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SENATE

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EMERGENCY PREPAREDNESS AND RESPONSE ACT OF 2003

FEBRUARY 25, 2004.—Ordered to be printed

Mr. INHOFE, from the Committee on Environment and Public
Works, submitted the following

REPORT

[to accompany S. 930]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 930) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to prepare for and respond to all hazards, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

The tragic events of September 11, 2001, demonstrated a need to prepare not only for natural disasters, but also for incidents of terrorism. Recognizing this need, the Administration proposed a \$3.5 billion initiative to prepare the nation's first responders—police, firefighters, and emergency medical personnel—to respond to incidents of terrorism, including incidents involving weapons of mass destruction. In announcing this initiative, the President tasked FEMA with administering the new program. Currently in the United States there are over 1 million firefighters in the United States (750,000 of those are volunteers), 436,000 local police officers, 186,000 sworn sheriffs' deputies, and 155,000 nationally registered Emergency Medical Technicians. Among this community, response capacity varies widely.

On October 1, 2002, during the 107th Congress, the Committee on Environment and Public Works reported S. 2664, the “First Responder Terrorism Preparedness Act of 2002”. This bill amended the Stafford Act to build upon the existing all-hazards emergency preparedness and response framework that FEMA had established to enhance the level of preparedness of our nation’s first responders. The bill authorized FEMA’s Office of National Preparedness to lead a coordinated and integrated effort to build terrorism preparedness and response capability for weapons of mass destruction at all levels of government. The bill also contained a section authorizing additional assistance for FEMA’s 28 Urban Search and Rescue task forces. The full Senate did not act on S. 2664 before the 107th Congress adjourned.

In the 108th Congress, Senators Inhofe and Jeffords introduced S. 930, the “Emergency Preparedness and Response Act of 2003”. This legislation is the continuation of the committee’s work to increase the level of preparedness and emergency response capabilities of our nation’s first responders. This bill, which amends the Stafford Act, establishes the framework for the Federal Government to partner with State and local governments to achieve this goal. With the creation of the Department of Homeland Security (DHS), FEMA became part of the DHS Emergency Preparedness and Response Directorate. The bill authorizes the DHS to lead a coordinated and integrated effort to build terrorism preparedness and response capability for weapons of mass destruction at all levels of government. It creates a new first responder grant program administered by the Secretary of the DHS. The program will enhance the capabilities of first responders by focusing needed resources in the following areas—equipment, planning, training, and exercises. The bill also contains a section authorizing additional assistance for FEMA’s 28 Urban Search and Rescue task forces.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This section provides that the title may be cited as the ‘Emergency Preparedness and Response Act of 2003’.

Sec. 2. Finding and Purposes

This section describes the role of the Federal Emergency Management Agency prior to and following the formation of the DHS in emergency preparedness and response planning. It recognizes FEMA’s strong leadership role and established record of working effectively with State and local first responders and governments. It also states the need to maintain existing capabilities and to expand capabilities of first responders to prepare for all possible hazards, both natural and man made. This section states that in order to ensure that Federal funds provided to States for first responders are coordinated with other homeland-security related funding streams, the Federal funds grant making function of the DHS will be consolidated in the office of the Secretary.

The purpose of this legislation is to establish the framework for the Federal Government to partner with State and local governments to enhance preparedness and response efforts.

Section 3. Definitions

This section amends section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), and section 602(a) of the same act (42 U.S.C. 5196(a)).

The definition of “Major Disaster” was amended by inserting “incident of terrorism,” after “drought),”.

The definition of “Weapon of Mass Destruction” has the meaning given the term in 50 U.S.C. 2302 in which is defined as “any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of—

- (A) toxic or poisonous chemicals or their precursors;
- (B) a disease organism; or
- (C) radiation or radioactivity.”

Section 4. Preparedness Assistance For First Responders

This section amends Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C 5197 et seq.) The amendment adds section 630 to the Act to establish the program for providing assistance to first responders, and to describe how those funds will be allocated.

