

PREPAREDNESS AGAINST TERRORISM ACT OF 2000

JULY 13, 2000.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 4210]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4210) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for improved Federal efforts to prepare for and respond to terrorist attacks, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES.

(a) **SHORT TITLE.**—This Act may be cited as the “Preparedness Against Terrorism Act of 2000”.

(b) **REFERENCES.**—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds that—

(1) the President should strengthen Federal interagency emergency planning by the Federal Emergency Management Agency and other appropriate Federal, State, and local agencies for development of a capability for early detection and warning of and response to potential domestic terrorist attacks involving weapons of mass destruction or cyberotechnology; and

(2) Federal efforts to assist State and local emergency preparedness and response personnel in preparation for domestic terrorist attacks should be coordinated so as to eliminate duplicative Federal programs.

(b) **PURPOSES.**—The purposes of this Act include—

- (1) coordinating and making more effective Federal efforts to assist State and local emergency preparedness and response personnel in preparation for domestic terrorist attacks;
- (2) designating a lead entity to coordinate such Federal efforts; and
- (3) updating Federal authorities to reflect the increased risk of terrorist attacks.

SEC. 3. DEFINITION OF MAJOR DISASTER.

Section 102(2) (42 U.S.C. 5122(2)) is amended to read as follows:

“(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, snow drought, or drought), or, regardless of cause, any fire, flood, explosion, act of terrorism, or other catastrophic event in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.”.

SEC. 4. ADMINISTRATION OF EMERGENCY PREPAREDNESS PROGRAMS BY THE PRESIDENT.

Title VI (42 U.S.C. 5195 et seq.) is amended—

- (1) by striking “Director” each place it appears (other than in sections 602(a)(7) and 603) and inserting “President”;
- (2) in section 603 by striking “Director of the Federal Emergency Management Agency” and inserting “President”;
- (3) in section 611(c)—
 - (A) by striking “With the approval of the President, the” and inserting “The”; and
 - (B) by striking “responsibilities and review” and inserting “responsibilities. The President shall review”;
- (4) in section 621(g) by striking the second sentence;
- (5) in section 623—
 - (A) by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and
 - (B) in paragraph (2) (as so redesignated) by striking “unless” and all that follows through “approval of the President,” and inserting “unless the President”; and
- (6) in section 624 by striking “to the President and Congress” and inserting “to Congress”.

SEC. 5. DEFINITIONS.

(a) HAZARD.—Section 602(a)(1)(B) (42 U.S.C. 5195a(a)(1)(B)) is amended by striking the period at the end and inserting “, including a domestic terrorist attack involving a weapon of mass destruction or cybertechnology.”.

(b) NATURAL DISASTER.—Section 602(a)(2) (42 U.S.C. 5195a(a)(2)) is amended to read as follows:

“(2) NATURAL DISASTER.—The term ‘natural disaster’ means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, snow drought, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.”.

(c) EMERGENCY PREPAREDNESS.—Section 602(a)(3)(A) (42 U.S.C. 5195a(a)(3)(A)) is amended by inserting “the predeployment of these and other essential resources (including personnel),” before “the provision of suitable warning systems.”.

(d) DIRECTOR.—Section 602(a) (42 U.S.C. 5195a(a)) is amended by striking paragraph (7) and redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(e) WEAPON OF MASS DESTRUCTION.—Section 602 (42 U.S.C. 5195a) is amended by adding at the end the following:

“(10) WEAPON OF MASS DESTRUCTION.—The term ‘weapon of mass destruction’ means 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.”.

SEC. 6. DETAILED FUNCTIONS OF ADMINISTRATION.

(a) **FEDERAL EMERGENCY RESPONSE PLANS AND PROGRAMS.**—Section 611(b) (42 U.S.C. 5196(b)) is amended—

(1) by striking “may prepare” and inserting “shall prepare”; and

(2) by adding at the end the following: “In accordance with section 313, the President shall ensure that Federal response plans and programs are adequate to respond to the consequences of terrorism directed against a target in the United States, including terrorism involving weapons of mass destruction and terrorism involving cybertechnology.”.

(b) **EMERGENCY PREPAREDNESS MEASURES.**—Section 611(e) (42 U.S.C. 5196(e)) is amended—

(1) in paragraph (1) by inserting “preventing and” before “treating”;

(2) in paragraph (2) by striking “developing shelter designs” and inserting “development of shelter designs, equipment, clothing;” and

(3) in paragraph (3) by striking “developing” and all that follows through “thereof” and inserting “development and standardization of equipment and facilities”.

(c) **TRAINING AND EXERCISE PROGRAMS.**—Section 611(f) (42 U.S.C. 5196(f)) is amended—

(1) in the subsection heading by inserting “AND EXERCISE” after “TRAINING”;

(2) in paragraph (1)(A) by inserting “and exercise” after “training”;

(3) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(4) by inserting after paragraph (1) the following:

“(2) The President shall establish priorities among training and exercise programs for preparedness against terrorist attacks based on an assessment of the existing threats, capabilities, and objectives.”.

SEC. 7. REPEALS.

(a) **USE OF FUNDS TO PREPARE FOR AND RESPOND TO HAZARDS.**—Section 615 (42 U.S.C. 5196d) is repealed.

(b) **SECURITY REGULATIONS.**—Section 622 (42 U.S.C. 5197a) is repealed.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 626 (42 U.S.C. 5197e) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b) **PRIORITIES.**—Amounts appropriated pursuant to this section for training and exercise programs for preparedness against terrorist attacks shall be used in a manner consistent with the priorities established under section 611(f)(2).”.

SEC. 9. OFFICE OF TERRORISM PREPAREDNESS.

(a) **IN GENERAL.**—Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.) is amended by adding at the end the following:

“Subtitle C—Office of Terrorism Preparedness

“SEC. 651. ESTABLISHMENT OF OFFICE.

“(a) **IN GENERAL.**—There is established in the Executive Office of the President an Office of Terrorism Preparedness (in this subtitle referred to as the ‘Office’).

“(b) **APPOINTMENT OF DIRECTOR.**—The head of the Office shall be the Director of the Office of Terrorism Preparedness (in this subtitle referred to as the ‘Director’), who shall be appointed by the President, by and with the advice and consent of the Senate. In making the appointment, the President should consult with the Director of the Federal Emergency Management Agency, the Attorney General of the United States, and the Secretary of Defense.

“SEC. 652. DUTIES OF DIRECTOR.

“The Director shall—

(1) establish the policies, objectives, and priorities of the Federal Government for enhancing the capabilities of State and local emergency preparedness and response personnel in early detection and warning of and response to all domestic terrorist attacks, including attacks involving weapons of mass destruction or cybertechnology;

(2) publish a Domestic Terrorism Preparedness Plan and an annual strategy for carrying out the plan in accordance with section 653;

“(3) biennially review the terrorist attack preparedness programs of State and local governmental entities and provide recommendations to such entities based on such reviews;

“(4) establish voluntary guidelines for the terrorist attack preparedness programs of State and local governmental entities in accordance with section 656;

“(5) consult with, and serve as a contact for, State and local governmental entities implementing terrorist attack preparedness programs;

“(6) coordinate and oversee the implementation by Federal departments and agencies of the policies, objectives, and priorities established under paragraph (1) and the fulfillment of the responsibilities of such departments and agencies under the Domestic Terrorism Preparedness Plan;

“(7) make recommendations to the President and to the National Security Council regarding—

“(A) changes in the organization, management, and budgets of Federal departments and agencies; and

“(B) the allocation of personnel to and within such departments and agencies;

to implement the policies, priorities, and objectives established under paragraph (1) and the Domestic Terrorism Preparedness Plan; and

“(8) notify a Federal department or agency in writing if the Director finds that its policies are not in compliance with its responsibilities under the Domestic Terrorism Preparedness Plan and transmit a copy of such notification to the President.

“SEC. 653. DOMESTIC TERRORISM PREPAREDNESS PLAN AND ANNUAL STRATEGY

“(a) DEVELOPMENT OF PLAN.—Not later than 180 days after the date of appointment of the Director, the Director shall develop a Domestic Terrorism Preparedness Plan and transmit a copy of the plan to the President and Congress. The Director, as necessary, may extend the deadline established by this subsection, except that any such extension may not exceed 90 days.

“(b) CONTENTS.—The Domestic Terrorism Preparedness Plan shall include—

“(1) a statement of the policies, objectives, and priorities established by the Director under section 652(1);

“(2) a plan for implementing such policies, objectives, and priorities, which is based on a threat and risk assessment and includes measurable objectives to be achieved in each of the following 5 years for enhancing domestic preparedness against a terrorist attack; and

“(3) a description of the specific role of each Federal department and agency, and the roles of State and local governmental entities, under the plan developed under paragraph (2).

“(c) ANNUAL STRATEGY.—

“(1) IN GENERAL.—The Director shall develop and transmit to the President and Congress, on the date of transmittal of the Domestic Terrorism Preparedness Plan and, in each of the succeeding 4 fiscal years, on the date that the President submits an annual budget to Congress in accordance with section 1105(a) of title 31, United States Code, an annual strategy for carrying out the Domestic Terrorism Preparedness Plan in the fiscal year following the fiscal year in which the strategy is submitted.

