

108TH CONGRESS  
1ST SESSION

# H. R. 1389

To enhance the ability of first responders to respond to incidents of terrorism  
and for certain other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2003

Mr. CROWLEY (for himself, Mr. FOSSELLA, Mr. BISHOP of New York, Mr. KING of New York, Mrs. McCARTHY of New York, Mr. ENGEL, Mr. TOWNS, Mr. HOUGHTON, Mr. WEINER, Mrs. MALONEY, Mr. CAPUANO, Mr. OWENS, Mr. RANGEL, Mr. EMANUEL, Ms. WATERS, Mr. MEEKS of New York, Mr. HINCHEY, Mr. NADLER, Mr. BELL, and Mrs. LOWEY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Science, the Judiciary, and Select Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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# A BILL

To enhance the ability of first responders to respond to  
incidents of terrorism and for certain other purposes.

- 1        *Be it enacted by the Senate and House of Representa-*
- 2        *tives of the United States of America in Congress assembled,*
- 3        **SECTION 1. SHORT TITLE.**
- 4        This Act may be cited as the “Homeland Emergency
- 5        Response Act of 2003”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) First responders, which include local law  
4 enforcement departments, fire departments, offices  
5 coordinating emergency management, local health  
6 departments and local public hospitals, are crucial  
7 elements of anti-terror preparation and response.8 (2) Local efforts include increased counter-ter-  
9 rorism, intelligence, increased security at events and  
10 venues of national and international significance.  
11 These efforts supplement and enhance Federal ef-  
12 forts.13 (3) Local needs include training, personnel,  
14 equipment, communication, security upgrades to fa-  
15 cilities, and Federal assistance with personnel as  
16 well as capital costs and expenses.17 (4) The fiscal crisis at the local level is unprece-  
18 dented since WWII and threatens to undermine the  
19 ability of local governments to conduct their efforts  
20 in the War against Terrorism.21 (5) The Federal Government has a responsi-  
22 bility to provide for the common defense and there-  
23 fore to assist local governments in their counter-ter-  
24 rorism efforts.25 (6) Terrorists, according to the Al Queda man-  
26 ual and by their actions, have shown they seek to in-

1 flict maximum casualties, to disrupt the national  
2 economy, to disrupt the governmental leadership,  
3 and that they will return to those targets where ear-  
4 lier attacks have failed.

5 (7) When the criteria that the terrorists use is  
6 applied, it is clear that the localities targeted on  
7 September 11, 2001 as well as several other large  
8 metropolitan areas continue to be at the greatest  
9 risk of terrorist attack.

10 (8) While every community must have a well  
11 prepared first responder and public health infra-  
12 structure in place to cope with terrorist attacks, the  
13 Nation's defensive efforts should also be focused on  
14 where the greatest threats are.

15 (9) As the Nation builds up its defenses, the  
16 Nation must also adequately defend the homeland  
17 through the support of first responders.

18 (10) A new, long-term grant program by the  
19 Federal Government needs to be established to en-  
20 hance the ability of first responders to respond to in-  
21 cidents of terrorism, including weapons of mass de-  
22 struction, such as biological, chemical and nuclear  
23 attacks to ensure the safety of all Americans.

1 **SEC. 3. FIRST RESPONDERS.**

2 Section 430(d) of the Homeland Security Act of 2002

3 is amended—

4 (1) in paragraph (7) by striking “and” at the  
5 end;

6 (2) in paragraph (8) by striking the period and  
7 inserting “; and”; and

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

9 “(9) establish clear guidelines for Federal,  
10 State, tribal, and local government terrorism pre-  
11 paredness and response;

12 “(10) establish and coordinate an integrated ca-  
13 pability for Federal, State, and local governments  
14 and emergency responders to plan for and address  
15 potential consequences of terrorism;

16 “(11) establish standards for a national, inter-  
17 operable emergency communications and warning  
18 system which allows for communications capability  
19 between local and other first responders on all levels  
20 of government;

21 “(12) evaluate equipment to be used by first re-  
22 sponders, to respond to incidents of terrorism, in-  
23 cluding incidents involving weapons of mass destruc-  
24 tion; and

25 “(13) carry out such other related activities as  
26 are approved by the Secretary.”.

