

109TH CONGRESS  
1ST SESSION

# S. 140

To provide for a domestic defense fund to improve the Nation's homeland defense, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

Mrs. CLINTON (for herself and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide for a domestic defense fund to improve the Nation's homeland defense, 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 “Domestic Defense Fund Act of 2005”.

6       (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

Sec. 4. Grants to States, units of general local government and Indian tribes; authorizations.

Sec. 5. Statement of activities and review.

Sec. 6. Activities eligible for assistance.

Sec. 7. Allocation and distribution of funds.

- Sec. 8. State and regional planning and communication systems.
- Sec. 9. Urban Area Security Initiative.
- Sec. 10. Flexible emergency assistance fund.
- Sec. 11. Federal preparedness, equipment, and training standards.
- Sec. 12. Nondiscrimination in programs and activities.
- Sec. 13. Remedies for noncompliance with requirements.
- Sec. 14. Reporting requirements.
- Sec. 15. Consultation by Attorney General.
- Sec. 16. Interstate agreements or compacts; purposes.
- Sec. 17. Matching requirements; suspension of requirements for economically distressed areas.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Since the September 11, 2001, terrorist at-  
 4 tacks on our country, communities all across Amer-  
 5 ica have been on the front lines in the war against  
 6 terrorism on United States soil.

7 (2) Since September 11, 2001, communities  
 8 have been forced to bear a significant portion of the  
 9 burden that goes along with the war against ter-  
 10 rorism, a burden that local governments should not  
 11 have to bear alone.

12 (3) Our homeland defense will only be as strong  
 13 as the weakest link at the State and local level. By  
 14 providing our communities with the resources and  
 15 tools they need to bolster emergency response efforts  
 16 and provide for other emergency response initiatives,  
 17 we will have a better-prepared home front and a  
 18 stronger America.

19 (4) Homeland security experts have repeatedly  
 20 called upon Congress to allocate homeland security

1 resources based on threat- and risk-based factors.  
2 The National Commission on Terrorist Attacks  
3 Upon the United States (referred to in this Act as  
4 the “9/11 Commission”) stated in its report: “We  
5 understand the contention that every State and city  
6 needs to have some minimum infrastructure for  
7 emergency response. But Federal homeland security  
8 assistance should not remain a program for general  
9 revenue sharing. It should supplement State and  
10 local resources based on the risks or vulnerability  
11 that merit additional support. Congress should not  
12 use this money as a pork barrel.” The Commission  
13 made unequivocally clear that the current method of  
14 allocating the majority of Federal homeland security  
15 resources to states and local communities, on a per  
16 capita basis alone, must be changed.

17 (5) Not only did the 9/11 Commission rec-  
18 ommend that such changes be made in how Federal  
19 homeland security funds are allocated, but commis-  
20 sions before it, such as the Homeland Security Inde-  
21 pendent Task Force of the Council on Foreign Rela-  
22 tions, chaired by former Senators Gary Hart and  
23 Warren Rudman, have strongly recommended it as  
24 well.

1           (6) The Hart-Rudman Commission stated al-  
2 most 2 years ago that “Congress should establish a  
3 system for allocating scarce resources based less on  
4 dividing the spoils and more on addressing identified  
5 threats and vulnerabilities. To do this, the Federal  
6 Government should consider such factors as popu-  
7 lation, population density, vulnerability assessment,  
8 and presence of critical infrastructure within each  
9 State.”

10           (7) In addition to the need for threat and risk-  
11 based funding, direct funding to our major cities  
12 and counties across the country is necessary if we  
13 are to ensure that these communities, who are on  
14 the front lines of our nation’s homeland defense, re-  
15 ceive critical Federal homeland security resources  
16 quickly and efficiently. Numerous reports by organi-  
17 zations such as the United States Conference of  
18 Mayors, have clearly demonstrated that the current  
19 method of distributing Federal homeland security re-  
20 sources intended for local communities has not  
21 worked. Too often, too many communities receive re-  
22 sources, if at all, years after Congress appropriated  
23 the subject funds.

