

109TH CONGRESS  
1ST SESSION

# S. 1013

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

---

## IN THE SENATE OF THE UNITED STATES

MAY 12, 2005

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

---

## A BILL

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

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

### 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Funding Our Risks With Appropriate Resource Dis-  
6 bursement Act of 2005” or the “Homeland Security FOR-  
7 WARD Funding Act of 2005”.

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

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

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

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

6 **“TITLE XVIII—RISK-BASED**  
 7 **FUNDING FOR HOMELAND SE-**  
 8 **CURITY**

9 **“SEC. 1801. RISK-BASED FUNDING FOR HOMELAND SECU-**  
 10 **RITY.**

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

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

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

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

8           “(3) LAW ENFORCEMENT TERRORISM PREVEN-  
9           TION PROGRAM.—The Law Enforcement Terrorism  
10          Prevention Program of the Department, or any suc-  
11          cessor to such grant program.

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

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

18               “(1) NONDEPARTMENT PROGRAMS.—Any Fed-  
19               eral grant program that is not administered by the  
20               Department.

21               “(2) FIRE GRANT PROGRAMS.—The fire grant  
22               programs authorized by sections 33 and 34 of the  
23               Federal Fire Prevention and Control Act of 1974  
24               (15 U.S.C. 2229, 2229a).

1           “(3) EMERGENCY MANAGEMENT PLANNING  
 2           AND ASSISTANCE ACCOUNT GRANTS.—The Emer-  
 3           gency Management Performance Grant program and  
 4           the Urban Search and Rescue Grants program au-  
 5           thorized by title VI of the Robert T. Stafford Dis-  
 6           aster Relief and Emergency Assistance Act (42  
 7           U.S.C. 5195 et seq.), the Departments of Veterans  
 8           Affairs and Housing and Urban Development, and  
 9           Independent Agencies Appropriations Act, 2000  
 10          (113 Stat. 1047 et seq.), and the Earthquake Haz-  
 11          ards Reduction Act of 1977 (42 U.S.C. 7701 et  
 12          seq.).

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

16          (b) COVERED GRANT ELIGIBILITY AND CRITERIA.—  
 17          The Homeland Security Act of 2002 (Public Law 107–  
 18          296; 6 U.S.C. 361 et seq.), as amended by subsection (a),  
 19          is amended by adding at the end the following:

20          **“SEC. 1802. COVERED GRANT ELIGIBILITY AND CRITERIA.**

21                 “(a) GRANT ELIGIBILITY.—

22                         “(1) IN GENERAL.—

23                                 “(A) GENERAL ELIGIBILITY.—Except as  
 24                                 provided in subparagraphs (B) and (C), any

1 State, region, or directly eligible tribe shall be  
2 eligible to apply for a covered grant.

3 “(B) URBAN AREA SECURITY INITIA-  
4 TIVE.—Only a region shall be eligible to apply  
5 for a grant under the Urban Area Security Ini-  
6 tiative of the Department, or any successor to  
7 such grant program.

8 “(C) STATE HOMELAND SECURITY GRANT  
9 PROGRAM.—Only a State shall be eligible to  
10 apply for a grant under the State Homeland  
11 Security Grant Program of the Department, or  
12 any successor to such grant program.

13 “(2) OTHER GRANT APPLICANTS.—

14 “(A) IN GENERAL.—Grants provided by  
15 the Department for improving homeland secu-  
16 rity, including to seaports, airports, and other  
17 transportation facilities, shall be allocated as  
18 described in section 1801(a).

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

25 “(3) CERTIFICATION OF REGIONS.—

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

3           “(i) the geographic area meets the cri-  
4 teria under section 1807(10)(B) and (C);  
5 and

6           “(ii) the Secretary determines, based  
7 on an assessment of threat, vulnerability,  
8 and consequence, that certifying the geo-  
9 graphic area as a region under this title is  
10 in the interest of national homeland secu-  
11 rity.

12           “(B) EXISTING URBAN AREA SECURITY  
13 INITIATIVE AREAS.—Notwithstanding subpara-  
14 graphs (B) and (C) of section 1807(10), a geo-  
15 graphic area that, on or before the date of en-  
16 actment of the Homeland Security FORWARD  
17 Funding Act of 2005, was designated as a high-  
18 threat urban area for purposes of the Urban  
19 Area Security Initiative, shall be certified by  
20 the Secretary as a region unless the Secretary  
21 determines, based on an assessment of threat,  
22 vulnerability, and consequence, that certifying  
23 the geographic area as a region is not in the in-  
24 terest of national homeland security.

1       “(b) GRANT CRITERIA.—In awarding covered grants,  
 2 the Secretary shall assist States, local governments, and  
 3 operators of airports, ports, or similar facilities in achiev-  
 4 ing, maintaining, and enhancing the essential capabilities  
 5 established by the Secretary under section 1803.

6       “(c) STATE HOMELAND SECURITY PLANS.—

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

11                       “(A) demonstrates the extent to which the  
 12 State has achieved the essential capabilities  
 13 that apply to the State;

14                       “(B) demonstrates the needs of the State  
 15 necessary to achieve, maintain, or enhance the  
 16 essential capabilities that apply to the State;

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

20                       “(D) describes how the State intends—

21                               “(i) to address such needs at the city,  
 22 county, regional, tribal, State, and inter-  
 23 state level, including a precise description  
 24 of any regional structure the State has es-  
 25 tablished for the purpose of organizing

1 homeland security preparedness activities  
2 funded by covered grants;

3 “(ii) to use all Federal, State, and  
4 local resources available for the purpose of  
5 addressing such needs; and

6 “(iii) to give particular emphasis to  
7 regional planning and cooperation, includ-  
8 ing the activities of multijurisdictional  
9 planning agencies governed by local offi-  
10 cials, both within its jurisdictional borders  
11 and with neighboring States;

12 “(E) is developed in consultation with and  
13 subject to appropriate comment by local govern-  
14 ments within the State; and

15 “(F) with respect to the emergency pre-  
16 paredness of first responders, addresses the  
17 unique aspects of terrorism as part of a com-  
18 prehensive State emergency management plan.