“(2) CONTENTS.—The annual strategy for a fiscal year shall include—

“(A) a description of Federal training and exercise programs, grant programs, and other activities conducted in the fiscal year preceding the fiscal year for which the strategy has been developed related to domestic preparedness against a terrorist attack and recommendations concerning whether any of such programs may be duplicative;

“(B) a description of Federal training and exercise programs, grant programs, and other activities to be conducted in the fiscal year for which the strategy has been developed under the Domestic Terrorism Preparedness Plan and measurable objectives to be achieved in such fiscal year for enhancing domestic preparedness against a terrorist attack; and

“(C) a complete assessment of how the budget proposal transmitted for the fiscal year under section 654(a) is intended to implement the strategy and whether the funding levels contained in such proposal are sufficient to implement such strategy.

“(d) CONSULTATION.—

“(1) IN GENERAL.—In developing the Domestic Terrorism Preparedness Plan and each annual strategy for carrying out the plan, the Director shall consult with—

“(A) the head of each Federal department and agency that will have responsibilities under the Domestic Terrorism Preparedness Plan or annual strategy;

“(B) Congress;

“(C) State and local officials;

“(D) congressionally authorized panels; and

“(E) emergency preparedness organizations with memberships that include State and local emergency responders.

“(2) REPORTS.—At the time the Director submits the Domestic Terrorism Preparedness Plan or an annual strategy to the President and Congress, the Director shall transmit a report to the President and Congress indicating the persons consulted under this subsection.

“(e) TRANSMISSION OF CLASSIFIED INFORMATION.—Any part of the Domestic Terrorism Preparedness Plan under subsection (a) or an annual strategy under subsection (c) that involves information properly classified under criteria established by an Executive order shall be presented to Congress separately.

“(f) RISK OF TERRORIST ATTACKS AGAINST TRANSPORTATION FACILITIES.—

“(1) IN GENERAL.—In developing the plan and risk assessment under subsection (b), the Director shall designate an entity to assess the risk of terrorist attacks against transportation facilities, personnel, and passengers.

“(2) CONTENTS.—In developing the plan and risk assessment under subsection (b), the Director shall ensure that the following 3 tasks are accomplished:

“(A) An examination of the extent to which transportation facilities, personnel, and passengers have been the target of terrorist attacks and the extent to which such facilities, personnel, and passengers are vulnerable to such attacks.

“(B) An evaluation of Federal and State laws that can be used to combat terrorist attacks against transportation facilities, personnel, and passengers, and the extent to which such laws are enforced.

“(C) An evaluation of available technologies and practices to determine the best means of protecting mass transportation facilities, personnel, and passengers against terrorist attacks.

“(3) CONSULTATION.—In developing the plan and risk assessment under subsection (b), the Director shall consult with the Secretary of Transportation, representatives of persons providing transportation, and representatives of employees of such persons.

“SEC. 654. NATIONAL DOMESTIC PREPAREDNESS BUDGET.

“(a) DEVELOPMENT AND TRANSMISSION OF BUDGET.—The Director shall develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities under the Domestic Terrorism Preparedness Plan and appropriate State and local governmental entities, a consolidated budget proposal to implement the Domestic Terrorism Preparedness Plan, and shall transmit a copy of the budget proposal to the President and Congress.

“(b) BUDGET SUBMISSIONS BY DEPARTMENTS AND AGENCIES.—Each Federal Government program manager, agency head, and department head with responsibilities under the Domestic Terrorism Preparedness Plan shall transmit the budget request of the program, agency, or department relating to such responsibilities to the Director at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

“(c) REVIEW OF BUDGET SUBMISSIONS.—The Director shall—

“(1) review each budget request transmitted to the Director under subsection (b);

“(2) certify in writing as to the adequacy of such request to implement the objectives of the Domestic Terrorism Preparedness Plan for the fiscal year for which the request is submitted; and

“(3) notify the program manager, agency head, or department head, as applicable, regarding the Director’s certification under paragraph (2).

“(d) REPROGRAMMING AND TRANSFER REQUESTS.—

“(1) IN GENERAL.—No Federal department or agency shall submit to Congress a reprogramming or transfer request that is included in the consolidated budget proposal developed under subsection (a) unless such request has been approved by the Director.

“(2) APPEALS.—The Secretary of a department or the head of an agency may appeal to the President any disapproval by the Director of a reprogramming or transfer request.

“(3) QUARTERLY REPORTS.—The Director shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated funds for activities under the Domestic Terrorism Preparedness Plan.

“(e) RECORDS.—The Director shall maintain records regarding certifications under subsection (c)(2).

“(f) NOTICE TO OMB OF INADEQUATE REQUESTS.—If the Director determines under subsection (c)(2) that a budget request is not adequate to implement the objectives of the Domestic Terrorism Preparedness Plan for the fiscal year for which the request is submitted, the Director shall transmit a written statement of such determination to the Director of the Office of Management and Budget.

“(g) TIMELY DEVELOPMENT AND SUBMISSION OF BUDGET REQUESTS.—The head of each Federal department and agency with responsibilities under the Domestic Terrorism Preparedness Plan shall ensure timely development and transmittal of budget requests pursuant to subsection (b) in such format as may be designated by the Director with the concurrence of the Director of the Office of Management and Budget.

“(h) FAILURE OF DIRECTOR TO MAKE TIMELY DETERMINATIONS.—With respect to the first fiscal year for which budget requests are submitted under subsection (b), if the Director does not make a timely determination with respect to the adequacy of such a request, the program or activity for which the request is being made shall be eligible for funding at the same level as the program or activity received funding in the preceding fiscal year.

“SEC. 655. CERTIFICATION OF FEDERAL TRAINING AND EXERCISE PROGRAMS.

“(a) CERTIFICATION OF PROGRAMS.—Not later than 270 days after the date of appointment of the Director, the Director shall conduct a review of each training and exercise program being conducted by a Federal department or agency to enhance the capabilities of State and local emergency preparedness and response personnel with respect to terrorist attacks. Upon completing the review, the Director shall either certify or deny certification for the program based on criteria to be developed by the Director. The Director, as necessary, may extend the deadline established by this subsection with respect to a training or exercise program, except that any such extension may not exceed 180 days.

“(b) RECERTIFICATION OF PROGRAMS.—A training or exercise program that is certified by the Director under subsection (a) shall be reviewed by the Director on or before June 15th of the third fiscal year beginning after the date of certification and on or before June 15th of every third fiscal year thereafter. Upon completing each review, the Director shall either recertify or deny recertification for the program based on criteria to be developed by the Director.

“(c) EFFECT OF DENIALS.—The Director may not certify a budget request transmitted for a fiscal year under section 654 with respect to any training or exercise program for which the Director has denied certification or recertification for a period including such fiscal year under this section.

“(d) DEVELOPMENT OF CERTIFICATION CRITERIA.—In developing criteria for certifications and recertifications under this section, the Director shall seek to eliminate duplicative Federal programs and to further Federal efforts toward implementation of the policies, objectives, and priorities of the Domestic Terrorism Preparedness Plan.

“(e) ESTABLISHMENT OF NEW PROGRAMS AND OFFICES.—Before a Federal department or agency may establish a new program or office to enhance the capabilities of State and local emergency preparedness and response personnel with respect to terrorist attacks, the head of the department or agency shall consult with the Director to determine whether the new program or office is consistent with the Domestic Terrorism Preparedness Plan.

“SEC. 656. VOLUNTARY GUIDELINES FOR STATE AND LOCAL PROGRAMS.

“The Director shall establish voluntary guidelines for the terrorist attack preparedness programs of State and local governmental entities for the purpose of providing guidance in the development and implementation of such programs. The guidelines shall address equipment, exercises, and training.

“SEC. 657. GRANTS TO STATE AND LOCAL ENTITIES.

“The Director may make grants to a State or local governmental entity to offset the costs of participation by the entity in any training or exercise program that has been certified by the Director under section 655.

“SEC. 658. POWERS OF DIRECTOR.

“In carrying out this subtitle, the Director may—

“(1) select, appoint, employ, and fix compensation of such officers and employees as may be necessary to carry out the functions of the Office under this subtitle;

“(2) direct, with the concurrence of the Secretary of a department or head of an agency, the temporary reassignment within the Federal Government of personnel employed by such department or agency;

“(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

“(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

“(5) accept and use donations of property from Federal, State, and local government agencies;

“(6) use the mails in the same manner as any other department or agency of the executive branch; and

“(7) monitor the implementation of the Domestic Terrorism Preparedness Plan, including—

“(A) conducting program and performance audits and evaluations; and

“(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations.

“SEC. 659. ROLE OF DIRECTOR IN NATIONAL SECURITY COUNCIL EFFORTS.

“The Director may, in the Director’s role as principal adviser to the National Security Council on Federal efforts to assist State and local governmental entities in domestic terrorist attack preparedness matters, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

“SEC. 660. COORDINATION WITH EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES.