1 **SEC. 3. DEFINITIONS.**

2 (a) **DEFINITIONS.**—As used in this Act, the following  
3 definitions shall apply:

4 (1) **CITY.**—The term “city” means—

5 (A) any unit of general local government  
6 that is classified as a municipality by the  
7 United States Bureau of the Census; or

8 (B) any other unit of general local govern-  
9 ment that is a town or township and which, in  
10 the determination of the Secretary—

11 (i) possesses powers and performs  
12 functions comparable to those associated  
13 with municipalities;

14 (ii) is closely settled; and

15 (iii) does not contain within its bound-  
16 aries any incorporated place, as defined by  
17 the United States Bureau of the Census,  
18 that has not entered into cooperation  
19 agreements with such town or township to  
20 undertake or to assist in the performance  
21 of homeland security objectives.

22 (2) **FEDERAL GRANT-IN-AID PROGRAM.**—The  
23 term “Federal grant-in-aid program” means a pro-  
24 gram of Federal financial assistance other than  
25 loans and other than the assistance provided by this  
26 Act.

1           (3) INDIAN TRIBE.—The term “Indian tribe”  
2 means any Indian tribe, band, group, and nation, in-  
3 cluding Alaska Indians, Aleuts, and Eskimos, and  
4 any Alaskan Native Village, of the United States,  
5 which is considered an eligible recipient under the  
6 Indian Self-Determination and Education Assistance  
7 Act (Public Law 93–638) or was considered an eligi-  
8 ble recipient under chapter 67 of title 31, United  
9 States Code, prior to the repeal of such chapter.

10           (4) METROPOLITAN AREA.—The term “metro-  
11 politan area” means a standard metropolitan statis-  
12 tical area as established by the Office of Manage-  
13 ment and Budget.

14           (5) METROPOLITAN CITY.—

15           (A) IN GENERAL.—The term “metropoli-  
16 tan city” means—

17           (i) a city within a metropolitan area  
18 that is the central city of such area, as de-  
19 fined and used by the Office of Manage-  
20 ment and Budget; or

21           (ii) any other city, within a metropoli-  
22 tan area, which has a population of not  
23 less than 50,000.

24           (B) PERIOD OF CLASSIFICATION.—Any  
25 city that was classified as a metropolitan city

1 for at least 2 years pursuant to subparagraph  
2 (A) shall remain classified as a metropolitan  
3 city. Any unit of general local government that  
4 becomes eligible to be classified as a metropoli-  
5 tan city, and was not classified as a metropoli-  
6 tan city in the immediately preceding fiscal  
7 year, may, upon submission of written notifica-  
8 tion to the Secretary, defer its classification as  
9 a metropolitan city for all purposes under this  
10 Act, if it elects to have its population included  
11 in an urban county under subsection (d).

12 (C) ELECTION BY A CITY.—Notwith-  
13 standing subparagraph (B), a city may elect not  
14 to retain its classification as a metropolitan  
15 city. Any unit of general local government that  
16 was classified as a metropolitan city in any  
17 year, may, upon submission of written notifica-  
18 tion to the Secretary, relinquish such classifica-  
19 tion for all purposes under this Act if it elects  
20 to have its population included with the popu-  
21 lation of a county for purposes of qualifying for  
22 assistance (for such following fiscal year) under  
23 section 5(e) as an urban county.

24 (6) NONQUALIFYING COMMUNITY.—The term  
25 “nonqualifying community” means an area that is

1 not a metropolitan city or part of an urban county  
2 and does not include Indian tribes.

3 (7) POPULATION.—The term “population”  
4 means total resident population based on data com-  
5 piled by the United States Bureau of the Census  
6 and referable to the same point or period of time.

7 (8) SECRETARY.—The term “Secretary” means  
8 the Secretary of the Department of Homeland Secu-  
9 rity.

10 (9) STATE.—The term “State” means any  
11 State of the United States, or any instrumentality  
12 thereof approved by the Governor; and the Common-  
13 wealth of Puerto Rico, the United States Virgin Is-  
14 lands, American Samoa, Guam, and the Northern  
15 Mariana Islands.

16 (10) UNIT OF GENERAL LOCAL GOVERN-  
17 MENT.—The term “unit of general local govern-  
18 ment” means any city, county, town, township, par-  
19 ish, village, or other general purpose political sub-  
20 division of a State; a combination of such political  
21 subdivisions is recognized by the Secretary; and the  
22 District of Columbia.

23 (11) URBAN COUNTY.—The term “urban coun-  
24 ty” means any county within a metropolitan area.

25 (b) BASIS AND MODIFICATION OF DEFINITIONS.—

1           (1) BASIS.—Where appropriate, the definitions  
2 listed in subsection (a) shall be based, with respect  
3 to any fiscal year, on the most recent data compiled  
4 by the United States Bureau of the Census and the  
5 latest published reports of the Office of Management  
6 and Budget available 90 days before the beginning  
7 of such fiscal year.