19 “(2) APPROVAL BY SECRETARY.—The Sec-  
20 retary may not award any covered grant to a State  
21 unless the Secretary has approved the applicable  
22 State homeland security plan.

23 “(d) CONSISTENCY WITH STATE PLANS.—The Sec-  
24 retary shall ensure that each covered grant is used to sup-  
25 plement and support, in a consistent and coordinated



1 manner, the applicable State homeland security plan or  
2 plans.

3 “(e) APPLICATION FOR GRANT.—

4 “(1) IN GENERAL.—Except as otherwise pro-  
5 vided in this subsection, any State, region, directly  
6 eligible tribe, or operator of an airport, port, or simi-  
7 lar facility may apply for a covered grant by submit-  
8 ting to the Secretary an application at such time, in  
9 such manner, and containing such information as is  
10 required under this subsection, or as the Secretary  
11 may reasonably require.

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

20 “(3) AVAILABILITY OF FUNDS.—All funds  
21 awarded by the Secretary under covered grants in a  
22 fiscal year shall be available for obligation through  
23 the end of the subsequent fiscal year.

1           “(4) MINIMUM CONTENTS OF APPLICATION.—

2           The Secretary shall require that each applicant in-  
3           clude in its application, at a minimum—

4                   “(A) the purpose for which the applicant  
5                   seeks covered grant funds and the reasons why  
6                   the applicant needs the covered grant to meet  
7                   the essential capabilities for terrorism prepared-  
8                   ness within the State, region, or directly eligible  
9                   tribe or at the airport, port, or similar facility  
10                  to which the application pertains;

11                   “(B) a description of how, by reference to  
12                   the applicable State homeland security plan or  
13                   plans under subsection (c), the allocation of  
14                   grant funding proposed in the application, in-  
15                   cluding, where applicable, the amount not  
16                   passed through under section 1806(g)(1), would  
17                   assist in fulfilling the essential capabilities spec-  
18                   ified in such plan or plans;

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

22                   “(D) if the applicant is a State, a descrip-  
23                   tion of how the State plans to allocate the cov-  
24                   ered grant funds to regions, local governments,  
25                   and Indian tribes;

1 “(E) if the applicant is a region—

2 “(i) a precise geographical description  
3 of the region and a specification of all par-  
4 ticipating and nonparticipating local gov-  
5 ernments within the geographical area  
6 comprising that region;

7 “(ii) a specification of what govern-  
8 mental entity within the region will admin-  
9 ister the expenditure of funds under the  
10 covered grant;

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

13 “(iv) a description of how the govern-  
14 mental entity administering the expendi-  
15 ture of funds under the covered grant  
16 plans to allocate the covered grant funds to  
17 States, local governments, and Indian  
18 tribes;

19 “(F) a capital budget showing how the ap-  
20 plicant intends to allocate and expend the cov-  
21 ered grant funds; and

22 “(G) if the applicant is a directly eligible  
23 tribe, a designation of a specific individual to  
24 serve as the tribal liaison.

25 “(5) REGIONAL APPLICATIONS.—

1 “(A) RELATIONSHIP TO STATE APPLICA-  
2 TIONS.—A regional application—

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

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

8 “(iii) shall address the unique regional  
9 aspects of such region’s terrorism pre-  
10 paredness needs beyond those provided for  
11 in the application of such State or States.

12 “(B) OPPORTUNITY FOR STATE REVIEW  
13 AND COMMENT.—

14 “(i) IN GENERAL.—To ensure coordi-  
15 nation with an application submitted by a  
16 State or States, an applicant that is a re-  
17 gion shall submit its application to each  
18 State within the boundaries of which any  
19 part of such region is located for review.  
20 Before awarding any covered grant to a re-  
21 gion, the Secretary shall provide an oppor-  
22 tunity to each State within the boundaries  
23 of which any part of such region is located  
24 to comment to the Secretary on the con-  
25 sistency of the region’s application with the

1 State's homeland security plan. Any such  
2 comments and the underlying regional ap-  
3 plication shall be submitted to the Sec-  
4 retary concurrently with the submission of  
5 the State and regional applications.

6 “(ii) FINAL AUTHORITY.—The Sec-  
7 retary shall have final authority to deter-  
8 mine the consistency of any application of  
9 a region with the applicable State home-  
10 land security plan or plans, and to approve  
11 any application of such region. The Sec-  
12 retary shall notify each State within the  
13 boundaries of which any part of such re-  
14 gion is located of the approval of an appli-  
15 cation by such region.

16 “(C) DISTRIBUTION OF REGIONAL  
17 AWARDS.—If the Secretary approves a regional  
18 application, then the Secretary shall distribute  
19 a regional award to the State or States submit-  
20 ting the applicable regional application under  
21 subparagraph (B), and each such State shall,  
22 not later than the end of the 45-day period be-  
23 ginning on the date after receiving a regional  
24 award, pass through to the region all covered  
25 grant funds or resources purchased with such

1 funds, except those funds necessary for the  
2 State to carry out its responsibilities with re-  
3 spect to such regional application; *Provided*  
4 That, in no such case shall the State or States  
5 pass through to the region less than 80 percent  
6 of the regional award.

