

108TH CONGRESS  
1ST SESSION

# H. R. 1449

To amend the Homeland Security Act of 2002 to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction, and to improve security of infrastructure, and for other purposes including emergency preparedness.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2003

Ms. MILLENDER-MCDONALD introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Select Committee on 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 amend the Homeland Security Act of 2002 to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction, and to improve security of infrastructure, and for other purposes including emergency preparedness.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “First Responder and  
3 Emergency Preparedness Block Grant Program for Local  
4 Governments”.

5 **SEC. 2. FINDINGS AND PURPOSES.**

6 (a) FINDINGS.—Congress finds that—

7 (1) the Federal Government must enhance the  
8 ability of first responders to respond to incidents of  
9 terrorism, including incidents involving weapons of  
10 mass destruction;

11 (2) as a result of the events of September 11,  
12 2001, it is necessary to clarify and consolidate the  
13 authority of the Office of Domestic Preparedness to  
14 support first responders; and

15 (3) help States improve security of infrastruc-  
16 ture.

17 (b) PURPOSES.—The purposes of this Act are—

18 (1) to establish a program to provide assistance  
19 to enhance the ability of first responders to respond  
20 to incidents of terrorism, including incidents involv-  
21 ing weapons of mass destruction;

22 (2) to establish a program that allows local gov-  
23 ernments to develop State, regional, and local emer-  
24 gency preparedness plans;

25 (3) to give States and localities the necessary  
26 resources to secure infrastructure assets; and

1 (4) to improve response capabilities of State  
2 and local first responders and emergency manage-  
3 ment personnel.

4 **SEC. 3. WEAPON OF MASS DESTRUCTION DEFINED.**

5 Section 2 of the Homeland Security Act of 2002 (6  
6 U.S.C. 101) is amended by adding at the end the fol-  
7 lowing:

8 “(17) The term ‘weapon of mass destruction’  
9 has the meaning given that term in section 1403 of  
10 the Defense Against Weapons of Mass Destruction  
11 Act of 1996 (50 U.S.C. 2302; 110 Stat. 2717).”

12 **SEC. 4. ADDITIONAL DUTIES OF OFFICE OF DOMESTIC PRE-**  
13 **PAREDNESS.**

14 (a) IN GENERAL.—Section 430(c) of the Homeland  
15 Security Act of 2002 (6 U.S.C. 238(c) is amended—

16 (1) by redesignating paragraphs (6), (7), and  
17 (8) as paragraphs (7), (8), and (9);

18 (2) by striking paragraphs (2) through (5) and  
19 inserting after paragraph (1) the following;;

20 “(2) establish clearly defined standards and  
21 guidelines for Federal, State, tribal, and local gov-  
22 ernment terrorism preparedness and response;

23 “(3) establish and coordinate an integrated ca-  
24 pability for Federal, State, tribal, and local govern-

1       ments and emergency responders to plan for and ad-  
2       dress potential consequences of terrorism;

3               “(4) coordinate provision of Federal terrorism  
4       preparedness assistance to State, tribal, and local  
5       governments;

6               “(5) establish standards for a national, inter-  
7       operable emergency communications and warning  
8       system;

9               “(6) establish standards for training of first re-  
10      sponders (as defined in section 431(a)), and for  
11      equipment to be used by first responders, to respond  
12      to incidents of terrorism, including incidents involv-  
13      ing weapons of mass destruction;”;

14              (3) by striking “and” at the end of paragraph  
15      (8) (as so redesignated);

16              (4) by striking the period at the end of para-  
17      graph (9) (as so redesignated) and inserting “; and”  
18      and the following:

19              “(10) carry out such other related duties as are  
20      approved by the Secretary.