8           (2) MODIFICATION.—The Secretary may by  
9 regulation change or otherwise modify the meaning  
10 of the terms defined in subsection (a) in order to re-  
11 flect any technical change or modification thereof  
12 made subsequent to such date by the United States  
13 Bureau of the Census or the Office of Management  
14 and Budget.

15       (c) DESIGNATION OF PUBLIC AGENCIES.—The chief  
16 executive officer of a State or a unit of general local gov-  
17 ernment may designate 1 or more public agencies, includ-  
18 ing existing local public agencies, to undertake activities  
19 assisted under this Act.

20       (d) INCLUSION OF LOCAL GOVERNMENTS IN URBAN  
21 COUNTY POPULATION.—With respect to program years  
22 beginning with the program year for which grants are  
23 made available from amounts appropriated for fiscal year  
24 2005 under section 4, the population of any unit of gen-  
25 eral local government which is included in that of an urban

1 county shall be included in the population of such urban  
2 county for 3 program years beginning with the program  
3 year in which its population was first so included and shall  
4 not otherwise be eligible for a grant as a separate entity,  
5 unless the urban county does not receive a grant for any  
6 year during such 3-year period.

7 (e) EXCLUSION OF LOCAL GOVERNMENTS FROM  
8 URBAN COUNTY POPULATION.—

9 (1) NOTIFICATION BY URBAN COUNTY.—Any  
10 county seeking qualification as an urban county, in-  
11 cluding any urban county seeking to continue such  
12 qualification, shall notify each unit of general local  
13 government, located within its geographical bound-  
14 aries and eligible to elect to have its population ex-  
15 cluded from that of the urban county, of its oppor-  
16 tunity to make such an election. Such notification  
17 shall, at a time and in a manner prescribed by the  
18 Secretary, be provided so as to provide a reasonable  
19 period for response prior to the period for which  
20 such qualification is sought.

21 (2) FAILURE OF LOCAL GOVERNMENT TO  
22 ELECT TO BE EXCLUDED.—The population of any  
23 unit of general local government which is provided  
24 such notification and which does not inform, at a  
25 time and in a manner prescribed by the Secretary,

1 the county of its election to exclude its population  
 2 from that of the county shall, if the county qualifies  
 3 as an urban county, be included in the population of  
 4 such urban county as provided under subsection (d).

5 **SEC. 4. GRANTS TO STATES, UNITS OF GENERAL LOCAL**  
 6 **GOVERNMENT AND INDIAN TRIBES; AUTHOR-**  
 7 **IZATIONS.**

8 (a) AUTHORIZATION.—The Secretary may award  
 9 grants to States, units of general local government, and  
 10 Indian tribes to carry out activities in accordance with this  
 11 Act.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—

13 (1) IN GENERAL.—There are authorized to be  
 14 appropriated to carry out section 7—

15 (A) \$3,500,000 for each of the fiscal years  
 16 2006 through 2009; and

17 (B) such sums as may be necessary for fis-  
 18 cal year 2010 and each fiscal year thereafter.

19 (2) STATE, REGIONAL, AND LOCAL PLANNING,  
 20 TRAINING, AND COMMUNICATION SYSTEMS.—There  
 21 are authorized to be appropriated to carry out sec-  
 22 tion 8—

23 (A) \$1,000,000,000 for each of the fiscal  
 24 years 2006 through 2009; and

1 (B) such sums as may be necessary for fis-  
2 cal year 2010 and each fiscal year thereafter.

3 (3) URBAN AREA SECURITY INITIATIVE  
4 (UASI).—There are authorized to be appropriated to  
5 carry out section 9—

6 (A) \$2,000,000,000 for each of the fiscal  
7 years 2006 through 2009; and

8 (B) such sums as may be necessary for fis-  
9 cal year 2010 and each fiscal year thereafter.

10 (4) HOMELAND SECURITY FLEXIBLE EMER-  
11 GENCY ASSISTANCE.—There are authorized to be ap-  
12 propriated to carry out section 10—

13 (A) \$500,000,000 for each of the fiscal  
14 years 2006 through 2009; and

15 (B) such sums as may be necessary for fis-  
16 cal year 2010 and each fiscal year thereafter.