There is broad consensus that any definition of first responders must include fire, emergency medical service, and law enforcement personnel. The committee recognizes that as time passes, there may be additional categories of first responders around which emerges a consensus that they should be included in the definition of first responder. The committee intends that the Secretary have some flexibility to potentially expand the categories of first responders eligible for funding under this program in order to reflect any new consensus.

The Secretary is responsible for defining the term “local entity.” The legislation gives this discretion to the Secretary to ensure that all traditional first responders as defined in the Act, including career and volunteer first responder entities, are eligible for assistance. The committee’s intent is to provide the Secretary with the authority necessary to provide funds to both local governments and to non-government entities such as non-profit fire and emergency medical services departments.

Program to Provide Assistance

The legislation established a program to provide assistance to States to enhance the ability of State and local first responders to respond to all hazards. In order to be eligible for funding, the Governor must submit to and receive approval from, the Secretary for a 3-year State homeland security plan to respond to terrorist attacks and strengthen all-hazards emergency planning. Funds will be made available for interoperable equipment, training of first responders, preparedness training facilities, emergency operating centers, preparedness and response plans, systems and equipment to meet communication needs, to conduct exercises, to develop mutual aid agreements, and to carry out other related activities. The legislation prohibits the use of funds under this section to provide compensation for first responders except in particular cases. The Secretary has discretion to provide compensation to first responders for overtime expense incurred during the elevated threat levels

of code orange and code red of the Homeland Security Advisory System or relating to training activities consistent with the goals outlined in a State homeland security plan. The Homeland Security Advisory System was created by President Bush on March 11, 2002 with the issuance of Homeland Security Presidential Directive 3. The Advisory System is intended to measure and evaluate terrorist threats and communicate them to the public in a timely manner. It provides a national framework for existing Federal alert systems, allowing government officials and citizens to communicate the nature and degree of terrorist threats. The advisory system analyzes threat information and assigns threat conditions which are classified as green (low condition), blue (guarded condition), yellow (elevated condition), orange (high condition), or red (severe condition.) Appropriate protective measures apply to each threat level.

The committee intends that fund distributed under this Act for first responder training and first responder training facilities be used in a manner appropriate for the needs of the community. The committee intends that funds be leveraged to take full advantage of training facilities such as the National Memorial Institute for the Prevention of Terrorism in Oklahoma City; the National Center for the Study of Counter-Terrorism and Cyber-Crime at Norwich University, VT; the Center for Terrorism Preparedness at the University of Findlay, OH; the Texas Engineering Extension Service of Texas A&M University; the National Exercise, Test, and Training Center of the Department of Energy, located at the Nevada test site; and the Homeland Security and Strategic Training and Response Academy, Sacramento, CA.

This section also establishes cost sharing requirements for funds provided under this program. The Federal share of costs eligible for assistance under the program shall not be less than 75 percent. The Secretary may increase the Federal share to not less than 90 percent when the Secretary determines that a grant recipient is economically distressed. The committee intends that State and local governments may count in-kind contributions as part of their cost share.

Allocation of Funds

Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, will each receive the lesser of \$3 million or 0.25 percent of the amount made available. Each State and the District of Columbia will receive a base amount that is equal to the greater of \$15 million or 0.75 percent of the total funds made available, and a percentage of the total remaining funds made available based on high-threat areas and vulnerability criteria established by the Secretary which include the State homeland security plan required by subsection (d), population (including tourist population), location of critical infrastructure, location of public buildings, location of sites of national significance, proximity to international borders, known or suspected threat areas, and areas in which large numbers of people congregate. The committee included the State homeland security plan in this list to ensure that the Secretary incorporates the identified needs of each State into funding allocation decisions. In addition, the committee intends that there be a reasonable level of transparency in the funding allocations made by the Secretary.

Direct Funding

This section requires the Secretary to provide not less than 10 percent of the funds directly to local government or local government entities from a list of recommendations provided by the Governors of each State. The Secretary may select local governments to receive funds that are not recommended by the Governor of the State in which they are located except if the Secretary determines that extraordinary circumstances justify the selection and making the selection will further the purposes of this section. If a Governor fails to nominate any local governments the President may select local governments to receive assistance under this section.