21      (b) USE OF EXISTING RESOURCES.—Section 430(d)  
22      of such Act is amended to read as follows—

23              “(d) USE OF EXISTING RESOURCES.—In carrying  
24      out this section, the Director shall—

1           “(1) use, to the maximum extent practicable,  
2           existing resources, including planning documents,  
3           equipment lists, and program inventories; and

4           “(2) consult with and use—

5                   “(A) existing Federal interagency boards  
6                   and committees;

7                   “(B) existing government agencies; and

8                   “(C) nongovernmental organizations.”.

9   **SEC. 5. PREPAREDNESS ASSISTANCE FOR FIRST RESPOND-**  
10                   **ERS.**

11           (a) IN GENERAL.—Title IV of the Homeland Secu-  
12           rity Act of 2002 (6 U.S.C. 231 et seq.) is amended by  
13           adding at the end the following:

14   **“SEC. 431. PREPAREDNESS ASSISTANCE FOR FIRST RE-**  
15                   **SPONDERS.**

16           “(a) DEFINITIONS.—In this section, the following  
17           definitions apply:

18                   “(1) DIRECTOR.—The term ‘Director’ means  
19                   the Director of the Office of Domestic Preparedness  
20                   established by section 430.

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

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

1           “(B) such other personnel as are identified  
2           by the Director.

3           “(3) LOCAL ENTITY.—The term ‘local entity’  
4           has the meaning given that term by regulation  
5           issued by the Director.

6           “(4) PROGRAM.—The term ‘program’ means  
7           the program established under subsection (b).

8           “(5) STATE.—The term ‘State’ includes an  
9           emergency preparedness authority establish under  
10          section 611(h) of the Robert T. Stafford Disaster  
11          Relief and Emergency Assistance Act of (42 U.S.C.  
12          5196(h)).

13          “(b) PROGRAM TO PROVIDE ASSISTANCE.—

14                 “(1) IN GENERAL.—The Director shall establish  
15                 a program to provide assistance to States to enhance  
16                 the ability of State and local first responders to re-  
17                 spond to incidents of terrorism, including incidents  
18                 involving weapons of mass destruction, and to assist  
19                 States and localities in securing vital infrastructure  
20                 resources.

21                 “(2) FEDERAL SHARE.—The Federal share of  
22                 the costs eligible to be paid using assistance pro-  
23                 vided under the program shall be as determined by  
24                 the Director, but not less than 75 percent.

1           “(3) FORMS OF ASSISTANCE.—Assistance pro-  
2           vided under paragraph (1) may consist of—

3                   “(A) grants; and

4                   “(B) such other forms of assistance as the  
5           Director determines to be appropriate.

6           “(c) USES OF ASSISTANCE.—Assistance provided  
7           under subsection (b)—

8                   “(1) may be used—

9                   “(A) to purchase, to the maximum extent  
10           practicable, interoperable equipment that is nec-  
11           essary to respond to incidents of terrorism, in-  
12           cluding incidents involving weapons of mass de-  
13           struction;

14                  “(B) to train first responders, consistent  
15           with guidelines and standards developed by the  
16           Director;

17                  “(C) in consultation with the Director, to  
18           develop, construct, or upgrade terrorism pre-  
19           paredness training facilities;

20                  “(D) to develop, construct, or upgrade  
21           emergency operations centers;

22                  “(E) to develop preparedness and response  
23           plans consistent with Federal, State, and local  
24           strategies, as determined by the Director;

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

5           “(G) to conduct exercises relating to emer-  
6 gency preparedness training;

7           “(H) to develop emergency preparedness  
8 plans;

9           “(I) to enhance infrastructure security, in-  
10 cluding security of ports, mass transit systems,  
11 water infrastructure, power plants, tunnels, and  
12 bridges;

13           “(J) to improve security of infrastructure  
14 in accordance with regulations issued by the  
15 Secretary; and

16           “(K) to carry out such other related activi-  
17 ties as are approved by the Director; and

18           “(2) may be used to provide compensation to  
19 first responders (including payment for overtime);  
20 except that not to exceed 10 percent of amounts  
21 made available to a State under this section for a  
22 fiscal year may be used for this purpose.

