELAY IN PASSING
17 THROUGH LOCAL SHARE.—If a recipient of a cov-
18 ered grant that is a State fails to pass through to
19 local governments, first responders, and other local
20 groups funds or resources required by subsection
21 (g)(1) within 45 days after receiving funds under
22 the grant, the Secretary may—

23 “(A) reduce grant payments to the grant
24 recipient from the portion of grant funds that

1 is not required to be passed through under sub-
2 section (g)(1);

3 “(B) terminate payment of funds under
4 the grant to the recipient, and transfer the ap-
5 propriate portion of those funds directly to local
6 first responders that were intended to receive
7 funding under that grant; or

8 “(C) impose additional restrictions or bur-
9 dens on the recipient’s use of funds under the
10 grant, which may include—

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

14 “(ii) requiring the grant recipient to
15 distribute to local government beneficiaries
16 all or a portion of grant funds that are not
17 required to be passed through under sub-
18 section (g)(1); or

19 “(iii) for each day that the grant re-
20 cipient fails to pass through funds or re-
21 sources in accordance with subsection
22 (g)(1), reducing grant payments to the
23 grant recipient from the portion of grant
24 funds that is not required to be passed
25 through under subsection (g)(1), except

1 that the total amount of such reduction
2 may not exceed 20 percent of the total
3 amount of the grant.

4 “(2) EXTENSION OF PERIOD.—The Governor of
5 a State may request in writing that the Secretary
6 extend the 45-day period under section
7 2002(e)(5)(E) or paragraph (1) for an additional
8 15-day period. The Secretary may approve such a
9 request, and may extend such period for additional
10 15-day periods, if the Secretary determines that the
11 resulting delay in providing grant funding to the
12 local government entities that will receive funding
13 under the grant will not have a significant detri-
14 mental impact on such entities’ terrorism prepared-
15 ness efforts.

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

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

23 “(i) the local government will use the
24 amount paid to expedite planned enhance-
25 ments to its terrorism preparedness as de-

1 scribed in any applicable State homeland
2 security plan or plans;

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

6 “(iii) the local government complies
7 with subparagraph (B).

8 “(B) SHOWING REQUIRED.—To receive a
9 payment under this paragraph, a local govern-
10 ment must demonstrate that—

11 “(i) it is identified explicitly as an ul-
12 timate recipient or intended beneficiary in
13 the approved grant application;

14 “(ii) it was intended by the grantee to
15 receive a severable portion of the overall
16 grant for a specific purpose that is identi-
17 fied in the grant application;

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

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

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

4 “(i) shall not affect any payment to
5 another local government under this para-
6 graph; and

7 “(ii) shall not prejudice consideration
8 of a request for payment under this para-
9 graph that is submitted by another local
10 government.

11 “(D) DEADLINE FOR ACTION BY SEC-
12 RETARY.—The Secretary shall approve or dis-
13 approve each request for payment under this
14 paragraph by not later than 15 days after the
15 date the request is received by the Department.

16 “(i) REPORTS TO CONGRESS.—The Secretary shall
17 submit an annual report to Congress by December 31 of
18 each year—

19 “(1) describing in detail the amount of Federal
20 funds provided as covered grants that were directed
21 to each State, region, and directly eligible tribe in
22 the preceding fiscal year;

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

25 “(3) describing—

1 “(A) the Nation’s progress in achieving,
2 maintaining, and enhancing the essential capa-
3 bilities established under section 2003(a) as a
4 result of the expenditure of covered grant funds
5 during the preceding fiscal year; and

6 “(B) an estimate of the amount of expend-
7 itures required to attain across the United
8 States the essential capabilities established
9 under section 2003(a).”.

10 (b) SENSE OF CONGRESS REGARDING INTEROPER-
11 ABLE COMMUNICATIONS.—

12 (1) FINDING.—Congress finds that—

13 (A) many emergency response providers
14 (as defined under section 2 of the Homeland
15 Security Act of 2002 (6 U.S.C. 101), as amend-
16 ed by this Act) working in the same jurisdiction
17 or in different jurisdictions cannot effectively
18 and efficiently communicate with one another;
19 and

20 (B) their inability to do so threatens the
21 public’s safety and may result in unnecessary
22 loss of lives and property.

23 (2) SENSE OF CONGRESS.—It is the sense of
24 Congress that interoperable emergency communica-
25 tions systems and radios should continue to be de-

1 ployed as soon as practicable for use by the emer-
2 gency response provider community, and that up-
3 graded and new digital communications systems and
4 new digital radios should meet prevailing national
5 voluntary consensus standards for interoperability.