Provision of Funds to Local Governments and Local Entities

The committee intends that funds move quickly once appropriated through the Federal and State governments to the first responders. This section requires that States must provide at least 80 percent of the funds received by the State to local governments and entities within the State within 45 days of receipt. If a State fails to comply, a local government may petition the Secretary for direct funding.

Administrative Expenses

A State may use no more than 10 percent of the funds it retains for salaries and administrative expenses associated with this program.

Maintenance of Expenditures

The committee intends that funds provided by this section supplement and not supplant existing State and local resources. Therefore, grant recipients must agree to maintain for the fiscal year in which assistance is provided, spending levels at or above the average annual level of those expenditures for the two previous fiscal years.

Reports

The States must submit an annual report to the Secretary not later than 60 days after the end of the fiscal year. States must also conduct an exercise, or participate in a regional exercise, approved by the Secretary to measure the progress of the State in enhancing first responder capabilities no later than 3 years after the enactment of this Act and report to Congress on the results.

Coordination

The Secretary shall, as necessary, coordinate the provision of assistance under this section with activities carried out by appropriate Federal agencies and Indian Tribes.

Cost Sharing for Emergency Operating Centers

This section amends section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(c)) by inserting "other than section 630" after "carry out this title"; and "under this title".

Section 5. Urban Search And Rescue Task Forces

This section amends Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C 5197 et seq.) The amendment adds section 631 to the Act, which defines several terms, describes the funding program for urban search and rescue, and the method for allocating those funds.

The purpose of Section 5 is to provide the needed funds, equipment, and training to ensure that all urban search and rescue task forces have the full capability to respond to any disaster, including acts of terrorism involving a weapon of mass destruction. The Federal Emergency Management Agency (FEMA) established the National Urban Search and Rescue Response System in 1989 pursuant to requirement in the Earthquakes Hazards Reduction Act of 1977, which directed FEMA to provide adequate search and rescue capacity in the event of an earthquake. There currently are 28 task forces throughout the United States. The terrorist attacks of September 11, 2001, demonstrated the need for fully equipped and trained task forces. The committee recognizes that the Federal Government has a responsibility to ensure that each task force is adequately trained and equipped to perform urban search and rescue functions in all environments, including the aftermath from acts of terrorism involving weapons of mass destruction. The Federal Government must ensure that each task force has adequate equipment to meet all operational needs and staff support, and the capability to put two full teams in the field to meet any disaster or act of terrorism. While these task forces were originally created for earthquake response, they have an expanding and vital role in responding to acts of terrorism, including those involving weapons of mass destruction. These task forces also have a role to play in sharing their expertise with other first responders. This section authorizes mandatory grants of \$1,500,000 for the cost of operations for each Secretary-designated urban search and rescue task force. It also authorizes additional discretionary grants for operations, equipment, training, transportation, expansion, and incident support teams. The Act establishes a goal of providing each task force with the resources necessary to train and equip two teams that can deploy simultaneously. The Secretary may designate task forces in addition to the 28 current task forces in existence until all 28 teams have reached that goal.

Study

This section requires the Secretary to conduct a study within 180 days of enactment, to: 1) evaluate the need for minimum capability urban search and rescue teams (USAR-lights) in major metropolitan areas; 2) identify locations in which such a capability would significantly improve the ability to respond effectively to an incident; and 3) identify the equipment and staffing that would be required to provide short-term, immediate response while waiting for a full USAR team to arrive.

Section 6. Study of Emergency Response Communications System

This section amends Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C 5201 et seq.) It adds section 706 to the Act, which requires the Secretary of Homeland Security to conduct a study within 90 days, in con-

sultation with the Federal Communications Commission, the National Institute of Standards and Technology, and the Secretary of Defense, to determine the resources needed for an effective national communications system for emergency response personnel.

The committee believes that one of the serious weaknesses in our emergency preparedness and response system highlighted by September 11th is the lack of interoperability among first responder communication systems. The committee believes that one of the highest priorities for DHS should be developing national standards and a plan for interoperable communications systems for our nation's first responders.