“(a) REQUESTS FOR ASSISTANCE.—The head of each Federal department and agency with responsibilities under the Domestic Terrorism Preparedness Plan shall cooperate with the Director and, subject to laws governing disclosure of information, provide such assistance, information, and advice as the Director may request.

“(b) CERTIFICATION OF POLICY CHANGES BY DIRECTOR.—

“(1) IN GENERAL.—The head of each Federal department and agency with responsibilities under the Domestic Terrorism Preparedness Plan shall, unless exigent circumstances require otherwise, notify the Director in writing regarding any proposed change in policies relating to the activities of such department or agency under the Domestic Terrorism Preparedness Plan prior to implementation of such change. The Director shall promptly review such proposed change and certify to the department or agency head in writing whether such change is consistent with the Domestic Terrorism Preparedness Plan.

“(2) NOTICE IN EXIGENT CIRCUMSTANCES.—If prior notice of a proposed change under paragraph (1) is not possible, the department or agency head shall notify the Director as soon as practicable. The Director shall review such change and certify to the department or agency head in writing whether such change is consistent with the Domestic Terrorism Preparedness Plan.

“(c) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

“SEC. 661. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to carry out this subtitle \$9,000,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2005. Such sums shall remain available until expended.”

(b) EXECUTIVE SCHEDULE PAY RATES.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

“Director, Office of Terrorism Preparedness.”

PURPOSE AND SUMMARY

H.R. 4210, the “Preparedness Against Terrorism Act of 2000,” amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to improve the nation’s ability to prepare for and respond to acts of terrorism in the United States. The bill improves federal efforts to assist state and local emergency preparedness and response personnel in preparation for domestic terrorist attacks and creates an Office of Terrorism Preparedness to coordinate federal efforts.

BACKGROUND AND NEED FOR LEGISLATION

The Committee on Transportation and Infrastructure is responsible for authorizing and overseeing federal programs designed to prepare the nation's communities against a terrorist or other type of attack. The Committee's responsibility for these programs was strengthened and consolidated under Title XXXIV of the National Defense Authorization Act for Fiscal Year 1995 which transferred authorities in the Civil Defense Act into Title VI of the Stafford Act. This consolidation recognized the "all hazards" approach to preparedness. That is, many of the skills necessary to prepare a community for a natural disaster are the same or similar to those necessary to prepare a community for a premeditated attack. The consolidation of statutory authorities for preparedness into the Stafford Act streamlined congressional oversight over preparedness programs.

The occurrence of terrorist incidents in the United States and abroad over the last several years, including attacks on the World Trade Center in New York City and the Alfred P. Murrah federal building in Oklahoma City, raised concerns about the vulnerability of our communities to domestic terrorism. In response, Congress and the Executive Branch quickly created a wide-ranging array of federal programs to assist state and local officials in responding to such an incident. The urgency of improving on these efforts stems from expert predictions that a terrorist incident involving a weapon of mass destruction will occur in the United States within the next five to ten years.

Currently, more than 40 federal departments and agencies have established terrorism preparedness programs. At the time this bill was introduced, the federal government had created more than 100 federal terrorism response teams and offered close to 100 separate federal terrorism preparedness training courses. Fragmentation among these courses has resulted in 12 states not receiving any federal training. Federal funding for counterterrorism programs has increased significantly since 1996, and budget requests for FY 2001 indicate this trend will continue. Since the Office of Management and Budget began consolidating the counterterrorism budget at the request of Congress in 1998,¹ funding for counterterrorism programs has nearly doubled from a FY 1996 budget of more than \$5.7 billion² to a FY 2001 request of approximately \$11 billion.³

Emergency managers nationwide agree that many of the problems in the federal effort arise from the lack of a coherent national strategy to guide preparedness programs. In fact, all of the federal programs were created in the absence of a national strategy. Many were created without considering existing resources resulting in

¹The National Defense Authorization Act for fiscal year 1998 (P.L. 105-85, §1051) required that OMB establish a system for collecting and reporting information on executive agencies' spending and budgets for combating terrorism. This information is included in OMB's annual report to Congress as required by the statute.

²Complete data on terrorism-related spending was not available for FYs 1994 or 1995. FY 1996 spending for unclassified terrorism related programs and activities totaled \$5,737.1 billion. "Combating Terrorism Spending on Governmentwide Programs Requires Better Management and Coordination," p. 6, December 1997. GAO/NSIAD-98-39.

³Although OMB's "Annual Report to Congress on Combating Terrorism—Including Defense against Weapons of Mass Destruction/Domestic Preparedness and Critical Infrastructure Protection" dated May 18, 2000 reports a FY 2001 budget request of \$9.3 billion, GAO's testimony before a Subcommittee hearing reports that figure is \$11.1 billion. "Combating Terrorism Issues in Managing Counterterrorist Programs," p. 7, April 6, 2000. GAO/T-NSIAD-00-145.

overlapping subject matter and capabilities. The outcome of these independent federal efforts is a mass of programs that are described by state and local emergency personnel as fragmented, uncoordinated, inefficient and confusing.

In October 1998, recognizing the problems existing within the federal structure, the Attorney General created the National Domestic Preparedness Office (NDPO), an office within the Federal Bureau of Investigation to coordinate federal programs and to serve as a resource for state and local emergency personnel. While well intentioned, the office was not given the authority to influence or coordinate the efforts of other agencies. In contrast, H.R. 4210, creates an office which is provided with the authority and influence to achieve its mission.

H.R. 4210

The Preparedness Against Terrorism Act of 2000 addresses many problems in the federal terrorism preparedness effort as identified by state and local emergency personnel. These problems include: (1) a lack of a national strategy for preparedness against terrorist attacks; (2) the absence of a defined preparedness level to be achieved, or "end state," for emergency responders;⁴ (3) a lack of coordination within the federal government resulting in overlapping and fragmented programs; (4) the absence of clear leadership for federal preparedness and coordination; and (5) the ability to influence all federal agencies involved in preparedness efforts.

One of the major concerns of emergency responders is the lack of clear leadership within the federal government. The lack of demonstrated leadership coupled with the absence of a national strategy and a structured federal effort results in confusion for state and local emergency personnel when seeking federal assistance. To address this problem, the bill creates an Office of Terrorism Preparedness (OTP) within the Executive Office of the President, which provides structured leadership and authority for the federal preparedness effort.

By removing the responsibility for coordination from the agencies and placing it in the Executive Branch, program decisions will be made independent of parochial factors or an agency's self-interest. The OTP will be responsible for drafting a five-year national plan and annual strategies to achieve the goals of the national plan.

The Committee does not believe the Attorney General's "Five-Year Interagency Counter-Terrorism and Technology Crime Plan" issued on December 30, 1998 meets the criteria necessary for a national plan. Therefore, H.R. 4210 lays out specific content requirements of the "Domestic Terrorism Preparedness Plan." These specific requirements are discussed further in the section by section analysis. In general, the Committee expects the national plan to include a logical process for efficiently providing training, response teams, and other support for the nation's communities. This process must include the following:

⁴In an effort to avoid confusion associated with the term "first responder," specific reference to "first responders" is avoided in the language of H.R. 4210. Instead, the Committee uses the terms "emergency responder" and "emergency personnel" which are used interchangeably to include all individuals who may respond to or assist in planning to respond to an incident including police, fire service, medical, a state or local emergency manager, or other responder.

- An assessment of the risk and threat communities currently face.—Determining priorities for training and other preparedness support starts with a risk and threat assessment. The Committee intends this to be an assessment of the expected damage a community faces (a factor combining the probability of an attack and the damage such an attack could cause). Once again, such an assessment may need to be slightly different for determining priorities for training, response, or other services.
- An assessment of the existing and expected capabilities of communities.—Priorities are not solely dependent on the risk of an attack, but also on the existing or expected capabilities of a community. For example, one city may have a relatively greater risk of a terrorist attack. However, because of that city's high level of preparedness for other disasters, such as earthquakes, it may already be highly capable of responding to a WMD event. Thus, this city may require a different level of training than other communities. It is also expected that a capability assessment will be necessary to determine progress toward the desired end-state.
- A defined and measurable desired end-state to be achieved.—The definition of a desired end-state will differ for each aspect of preparedness including training, response, equipment, and other support services. In part, a defined response end-state could include a requirement that every community facing a significantly high risk of attack (to be defined) have a fully staffed WMD response team (also to be defined) on-site within 30 minutes of the identification of a WMD event.
- A plan for using federal programs and other resources to assist communities in achieving the desired end-state.—The primary responsibility of the OTP is to identify the gap between the needs (as determined by the risk/threat assessment and the capability assessment) and the desired end-state and determine how such gaps can be most efficiently closed by the federal programs. This will mean setting out a plan that identifies priorities and desirable funding levels, and coordinates the federal programs such that they fulfill these priorities without duplication.