6 (c) SENSE OF CONGRESS REGARDING CITIZEN
7 CORPS COUNCILS.—

8 (1) FINDING.—Congress finds that Citizen
9 Corps councils help to enhance local citizen partici-
10 pation in terrorism preparedness by coordinating
11 multiple Citizen Corps programs, developing commu-
12 nity action plans, assessing possible threats, and
13 identifying local resources.

14 (2) SENSE OF CONGRESS.—It is the sense of
15 Congress that individual Citizen Corps councils
16 should seek to enhance the preparedness and re-
17 sponse capabilities of all organizations participating
18 in the councils, including by providing funding to as
19 many of their participating organizations as prac-
20 ticable to promote local terrorism preparedness pro-
21 grams.

22 (d) REQUIRED COORDINATION.—The Secretary of
23 Homeland Security shall ensure that there is effective and
24 ongoing coordination of Federal efforts to prevent, prepare
25 for, and respond to acts of terrorism and other major dis-

1 asters and emergencies among the divisions of the Depart-
2 ment of Homeland Security, including the Directorate of
3 Emergency Preparedness and Response and the Office for
4 State and Local Government Coordination and Prepared-
5 ness.

6 (e) COORDINATION OF INDUSTRY EFFORTS.—Sec-
7 tion 102(f) of the Homeland Security Act of 2002 (6
8 U.S.C. 112(f)) is amended—

9 (1) in paragraph (9), by striking “and” after
10 the semicolon;

11 (2) in paragraph (10), by striking the period
12 and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(11) coordinating industry efforts, with re-
15 spect to functions of the Department of Homeland
16 Security, to identify private sector resources and ca-
17 pabilities that could be effective in supplementing
18 Federal, State, and local government agency efforts
19 to prevent or respond to a terrorist attack.”.

20 (f) STUDY REGARDING NATIONWIDE EMERGENCY
21 NOTIFICATION SYSTEM.—

22 (1) STUDY.—The Secretary of Homeland Secu-
23 rity, in consultation with the heads of other appro-
24 priate Federal agencies and representatives of pro-
25 viders and participants in the telecommunications

1 industry, shall conduct a study to determine whether
2 it is cost effective, efficient, and feasible to establish
3 and implement an emergency telephonic alert notifi-
4 cation system that will—

5 (A) alert persons in the United States of
6 imminent or current hazardous events caused
7 by acts of terrorism; and

8 (B) provide information to individuals re-
9 garding appropriate measures that may be un-
10 dertaken to alleviate or minimize threats to
11 their safety and welfare posed by such events.

12 (2) TECHNOLOGIES TO CONSIDER.—In con-
13 ducting the study under paragraph (1), the Sec-
14 retary shall consider the use of the telephone, wire-
15 less communications, and other existing communica-
16 tions networks to provide such notification.

17 (3) REPORT.—Not later than 9 months after
18 the date of enactment of this Act, the Secretary
19 shall submit to Congress a report regarding the con-
20 clusions of the study conducted under paragraph
21 (1).

22 (g) STUDY OF EXPANSION OF AREA OF JURISDIC-
23 TION OF OFFICE OF NATIONAL CAPITAL REGION COORDI-
24 NATION.—

1 (1) STUDY.—The Secretary of Homeland Secu-
2 rity, acting through the Director of the Office of Na-
3 tional Capital Region Coordination, shall conduct a
4 study of the feasibility and desirability of modifying
5 the definition of “National Capital Region” applica-
6 ble under section 882 of the Homeland Security Act
7 of 2002 (6 U.S.C. 462) to expand the geographic
8 area under the jurisdiction of the Office of National
9 Capital Region Coordination.

10 (2) FACTORS.—In conducting the study under
11 paragraph (1), the Secretary shall analyze whether
12 expanding the geographic area under the jurisdiction
13 of the Office of National Region Coordination will—

14 (A) promote coordination among State and
15 local governments within the Region, including
16 regional governing bodies, and coordination of
17 the efforts of first responders; and

18 (B) enhance the ability of such State and
19 local governments and the Federal Government
20 to prevent and respond to a terrorist attack
21 within the Region.

22 (3) REPORT.—Not later than 6 months after
23 the date of the enactment of this Act, the Secretary
24 shall submit a report to Congress on the study con-
25 ducted under paragraph (1), and shall include in the

1 report such recommendations (including rec-
2 ommendations for legislation to amend section 882
3 of the Homeland Security Act of 2002 (6 U.S.C.
4 462)) as the Secretary considers appropriate.

5 (h) STUDY OF RISK ALLOCATION FOR PORT SECUR-
6 RITY GRANTS.—

7 (1) STUDY.—The Secretary of Homeland Secu-
8 rity shall conduct a study of the factors to be used
9 for the allocation of funds based on risk for port se-
10 curity grants made under section 70107 of title 46,
11 United States Code.