Section 7. Non-Homeland Security Mission Performance Report

In order to ensure that the Robert T. Stafford Disaster Relief and Emergency Assistance Act continues to be administered by the Federal Emergency Management Agency, this section requires the Secretary of Homeland Security to submit to Congress a report outlining the effectiveness with which FEMA is performing its non-homeland security functions. The committee wants to ensure that the incorporation of the Federal Emergency Management Agency into the Department of Homeland Security does not degrade its capacity to perform its more frequent mission of emergency preparedness and response for natural disasters. This reporting requirement is intended to ensure that the Secretary of Homeland Security remains vigilant and takes the necessary actions to ensure that non-homeland security functions of FEMA are not degraded .

Section 8. Office for Domestic Preparedness

This section moves the Office of Domestic Preparedness out of the Directorate of Border and Transportation Security (of the Department of Homeland Security) and into the office of the Secretary of Homeland Security. This structural change will ensure that the multitude of grant programs administered by the Department of Homeland Security are administered in a coordinated fashion.

Section 9. Authorization of Appropriations

This section amends 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C 5197 et seq.) The section is amended by striking subsection (a), and inserting new language outlining the authorization of appropriations as necessary in general, and specifically through fiscal year 2007. To carry out section 631 (USAR), this section authorizes \$160 million for fiscal year 04 and \$42 million for each of fiscal years 2005 through 2007

LEGISLATIVE HISTORY

Senators Inhofe and Jeffords introduced S. 930 the "Emergency Preparedness and Response Act of 2003," on April 28, 2003. The committee reported the bill favorably, with an amendment in the nature of a substitute, on July 30, 2003, by voice vote.

In the 107th Congress, on June 27, 2002, the committee ordered S. 2664 reported favorably. Senate bill S. 2664, introduced by Senator Jeffords and Senator Bob Smith was similar to S. 930. As reported, the bill reflects the evolution of homeland security issues over the last 12 months.

HEARINGS

Prior to the introduction of S. 930, the Committee on Environment and Public Works held two hearings and one business meeting on emergency response issues. On October 16, 2001, the committee held a hearing on the Federal response to the September 11, 2001 attacks, receiving testimony from Hon. Joseph Allbaugh, Director, Federal Emergency Management Agency; Edward P. Plaughter, Chief, Arlington County Fire Department Arlington, VA; Jeffrey L. Metzinger, Chief, Sacramento Metropolitan Fire Department and Member, FEMA Urban Search and Rescue Team; and Robert Hessinger, Member, Ohio Task Force One.

On March 12, 2002, the committee held a hearing to consider the President's budget request for first response to disasters, receiving testimony from Hon. Joe Allbaugh, Director, Federal Emergency Management Agency; Woodbury P. Fogg, P.E., on behalf of the National Emergency Management Association; Ed Wilson, Chief, city of Portland Fire Department, Portland, OR; Mike O'Neil, Chief, South Burlington Fire Department, Burlington, VT; and Kenneth E. Zirkle, President, The University of Findlay, Findlay, OH.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 930 on July 30, 2003. The committee voted favorably to report S. 930 by voice vote. By voice vote, the committee agreed to a manager's amendment and a second degree amendment offered by Senators Inhofe and Jeffords.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes evaluation of the regulatory impact of the reported bill.

The bill does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that S. 930 would impose no Federal intergovernmental unfunded mandates on State, local, or tribal governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 9, 2003.

Hon. JAMES M. INHOFE, *Chairman,*
Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 930, the Emergency Preparedness and Response Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff is Kim Cawley, who can be reached at 226-2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN

S. 930, Emergency Preparedness and Response Act of 2003, As ordered reported by the Senate Committee on Environment and Public Works on July 30, 2003

Summary

S. 930 would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish two new grant programs within the Department of Homeland Security (DHS). First, the bill would authorize such sums as are necessary for a grant program to help first responders (fire, emergency medical service, and law enforcement personnel) prepare for terrorist incidents and natural disasters. Second, S. 930 would authorize the appropriation of \$286 million for grants to urban search and rescue task forces.

Assuming appropriation of the necessary sums, CBO estimates that implementing the bill would cost about \$1.7 billion over the 2004–2008 period. Enacting S. 930 would not affect direct spending or revenues.