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

17 “(E) DIRECT PAYMENTS TO REGIONS.—If  
18 any State fails to pass through a regional  
19 award to a region as required by subparagraph  
20 (C) within 45 days after receiving such award  
21 and does not request or receive an extension of  
22 such period under section 1806(h)(2), the re-  
23 gion may petition the Secretary to receive di-  
24 rectly the portion of the regional award that is

1 required to be passed through to such region  
 2 under subparagraph (C).

3 “(F) REGIONAL LIAISONS.—A regional li-  
 4 aison designated under paragraph (4)(E)(iii)  
 5 shall—

6 “(i) coordinate with Federal, State,  
 7 local, regional, and private officials within  
 8 the region concerning terrorism prepared-  
 9 ness;

10 “(ii) develop a process for receiving  
 11 input from Federal, State, local, regional,  
 12 and private sector officials within the re-  
 13 gion to assist in the development of the re-  
 14 gional application and to improve the re-  
 15 gion’s access to covered grants; and

16 “(iii) administer, in consultation with  
 17 State, local, regional, and private officials  
 18 within the region, covered grants awarded  
 19 to the region.

20 “(6) TRIBAL APPLICATIONS.—

21 “(A) SUBMISSION TO THE STATE OR  
 22 STATES.—To ensure the consistency required  
 23 under subsection (d), an applicant that is a di-  
 24 rectly eligible tribe shall submit its application  
 25 to each State within the boundaries of which

1 any part of such tribe is located for direct sub-  
2 mission to the Department along with the appli-  
3 cation of such State or States.

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

15 “(C) FINAL AUTHORITY.—The Secretary  
16 shall have final authority to determine the con-  
17 sistency of any application of a directly eligible  
18 tribe with the applicable State homeland secu-  
19 rity plan or plans, and to approve any applica-  
20 tion of such tribe. The Secretary shall notify  
21 each State within the boundaries of which any  
22 part of such tribe is located of the approval of  
23 an application by such tribe.

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



1 “(i) coordinate with Federal, State,  
 2 and private sector officials to assist in the  
 3 development of the application of such  
 4 tribe and to improve the tribe’s access to  
 5 covered grants; and

6 “(ii) administer, in consultation with  
 7 State, local, regional, and private officials,  
 8 covered grants awarded to such tribe.

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

13 “(F) TRIBES NOT RECEIVING DIRECT  
 14 GRANTS.—An Indian tribe that does not receive  
 15 a grant directly under this section is eligible to  
 16 receive funds under a covered grant from the  
 17 State or States within the boundaries of which  
 18 any part of such tribe is located, consistent with  
 19 the homeland security plan of the State as de-  
 20 scribed in subsection (c). If a State fails to  
 21 comply with section 1806(g)(1), the tribe may  
 22 request payment under section 1806(h)(3) in  
 23 the same manner as a local government.

24 “(7) EQUIPMENT STANDARDS.—If an applicant  
 25 for a covered grant proposes to upgrade or purchase,

1 with assistance provided under the grant, new equip-  
 2 ment or systems that do not meet or exceed any ap-  
 3 plicable national voluntary consensus standards es-  
 4 tablished by the Secretary under section 1805(a),  
 5 the applicant shall include in the application an ex-  
 6 planation of why such equipment or systems will  
 7 serve the needs of the applicant better than equip-  
 8 ment or systems that meet or exceed such standards.

9 “(f) HOMELAND SECURITY GRANTS BOARD.—

10 “(1) ESTABLISHMENT OF BOARD.—The Sec-  
 11 retary shall establish a Homeland Security Grants  
 12 Board, consisting of—

13 “(A) the Secretary;

14 “(B) the Deputy Secretary of Homeland  
 15 Security;

16 “(C) the Under Secretary for Emergency  
 17 Preparedness and Response;

18 “(D) the Under Secretary for Border and  
 19 Transportation Security;

20 “(E) the Under Secretary for Information  
 21 Analysis and Infrastructure Protection;

22 “(F) the Under Secretary for Science and  
 23 Technology; and

24 “(G) the Director of the Office of State  
 25 and Local Government Coordination.

1 “(2) CHAIRMAN.—

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

4 “(B) EXERCISE OF AUTHORITIES BY DEP-  
5 UTY SECRETARY.—The Deputy Secretary of  
6 Homeland Security may exercise the authorities  
7 of the Chairman, if the Secretary so directs.

8 “(3) RISK-BASED RANKING OF GRANT APPLICA-  
9 TIONS.—

10 “(A) PRIORITIZATION OF GRANTS.—The  
11 Board—

12 “(i) shall evaluate and annually  
13 prioritize all pending applications for cov-  
14 ered grants based upon the degree to  
15 which they would, by achieving, maintain-  
16 ing, or enhancing the essential capabilities  
17 of the applicants on a nationwide basis,  
18 lessen the threat to, vulnerability of, and  
19 consequences for persons and critical infra-  
20 structure; and

21 “(ii) in evaluating the threat to per-  
22 sons and critical infrastructure for pur-  
23 poses of prioritizing covered grants, shall  
24 give greater weight to threats of terrorism

1 based on their specificity and credibility,  
2 including any pattern of repetition.

3 “(B) MINIMUM AMOUNTS.—

4 “(i) IN GENERAL.—After evaluating  
5 and prioritizing grant applications under  
6 subparagraph (A), the Board shall ensure  
7 that, for each fiscal year, each State that  
8 has an approved State homeland security  
9 plan receives no less than 0.25 percent of  
10 the funds available for the State Homeland  
11 Security Grant Program, as described in  
12 section 1801(b)(1), for that fiscal year for  
13 purposes of implementing its homeland se-  
14 curity plan in accordance with the  
15 prioritization of additional needs under  
16 subsection (c)(1)(C).