The national plan will serve as a basis for measuring the effectiveness of each federal program once the OTP has completed an inventory of all federal preparedness programs. Once the inventory is complete, should the Director determine that a program does not comply with the plan or duplicates other programs, he may use the certification process provided in the bill to encourage improvement in the program. This certification process affects both existing and proposed programs, and agencies may be called upon to justify the content of a particular program.

The national plan must be based on risk, threat and capability assessments. Experts capable of performing these analyses exist in the Federal agencies and some may either be complete or be in the process of being completed. It is the responsibility of the Director of the OTP to ensure that these analyses are completed and that they consider the appropriate factors to be able to determine priorities for training, response, equipment and other preparedness services. The Committee also expects the OTP Director to require

the coordination of intelligence and other efforts and, possibly, the collection of new information.

STREAMLINING AND COST REDUCTION

Implementation of this legislation will ultimately result in making the preparedness programs within the federal government more effective. The Committee anticipates that some programs will be eliminated or reworked according to the national plan. The outcome of this reorganization will result in the reduction of costs associated with providing duplicative or unnecessary training programs and response teams. Ultimately, the Committee believes this legislation will result in a more efficient and effective federal effort to prepare the nation's emergency personnel against terrorist attacks.

CONCLUSION

Passage of this legislation will result in an organized and effective federal approach to preparing emergency personnel to respond to terrorist attacks and supporting our communities should such an attack occur. This bill is the culmination of numerous discussions with the administration and state and local emergency personnel as well as three Subcommittee hearings. In an effort to eliminate additional duplication, it is the intent of this Committee that the Office of Terrorism Preparedness draw upon existing resources in executing its duties as identified in the bill. Therefore, the help of existing federal, state, local, and non-governmental entities will be necessary for the office to accomplish the goals established in the legislation. The tools provided in the bill, including a federal program inventory and reasoned threat and risk assessments, will assist the federal government in providing programs that effectively meet the needs of communities without costly overlap and duplication.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; references

The short title of this Act is the "Preparedness Against Terrorism Act of 2000." All amendments or repeals contained in this Act are made to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

Section 2. Findings and purposes

Describes findings and purposes applicable to the Act.

Subsection (a) makes two findings: (1) that federal interagency planning for early detection, warning and response to potential domestic terrorist attacks involving weapons of mass destruction and cybertechnology is inadequate and should be strengthened; (2) that duplication exists in federal programs to assist state and local emergency preparedness and response personnel and coordination among federal agencies and departments will eliminate this duplication. Since the bombings of the World Trade Center in 1993 and the Alfred P. Murrah federal building in 1995, Congress has directed the creation of numerous programs to address preparedness of emergency responders against terrorist attacks. Although the

agencies have created high quality programs, many operate independently of each other. The result is an uncoordinated effort created in the absence of a national strategy without a defined end-state for preparedness. In addition, there is currently no complete inventory of federal preparedness programs. As a result, we do not accurately know how many federal programs exist or the capabilities of emergency responders.

Subsection (b) states the purpose of the Act. The purpose is to (1) coordinate and make more effective federal efforts to assist state and local emergency responders; (2) designate a lead entity to coordinate federal efforts; and (3) update federal authorities to reflect increased risk of terrorist attacks.

Section 3. Definition of major disaster

Amends subsection 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to expand the current definition of “major disaster” as defined in subsection 102(2). This includes, regardless of cause, acts of terrorism and other catastrophic events. The current definition does not include the release of a chemical or biological agent released in a manner other than an explosion. Expanding the definition in this manner reflects current and emerging threats.

Section 4. Administration of emergency preparedness programs by the President

Title VI is the only title of the Stafford Act that must be specifically implemented by the Director of the Federal Emergency Management Agency. This section replaces references to the “Director” with the “President”, thereby making title VI consistent with the rest of the Act. In addition, this change more accurately reflects the current practices of the Executive Branch. At this time, other agencies in addition to FEMA are involved in the preparedness activities included in title VI.

Section 5. Definitions

Amends and adds definitions contained in section 602(a). The definition of the term “hazard” is amended to include a domestic terrorist attack involving a weapon of mass destruction or cyber technology. The definition of the term “emergency preparedness” is expanded to allow for the predeployment of personnel and other resources for major events. The definition of the term “natural hazard” is expanded to include snow drought. Finally, the Defense Authorization Act of FY 1998 definition of the term “weapon of mass destruction” is inserted into section 602. The Committee selected this definition of weapon of mass destruction because of its narrow scope. The Stafford Act already covers [incidents resulting from] the use of high yield explosives through the definition of a major disaster as defined in subsection 102(2).

Section 6. Detailed functions of administration

Subsection (a) expands existing duties under the Stafford Act for emergency response plans and programs. In effect, the bill requires the President to ensure that the Federal Response Plan is adequate to respond to acts of terrorism.

Subsection (b) expands the study and development of emergency preparedness measures to include prevention of hazards, and the development of shelter designs, clothing and equipment. This subsection is not meant to alter the existing responsibilities of any non-governmental entity under the Federal Response Plan and affects only the study and development of the listed items.

Subsection (c) expands existing section 611(f), which covers training programs to also include exercises. An additional section requires the President to base training and exercise program content and priorities on a reasoned assessment of existing threats, capabilities and objectives so that emergency responders are adequately prepared against terrorist attacks.

Section 7. Repeals

Repeals two outdated sections of the Stafford Act, sections 615 and 622. Section 615 contains language that enables funds to be used for natural hazards. Other provisions of title VI address all hazards, both natural and man-caused, therefore, section 615 is superfluous. Section 622 establishes detailed security requirements. These requirements, first set out in 1950 in the Civil Defense Act, are outdated, and are now inconsistent with standards established in subsequent Executive Orders and OPM regulations.

Section 8. Authorization of appropriations

This section amends Title VI authorization of appropriations to require that training and exercise programs established under Title VI are consistent with the priorities established under section 611(f)(2) as established under Section 8 of this bill.

Section 9. Office of Terrorism Preparedness

Amends Title VI of the Stafford Act creating new sections 651 through 661 to create an Office of Terrorism Preparedness within the Executive Office of the President that has the authority to coordinate the efforts of the federal agencies and departments with terrorism preparedness programs.

New section 651. Establishment of office

Subsection (a) establishes the Office of Terrorism Preparedness within the Executive Office of the President. The Committee emphasizes that this Office cannot be successful in its mission to coordinate federal efforts without proper authority to affect the programs of the involved agencies. Several advisory groups⁵ have stressed the need for the Office to be established independent of existing agencies. By placing this Office in the Executive Office of the President, it can more effectively oversee federal programs and accomplish its goals without being involved in the day-to-day management of any single agency.

Subsection (b) sets out the appointment process for the Director of this office. The Director is appointed by the President. The President should consult with the Director of FEMA, the Secretary of Defense and the Attorney General in making this appointment.

⁵These advisory groups include the Congressionally authorized "Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction", the National Emergency Managers Association, the International Association of Fire Chiefs, and the National League of Cities.

Once selected, the nominee is then subject to confirmation by the Senate.

New section 652. Duties of Director

Under this section, the Director is required to: (1) establish the Federal government's policies, objectives and priorities for enhancing state and local response to all domestic terrorist attacks; (2) create a five-year national plan (the Domestic Preparedness Plan) with annual strategies to achieve the goals of the national plan; (3) biennially review state and local preparedness programs; (4) create voluntary guidelines for state and local preparedness programs; (5) consult with and serve as a contact for state and local entities implementing terrorist attack preparedness programs; (6) coordinate and oversee Federal efforts to ensure compliance with established policies; (7) make recommendations to the President and National Security Council regarding allocation of personnel within departments and agencies, and organization, management, and budgets of federal agencies and departments; (8) notify an agency or department in writing if they are not in compliance with their responsibilities under the national plan.

This legislation addresses the lack of coordination and communication between agencies involved in federal preparedness efforts. This section addresses some of the major problem areas within the federal programs. The goal of this Act is not to create or eliminate specific programs, but to provide a structure for identifying where overlap exists and what specific steps should be taken to improve these programs. The Director is tasked with assessing existing programs to determine the value and function of each including how each fits into the national strategy.

Due to the large number of existing resources, the Director is required to draw upon those existing resources and capabilities in executing his duties. Specifically, in drafting the Domestic Preparedness Plan, the Director must consider existing plans. These existing plans include planning documents, equipment lists, and program inventories. In addition, in completing his duties, the Director must, when appropriate, consult with and utilize existing interagency boards and committees, existing government entities, and other sources including non-governmental organizations with existing capabilities.

There is additional concern that current funding provided to the individual states is not based on established standards or policies. Therefore, the Director should create state funding policies based on several factors including potential risk and threat, response capabilities, and ability to achieve the defined end-state for preparedness. Also, the Director should address the establishment of a standardized incident command within the identified objectives.

The Director is also strongly encouraged to establish a "State and Local Advisory Group" (SLAG) composed of individuals involved in state and local emergency preparedness and response to terrorist attacks. This group should serve as a resource for establishing the voluntary guidelines, providing input on issues that should be addressed in the national strategy, and keeping the Director informed of the issues affecting state and local responders, including the need for creating a plan to address information sharing from the federal level to state and local officials.