S. 930 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would provide several benefits to State, local, and tribal governments. Those governments would benefit from the new grant programs that would be authorized by the bill.

Estimated Cost to the Federal Government

The estimated budgetary impact of S. 930 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

By Fiscal Year, in Millions of Dollars

	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION						
Spending for First Responder Grants Under Current Law:						
Estimated Authorization Level ¹	3,230	3,287	3,310	3,405	3,506	0
Estimated Outlays	1,357	2,253	2,859	3,206	3,413	1,989
Proposed Changes:						
Estimated Authorization Level	0	160	42 D42	42	3,600	
Estimated Outlays	0	67	61	58	51	1,512

By Fiscal Year, in Millions of Dollars

	2003	2004	2005	2006	2007	2008
Spending for First Responder Grants and Urban Search and Rescue Task Force Grants Under S. 930:						
Estimated Authorization Level ¹	3,230	3,447	3,352	3,447	3,548	3,600
Estimated Outlays	1,357	2,320	2,920	3,264	3,464	3,501

¹The 2003 level is the amount appropriated for that year; the 2004–2007 levels assume the grants program continues at the 2003 level, adjusted for anticipated inflation.

Basis of Estimate

For this estimate, CBO assumes that S. 930 will be enacted near the start of fiscal year 2004 and that the specified and estimated amounts necessary to implement the bill will be appropriated for each year. CBO estimates that implementing S. 930 would cost about \$1.7 billion over the 2004–2008 period.

S. 930 would authorize a first responder grant program that is similar to the grant program that the Office of Domestic Preparedness (ODP) within the Department of Homeland Security is implementing under current law. The ODP derives its primary authority to distribute grants to States and localities to prepare and respond to terrorism from the USA Patriot Act (P.L. 107–56) and the Homeland Security Act. The agency also cites the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104–132) and the Defense Authorization Act of 1997 (P.L. 104–201) as additional sources of its authority to distribute such grants.

The grant program that would be established by S. 930 seeks to promote an all-hazards approach to local preparedness that coordinates funding for managing natural hazards and terrorism incidents. It is possible that State and local financial needs would be greater under this broader grant program than under DHS's current first responder grant program, but CBO has no basis for estimating any additional costs for such a grant program.

The grant programs authorized by the USA Patriot Act will expire in 2007. Therefore, CBO assumes that the authority to provide homeland security grants that would be provided by this bill would not affect spending significantly until 2008. The estimated 2008 authorization level—\$3.6 billion—is the amount appropriated in 2003 for grants, adjusted for anticipated inflation.

S. 930 also would authorize DHS to provide grants to urban search and rescue task forces to pay for operating expenses, equipment, and training. Those task forces locate, rescue, and provide initial medical service to victims trapped in confined spaces. For those grants, the bill would authorize the appropriation of \$286 million over the 2004–2007 period. CBO estimates that about \$265 million would be spent over the 2004–2008 period.

Intergovernmental and Private-Sector Impact

S. 930 contains no intergovernmental or private-sector mandates and would provide several benefits for State, local, and tribal governments. This bill would expand the scope of homeland security grants to State and local governments and authorize such grants through 2008. Each State would receive a base allocation of \$15 million each year. Additional funds would be distributed by formula, which would give special consideration to urban areas that may face higher threats.

In addition to other eligible activities, those funds would be available to pay for overtime and related expenses during code red and code orange threat alerts. Local governments would receive 10 percent of the awards directly through the grant process and 80 percent of the funds awarded to States in the form of training, equipment, or cash assistance.

This bill also would authorize grants to urban search and rescue task forces. In the event of a disaster, some State and local governments would benefit from the expertise and assistance of these task forces.

Previous Estimate

On July 16, 2003, CBO transmitted a cost estimate for S. 1245, the Homeland Security Grant Enhancement Act of 2003, as ordered reported by the Senate Committee on Governmental Affairs on June 17, 2003. Both bills would authorize grants for first responders. S. 930 would also authorize grants for urban search and rescue task forces.

Estimate Prepared By: Federal Costs: Kim Cawley; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Cecil McPherson.