17 “(ii) OTHER ENTITIES.—Notwith-  
18 standing clause (i), the Board shall ensure  
19 that, for each fiscal year, American Samoa,  
20 the Commonwealth of the Northern Mar-  
21 iana Islands, Guam, and the Virgin Islands  
22 each receive 0.08 percent of the funds  
23 available for the State Homeland Security  
24 Grant Program, as described in section  
25 1801(b)(1), for that fiscal year for pur-

poses of implementing its homeland security plan in accordance with the prioritization of additional needs under subsection (c)(1)(C).

“(4) FUNCTIONS OF UNDER SECRETARIES.—

The Under Secretaries referred to in paragraph (1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.”.

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

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

**“SEC. 1803. ESSENTIAL CAPABILITIES FOR HOMELAND SECURITY.**

“(a) ESTABLISHMENT OF ESSENTIAL CAPABILITIES.—

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

“(A) the Task Force on Essential Capabilities established under section 1804;

1           “(B) the Under Secretaries for Emergency  
2           Preparedness and Response, Border and Trans-  
3           portation Security, Information Analysis and  
4           Infrastructure Protection, and Science and  
5           Technology, and the Director of the Office of  
6           State and Local Government Coordination;

7           “(C) the Secretary of Health and Human  
8           Services;

9           “(D) other appropriate Federal agencies;

10          “(E) State and local first responder agen-  
11          cies and officials; and

12          “(F) consensus-based standard making or-  
13          ganizations responsible for setting standards  
14          relevant to the first responder community.

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

16               “(A) establish essential capabilities under  
17               paragraph (1) within 30 days after receipt of  
18               the report under section 1804(b); and

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

22          “(3) PROVISION OF ESSENTIAL CAPABILI-  
23          TIES.—The Secretary shall ensure that a detailed  
24          description of the essential capabilities established  
25          under paragraph (1) is provided promptly to the

1 States and to Congress. The States shall make the  
2 essential capabilities available as necessary and ap-  
3 propriate to local governments and operators of air-  
4 ports, ports, and other similar facilities within their  
5 jurisdictions.

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

9 “(1) SPECIFICITY.—The determination of es-  
10 sential capabilities specifically shall describe the  
11 training, planning, personnel, and equipment that  
12 different types of communities in the Nation should  
13 possess, or to which they should have access, in  
14 order to meet the Department’s goals for terrorism  
15 preparedness based upon—

16 “(A) the most current risk assessment  
17 available by the Directorate for Information  
18 Analysis and Infrastructure Protection of the  
19 threats of terrorism against the United States;

20 “(B) the types of threats, vulnerabilities,  
21 geography, size, and other factors that the Sec-  
22 retary has determined to be applicable to each  
23 different type of community; and

1                   “(C) the principles of regional coordination  
2                   and mutual aid among State and local govern-  
3                   ments.

4                   “(2) FLEXIBILITY.—The establishment of es-  
5                   sential capabilities shall be sufficiently flexible to  
6                   allow State and local government officials to set pri-  
7                   orities based on particular needs, while reaching na-  
8                   tionally determined terrorism preparedness levels  
9                   within a specified time period.

10                  “(3) MEASURABILITY.—The establishment of  
11                  essential capabilities shall be designed to enable  
12                  measurement of progress toward specific terrorism  
13                  preparedness goals.

14                  “(4) COMPREHENSIVENESS.—The determina-  
15                  tion of essential capabilities for terrorism prepared-  
16                  ness shall be made within the context of a com-  
17                  prehensive State emergency management system.

18                  “(c) FACTORS TO BE CONSIDERED.—

19                  “(1) IN GENERAL.—In establishing essential ca-  
20                  pabilities under subsection (a)(1), the Secretary spe-  
21                  cifically shall consider the variables of threat, vulner-  
22                  ability, and consequences with respect to the Na-  
23                  tion’s population (including transient commuting  
24                  and tourist populations) and critical infrastructure.  
25                  Such consideration shall be based upon the most



1 current risk assessment available by the Directorate  
2 for Information Analysis and Infrastructure Protec-  
3 tion of the threats of terrorism against the United  
4 States.

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

9 “(A) Agriculture.

10 “(B) Banking and finance.

11 “(C) Chemical industries.

12 “(D) The defense industrial base.

13 “(E) Emergency services.

14 “(F) Energy.

15 “(G) Food.

16 “(H) Government.

17 “(I) Postal and shipping.

18 “(J) Public health.

19 “(K) Information and telecommunications  
20 networks.

21 “(L) Transportation.

22 “(M) Water.

23 The order in which the critical infrastructure sectors  
24 are listed in this paragraph shall not be construed

1 as an order of priority for consideration of the im-  
2 portance of such sectors.

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

8 “(A) Biological threats.

9 “(B) Nuclear threats.

10 “(C) Radiological threats.

11 “(D) Incendiary threats.

12 “(E) Chemical threats.

13 “(F) Explosives.

14 “(G) Suicide bombers.

15 “(H) Cyber threats.

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

19 The order in which the types of threat are listed in  
20 this paragraph shall not be construed as an order of  
21 priority for consideration of the importance of such  
22 threats.

23 “(4) CONSIDERATION OF ADDITIONAL FAC-  
24 TORS.—In establishing essential capabilities under  
25 subsection (a)(1), the Secretary shall take into ac-

1 count any other specific threat to a population (in-  
2 cluding a transient commuting or tourist population)  
3 or critical infrastructure sector that the Secretary  
4 has determined to exist.