New section 653. Domestic Terrorism Preparedness Plan and annual strategy

Subsection (a) requires the Director to draft the Domestic Terrorism Preparedness Plan (“national plan” or “plan”) within 180 days of appointment. The Director must transmit a copy of the plan to the President and to Congress upon completion.

Subsection (b) requires the plan to include: (1) the statement of policies, objectives and priorities as established in §652(1); (2) a plan for implementing these policies, objectives and priorities including measurable objectives for each year of the five-year strategy; (3) a detailed description of the role of each federal agency or department and state and local governmental entities under the strategy.

Under paragraph (b)(3) the plan must include an evaluation of each federal response team and the assistance each team offers to state and local emergency personnel during response to a terrorist attack. This evaluation should include an assessment of how the team will assist state and local emergency personnel once they have achieved the desired end-state for preparedness. A detailed recommendation for expanding these teams, including the Department of Defense’s Weapons of Mass Destruction—Civil Support Teams (WMD-CST), to each state, territory, and the District of Columbia should accompany this evaluation.

In developing ways to enhance domestic preparedness against a terrorist attack, the Director should consider the need for additional terrorism preparedness training facilities. These facilities should be located at a college or university that already maintains agreements with law enforcement agencies to provide continuous skills education focusing on providing training to law enforcement and emergency responders geared to the specific needs of preparing rural communities in the event of a terrorist attack.

Additionally, the Director shall consider the possible roles and relationship between existing and proposed national training sites including, but not limited to, sites at Fort McClellan, Alabama, the Nevada Test Site near Las Vegas, Nevada, and the National Fire Academy in Emmitsburg, Maryland.

Subsection (c) establishes the requirements for the annual strategies, which lay out the steps that must be achieved to meet the requirements as set out in the national plan. Each annual strategy shall be transmitted to Congress and the President at the same time the President’s budget request is submitted to Congress.

Subsection (d) lists the individuals and entities the Director must consult when drafting the national plan and annual updates. These individuals and organizations will be listed in the report to Congress and the President provided that they were involved in consultation with the OTP.

Groups to be consulted include: (1) the head of each federal department or agency that will have responsibilities under the national or annual strategy. This subsection is also meant to include all entities, governmental or non-governmental, with responsibilities under the Federal Response Plan (FRP). This group includes the Red Cross in its specifically authorized responsibilities under the FRP. Additional entities include (2) Congress; (3) State and local officials; (4) Congressionally authorized panels; (5) emergency preparedness organizations with memberships that include state

and local emergency responders. The term “emergency responders” is meant to include emergency managers as well as those typically defined as emergency responders. Therefore, subparagraph (E) includes associations such as the National Emergency Management Association (NEMA), the National Governor’s Association (NGA), the National League of Cities (NLC), and the International Association of Fire Chiefs (IAFC).

Subsection (f) requires the Director to include in the risk and threat assessment an evaluation of those risks and threats affecting mass transportation facilities including its employees and passengers. In developing the annual preparedness plan and risk assessment strategy, the entity designated to perform the assessment shall ensure that the risks of terrorist attacks against transportation personnel, passengers, and facilities are included in the assessment. In part, the risk assessment plan and strategy will help create safer transit by making it safer for passengers and transit employees.

In developing the plan, both Federal and state laws to combat terrorism should be examined. Consultation with representatives of transportation service providers and representatives of employees of such persons shall occur in the development of the annual plan.

New section 654. National domestic preparedness budget

Subsection (a) requires the Director to develop an annual consolidated budget proposal to implement the national plan. In drafting this budget, the Director must work with agency program staff and state and local government entities to ensure that each program’s budget is consistent with the annual consolidated budget proposal. Once completed, the budget proposal is transmitted to the President and to Congress.

Subsection (b) requires the appropriate agency official with responsibilities under the strategy to submit the program budget request to the Director of the Office at the same time the budget is submitted to the official’s superior. This subsection enables the Director to be involved in the program budget at the beginning of the process. By requiring the agency to submit the budget to the Director before it has been approved through agency management and prior to OMB submission, the Director has a greater opportunity to influence the budget process and ensure agency compliance with the strategy.

Subsection (c) requires the Director of the Office to review the budget requests submitted under subsection (b); provide a written certification for each budget request that details the adequacy of the request for the upcoming fiscal year; and provide notification to the individual who submitted the budget to the Office regarding the Director’s certification. Subsection (e) requires the Director to keep records regarding the certification of each program’s budget.

Subsection (d) establishes the procedure for an agency to reprogram or transfer funds. If an agency is given the freedom to reprogram or transfer funds without the input or knowledge of the OTP Director, that agency could use those funds in a manner inconsistent with the national plan. By requiring an agency to consult with the Director and seek his approval in all reprogramming or transfer of funds requests, the Director may ensure that all funds are spent according to the national plan. This section also provides

that an agency may appeal the Director's decision to the President if the agency is not satisfied with the determination of the Director. In addition, the Director is required to report to Congress on a quarterly basis regarding reprogramming or transfer for activities under the national plan.

The budget portion of this bill closely tracks the authorization language of the Office of National Control Policy (ONDCP). While there are some differences and enhancements, both processes specifically include the Office of Management and Budget (OMB) in the budget process. For example, subsection (f) requires the Director to notify the Director of the OMB if he determines that an agency's budget is not adequate to conform with the national plan. In addition, subsection (g) requires agencies to comply with the bill's budget structure in a timely fashion, and in a format agreed upon by the Directors of OTP and the OMB. However, in the event that the OTP Director is not able to complete the budget process during the OTP's first year of existence, subsection (h) provides that existing programs are eligible for funding at the previous fiscal year's level.

New section 655. Certification of federal training and exercise programs

The Director is required to oversee all elements of the federal agencies' terrorism preparedness programs. This section requires the Director to review each program and either certify or deny certification for each program. The Director may not certify a budget request for a program that has been denied certification. Should a program be included in the President's budget request that has not been certified by the Director, a copy of the Director's denial of certification will accompany the budget request when it is submitted to Congress. Certification through this process ensures that each program is consistent with the goals of the national plan.

In effect, this section ensures that duplication and fragmentation will be eliminated through the certification process because the Director's certification criteria must seek to eliminate duplicative programs. In addition, this section requires an agency to consult with the Director in the creation of a new office or program to ensure from the outset that the new program is consistent with the national strategy. As the plan progresses, and the nation becomes more prepared, the programs are reevaluated and re-certified on a three year schedule.

This initial detailed analysis of each federal program will also assist the creation of the national plan. In order to complete the certification task, it will be necessary for the Director to keep an inventory of each program that includes a detailed description.

New section 656. Voluntary guidelines for State and local programs

The Director is required to establish voluntary guidelines for equipment, exercises and training for the terrorist attack preparedness programs of state and local government entities. This section establishes a desired threshold level of preparedness for state and local emergency responders. These guidelines should serve as a roadmap for state and local responders to assist in achievement of

the desired level of preparedness. This section is not intended to be a mandate.

New section 657. Grants to State and local entities

The Director may award grants to state and local entities to lessen the financial burden of attending training and exercise programs that have been certified by the Director. These grants are specifically limited to attendees of federal programs that are certified by the Director as being consistent with the goals of the national strategy.

New section 658. Powers of Director

This section enables the Director to hire staff, request detailees, hire experts or consultants and to execute other administrative functions. In addition, this section provides the Director with the authority to conduct program and performance evaluations and audits using agencies Inspectors General to perform these audits.

New section 659. Role of Director in National Security Council efforts

In his role as the principal adviser to the National Security Council (NSC) regarding terrorist attack preparedness matters, at the direction of the President, the Director may participate in meetings of the NSC. This section enables the Director to participate in the NSC's current working group structure as established under Presidential Decision Directive 62.

New section 660. Coordination with executive branch departments and agencies

This section requires the agencies with responsibilities under the national strategy to cooperate with the Director by providing assistance, information and advice at the request of the Director. Each agency is also required to give written notification to the Director of any proposed change in policy prior to implementing the change so that the Director may determine whether the proposed change is consistent with the national strategy.

New section 661. Authorization of appropriations

The OTP is provided with \$9 million for fiscal year 2001 and such sums as may be necessary through 2005. The position of OTP Director is designated as ES-II.

HEARINGS

The Subcommittee on Oversight, Investigations, and Emergency Management held three hearings on domestic preparedness against terrorist attacks. During the first hearing, held on June 9, 1999, witnesses identified the lack of coordination within the federal government regarding preparedness against terrorist attacks. Witnesses at this hearing included Administration officials from FEMA, DOD, and DOJ as well as representatives of the National League of Cities (NLC) and the International Association of Fire Chiefs (IAFC). In addition, testimony from the General Accounting Office (GAO) identified instances of overlap within the framework of federal programs, specifically the duplication of subject matter

within the Department of Defense (DOD) training programs and the Department of Justice and FEMA training programs.