12 (2) FACTORS.—In conducting the study, the
13 Secretary shall analyze the volume of international
14 trade and economic significance of each port.

15 (3) REPORT.—Not later than 90 days after the
16 enactment of the Act, the Secretary shall submit a
17 report to Congress on the study and shall include
18 recommendations for using such factors in allocating
19 grant funds to ports.

20 (i) STUDY OF ALLOCATION OF ASSISTANCE TO FIRE-
21 FIGHTER GRANTS.—

22 (1) STUDY.—The Secretary of Homeland Secu-
23 rity shall conduct a study of the allocation of grant
24 fund awards made under the Assistance to Fire-

1 fighter Grants program and shall analyze the dis-
2 tribution of awards by State.

3 (2) **FACTORS.**—In conducting the study, the
4 Secretary shall analyze the number of awards and
5 the per capita amount of grant funds awarded to
6 each State and the level of unmet firefighting equip-
7 ment needs in each State. The study shall also ana-
8 lyze whether allowing local departments to submit
9 more than 1 annual application and expanding the
10 list of eligible applicants for such grants to include
11 States will enhance the ability of State and local
12 governments to respond to fires.

13 (3) **REPORT.**—Not later than 90 days after the
14 date of enactment of the Act, the Secretary shall
15 submit a report to Congress on the study and shall
16 include recommendations for legislation amending
17 the factors used in allocating grant funds to insure
18 that critical firefighting needs are addressed by the
19 program in all areas of the Nation.

20 **SEC. 5. IMPLEMENTATION; DEFINITIONS; TABLE OF CON-**
21 **TENTS.**

22 (a) **TECHNICAL AND CONFORMING AMENDMENT.**—
23 Section 1014 of the USA PATRIOT ACT (42 U.S.C.
24 3714) is amended—

25 (1) by striking subsection (c)(3);

1 (2) by redesignating subsection (c) as sub-
2 section (d); and

3 (3) by inserting after subsection (b) the fol-
4 lowing:

5 “(c) ADMINISTRATION.—Grants under this section
6 shall be administered in accordance with title XX of the
7 Homeland Security Act of 2002.”.

8 (b) TEMPORARY LIMITATIONS ON APPLICATION.—

9 (1) 1-YEAR DELAY IN APPLICATION.—The fol-
10 lowing provisions of title XX of the Homeland Secu-
11 rity Act of 2002, as added by this Act, shall not
12 apply during the 1-year period beginning on the date
13 of enactment of this Act—

14 (A) Subsections (b), (c), and (e)(4) (A)
15 and (B) of section 2002; and

16 (B) In section 2002(f)(3)(A)(i), the phrase
17 “by achieving, maintaining, or enhancing the
18 essential capabilities of the applicants on a na-
19 tionwide basis,”.

20 (2) 2-YEAR DELAY IN APPLICATION.—The fol-
21 lowing provisions of title XX of the Homeland Secu-
22 rity Act of 2002, as added by this Act, shall not
23 apply during the 2-year period beginning on the date
24 of enactment of this Act—

1 (A) Subparagraphs (D) and (E) of section
2 2006(g)(4); and

3 (B) Section 2006(i)(3).

4 (c) DEFINITIONS.—

5 (1) TITLE XX.—Title XX of the Homeland Se-
6 curity Act of 2002, as amended by sections 2, 3, and
7 4, is amended by adding at the end the following:

8 **“SEC. 2007. DEFINITIONS.**

9 “In this title:

10 “(1) BOARD.—The term ‘Board’ means the
11 Homeland Security Grants Board established under
12 section 2002(f).

13 “(2) CONSEQUENCE.—The term ‘consequence’
14 means the assessment of the effect of a completed
15 attack.

16 “(3) COVERED GRANT.—The term ‘covered
17 grant’ means any grant to which this title applies
18 under section 2001(b).

19 “(4) DIRECTLY ELIGIBLE TRIBE.—The term
20 ‘directly eligible tribe’ means any Indian tribe or
21 consortium of Indian tribes that—

22 “(A) meets the criteria for inclusion in the
23 qualified applicant pool for self-governance that
24 are set forth in section 402(c) of the Indian

1 Self-Determination and Education Assistance
2 Act (25 U.S.C. 458bb(e));

3 “(B) employs at least 10 full-time per-
4 sonnel in a law enforcement or emergency re-
5 sponse agency with the capacity to respond to
6 calls for law enforcement or emergency services;
7 and

8 “(C)(i) is located on, or within 5 miles of,
9 an international border or waterway;

10 “(ii) is located within 5 miles of a facility
11 designated as high-risk critical infrastructure
12 by the Secretary;

13 “(iii) is located within or contiguous to 1
14 of the 50 largest metropolitan statistical areas
15 in the United States; or

16 “(iv) has more than 1,000 square miles of
17 Indian country, as that term is defined in sec-
18 tion 1151 of title 18, United States Code.