23           “(d) ALLOCATION OF FUNDS.—For each fiscal year,  
24 in providing assistance under subsection (b), the Director  
25 shall make available—



1           “(1) to each of the District of Columbia, Puerto  
2 Rico, the Virgin Islands, Guam, American Samoa,  
3 the Commonwealth of the Northern Mariana Is-  
4 lands, and the emergency preparedness authorities  
5 established under section 611(h) of the Robert T.  
6 Stafford Disaster Relief and Emergency Assistance  
7 Act (42 U.S.C. 5196(h)) \$3,000,000; and

8           “(2) to each State (other than a State referred  
9 to in paragraph (1))—

10                 “(A) a base amount of \$10,000,000; and

11                 “(B) a percentage of the total remaining  
12 funds made available for the fiscal year based  
13 on the following:

14                         “(i) 50 percent of the amount appro-  
15 priated to carry out this section (after ap-  
16 plication of paragraph (1) and subpara-  
17 graph (A)) for such fiscal year based on  
18 the population for such State divided by  
19 the total population of all such States; and

20                         “(ii) the remainder based on such cri-  
21 teria as the Director may establish, includ-  
22 ing the proximity of the State to inter-  
23 national borders and number of vital infra-  
24 structure facilities located in the State, in-  
25 cluding military installations, public build-

1           ings (as defined in section 13 of the Public  
2           Buildings Act of 1959 (40 U.S.C. 612)),  
3           nuclear power plants, chemical plants, na-  
4           tional landmarks, and ports.

5           “(e) PROVISION OF FUNDS TO LOCAL GOVERNMENTS  
6 AND LOCAL ENTITIES.—

7           “(1) IN GENERAL.—For each fiscal year, not  
8           less than 75 percent of the assistance provided to  
9           each State (other than an emergency preparedness  
10          authority) under this section shall be provided by the  
11          State to local governments (including councils of  
12          governments) within the State.

13          “(2) ASSISTANCE TRACKING SYSTEMS.—The  
14          Secretary shall establish a system to track the as-  
15          sistance provided by States to local governments  
16          under this subsection for the purpose of ensuring  
17          that the assistance is being used in accordance with  
18          this section. Under the tracking system, not later  
19          than 30 days after the date on which a State pro-  
20          vides assistance to a local government under this  
21          subsection, the State shall submit to the Secretary  
22          a report on the provision and use of such assistance.

23          “(f) ADMINISTRATIVE EXPENSES.—

24          “(1) DIRECTOR.—For each fiscal year, the Di-  
25          rector may use to pay salaries and other administra-

1       tive expenses incurred in administering the program  
2       not more than the lesser of—

3               “(A) 5 percent of the funds made available  
4               to carry out this section for the fiscal year; or

5               “(B)(i) \$75,000,000 for fiscal year 2003;  
6               and

7               “(ii) \$50,000,000 for each of fiscal years  
8               2004 through 2006.

9               “(2) RECIPIENTS OF ASSISTANCE.—For each  
10              fiscal year, not more than 5 percent of the funds re-  
11              tained by a State after application of subsection (e)  
12              may be used to pay salaries and other administrative  
13              expenses incurred in administering the program.

14             “(g) DEADLINES FOR DISTRIBUTION OF ASSIST-  
15             ANCE.—

16               “(1) TO STATES.—Not later than 60 days after  
17               the date on which funds are appropriated to carry  
18               out this section for a fiscal year (other than fiscal  
19               year 2004), the Director shall distribute such funds  
20               to the States in accordance with subsection (d).

21               “(2) TO LOCAL GOVERNMENTS.—Not later than  
22               45 days after the date on which funds appropriated  
23               to carry out this section for a fiscal year (other than  
24               fiscal year 2004) are made available to a State

1 under this section, the State shall distribute such  
2 funds to local governments under subsection (e).