According to GAO, DOD's Domestic Preparedness Program (DPP) was developed without the input from other federal agencies with existing training programs. At the time of the hearing, the DOD training programs covered only 22 percent of the population. Furthermore, the combined training programs of DOD, DOJ and FEMA were offered in 38 states, leaving 12 states without federal training assistance. Witnesses also testified that duplication and fragmentation in federal programs causes confusion for state and local responders.

The Subcommittee's second hearing, held on April 6, 2000, focused on the findings of the first report of the congressionally authorized "Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction" (the Panel) chaired by Virginia Governor James Gilmore. Witnesses at this hearing included the Vice-Chairman of the Panel General James Clapper, GAO, and local emergency response officials from several areas around the nation. In addition to identifying ways to improve government-wide coordination, witnesses discussed their confusion and frustration when dealing with the myriad of federal preparedness programs. The entity created to coordinate these programs, the FBI's National Domestic Preparedness Office (NDPO), has not met the expectations of the response community.

During the April 6 hearing, Panel Vice-Chairman General James Clapper, former Director of the Defense Intelligence Agency, identified five "attributes" that a coordinating entity must possess in order to be effective. According to the Panel, this entity (1) must be autonomous and independent of any agency; (2) it must have appropriate full-time professional representation from the state and local responder community; (3) it must have full-time dedicated staff from cabinet departments and agencies; (4) it must have genuine visibility over the commitment of money, programs and resources; and (5) it must be appropriately resourced in terms of staff, money and facilities.

The Panel believes an autonomous coordinating entity will eliminate the current "turf battles" between the stakeholder agencies, promote communication between these agencies, and serve to streamline the preparedness effort. The Panel also indicated that although progress has been made on the federal level, there is still work to be done. In addition, the Panel asserts that eliminating fragmentation within federal response teams and creating a national strategy should help to minimize the duplication of federal efforts. Without a coordinating element to organize and prioritize these federal programs and response teams, we will continue to encounter conflicting federal priorities and confusion among local responders.

Panel Vice Chairman Clapper submitted additional testimony to the April 6 hearing record which indicated that the OTP, established in H.R. 4210, fulfils all of the attributes identified by the Panel for a coordinating entity.

On May 4, 2000, the Subcommittee held a legislative hearing on H.R. 4210. The Subcommittee received testimony from senior Administration officials from FEMA, DOD and DOJ and representatives of the NLC, IAFC and National Emergency Management As-

sociation (NEMA). Testimony from witnesses representing the NLC, IAFC and NEMA identified the need for creating the OTP and expressed support for H.R. 4210.

COMMITTEE CONSIDERATION

Testimony from Subcommittee hearings compelled the Committee to draft a bill creating the Office of Terrorism Preparedness. Once drafted, the bill was released for public comment and was revised to reflect comments received by the Subcommittee. H.R. 4210 was introduced on April 6, 2000 by Congresswoman Tillie K. Fowler, and Congressmen James A. Traficant, Herbert H. Bateman, Floyd Spence, Saxby Chambliss, Johnny Isakson, Bill McCollum, Christopher Shays, Lee Terry and J.C. Watts, Jr. On May 25, 2000 the Subcommittee on Oversight, Investigations, and Emergency Management favorably reported the bill with a technical amendment to the Full Committee by unanimous voice vote, a quorum being present.

On June 21, 2000, the Full Committee met in open session and ordered reported H.R. 4210, as amended, unanimously by voice vote, a quorum being present. A manager's amendment requiring the Director of the Office of Terrorism Preparedness to assess terrorist threats against mass transportation facilities and making minor changes and technical corrections to the bill was passed by voice vote.

ROLLCALL VOTES

Clause 3(b) of rule XIII requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with ordering H.R. 4210 reported. A motion by Mrs. Tillie K. Fowler to order H.R. 4210 reported to the House, with amendments, was unanimously agreed to by voice vote, a quorum being present.

COST OF THE LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report. The Committee notes that the CBO estimate explicitly omits significant benefits of the legislation because CBO was unable to quantify these benefits.

COMPLIANCE WITH HOUSE RULE XIII

1. Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, oversight findings and recommendations have been made by the Committee as reflected in this report.

2. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the

Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office (CBO) included below.

3. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on the subject of H.R. 4210.

4. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4210 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 28, 2000.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4210, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for improved federal efforts to prepare for and respond to terrorist attacks, and for other purposes.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 4210—A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for improved federal efforts to prepare for and respond to terrorist attacks, and for other purposes

Summary: H.R. 4210 would create an Office of Terrorism Preparedness within the Executive Office of the President. The new office would oversee and coordinate all federal programs which help state and local governments prepare for a terrorist attack. The responsibilities of this office would include establishing a comprehensive strategy for assisting state and local governments, evaluating federal programs which are designed to help state and local governments, providing grants to help state and local governments participate in federal programs, and coordinating the President's budget request for antiterrorism.

H.R. 4210 would authorize the appropriation of \$9 million in fiscal year 2001 for the Office of Terrorism Preparedness, and the bill would authorize such as may be necessary for fiscal years 2002 through 2005. CBO estimates that implementing H.R. 4210 would cost \$47 million over the 2001–2005 period, assuming the necessary amounts are provided.

H.R. 4210 would authorize the new office to accept and spend donations which would affect both governmental receipts and direct spending; hence, pay-as-you-go procedures would apply. CBO esti-

mates that neither the receipts nor the spending would exceed \$500,000.

H.R. 4210 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and could benefit state and local governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4210 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development). The estimate assumes that spending would occur at the same rates as observed for similar programs.

	By fiscal year in millions of dollars—					
	2000	2001	2002	2003	2004	2005
Estimated authorization level	0	9	9	10	10	10
Estimated outlays	0	4	13	10	10	10

¹ By allowing the new Office of Terrorism Preparedness to accept and spend donations: the bill also would effect receipts and direct spending. CBO estimates that those changes would be negligible each year.

² This estimate of spending for the Office of Terrorism preparedness assumes annual adjustments for anticipated inflation. CBO estimates that spending for the office would cost about \$44 million over the 2001–2005 period without such adjustments.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. These procedures would apply to H.R. 4210 because it could affect direct spending and receipts, but CBO estimates that the annual amount of such changes would not be significant.

Estimated impact on State, local, and tribal governments: H.R. 4210 contains no intergovernmental or private-sector mandates as defined in UMRA and could benefit state and local antiterrorism efforts. The bill would require the director of the new office to provide voluntary minimum standards, recommendations, assessments, and consulting services to state and local governments to improve antiterrorism preparedness. The bill also would authorize the director to make grants to state and local governments to offset specific costs. Tribal governments would not be affected by the bill.

Estimate prepared by: Federal costs: Rachel Applebaum; impact on State, local, and tribal governments: Shelly Finlayson; impact on the private sector: Natilie Tawil.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

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

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (P.L. 104–4).

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104-1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

* * * * *

TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS

* * * * *

DEFINITIONS

SEC. 102. As used in this Act—

(1) * * *

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

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

* * * * *

TITLE VI—EMERGENCY PREPAREDNESS

* * * * *

SEC. 602. DEFINITIONS.

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

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

(A) a natural disaster; or

(B) an accidental or man-caused event¹, including a domestic terrorist attack involving a weapon of mass destruction or cybertechnology.

(2) NATURAL DISASTER.—The term “natural disaster” means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.²

(2) NATURAL DISASTER.—The term “natural disaster” means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, snow drought, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.

(3) EMERGENCY PREPAREDNESS.—The term “emergency preparedness” means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:

(A) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the predeployment of these and other essential resources (including personnel), the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population).

* * * * *

(4) ORGANIZATIONAL EQUIPMENT.—The term “organizational equipment” means equipment determined by the ³Director ⁴President to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual

quantities dictated by the requirements of the emergency preparedness plans.

* * * * *

[(7) DIRECTOR.—The term “Director” means the Director of the Federal Emergency Management Agency.]

[(8)] (7) NEIGHBORING COUNTRIES.—The term “neighboring countries” includes Canada and Mexico.

[(9)] (8) UNITED STATES AND STATES.—The terms “United States” and “States” includes the several States, the District of Columbia, and territories and possessions of the United States.

[(10)] (9) STATE.—The term “State” includes interstate emergency preparedness authorities established under section 611(h).

(10) WEAPON OF MASS DESTRUCTION.—*The term “weapon of mass destruction” means 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.*

* * * * *

SEC. 603. ADMINISTRATION OF TITLE.

This title shall be carried out by the [Director of the Federal Emergency Management Agency] *President*.

Subtitle A—Powers and Duties

SEC. 611. DETAILED FUNCTIONS OF ADMINISTRATION.

(a) IN GENERAL.—In order to carry out the policy described in section 601, the [Director] *President* shall have the authorities provided in this section.