Estimate Approved By: Robert A. Sunshine, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

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

AN ACT Entitled the "Disaster Relief Act Amendments of 1974".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Robert T. Stafford Disaster Relief and Emergency Assistance Act".

* * * * *

DEFINITIONS

SEC. 102. As used in this Act—

(1) EMERGENCY.—"Emergency" means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

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

* * * * *

SEC. 602. DEFINITIONS.

(a) DEFINITIONS.—For purposes of this title only:

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

* * * * *

(11) WEAPON OF MASS DESTRUCTION.—*The term “weapon of mass destruction” has the meaning given the term in section 2302 of title 50, United States Code.*

* * * * *

SEC. 614. REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS.

Notwithstanding any other provision of this title, funds appropriated to carry out this title (*other than section 630*) may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this title (*other than section 630*) for such purpose.

* * * * *

Subtitle B—General Provisions

SEC. 621. ADMINISTRATIVE AUTHORITY.

(a) IN GENERAL.— * * *

* * * * *

SEC. 626. AUTHORIZATION OF APPROPRIATIONS AND TRANSFERS OF FUNDS.

[(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.]

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—*There are authorized to be appropriated such sums as are necessary to carry out this title (other than section 631).*

(2) URBAN SEARCH AND RESCUE TASK FORCES.—

(A) IN GENERAL.—*There are authorized to be appropriated to carry out section 631—*

(i) \$160,000,000 for fiscal year 2004; and

(ii) \$42,000,000 for each of fiscal years 2005 through 2007.

(B) AVAILABILITY OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.

* * * * *

SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) DEFINITIONS.—In this section:

(1) FIRST RESPONDER.—The term ‘first responder’ means—

(A) fire, emergency medical service, and law enforcement personnel; and

(B) such other personnel as are identified by the Secretary.

(2) LOCAL ENTITY.—The term ‘local entity’ has the meaning given the term by regulation promulgated by the Secretary.

(3) PROGRAM.—The term ‘program’ means the program established under subsection (b).

(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

(b) PROGRAM TO PROVIDE ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to all hazards.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Secretary.

(B) INCREASE.—The Federal share shall be increased to not less than 90 percent in the case of a grant recipient that the Secretary determines is economically distressed.

(3) FORMS OF ASSISTANCE.—Assistance provided under paragraph (1) may consist of—

(A) grants; and

(B) such other forms of assistance as the Secretary determines to be appropriate.

(c) USES OF ASSISTANCE.—

(1) IN GENERAL.—Assistance provided under subsection

(b)—

(A) shall be used—

(i) to purchase, to the maximum extent practicable, interoperable equipment that is necessary to respond to hazards;

(ii) to train first responders, consistent with guidelines and standards developed by the Secretary;

(iii) in consultation with the Secretary, to develop, construct, or upgrade preparedness training facilities;

(iv) to develop, construct, or upgrade emergency operating centers;

(v) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Secretary;

(vi) to provide systems and equipment to meet communication needs, such as emergency notification sys-

tems, interoperable equipment, and secure communication equipment;

(vii) to conduct exercises;

(viii) to carry out such other related activities as are approved by the Secretary; and

(ix) to develop State, regional, or local mutual aid agreements; and

(B) shall not be used to provide compensation to first responders (including payment for overtime) except, at the discretion of the Secretary, to provide compensation to first responders for overtime expenses—

(i) incurred during the elevated threat levels of code orange and code red of the Homeland Security Advisory System; or

(ii) relating to training activities consistent with the goals outlined in a State homeland security plan.

(2) STANDARDS; GUIDANCE.—The Secretary shall—

(A) develop standards for the uses described in paragraph (1); and

(B) provide guidance to first responders so that, to the maximum extent practicable, any grant provided will be used in a manner that is consistent with those standards.

(d) HOMELAND SECURITY PLAN.—

(1) IN GENERAL.—To receive funds under subsection (e), the Governor shall submit to, and receive approval from, the Secretary for a 3-year State homeland security plan (referred to in this subsection as the ‘plan’) to respond to terrorist attacks and strengthen all-hazards emergency planning.

(2) STRATEGY.—The plan shall establish a 3-year strategy to set priorities for the allocation of funding to political subdivisions based on risk, capability, and need.