5 **“SEC. 1804. TASK FORCE ON ESSENTIAL CAPABILITIES.**

6 “(a) ESTABLISHMENT.—To assist the Secretary in  
7 establishing essential capabilities under section  
8 1803(a)(1), the Secretary shall establish an advisory body  
9 pursuant to section 871(a) not later than 60 days after  
10 the date of the enactment of this section, which shall be  
11 known as the Task Force on Essential Capabilities.

12 “(b) REPORT.—

13 “(1) IN GENERAL.—The Task Force shall sub-  
14 mit to the Secretary, not later than 9 months after  
15 its establishment by the Secretary under subsection  
16 (a) and every 3 years thereafter, a report on its rec-  
17 ommendations for essential capabilities for prepared-  
18 ness for terrorism.

19 “(2) CONTENTS.—The report shall—

20 “(A) include a priority ranking of essential  
21 capabilities in order to provide guidance to the  
22 Secretary and to Congress on determining the  
23 appropriate allocation of, and funding levels for,  
24 first responder needs;

1           “(B) set forth a methodology by which any  
2           State or local government will be able to deter-  
3           mine the extent to which it possesses or has ac-  
4           cess to the essential capabilities that States and  
5           local governments having similar risks should  
6           obtain;

7           “(C) describe the availability of national  
8           voluntary consensus standards, and whether  
9           there is a need for new national voluntary con-  
10          sensus standards, with respect to first re-  
11          sponder training and equipment;

12          “(D) include such additional matters as  
13          the Secretary may specify in order to further  
14          the terrorism preparedness capabilities of first  
15          responders; and

16          “(E) include such revisions to the contents  
17          of past reports as are necessary to take into ac-  
18          count changes in the most current risk assess-  
19          ment available by the Directorate for Informa-  
20          tion Analysis and Infrastructure Protection or  
21          other relevant information as determined by the  
22          Secretary.

23          “(3) CONSISTENCY WITH FEDERAL WORKING  
24          GROUP.—The Task Force shall ensure that its rec-  
25          ommendations for essential capabilities are, to the

1 extent feasible, consistent with any preparedness  
2 goals or recommendations of the Federal working  
3 group established under section 319F(a) of the Pub-  
4 lic Health Service Act (42 U.S.C. 247d–6(a)).

5 “(4) COMPREHENSIVENESS.—The Task Force  
6 shall ensure that its recommendations regarding es-  
7 sential capabilities for terrorism preparedness are  
8 made within the context of a comprehensive State  
9 emergency management system.

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

17 “(c) MEMBERSHIP.—

18 “(1) IN GENERAL.—The Task Force shall con-  
19 sist of 35 members appointed by the Secretary, and  
20 shall, to the extent practicable, represent a geo-  
21 graphic and substantive cross section of govern-  
22 mental and nongovernmental first responder dis-  
23 ciplines from the State and local levels, including as  
24 appropriate—

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

8           “(B) health scientists, emergency and in-  
9           patient medical providers, and public health  
10          professionals, including experts in emergency  
11          health care response to chemical, biological, ra-  
12          diological, and nuclear terrorism, and experts in  
13          providing mental health care during emergency  
14          response operations;

15          “(C) experts from Federal, State, and local  
16          governments, and the private sector, rep-  
17          resenting standards-setting organizations, in-  
18          cluding representation from the voluntary con-  
19          sensus codes and standards development com-  
20          munity, particularly those with expertise in first  
21          responder disciplines; and

22          “(D) State and local officials with exper-  
23          tise in terrorism preparedness, subject to the  
24          condition that if any such official is an elected  
25          official representing 1 of the 2 major political

1 parties, an equal number of elected officials  
2 shall be selected from each such party.

3 “(2) COORDINATION WITH THE DEPARTMENT  
4 OF HEALTH AND HUMAN SERVICES.—In the selec-  
5 tion of members of the Task Force who are health  
6 professionals, including emergency medical profes-  
7 sionals, the Secretary shall coordinate the selection  
8 with the Secretary of Health and Human Services.

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

18 “(d) APPLICABILITY OF FEDERAL ADVISORY COM-  
19 MITTEE ACT.—Notwithstanding section 871(a), the Fed-  
20 eral Advisory Committee Act (5 U.S.C. App.), including  
21 subsections (a), (b), and (d) of section 10 of such Act,  
22 and section 552b(c) of title 5, United States Code, shall  
23 apply to the Task Force.

1 **“SEC. 1805. NATIONAL STANDARDS FOR FIRST RESPONDER**  
2 **EQUIPMENT AND TRAINING.**

3 “(a) EQUIPMENT STANDARDS.—

4 “(1) IN GENERAL.—The Secretary, in consulta-  
5 tion with the Under Secretaries for Emergency Pre-  
6 paredness and Response and Science and Tech-  
7 nology and the Director of the Office of State and  
8 Local Government Coordination, shall, not later  
9 than 6 months after the date of enactment of this  
10 section, support the development of, promulgate, and  
11 update as necessary national voluntary consensus  
12 standards for the performance, use, and validation  
13 of first responder equipment for purposes of section  
14 1802(e)(7). Such standards—

15 “(A) shall be, to the maximum extent prac-  
16 ticable, consistent with any existing voluntary  
17 consensus standards;

18 “(B) shall take into account, as appro-  
19 priate, new types of terrorism threats that may  
20 not have been contemplated when such existing  
21 standards were developed;

22 “(C) shall be focused on maximizing inter-  
23 operability, interchangeability, durability, flexi-  
24 bility, efficiency, efficacy, portability, sustain-  
25 ability, and safety; and



1           “(D) shall cover all appropriate uses of the  
2           equipment.