1 **SEC. 4. PREPAREDNESS ASSISTANCE FOR FIRST RESPOND-**  
2 **ERS.**

3 (a) IN GENERAL.—Section 430 of the Homeland Se-  
4 curity Act of 2002 is amended by adding at the end the  
5 following:

6 “(e) PROGRAM TO PROVIDE ASSISTANCE.—

7 “(1) IN GENERAL.—The Secretary shall estab-  
8 lish a program to provide assistance to States and  
9 certain local governments to enhance the ability of  
10 State and local first responders to respond to inci-  
11 dents of terrorism, including incidents involving  
12 weapons of mass destruction.

13 “(2) FEDERAL SHARE.—The Federal share of  
14 the cost of assistance under this subsection is as fol-  
15 lows:

16 “(A) 1ST YEAR.—shall not exceed 100 per-  
17 cent;

18 “(B) 2D YEAR.—shall not exceed 95 per-  
19 cent;

20 “(C) 3D YEAR.—shall not exceed 90 per-  
21 cent; and

22 “(D) 4TH YEAR.—shall not exceed 80 per-  
23 cent.

24 “(3) FORMS OF ASSISTANCE.—

25 “(A) IN GENERAL.—Assistance provided  
26 under paragraph (1) may consist of—

1                     “(i) grants; and

2                     “(ii) such other forms of assistance as

3                     the Secretary determines to be appropriate.

4                     “(B) USES OF ASSISTANCE.—Assistance

5                     provided under this subsection shall be used—

6                     “(i) to purchase, to the maximum ex-

7                     tent practicable, interoperable equipment

8                     that is necessary to respond to incidents of

9                     terrorism, including incidents involving

10                    weapons of mass destruction;

11                    “(ii) to train first responders, con-

12                    sistent with guidelines and standards de-

13                    veloped by the Secretary;

14                    “(iii) in consultation with the Sec-

15                    retary, to develop, construct, or upgrade

16                    terrorism preparedness training facilities

17                    and other facilities dealing with emergency

18                    preparedness;

19                    “(iv) to develop, construct, or upgrade

20                    emergency operating centers;

21                    “(v) to develop preparedness and re-

22                    sponse plans consistent with Federal,

23                    State, and local strategies as determined

24                    by the Secretary;

1                     “(vi) to provide systems and equipment to meet communication needs, such  
2                     as emergency notification systems, interoperable equipment, and secure communication equipment;

3                     “(vii) to conduct exercises;

4                     “(viii) to provide for the necessary  
5                     equipment needed by local first responders  
6                     to prepare for and prevent possible terrorist attacks;

7                     “(ix) to provide for personnel training  
8                     costs; and

9                     “(x) to provide for personnel costs of  
10                    counterterrorism security and intelligence  
11                    activities;

12                    “(xi) to enhance security at facilities;  
13                    and

14                    “(xii) to carry out such other related  
15                    activities as are approved by the Secretary.

16                    “(4) ALLOCATION OF FUNDS.—

17                    “(A) IN GENERAL.—The Secretary shall  
18                    make available for each fiscal year—

19                    “(i)  $\frac{1}{3}$  of the total amount appropriated for this subsection to the 5 local  
20                    governments that the Secretary determines

1 (in consultation with the Director of the  
2 Central Intelligence Committee, the Direc-  
3 tor of the Federal Bureau of Investigation,  
4 and the Secretary of Health and Human  
5 Services) are at the greatest risk and vul-  
6 nerability of a terrorist attack.

16                   “(B) DISTRIBUTION OF FUNDS FOR 5  
17                   LOCAL GOVERNMENTS.—Of the amount made  
18                   available for the 5 local governments under sub-  
19                   paragraph (A)(i), the Secretary shall dis-  
20                   tribute—

1                         “(ii)  $\frac{1}{4}$  in the ratio that the total pop-  
2                         ulation of each local government bears to  
3                         the total population of all 5 such munici-  
4                         palities.

5                         “(iii)  $\frac{1}{4}$  in the ratio that the number  
6                         of marquee landmarks in the jurisdiction  
7                         of each local government bears to the num-  
8                         ber of marquee landmarks in the jurisdic-  
9                         tion of all 5 such local governments.