(e) ALLOCATION OF FUNDS.—For each fiscal year, in providing assistance under subsection (b), the Secretary shall make available—

(1) to each of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, the lesser of—

(A) \$3,000,000; or

(B) 0.25 percent of the amount made available to carry out this section for a fiscal year; and

(2) to each State (other than a State specified in paragraph (1)) and the District of Columbia—

(A) a base amount of that is equal to the greater of—

(i) \$15,000,000; or

(ii) 0.75 percent of the amount made available to carry out this section for a fiscal year; and

(B) a percentage of the total remaining funds made available for the fiscal year based on high-threat areas and other vulnerability criteria established by the Secretary, including—

(i) the State homeland security plan required under subsection (d);

(ii) population (including tourist population);

(iii) location of critical infrastructure, including—

(I) military installations;

(II) nuclear power plants;
 (III) chemical and other hazardous material containing facilities; and
 (IV) location of ports;
 (iv) location of public buildings (as defined in section 3301(a) of title 40, United States Code);
 (v) location of sites of national significance selected by the Secretary based on—

(I) reasonable likelihood that the site will be a target of terrorism; and
 (II) protection of public health, welfare, environment, critical infrastructure, and national security;
 (vi) proximity to international borders;
 (vii) known or suspected threat areas, including areas that have been the target of previous terrorist attacks; and
 (viii) areas in which large numbers of people congregate.

(C) DIRECT FUNDING.—

(i) IN GENERAL.—Of the funds made available under subparagraph (B), the Secretary shall provide not less than 10 percent of the funds directly to local governments or local government entities.

(ii) RECOMMENDATIONS.—

(I) IN GENERAL.—The Governor of each State may recommend to the Secretary not fewer than 5 local governments or local government entities to receive assistance under this section.

(II) CONSIDERATIONS.—In making recommendations under subclause (I), the Governor shall consider the criteria specified in subparagraph (B).

(iii) SELECTION.—The Secretary shall select local governments and local government entities to receive funds under this subsection from those local governments and local government entities nominated by the Governors, except that the Secretary may select a local government or local government entity that has not been nominated by a Governor if the Secretary determines that—

(I) extraordinary circumstances justify the selection; and

(II) making the selection will further the purposes of this section.

(iv) FAILURE TO NOMINATE.—If a Governor of a State fails to submit recommendations under this subparagraph in a timely manner, the President may select, subject to the criteria specified in subparagraph (B), any local governments or local government entities of the State to receive assistance under this paragraph.

(f) PROVISION OF FUNDS TO LOCAL GOVERNMENTS AND LOCAL ENTITIES.—

(1) IN GENERAL.—For each fiscal year, not later than 45 days after the date on which a State receives grant funds under

this section, the State shall provide not less than 80 percent of the amount of the grant funds received to local governments and local entities within the State.

(2) DIRECT FUNDING.—If a State fails to substantially comply with any provision of this section, including failing to provide local governments with grant funds or resources purchased with grant funds in a timely fashion, a local government entitled to receive those grant funds or resources may petition the Secretary, at such time and in such manner as the Secretary may determine, to request that grant funds or resources be provided directly to the local government.

(g) ADMINISTRATIVE EXPENSES.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (f) may be used to pay salaries and other administrative expenses incurred in administering the program.

(h) MAINTENANCE OF EXPENDITURES.—The Secretary may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (f) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

(i) REPORTS.—

(1) ANNUAL REPORT TO THE SECRETARY.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Secretary, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

(2) EXERCISE AND REPORT TO CONGRESS.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

(A) conduct an exercise, or participate in a regional exercise, approved by the Secretary, to measure the progress of the State in enhancing the ability of State and local first responders to respond to all hazards; and

(B) submit a report on the results of the exercise to—

(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

(j) COORDINATION.—

(1) WITH FEDERAL AGENCIES.—The Secretary shall, as necessary, coordinate the provision of assistance under this section with activities carried out by appropriate Federal agencies.

(2) WITH INDIAN TRIBES.—In providing and using assistance under this section, the Secretary and the States shall, as appropriate, coordinate with—

(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and other tribal organizations; and

(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.