3           “(2) REQUIRED CATEGORIES.—In carrying out  
4           paragraph (1), the Secretary shall specifically con-  
5           sider the following categories of first responder  
6           equipment:

7           “(A) Thermal imaging equipment.

8           “(B) Radiation detection and analysis  
9           equipment.

10          “(C) Biological detection and analysis  
11          equipment.

12          “(D) Chemical detection and analysis  
13          equipment.

14          “(E) Decontamination and sterilization  
15          equipment.

16          “(F) Personal protective equipment, in-  
17          cluding garments, boots, gloves, and hoods, and  
18          other protective clothing.

19          “(G) Respiratory protection equipment.

20          “(H) Interoperable communications, in-  
21          cluding wireless and wireline voice, video, and  
22          data networks.

23          “(I) Explosive mitigation devices and ex-  
24          plosive detection and analysis equipment.

25          “(J) Containment vessels.

1                   “(K) Contaminant-resistant vehicles.

2                   “(L) Such other equipment for which the  
3           Secretary determines that national voluntary  
4           consensus standards would be appropriate.

5           “(b) TRAINING STANDARDS.—

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

19                   “(A) enable first responders to prevent,  
20           prepare for, respond to, and mitigate terrorist  
21           threats, including threats from chemical, bio-  
22           logical, nuclear, and radiological weapons and  
23           explosive devices capable of inflicting significant  
24           human casualties; and

1           “(B) familiarize first responders with the  
2           proper use of equipment, including software,  
3           developed pursuant to the standards established  
4           under subsection (a).

5           “(2) REQUIRED CATEGORIES.—In carrying out  
6           paragraph (1), the Secretary specifically shall in-  
7           clude the following categories of first responder ac-  
8           tivities:

9           “(A) Regional planning.

10          “(B) Joint exercises.

11          “(C) Intelligence collection, analysis, and  
12          sharing.

13          “(D) Emergency notification of affected  
14          populations.

15          “(E) Detection of biological, nuclear, radi-  
16          ological, and chemical weapons of mass destruc-  
17          tion.

18          “(F) Such other activities for which the  
19          Secretary determines that national voluntary  
20          consensus training standards would be appro-  
21          priate.

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

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

6               “(1) the National Institute of Standards and  
7 Technology;

8               “(2) the National Fire Protection Association;

9               “(3) the National Association of County and  
10 City Health Officials;

11              “(4) the Association of State and Territorial  
12 Health Officials;

13              “(5) the American National Standards Insti-  
14 tute;

15              “(6) the National Institute of Justice;

16              “(7) the Inter-Agency Board for Equipment  
17 Standardization and Interoperability;

18              “(8) the National Public Health Performance  
19 Standards Program;

20              “(9) the National Institute for Occupational  
21 Safety and Health;

22              “(10) ASTM International;

23              “(11) the International Safety Equipment Asso-  
24 ciation;

1           “(12) the Emergency Management Accredita-  
2           tion Program;

3           “(13) the National Domestic Preparedness Con-  
4           sortium; and

5           “(14) to the extent the Secretary considers ap-  
6           propriate, other national voluntary consensus stand-  
7           ards development organizations, other interested  
8           Federal, State, and local agencies, and other inter-  
9           ested persons.

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

17       **SEC. 4. EFFECTIVE ADMINISTRATION OF HOMELAND SECU-**  
18                               **RITY GRANTS.**

19          (a) USE OF GRANT FUNDS AND ACCOUNTABILITY.—  
20       The Homeland Security Act of 2002 (Public Law 107–  
21       296; 6 U.S.C. 361 et seq.), as amended by sections 2 and  
22       3, is amended by adding at the end the following:

1 **“SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY RE-**  
2 **QUIREMENTS.**

3 “(a) IN GENERAL.—A covered grant may be used  
4 for—

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

8 “(2) exercises to strengthen terrorism prepared-  
9 ness and response;

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

14 “(4) developing or updating response plans;

15 “(5) establishing or enhancing mechanisms for  
16 sharing terrorism threat information;

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

23 “(7) additional personnel costs resulting from—

24 “(A) elevations in the threat alert level of  
25 the Homeland Security Advisory System by the  
26 Secretary, or a similar elevation in threat alert

1 level issued by a State, region, or local govern-  
2 ment with the approval of the Secretary;

3 “(B) travel to and participation in exer-  
4 cises and training in the use of equipment and  
5 on prevention activities;

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

10 “(D) participation in information, inves-  
11 tigative, and intelligence-sharing activities spe-  
12 cifically related to terrorism prevention;

13 “(8) the costs of equipment (including software)  
14 required to receive, transmit, handle, and store clas-  
15 sified information;

16 “(9) target hardening to reduce the vulner-  
17 ability of high-value targets, as determined by the  
18 Secretary;

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

23 “(A) \$1,000,000 per project; or

24 “(B) such greater amount as may be ap-  
25 proved by the Secretary, which may not exceed

1           10 percent of the total amount of the covered  
2           grant;

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

13          “(12) educational curricula development for  
14          first responders to ensure that they are prepared for  
15          terrorist attacks;

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

21          “(14) paying of administrative expenses directly  
22          related to administration of the grant, except that  
23          such expenses may not exceed 3 percent of the  
24          amount of the grant; and



1           “(15) other appropriate activities as determined  
2       by the Secretary.

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

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

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

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

13           “(B) upgrading facilities to protect  
14       against, test for, and treat the effects of biologi-  
15       cal agents, which shall be included in the home-  
16       land security plan approved by the Secretary  
17       under section 1802(c);

18           “(3) to acquire land; or

19           “(4) for any State or local government cost-  
20       sharing contribution.