(b) FEDERAL EMERGENCY RESPONSE PLANS AND PROGRAMS.—The [Director may] *President shall* prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the [Director] *President* may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States. *In accordance with section 313, the President shall ensure that Federal response plans and programs are adequate to respond to the consequences of terrorism directed against a target in the United States, including terrorism involving weapons of mass destruction and terrorism involving cybertechnology.*

(c) DELEGATION OF EMERGENCY PREPAREDNESS RESPONSIBILITIES.—[With the approval of the President, the] *The* [Director] *President* may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness [responsibilities and review] *responsibilities. The President shall review and coordinate the emergency preparedness activities of the depart-*

ments and agencies with each other and with the activities of the States and neighboring countries.

* * * * *

(e) EMERGENCY PREPAREDNESS MEASURES.—The [Director] *President* may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including—

(1) research and studies as to the best methods of *preventing and treating* the effects of hazards;

(2) [developing shelter designs] *development of shelter designs, equipment, clothing,* and materials for protective covering or construction; and

(3) [developing equipment or facilities and effecting the standardization thereof] *development and standardization of equipment and facilities* to meet emergency preparedness requirements.

(f) TRAINING AND EXERCISE PROGRAMS.—(1) The [Director] *President* may—

(A) conduct or arrange, by contract or otherwise, for training and exercise programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness;

* * * * *

(2) *The President shall establish priorities among training and exercise programs for preparedness against terrorist attacks based on an assessment of the existing threats, capabilities, and objectives.*

[(2)] (3) The terms prescribed by the [Director] *President* for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

[(3)] (4) The [Director] *President* may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

* * * * *

[SEC. 615. USE OF FUNDS TO PREPARE FOR AND RESPOND TO HAZARDS.

[Funds made available to the States under this title may be used by the States for the purposes of preparing for hazards and providing emergency assistance in response to hazards. Regulations prescribed to carry out this section shall authorize the use of emergency preparedness personnel, materials, and facilities supported in whole or in part through contributions under this title for emergency preparedness activities and measures related to hazards.]

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Subtitle B—General Provisions

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SEC. 621. ADMINISTRATIVE AUTHORITY.

(a) * * *

* * * * *

(g) RULES AND REGULATIONS.—The **Director** *President* may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title and perform any of the powers and duties provided by this title. **The Director** may perform any of the powers and duties provided by this title through or with the aid of such officials of the Federal Emergency Management Agency as the Director may designate.]

* * * * *

[SEC. 622. SECURITY REGULATIONS.

[(a) ESTABLISHMENT.—The Director shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Director considers necessary.

[(b) LIMITATIONS ON EMPLOYEE ACCESS TO INFORMATION.—No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Director.

[(c) NATIONAL SECURITY POSITIONS.—No employee of the Federal Emergency Management Agency shall occupy any position determined by the Director to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the Director of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Director of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Director of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the Director of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Director of the Federal Emergency Management Agency for action.

[(d) EMPLOYEE OATHS.—Each Federal employee of the Federal Emergency Management Agency acting under the authority of this title, except the subjects of the United Kingdom and citizens of Canada specified in section 621(b), shall execute the loyalty oath or appointment affidavits prescribed by the Director of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for emergency preparedness shall before entering upon duties, take an

oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

["I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

["And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of _____ (name of emergency preparedness organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence."

[After appointment and qualification for office, the director of emergency preparedness of any State, and any subordinate emergency preparedness officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of title 18, United States Code.]

SEC. 623. USE OF EXISTING FACILITIES.

In performing duties under this title, the [Director] *President*—

[(1) shall cooperate with the various departments and agencies of the Federal Government;]

[(2)] (1) shall use, to the maximum extent, the existing facilities and resources of the Federal Government and, with their consent, the facilities and resources of the States and political subdivisions thereof, and of other organizations and agencies; and

[(3)] (2) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency [unless the Director, with the written approval of the President,] *unless the President* shall determine that such duplication is necessary to accomplish the purposes of this title.

SEC. 624. ANNUAL REPORT TO CONGRESS.

The [Director] *President* shall annually submit a written report [to the President and Congress] *to Congress* covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this title, accompanied by such recommendations as the [Director] *President* considers appropriate.

* * * * *

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

(a) * * *

(b) *PRIORITIES.*—Amounts appropriated pursuant to this section for training and exercise programs for preparedness against ter-

rorist attacks shall be used in a manner consistent with the priorities established under section 611(f)(2).

[(b)] (c) **TRANSFER AUTHORITY.**—Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the **[Director]** *President* of the Office of Management and Budget, to any agency or government corporation designated to assist in carrying out this title. Each such allocation or transfer shall be reported in full detail to the Congress within 30 days after such allocation or transfer.

* * * * *

Subtitle C—Office of Terrorism Preparedness

SEC. 651. ESTABLISHMENT OF OFFICE.

(a) *IN GENERAL.*—There is established in the Executive Office of the President an Office of Terrorism Preparedness (in this subtitle referred to as the “Office”).

(b) *APPOINTMENT OF DIRECTOR.*—The head of the Office shall be the Director of the Office of Terrorism Preparedness (in this subtitle referred to as the “Director”), who shall be appointed by the President, by and with the advice and consent of the Senate. In making the appointment, the President should consult with the Director of the Federal Emergency Management Agency, the Attorney General of the United States, and the Secretary of Defense.

SEC. 652. DUTIES OF DIRECTOR.

The Director shall—

(1) establish the policies, objectives, and priorities of the Federal Government for enhancing the capabilities of State and local emergency preparedness and response personnel in early detection and warning of and response to all domestic terrorist attacks, including attacks involving weapons of mass destruction or cyberotechnology;

(2) publish a Domestic Terrorism Preparedness Plan and an annual strategy for carrying out the plan in accordance with section 653;

(3) biennially review the terrorist attack preparedness programs of State and local governmental entities and provide recommendations to such entities based on such reviews;

(4) establish voluntary guidelines for the terrorist attack preparedness programs of State and local governmental entities in accordance with section 656;

(5) consult with, and serve as a contact for, State and local governmental entities implementing terrorist attack preparedness programs;

(6) coordinate and oversee the implementation by Federal departments and agencies of the policies, objectives, and priorities established under paragraph (1) and the fulfillment of the responsibilities of such departments and agencies under the Domestic Terrorism Preparedness Plan;

(7) make recommendations to the President and to the National Security Council regarding—

- (A) *changes in the organization, management, and budgets of Federal departments and agencies; and*
 - (B) *the allocation of personnel to and within such departments and agencies;*
- to implement the policies, priorities, and objectives established under paragraph (1) and the Domestic Terrorism Preparedness Plan; and*
- (8) *notify a Federal department or agency in writing if the Director finds that its policies are not in compliance with its responsibilities under the Domestic Terrorism Preparedness Plan and transmit a copy of such notification to the President.*

SEC. 653. DOMESTIC TERRORISM PREPAREDNESS PLAN AND ANNUAL STRATEGY

(a) *DEVELOPMENT OF PLAN.*—Not later than 180 days after the date of appointment of the Director, the Director shall develop a Domestic Terrorism Preparedness Plan and transmit a copy of the plan to the President and Congress. The Director, as necessary, may extend the deadline established by this subsection, except that any such extension may not exceed 90 days.

(b) *CONTENTS.*—The Domestic Terrorism Preparedness Plan shall include—

- (1) *a statement of the policies, objectives, and priorities established by the Director under section 652(1);*
- (2) *a plan for implementing such policies, objectives, and priorities, which is based on a threat and risk assessment and includes measurable objectives to be achieved in each of the following 5 years for enhancing domestic preparedness against a terrorist attack; and*
- (3) *a description of the specific role of each Federal department and agency, and the roles of State and local governmental entities, under the plan developed under paragraph (2).*

(c) *ANNUAL STRATEGY.*—

(1) *IN GENERAL.*—The Director shall develop and transmit to the President and Congress, on the date of transmittal of the Domestic Terrorism Preparedness Plan and, in each of the succeeding 4 fiscal years, on the date that the President submits an annual budget to Congress in accordance with section 1105(a) of title 31, United States Code, an annual strategy for carrying out the Domestic Terrorism Preparedness Plan in the fiscal year following the fiscal year in which the strategy is submitted.

(2) *CONTENTS.*—The annual strategy for a fiscal year shall include—

- (A) *a description of Federal training and exercise programs, grant programs, and other activities conducted in the fiscal year preceding the fiscal year for which the strategy has been developed related to domestic preparedness against a terrorist attack and recommendations concerning whether any of such programs may be duplicative;*
- (B) *a description of Federal training and exercise programs, grant programs, and other activities to be conducted in the fiscal year for which the strategy has been developed under the Domestic Terrorism Preparedness Plan and measurable objectives to be achieved in such fiscal year for*

enhancing domestic preparedness against a terrorist attack;
and

(C) a complete assessment of how the budget proposal transmitted for the fiscal year under section 654(a) is intended to implement the strategy and whether the funding levels contained in such proposal are sufficient to implement such strategy.

(d) CONSULTATION.—

(1) IN GENERAL.—In developing the Domestic Terrorism Preparedness Plan and each annual strategy for carrying out the plan, the Director shall consult with—

(A) the head of each Federal department and agency that will have responsibilities under the Domestic Terrorism Preparedness Plan or annual strategy;

(B) Congress;

(C) State and local officials;

(D) congressionally authorized panels; and

(E) emergency preparedness organizations with memberships that include State and local emergency responders.