19 “(5) ELEVATIONS IN THE THREAT ALERT
20 LEVEL.—The term ‘elevations in the threat alert
21 level’ means any designation (including those that
22 are less than national in scope) that raises the
23 homeland security threat level to either the highest
24 or second-highest threat level under the Homeland

1 Security Advisory System referred to in section
2 201(d)(7).

3 “(6) EMERGENCY PREPAREDNESS.—The term
4 ‘emergency preparedness’ shall have the same mean-
5 ing that term has under section 602 of the Robert
6 T. Stafford Disaster Relief and Emergency Assist-
7 ance Act (42 U.S.C. 5195a).

8 “(7) ESSENTIAL CAPABILITIES.—The term ‘es-
9 sential capabilities’ means the levels, availability,
10 and competence of emergency personnel, planning,
11 training, and equipment across a variety of dis-
12 ciplines needed to effectively and efficiently prevent,
13 prepare for, and respond to acts of terrorism con-
14 sistent with established practices.

15 “(8) FIRST RESPONDER.—The term ‘first re-
16 sponder’ shall have the same meaning as the term
17 ‘emergency response provider’ under section 2.

18 “(9) INDIAN TRIBE.—The term ‘Indian tribe’
19 means any Indian tribe, band, nation, or other orga-
20 nized group or community, including any Alaskan
21 Native village or regional or village corporation as
22 defined in or established pursuant to the Alaskan
23 Native Claims Settlement Act (43 U.S.C. 1601 et
24 seq.), which is recognized as eligible for the special

1 programs and services provided by the United States
2 to Indians because of their status as Indians.

3 “(10) REGION.—The term ‘region’ means any
4 geographic area—

5 “(A) certified by the Secretary under sec-
6 tion 2002(a)(3);

7 “(B) consisting of all or parts of 2 or more
8 counties, municipalities, or other local govern-
9 ments and including a city with a core popu-
10 lation exceeding 500,000 according to the most
11 recent estimate available from the United
12 States Census; and

13 “(C) that, for purposes of an application
14 for a covered grant—

15 “(i) is represented by 1 or more local
16 governments or governmental agencies
17 within such geographic area; and

18 “(ii) is established by law or by agree-
19 ment of 2 or more such local governments
20 or governmental agencies, such as through
21 a mutual aid agreement.

22 “(11) RISK-BASED FUNDING.—The term ‘risk-
23 based funding’ means the allocation of funds based
24 on an assessment of threat, vulnerability, and con-
25 sequence.

1 “(12) TASK FORCE.—The term ‘Task Force’
2 means the Task Force on Essential Capabilities es-
3 tablished under section 2004.

4 “(13) THREAT.—The term ‘threat’ means the
5 assessment of the plans, intentions, and capability of
6 an adversary to implement an identified attack sce-
7 nario.

8 “(14) VULNERABILITY.—The term ‘vulner-
9 ability’ means the degree to which a facility is avail-
10 able or accessible to an attack, including the degree
11 to which the facility is inherently secure or has been
12 hardened against such an attack.”.

13 (2) DEFINITION OF EMERGENCY RESPONSE
14 PROVIDERS.—Paragraph (6) of section 2 of the
15 Homeland Security Act of 2002 (6 U.S.C. 101(6))
16 is amended by striking “includes” and all that fol-
17 lows and inserting “includes Federal, State, and
18 local governmental and nongovernmental emergency
19 public safety, law enforcement, fire, emergency re-
20 sponse, emergency medical (including hospital emer-
21 gency facilities), and related personnel, organiza-
22 tions, agencies, and authorities.”.

23 (d) TABLE OF CONTENTS.—Section 1(b) of the
24 Homeland Security Act of 2002 (6 U.S.C. 101 note) is

- 1 amended in the table of contents by adding at the end
- 2 the following:

“TITLE XX—RISK-BASED FUNDING FOR HOMELAND SECURITY

- “Sec. 2001. Risk-Based funding for homeland security.
- “Sec. 2002. Covered grant eligibility and criteria.
- “Sec. 2003. Essential capabilities for homeland security.
- “Sec. 2004. Task Force on Essential Capabilities.
- “Sec. 2005. National standards for first responder equipment and training.
- “Sec. 2006. Use of funds and accountability requirements.
- “Sec. 2007. Definitions.”.