21           “(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this  
22       section shall be construed to preclude State and local gov-  
23       ernments from using covered grant funds in a manner  
24       that also enhances first responder preparedness for emer-  
25       gencies and disasters unrelated to acts of terrorism, if

1 such use assists such governments in achieving essential  
2 capabilities for terrorism preparedness established by the  
3 Secretary under section 1803.

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

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

20 “(f) FLEXIBILITY IN UNSPENT HOMELAND SECU-  
21 RITY GRANT FUNDS.—Upon request by the recipient of  
22 a covered grant, the Secretary may authorize the grantee  
23 to transfer all or part of funds provided as the covered  
24 grant from uses specified in the grant agreement to other  
25 uses authorized under this section, if the Secretary deter-

1 mines that such transfer is in the interests of homeland  
2 security.

3 “(g) STATE, REGIONAL, AND TRIBAL RESPONSIBIL-  
4 ITIES.—

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

18 “(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—  
19  
20 Any State that receives a covered grant shall certify  
21 to the Secretary, by not later than 30 days after the  
22 expiration of the period described in paragraph (1)  
23 with respect to the grant, that the State has made  
24 available for expenditure by local governments, first

1 responders, and other local groups the required  
 2 amount of grant funds pursuant to paragraph (1).

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

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

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

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

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

1       such tribe is located. Each report shall include the  
2       following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4           “(2) EXTENSION OF PERIOD.—The Governor of  
5           a State may request in writing that the Secretary  
6           extend the 45-day period under section  
7           1802(e)(5)(E) or paragraph (1) for an additional  
8           15-day period. The Secretary may approve such a  
9           request, and may extend such period for additional  
10          15-day periods, if the Secretary determines that the  
11          resulting delay in providing grant funding to the  
12          local government entities that will receive funding  
13          under the grant will not have a significant detri-  
14          mental impact on such entities’ terrorism prepared-  
15          ness efforts.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25                 “(3) describing—

1           “(A) the Nation’s progress in achieving,  
2           maintaining, and enhancing the essential capa-  
3           bilities established under section 1803(a) as a  
4           result of the expenditure of covered grant funds  
5           during the preceding fiscal year; and

6           “(B) an estimate of the amount of expend-  
7           itures required to attain across the United  
8           States the essential capabilities established  
9           under section 1803(a).”.

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

12           (1) FINDING.—Congress finds that—

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

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

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

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

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

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

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

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

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

6           (e) COORDINATION OF INDUSTRY EFFORTS.—Sec-  
7   tion 102(f) of the Homeland Security Act of 2002 (Public  
8   Law 107–296; 6 U.S.C. 112(f)) is amended by striking  
9   “and” after the semicolon at the end of paragraph (6),  
10  by striking the period at the end of paragraph (7) and  
11  inserting “; and”, and by adding at the end the following:

12           “(8) coordinating industry efforts, with respect  
13   to functions of the Department of Homeland Secu-  
14   rity, to identify private sector resources and capabili-  
15   ties that could be effective in supplementing Federal,  
16   State, and local government agency efforts to pre-  
17   vent or respond to a terrorist attack.”.

18           (f) STUDY REGARDING NATIONWIDE EMERGENCY  
19  NOTIFICATION SYSTEM.—

20           (1) STUDY.—The Secretary of Homeland Secu-  
21   rity, in consultation with the heads of other appro-  
22   priate Federal agencies and representatives of pro-  
23   viders and participants in the telecommunications  
24   industry, shall conduct a study to determine whether  
25   it is cost effective, efficient, and feasible to establish

1 and implement an emergency telephonic alert notifi-  
2 cation system that will—

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

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

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

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

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

23 (1) STUDY.—The Secretary of Homeland Secu-  
24 rity, acting through the Director of the Office of Na-  
25 tional Capital Region Coordination, shall conduct a

1 study of the feasibility and desirability of modifying  
2 the definition of “National Capital Region” applica-  
3 ble under section 882 of the Homeland Security Act  
4 of 2002 to expand the geographic area under the ju-  
5 risdiction of the Office of National Capital Region  
6 Coordination.

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

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

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

19 (3) REPORT.—Not later than 6 months after  
20 the date of the enactment of this Act, the Secretary  
21 shall submit a report to Congress on the study con-  
22 ducted under paragraph (1), and shall include in the  
23 report such recommendations (including rec-  
24 ommendations for legislation to amend section 882

1 of the Homeland Security Act of 2002) as the Sec-  
 2 retary considers appropriate.

3 **SEC. 5. IMPLEMENTATION; DEFINITIONS; TABLE OF CON-**  
 4 **TENTS.**

5 (a) TECHNICAL AND CONFORMING AMENDMENT.—  
 6 Section 1014 of the USA PATRIOT ACT (42 U.S.C.  
 7 3714) is amended—

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

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

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

13 “(c) ADMINISTRATION.—Grants under this section  
 14 shall be administered in accordance with title 18 of the  
 15 Homeland Security Act of 2002.”.

16 (b) TEMPORARY LIMITATIONS ON APPLICATION.—

17 (1) 1-YEAR DELAY IN APPLICATION.—The fol-  
 18 lowing provisions of title XVIII of the Homeland Se-  
 19 curity Act of 2002, as added by this Act, shall not  
 20 apply during the 1-year period beginning on the date  
 21 of enactment of this Act—

22 (A) Subsections (b), (c), and (e)(4) (A)  
 23 and (B) of section 1802; and

24 (B) In section 1802(f)(3)(A)(i), the phrase  
 25 “by achieving, maintaining, or enhancing the



1           essential capabilities of the applicants on a na-  
2           tionwide basis,”.