(2) REPORTS.—At the time the Director submits the Domestic Terrorism Preparedness Plan or an annual strategy to the President and Congress, the Director shall transmit a report to the President and Congress indicating the persons consulted under this subsection.

(e) TRANSMISSION OF CLASSIFIED INFORMATION.—Any part of the Domestic Terrorism Preparedness Plan under subsection (a) or an annual strategy under subsection (c) that involves information properly classified under criteria established by an Executive order shall be presented to Congress separately.

(f) RISK OF TERRORIST ATTACKS AGAINST TRANSPORTATION FACILITIES.—

(1) IN GENERAL.—In developing the plan and risk assessment under subsection (b), the Director shall designate an entity to assess the risk of terrorist attacks against transportation facilities, personnel, and passengers.

(2) CONTENTS.—In developing the plan and risk assessment under subsection (b), the Director shall ensure that the following 3 tasks are accomplished:

(A) An examination of the extent to which transportation facilities, personnel, and passengers have been the target of terrorist attacks and the extent to which such facilities, personnel, and passengers are vulnerable to such attacks.

(B) An evaluation of Federal and State laws that can be used to combat terrorist attacks against transportation facilities, personnel, and passengers, and the extent to which such laws are enforced.

(C) An evaluation of available technologies and practices to determine the best means of protecting mass transportation facilities, personnel, and passengers against terrorist attacks.

(3) CONSULTATION.—In developing the plan and risk assessment under subsection (b), the Director shall consult with the Secretary of Transportation, representatives of persons providing transportation, and representatives of employees of such persons.

SEC. 654. NATIONAL DOMESTIC PREPAREDNESS BUDGET.

(a) *DEVELOPMENT AND TRANSMISSION OF BUDGET.*—The Director shall develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities under the Domestic Terrorism Preparedness Plan and appropriate State and local governmental entities, a consolidated budget proposal to implement the Domestic Terrorism Preparedness Plan, and shall transmit a copy of the budget proposal to the President and Congress.

(b) *BUDGET SUBMISSIONS BY DEPARTMENTS AND AGENCIES.*—Each Federal Government program manager, agency head, and department head with responsibilities under the Domestic Terrorism Preparedness Plan shall transmit the budget request of the program, agency, or department relating to such responsibilities to the Director at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

(c) *REVIEW OF BUDGET SUBMISSIONS.*—The Director shall—

(1) review each budget request transmitted to the Director under subsection (b);

(2) certify in writing as to the adequacy of such request to implement the objectives of the Domestic Terrorism Preparedness Plan for the fiscal year for which the request is submitted; and

(3) notify the program manager, agency head, or department head, as applicable, regarding the Director's certification under paragraph (2).

(d) *REPROGRAMMING AND TRANSFER REQUESTS.*—

(1) *IN GENERAL.*—No Federal department or agency shall submit to Congress a reprogramming or transfer request that is included in the consolidated budget proposal developed under subsection (a) unless such request has been approved by the Director.

(2) *APPEALS.*—The Secretary of a department or the head of an agency may appeal to the President any disapproval by the Director of a reprogramming or transfer request.

(3) *QUARTERLY REPORTS.*—The Director shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated funds for activities under the Domestic Terrorism Preparedness Plan.

(e) *RECORDS.*—The Director shall maintain records regarding certifications under subsection (c)(2).

(f) *NOTICE TO OMB OF INADEQUATE REQUESTS.*—If the Director determines under subsection (c)(2) that a budget request is not adequate to implement the objectives of the Domestic Terrorism Preparedness Plan for the fiscal year for which the request is submitted, the Director shall transmit a written statement of such determination to the Director of the Office of Management and Budget.

(g) *TIMELY DEVELOPMENT AND SUBMISSION OF BUDGET REQUESTS.*—The head of each Federal department and agency with responsibilities under the Domestic Terrorism Preparedness Plan shall ensure timely development and transmittal of budget requests pursuant to subsection (b) in such format as may be designated by

the Director with the concurrence of the Director of the Office of Management and Budget.

(h) *FAILURE OF DIRECTOR TO MAKE TIMELY DETERMINATIONS.*—With respect to the first fiscal year for which budget requests are submitted under subsection (b), if the Director does not make a timely determination with respect to the adequacy of such a request, the program or activity for which the request is being made shall be eligible for funding at the same level as the program or activity received funding in the preceding fiscal year.

SEC. 655. CERTIFICATION OF FEDERAL TRAINING AND EXERCISE PROGRAMS.

(a) *CERTIFICATION OF PROGRAMS.*—Not later than 270 days after the date of appointment of the Director, the Director shall conduct a review of each training and exercise program being conducted by a Federal department or agency to enhance the capabilities of State and local emergency preparedness and response personnel with respect to terrorist attacks. Upon completing the review, the Director shall either certify or deny certification for the program based on criteria to be developed by the Director. The Director, as necessary, may extend the deadline established by this subsection with respect to a training or exercise program, except that any such extension may not exceed 180 days.

(b) *RECERTIFICATION OF PROGRAMS.*—A training or exercise program that is certified by the Director under subsection (a) shall be reviewed by the Director on or before June 15th of the third fiscal year beginning after the date of certification and on or before June 15th of every third fiscal year thereafter. Upon completing each review, the Director shall either recertify or deny recertification for the program based on criteria to be developed by the Director.

(c) *EFFECT OF DENIALS.*—The Director may not certify a budget request transmitted for a fiscal year under section 654 with respect to any training or exercise program for which the Director has denied certification or recertification for a period including such fiscal year under this section.

(d) *DEVELOPMENT OF CERTIFICATION CRITERIA.*—In developing criteria for certifications and recertifications under this section, the Director shall seek to eliminate duplicative Federal programs and to further Federal efforts toward implementation of the policies, objectives, and priorities of the Domestic Terrorism Preparedness Plan.

(e) *ESTABLISHMENT OF NEW PROGRAMS AND OFFICES.*—Before a Federal department or agency may establish a new program or office to enhance the capabilities of State and local emergency preparedness and response personnel with respect to terrorist attacks, the head of the department or agency shall consult with the Director to determine whether the new program or office is consistent with the Domestic Terrorism Preparedness Plan.

SEC. 656. VOLUNTARY GUIDELINES FOR STATE AND LOCAL PROGRAMS.

The Director shall establish voluntary guidelines for the terrorist attack preparedness programs of State and local governmental entities for the purpose of providing guidance in the development and implementation of such programs. The guidelines shall address equipment, exercises, and training.

SEC. 657. GRANTS TO STATE AND LOCAL ENTITIES.

The Director may make grants to a State or local governmental entity to offset the costs of participation by the entity in any training or exercise program that has been certified by the Director under section 655.

SEC. 658. POWERS OF DIRECTOR.

In carrying out this subtitle, the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees as may be necessary to carry out the functions of the Office under this subtitle;

(2) direct, with the concurrence of the Secretary of a department or head of an agency, the temporary reassignment within the Federal Government of personnel employed by such department or agency;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

(5) accept and use donations of property from Federal, State, and local government agencies;

(6) use the mails in the same manner as any other department or agency of the executive branch; and

(7) monitor the implementation of the Domestic Terrorism Preparedness Plan, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations.

SEC. 659. ROLE OF DIRECTOR IN NATIONAL SECURITY COUNCIL EFFORTS.

The Director may, in the Director's role as principal adviser to the National Security Council on Federal efforts to assist State and local governmental entities in domestic terrorist attack preparedness matters, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

SEC. 660. COORDINATION WITH EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES.

(a) REQUESTS FOR ASSISTANCE.—The head of each Federal department and agency with responsibilities under the Domestic Terrorism Preparedness Plan shall cooperate with the Director and, subject to laws governing disclosure of information, provide such assistance, information, and advice as the Director may request.

(b) CERTIFICATION OF POLICY CHANGES BY DIRECTOR.—

(1) IN GENERAL.—The head of each Federal department and agency with responsibilities under the Domestic Terrorism Preparedness Plan shall, unless exigent circumstances require otherwise, notify the Director in writing regarding any proposed change in policies relating to the activities of such department or agency under the Domestic Terrorism Preparedness Plan

prior to implementation of such change. The Director shall promptly review such proposed change and certify to the department or agency head in writing whether such change is consistent with the Domestic Terrorism Preparedness Plan.

(2) NOTICE IN EXIGENT CIRCUMSTANCES.—If prior notice of a proposed change under paragraph (1) is not possible, the department or agency head shall notify the Director as soon as practicable. The Director shall review such change and certify to the department or agency head in writing whether such change is consistent with the Domestic Terrorism Preparedness Plan.

(c) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

SEC. 661. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle \$9,000,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2005. Such sums shall remain available until expended.

SECTION 5315 OF TITLE 5, UNITED STATES CODE

§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Secretary of Defense.

* * * * *

Director, Office of Terrorism Preparedness.