10                         “(C) DISTRIBUTION OF FUNDS TO  
11                         STATES.—Of the amount made available under  
12                         subparagraph (A)(ii), the Secretary shall dis-  
13                         tribute to States—

14                         “(i)  $\frac{1}{3}$  in the ratio that the level of  
15                         risk of terrorist attack of each State bears  
16                         to the level of risk of terrorist attack of all  
17                         States.

18                         “(ii)  $\frac{1}{3}$  in the ratio that the total pop-  
19                         ulation of each State bears to the total  
20                         population of all States.

21                         “(iii)  $\frac{1}{3}$  in the ratio that the number  
22                         of marquee landmarks in each State bears  
23                         to the number of marquee landmarks in all  
24                         States.

1                     “(D) CONSTRUCTION.—Nothing in this  
2                     paragraph shall preclude a State from distrib-  
3                     uting funds to a local government that receives  
4                     funds under subparagraph (A)(i).

5                     “(5) ADMINISTRATIVE EXPENSES.—

6                     “(A) EXPENSES OF SECRETARY.—From  
7                     amounts made available under this subsection,  
8                     the Secretary may use to pay salaries and other  
9                     administrative expenses incurred in admin-  
10                    istering the program not more than the lesser  
11                    of—

12                    “(i) 5 percent of the funds made  
13                     available to carry out this subsection for  
14                     the fiscal year; or

15                    “(ii) for fiscal year 2004,  
16                     \$75,000,000; and

17                    “(iii) for each of fiscal years 2005  
18                     through 2007, \$50,000,000.

19                     “(B) STATE EXPENSES.—For each fiscal  
20                     year, not more than 10 percent of the funds re-  
21                     tained by a State after application of subsection  
22                     (e) may be used to pay salaries and other ad-  
23                     ministrative expenses incurred in administering  
24                     the program.

25                     “(6) COORDINATION.—

1                     “(A) STATE COORDINATION.—Each State  
2                     shall coordinate with local governments con-  
3                     cerning the use of assistance provided to local  
4                     governments under paragraph (5).

5                     “(B) FEDERAL AGENCY COORDINATION.—  
6                     The Secretary shall, as necessary, coordinate  
7                     the provision of assistance under this section  
8                     with activities carried out by—

9                         “(i) the Administrator of the United  
10                     States Fire Administration in connection  
11                     with the implementation by the Adminis-  
12                     trator of the assistance to firefighters  
13                     grant program established under section  
14                     33 of the Federal Fire Prevention and  
15                     Control Act of 1974 (15 U.S.C. 2229) (as  
16                     added by section 1701(a) of the Floyd D.  
17                     Spence National Defense Authorization  
18                     Act for Fiscal Year 2001 (114 Stat. 1654,  
19                     1654A-360));

20                         “(ii) the Attorney General, in connec-  
21                     tion with the implementation of the Com-  
22                     munity Oriented Policing Services (COPS)  
23                     Program established under section 1701(a)  
24                     of the Omnibus Crime Control and Safe

3                   “(7) REPORTS.—

4                             “(A) ANNUAL REPORT TO THE SEC-  
5                             RETARY.—Each of the 5 local governments se-  
6                             lected under paragraph (4)(A)(i) and each  
7                             State that receives assistance under this sub-  
8                             section, shall submit to the Secretary, not later  
9                             than 60 days after the end of each fiscal year,  
10                            a report regarding the use of the assistance in  
11                            the fiscal year.

12                   “(B) EXERCISE AND REPORT TO CON-  
13                   GRESS.—Not later than 3 years after the date  
14                   of enactment of this subsection, a State shall—

1 priations of the House of Representa-  
2 tives and the Senate; and

6                   “(8) DEFINITIONS.—In this subsection the fol-  
7                   lowing definitions apply:

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

12                             “(B) FIRST RESPONDERS.—The term ‘first  
13                             responder’ means—

20                             “(C) MARQUEE LANDMARKS.—The term  
21                             ‘marquee landmarks’ means recognizable land-  
22                             marks or structures such as skyscrapers,  
23                             bridges, tunnels, historic landmarks, locations  
24                             of international noteworthiness or other notable  
25                             landmarks that are associated with a given

1 community on a national scale. Additionally,  
2 these also include major seaports and airports,  
3 power plants, military installations, major  
4 transportation lines such as subways, dams and  
5 other structures associated with America

6                     “(D) STATE.—The term ‘State’ means any  
7                     State of the United States or any instrumen-  
8                     tality thereof approved by the Governor; the  
9                     Commonwealth of Puerto Rico, the United  
10                    States Virgin Islands, American Samoa, Guam  
11                    and the Northern Mariana Islands.