SEC. 631. URBAN SEARCH AND RESCUE TASK FORCES.

(a) **DEFINITIONS.**—In this section:

(1) **URBAN SEARCH AND RESCUE EQUIPMENT.**—The term ‘urban search and rescue equipment’ means any equipment that the Secretary determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

(2) **URBAN SEARCH AND RESCUE TASK FORCE.**—The term ‘urban search and rescue task force’ means any of the 28 urban search and rescue task forces designated by the Secretary as of the date of enactment of this section.

(b) **ASSISTANCE.**—

(1) **MANDATORY GRANTS FOR COSTS OF OPERATIONS.**—For each fiscal year, of the amounts made available to carry out this section, the Secretary shall provide to each urban search and rescue task force a grant of not less than \$1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

(2) **DISCRETIONARY GRANTS.**—The Secretary may provide to any urban search and rescue task force a grant, in such amount as the Secretary determines to be appropriate, to pay the costs of—

(A) operations in excess of the funds provided under paragraph (1);

(B) urban search and rescue equipment;

(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

(D) training, including training for operating in an environment described in subparagraph (C);

(E) transportation;

(F) expansion of the urban search and rescue task force; and

(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

(3) **PRIORITY FOR FUNDING.**—The Secretary shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

(c) **GRANT REQUIREMENTS.**—The Secretary shall establish such requirements as are necessary to provide grants under this section.

(d) **ESTABLISHMENT OF ADDITIONAL URBAN SEARCH AND RESCUE TASK FORCES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

(2) **REQUIREMENT OF FULL FUNDING OF EXISTING URBAN SEARCH AND RESCUE TASK FORCES.**—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task force that withdraws or is other-

wise no longer considered to be an urban search and rescue task force designated by the Secretary, no additional urban search and rescue task forces may be designated or funded until the 28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

(e) *STUDY.*—Not later than 180 days after the date of enactment of this section, the Secretary shall conduct, and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of, a study that—

(1) evaluates the level of need for minimum capability urban search and rescue teams (known as ‘USAR-lights’) in major metropolitan areas throughout the United States;

(2) identifies locations in which such a capability would significantly improve the ability to respond effectively to an incident; and

(3) identifies the equipment and staffing that would be required to provide a short-term, immediate response while waiting for a full USAR team to arrive.

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TITLE VII—MISCELLANEOUS

AUTHORITY TO PRESCRIBE RULES AND ACCEPT GIFTS

SEC. 701. (a)(1) * * *

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SEC. 706. STUDY OF EMERGENCY RESPONSE COMMUNICATIONS SYSTEM.

(a) *IN GENERAL.*—In consultation with the Federal Communications Commission, the National Institute of Standards and Technology, and the Secretary of Defense, the Secretary of Homeland Security shall conduct a study to determine the resources that are needed for development of an effective nationwide communications system for emergency response personnel.

(b) *REPORT.*—

(1) *IN GENERAL.*—Not later than 90 days after the date of enactment of this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the study.

(2) *REVIEW OF USE OF SPECTRUM.*—The report shall include a review of use of the digital spectrum or the analog spectrum as a key component to meeting the urgent communications needs of the emergency response personnel of the United States.

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UNITED STATES CODE—TITLE 6

[As amended by Public Law 107-296]

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SEC. [238] 802. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) **IN GENERAL.**—The Office for Domestic Preparedness shall be within the [Directorate of Border and Transportation Security] *the Office for State and Local Government Coordination.*

(b) **DIRECTOR.**—There shall be a Director of the Office for Domestic Preparedness, [who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security]. *who shall report directly to the Director of State and Local Government Coordination.*

(c) **RESPONSIBILITIES.**—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(3) directing and supervising terrorism preparedness grant programs of the Federal Government (other than those programs administered by the Department of Health and Human Services) for all emergency response providers;

(4) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(5) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(6) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(7) assisting and supporting the Secretary, in coordination with [other] *the* Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments [consistent with the mission and functions of the Directorate]; and

(8) *carrying out* those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) **FISCAL YEARS 2003 AND 2004.**—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and

authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

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