3           (2) 2-YEAR DELAY IN APPLICATION.—The fol-  
4           lowing provisions of title XVIII of the Homeland Se-  
5           curity Act of 2002, as added by this Act, shall not  
6           apply during the 2-year period beginning on the date  
7           of enactment of this Act—

8                       (A) Subparagraphs (D) and (E) of section  
9                       1806(g)(4); and

10                      (B) Section 1806(i)(3).

11           (c) DEFINITIONS.—

12                       (1) TITLE XVIII.—The Homeland Security Act  
13           of 2002 (Public Law 107–296; 6 U.S.C. 361 et  
14           seq.), as amended by sections 2, 3, and 4, is amend-  
15           ed by adding at the end the following:

16   **“SEC. 1807. DEFINITIONS.**

17           “In this title:

18                       “(1) BOARD.—The term ‘Board’ means the  
19           Homeland Security Grants Board established under  
20           section 1802(f).

21                       “(2) CONSEQUENCE.—The term ‘consequence’  
22           means the assessment of the effect of a completed  
23           attack.

1           “(3) COVERED GRANT.—The term ‘covered  
2           grant’ means any grant to which this title applies  
3           under section 1801(b).

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

7                   “(A) meets the criteria for inclusion in the  
8                   qualified applicant pool for self-governance that  
9                   are set forth in section 402(c) of the Indian  
10                  Self-Determination and Education Assistance  
11                  Act (25 U.S.C. 458bb(c));

12                  “(B) employs at least 10 full-time per-  
13                  sonnel in a law enforcement or emergency re-  
14                  sponse agency with the capacity to respond to  
15                  calls for law enforcement or emergency services;  
16                  and

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

19                  “(ii) is located within 5 miles of a facility  
20                  designated as high-risk critical infrastructure  
21                  by the Secretary;

22                  “(iii) is located within or contiguous to 1  
23                  of the 50 largest metropolitan statistical areas  
24                  in the United States; or

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

4           “(5) ELEVATIONS IN THE THREAT ALERT  
5           LEVEL.—The term ‘elevations in the threat alert  
6           level’ means any designation (including those that  
7           are less than national in scope) that raises the  
8           homeland security threat level to either the highest  
9           or second-highest threat level under the Homeland  
10          Security Advisory System referred to in section  
11          201(d)(7).

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

17          “(7) ESSENTIAL CAPABILITIES.—The term ‘es-  
18          sential capabilities’ means the levels, availability,  
19          and competence of emergency personnel, planning,  
20          training, and equipment across a variety of dis-  
21          ciplines needed to effectively and efficiently prevent,  
22          prepare for, and respond to acts of terrorism con-  
23          sistent with established practices.

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

4           “(9) INDIAN TRIBE.—The term ‘Indian tribe’  
5           means any Indian tribe, band, nation, or other orga-  
6           nized group or community, including any Alaskan  
7           Native village or regional or village corporation as  
8           defined in or established pursuant to the Alaskan  
9           Native Claims Settlement Act (43 U.S.C. 1601 et  
10          seq.), which is recognized as eligible for the special  
11          programs and services provided by the United States  
12          to Indians because of their status as Indians.

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

15                 “(A) certified by the Secretary under sec-  
16                 tion 1802(a)(3);

17                 “(B) consisting of all or parts of 2 or more  
18                 counties, municipalities, or other local govern-  
19                 ments and including a city with a core popu-  
20                 lation exceeding 500,000 according to the most  
21                 recent estimate available from the United  
22                 States Census; and

23                 “(C) that, for purposes of an application  
24                 for a covered grant—

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

4 “(ii) is established by law or by agree-  
 5 ment of 2 or more such local governments  
 6 or governmental agencies, such as through  
 7 a mutual aid agreement.

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

12 “(12) TASK FORCE.—The term ‘Task Force’  
 13 means the Task Force on Essential Capabilities es-  
 14 tablished under section 1804.

15 “(13) THREAT.—The term ‘threat’ means the  
 16 assessment of the plans, intentions, and capability of  
 17 an adversary to implement an identified attack sce-  
 18 nario.

19 “(14) VULNERABILITY.—The term ‘vulner-  
 20 ability’ means the degree to which a facility is avail-  
 21 able or accessible to an attack, including the degree  
 22 to which the facility is inherently secure or has been  
 23 hardened against such an attack.”.

24 (2) DEFINITION OF EMERGENCY RESPONSE  
 25 PROVIDERS.—Paragraph (6) of section 2 of the

1       Homeland Security Act of 2002 (Public Law 107–  
 2       296; 6 U.S.C. 101(6)) is amended by striking “in-  
 3       cludes” and all that follows and inserting “includes  
 4       Federal, State, and local governmental and non-  
 5       governmental emergency public safety, law enforce-  
 6       ment, fire, emergency response, emergency medical  
 7       (including hospital emergency facilities), and related  
 8       personnel, organizations, agencies, and authorities.”.

9       (d) TABLE OF CONTENTS.—Section 1(b) of the  
 10      Homeland Security Act of 2002 (Public Law 107–296; 6  
 11      U.S.C. 101 note) is amended in the table of contents by  
 12      adding at the end the following:

“TITLE XVIII—RISK-BASED FUNDING FOR HOMELAND SECURITY

“Sec. 1801. Risk-based funding for homeland security.

“Sec. 1802. Covered grant eligibility and criteria.

“Sec. 1803. Essential capabilities for homeland security.

“Sec. 1804. Task Force on Essential Capabilities.

“Sec. 1805. National standards for first responder equipment and train-  
 ing.

“Sec. 1806. Use of funds and accountability requirements.

“Sec. 1807. Definitions.”.