12                             “(E) TERRORISM.—The term ‘terrorism’  
13                             includes attacks with biological, chemical, or  
14                             nuclear weaponry.

15                   “(9) AUTHORIZATION OF APPROPRIATIONS.—

16                   “(A) IN GENERAL.—There are authorized  
17                   to be appropriated to carry out this sub-  
18                   section—

23                   “(B) FUND TO SUPPLEMENT.—The funds  
24                   authorized under subparagraph (A) are to sup-  
25                   plement, not supplant, other Federal funding

1           programs for America's first responders or  
2           HEROs including the Local Law Enforcement  
3           Block Grant, State Criminal Alien Assistance  
4           program, the Edward Byrne grant program,  
5           and the Community Orientated Policing Pro-  
6           gram (COPS).”.

7   **SEC. 5. FIREFIGHTER COUNTERTERRORISM PROGRAM.**

8           The Federal Fire Prevention and Control Act of 1974  
9           (15 U.S.C. 2201 et seq.) is amended by adding at the end  
10          the following new section:

11   **“SEC. 35. FIREFIGHTER COUNTERTERRORISM PROGRAM.**

12          “(a) GRANTS.—The Director shall provide grants for  
13          counterterrorism activities of the fire departments in the  
14          five localities of greatest vulnerability, as determined  
15          under section 430(e)(4)(A)(i) of the Homeland Security  
16          Act of 2002.

17          “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
18          are authorized to be appropriated to the Director for car-  
19          rying out this section such sums as may be necessary for  
20          each of the fiscal years 2004 through 2007.”.

21   **SEC. 6. USA PATRIOT ACT.**

22          (a) GRANTS.—Section 1014(c) of the Uniting and  
23          Strengthening America by Providing Appropriate Tools  
24          Required to Intercept and Obstruct Terrorism Act of 2001

1 (USA Patriot Act) (42 U.S.C. 3711) is amended by add-  
2 ing the following:

3                 “(4) Any amount above the minimum described  
4                 in paragraph (3) shall be allocated among the States  
5                 as follows—

6                     “(A)  $\frac{1}{2}$  in the ratio that the level of risk  
7                 of terrorist attack of each State bears to the  
8                 level of risk of terrorist attack of all States  
9                 based on an assessment by the Secretary of  
10                 Homeland Security (in consultation with the  
11                 Directors of the Federal Bureau of Investiga-  
12                 tion and the Central Intelligence Agency);

13                     “(B)  $\frac{1}{4}$  in the ratio that the total popu-  
14                 lation of each State, bears to the total popu-  
15                 lation of all States; and

16                     “(C)  $\frac{1}{4}$  in the ratio that the number of  
17                 marquee landmarks in each State, bears to the  
18                 number of marquee landmarks in all States.

19                 (b) USE OF GRANT AMOUNTS.—Section 1014(b) is  
20                 amended to read as follows:

21                 “(b) USE OF GRANT AMOUNTS.—Grants under this  
22                 section may be used to purchase necessary equipment, to  
23                 enhance security at facilities, to provide training (includ-  
24                 ing the personnel costs of the trainees), to support  
25                 counter-terrorism, intelligence, and security activities (in-

1 cluding personnel costs) and to provide technical assist-  
2 ance to State and local first responders.”.

3 (c) Section 1014 of Public Law 107–56 is amended  
4 by adding at the end the following new subsections:

5 “(d) GRANT DISTRIBUTION.—Each State receiving a  
6 grant under this section shall distribute not less than 75  
7 percent of such grant amount (before reduction for any  
8 administrative costs of the State) to local jurisdictions  
9 within the State.

10 “(e) EXCEPTION.—Grants under this section shall  
11 not be subject to a maintenance of effort or matching re-  
12 quirement.”.