3 “(h) PREAPPLICATION PLAN.—Before the Director  
4 may provide assistance to a State under this section, the  
5 State must submit a plan that recognizes the security and  
6 emergency preparedness needs of metropolitan and rural  
7 areas under the jurisdiction of the State.

8 “(i) MAINTENANCE OF EXPENDITURES.—The Direc-  
9 tor may provide assistance to a State under this section  
10 only if the State agrees to maintain, and to ensure that  
11 each local government that receives funds from the State  
12 in accordance with subsection (e) maintains, for the fiscal  
13 year for which the assistance is provided, the aggregate  
14 expenditures by the State or the local government, respec-  
15 tively, for the uses described in subsection (c)(1) at a level  
16 that is at or above the average annual level of those ex-  
17 penditures by the State or local government, respectively,  
18 for the 2 fiscal years preceding the fiscal year for which  
19 the assistance is provided.

20 “(j) REPORTS.—

21 “(1) ANNUAL REPORT TO THE DIRECTOR.—As  
22 a condition of receipt of assistance under this section  
23 for a fiscal year, a State shall submit to the Direc-  
24 tor, not later than the 60 days following the last day  
25 of the fiscal year, a report on the use of the assist-

1       ance in the fiscal year and the status of unspent  
2       funds.

3               “(2) EXERCISE AND REPORT TO CONGRESS.—  
4       As a condition of receipt of assistance under this  
5       section, not later than 3 years after the date of en-  
6       actment of this section, a State shall—

7               “(A) conduct an exercise, or participate in  
8               a regional exercise, approved by the Director, to  
9               measure the progress of the State in enhancing  
10              the ability of State and local first responders to  
11              respond to incidents of terrorism, including in-  
12              cidents involving weapons of mass destruction;  
13              and

14              “(B) submit a report on the results of the  
15              exercise to the appropriate committees of the  
16              Senate and the House of Representatives.

17       “(k) COORDINATION.—

18              “(1) WITH FEDERAL AGENCIES.—The Director  
19              shall coordinate, as necessary, the provision of as-  
20              sistance under this section with activities carried out  
21              by—

22              “(A) the Administrator of the United  
23              States Fire Administration in connection with  
24              the implementation by the Administrator of the  
25              assistance to firefighters grant program estab-

1           lished under section 33 of the Federal Fire Pre-  
2           vention and Control Act of 1974 (15 U.S.C.  
3           2229);

4           “(B) other appropriate Federal agencies,  
5           including the Office of Justice of the Depart-  
6           ment of Justice providing assistance under the  
7           Community Oriented Policing Services Office  
8           (COPS) program, the Edward Byrne Memorial  
9           State and Local Law Enforcement Assistance  
10          (Byrne Formula Grant) program, and the Local  
11          Law Enforcement Block Grant (LLEBG) pro-  
12          gram; and

13          “(C) other entities within the Department  
14          of Homeland Security, including the Office of  
15          Emergency Preparedness and Response and the  
16          Office of State and Local Government Coordi-  
17          nation.

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

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

1                   “(B) Native villages (as defined in section  
2                   3 of the Alaska Native Claims Settlement Act  
3                   (43 U.S.C. 1602)) and other Alaska Native or-  
4                   ganizations.

5                   “(l) LIMITATION.—The amount of funds made avail-  
6                   able to carry out this section for a fiscal year should not  
7                   affect the amount of funds made available to carry out  
8                   the Community Oriented Policing Services Office (COPS)  
9                   program, the Edward Byrne Memorial State and Local  
10                  Law Enforcement Assistance (Byrne Formula Grant) pro-  
11                  gram, and Local Law Enforcement Block Grant  
12                  (LLEBG) program, and the assistance to firefighters pro-  
13                  gram administered by the United States Fire Administra-  
14                  tion for such fiscal year.

15                  “(m) AUTHORIZATION OF APPROPRIATIONS.—There  
16                  are authorized to be appropriated to carry out this section  
17                  \$3,500,000,000 for each of fiscal years 2004, 2005, and  
18                  2006.

○