13 **SEC. 7. PROTECTION OF HEALTH AND SAFETY OF FIRST  
14 RESPONDERS.**

15 Subtitle B of title VI of the Robert T. Stafford Dis-  
16 aster Relief and Emergency Assistance Act (42 U.S.C.  
17 5197 et seq.) (as amended by section 5(a)) is amended  
18 by adding at the end the following:

19 **“SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST  
20 RESPONDERS.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) FIRST RESPONDER.—The term ‘first re-  
23 sponder’ means—

1                             “(i) fire, emergency medical service,  
2                             health service, law enforcement personnel,  
3                             and urban search and rescue forces; and

4                             “(ii) such other personnel as are iden-  
5                             tified by the Secretary of Homeland Secu-  
6                             rity.

7                             “(2) HARMFUL SUBSTANCE.—The term ‘harm-  
8                             ful substance’ means a substance that the President  
9                             determines may be harmful to human health.

10                            “(3) PROGRAM.—The term “program” means a  
11                             program described in subsection (b)(1).

12                            “(b) PROGRAM.—

13                            “(1) IN GENERAL.—If the President determines  
14                             that 1 or more harmful substances are being, or  
15                             have been, released in an area that the President  
16                             has declared to be a major disaster area under this  
17                             Act, the President shall carry out a program with  
18                             respect to the area for the protection, assessment,  
19                             monitoring, and study of the health and safety of  
20                             first responders.

21                            “(2) ACTIVITIES.—A program shall include—

22                             “(A) collection and analysis of environ-  
23                             mental and exposure data;

24                             “(B) development and dissemination of  
25                             educational materials;

1               “(C) provision of information on releases  
2               of a harmful substance;

3               “(D) identification of, performance of  
4               baseline health assessments on, taking biological  
5               samples from, and establishment of an expo-  
6               sure registry of first responders exposed to a  
7               harmful substance;

8               “(E) study of the long-term health impacts  
9               of any exposures of first responders to a harm-  
10               ful substance through epidemiological studies;  
11               and

12               “(F) provision of assistance to participants  
13               in registries and studies under subparagraphs  
14               (D) and (E) in determining eligibility for health  
15               coverage and identifying appropriate health  
16               services.

17               “(3) PARTICIPATION IN REGISTRIES AND STUD-  
18               IES.—

19               “(A) IN GENERAL.—Participation in any  
20               registry or study under subparagraph (D) or  
21               (E) of paragraph (2) shall be voluntary.

22               “(B) PROTECTION OF PRIVACY.—The  
23               President shall take appropriate measures to  
24               protect the privacy of any participant in a reg-  
25               istry or study described in subparagraph (A).

1                 “(4) COOPERATIVE AGREEMENTS.—The Presi-  
2         dent may carry out a program through a cooperative  
3         agreement with a medical or academic institution, or  
4         a consortium of such institutions, that is—

5                 “(A) located in close proximity to the  
6         major disaster area with respect to which the  
7         program is carried out; and

8                 “(B) experienced in the area of environ-  
9         mental or occupational health and safety, in-  
10         cluding experience in—

11                 “(i) conducting long-term epidemi-  
12         logical studies;

13                 “(ii) conducting long-term mental  
14         health studies; and

15                 “(iii) establishing and maintaining en-  
16         vironmental exposure or disease registries.

17                 “(c) this will authorize and fund the necessary med-  
18         ical monitoring and treatment of the first responders at  
19         Ground Zero from the attacks on New York City of Sep-  
20         tember 11, 2001.

21                 “(d) REPORTS AND RESPONSES TO STUDIES.—

22                 “(1) REPORTS.—Not later than 1 year after the  
23         date of completion of a study under subsection  
24         (b)(2)(E), the President, or the medical or academic  
25         institution or consortium of such institutions that

1       entered into the cooperative agreement under sub-  
2       section (b)(4), shall submit to the Secretary, the  
3       Secretary of Health and Human Services, the Sec-  
4       retary of Labor, the Administrator of the Environ-  
5       mental Protection Agency and the Majority and Mi-  
6       nority Leaders of the House of Representatives and  
7       the Senate a report on the study.

8       “(2) CHANGES IN PROCEDURES.—To protect  
9       the health and safety of first responders, the Presi-  
10      dent shall make such changes in procedures as the  
11      President determines to be necessary based on the  
12      findings of a report submitted under paragraph  
13      (1).”.

○