17 (c) SUPPLEMENT NOT SUPPLANT.—Funds appro-  
18 priated pursuant to the authority of this section shall be  
19 used to supplement and not supplant full Federal funding  
20 for other first responder programs, including—

21 (1) the Community Oriented Policing Services  
22 Program, as authorized under part Q of title I of  
23 the Omnibus Crime Control and Safe Streets Act of  
24 1968 (42 U.S.C. 3796dd et seq.);

1           (2) the Local Law Enforcement Block Grant  
2 Program, as authorized under the Violent Crime  
3 Control and Law Enforcement Act of 1994 (Public  
4 Law 103–322) and described in H.R. 728, as passed  
5 by the House of Representatives on February 14,  
6 1995;

7           (3) the Edward Byrne Memorial State and  
8 Local Law Enforcement Assistance Programs, as  
9 authorized under part E of title I of the Omnibus  
10 Crime Control and Safe Streets Act of 1968 (42  
11 U.S.C. 3750 et seq.);

12           (4) the Assistance to Firefighters Grant Pro-  
13 gram, as authorized under section 33 of the Federal  
14 Fire Prevention and Control Act of 1974 (15 U.S.C.  
15 2229); and

16           (5) section 34 of the Federal Fire Prevention  
17 and Control Act of 1974 (15 U.S.C. 2229a).

18 **SEC. 5. STATEMENT OF ACTIVITIES AND REVIEW.**

19 (a) APPLICATION.—

20           (1) IN GENERAL.—A State, metropolitan city,  
21 urban county, or unit of general local government  
22 desiring a grant under subsection (b) or (i) of sec-  
23 tion 7 shall submit an application to the Secretary  
24 that contains—

1 (A) a statement of homeland security ob-  
2 jectives and projected use of grant funds; and

3 (B) the certifications required under para-  
4 graph (2) and, if appropriate, subsection (b).

5 (2) GRANTEE STATEMENT.—

6 (A) CONTENTS.—

7 (i) LOCAL GOVERNMENT.—In the case  
8 of metropolitan cities or urban counties re-  
9 ceiving grants under section 7(b) and units  
10 of general local government receiving  
11 grants under section 7(i)(3), the statement  
12 of projected use of funds shall consist of  
13 proposed homeland security activities.

14 (ii) STATES.—In the case of States  
15 receiving grants under section 7, the state-  
16 ment of projected use of funds shall consist  
17 of the method by which the States will dis-  
18 tribute funds to units of general local gov-  
19 ernment.

20 (B) CONSULTATION.—In preparing the  
21 statement required under this subsection, the  
22 grantee shall consult with appropriate law en-  
23 forcement agencies and emergency response au-  
24 thorities.

1 (C) FINAL STATEMENT.—A copy of the  
2 final statement and the certifications required  
3 under paragraph (3) and, where appropriate,  
4 subsection (b), shall be furnished to the Sec-  
5 retary and the Attorney General.

6 (D) MODIFICATIONS.—Any final statement  
7 of activities may be modified or amended from  
8 time to time by the grantee in accordance with  
9 the same procedures required under this para-  
10 graph for the preparation and submission of  
11 such statement.

12 (3) CERTIFICATION OF ENUMERATED CRITERIA  
13 BY GRANTEE TO SECRETARY.—A grant under sec-  
14 tion 7 shall not be awarded unless the grantee cer-  
15 tifies to the satisfaction of the Secretary that the  
16 grantee—

17 (A) has developed a homeland security  
18 plan that identifies both short- and long-term  
19 homeland security needs that have been devel-  
20 oped in accordance with the primary objective  
21 and requirements of this Act; and

22 (B) will comply with the other provisions  
23 of this Act and with other applicable laws.

24 (b) SUBMISSION OF ANNUAL PERFORMANCE RE-  
25 PORTS, AUDITS, AND ADJUSTMENTS.—

1           (1) IN GENERAL.—Each grantee shall submit to  
2 the Secretary, at a time determined by the Sec-  
3 retary, a performance and evaluation report con-  
4 cerning the use of funds made available under sec-  
5 tion 7, together with an assessment by the grantee  
6 of the relationship of such use to the objectives iden-  
7 tified in the grantee’s statement under subsection  
8 (a)(2).

9           (2) UNIFORM REPORTING REQUIREMENTS.—

10           (A) RECOMMENDATIONS BY NATIONAL AS-  
11 SOCIATIONS.—The Secretary shall encourage  
12 and assist national associations of grantees eli-  
13 gible under section 7, national associations of  
14 States, and national associations of units of  
15 general local government in nonqualifying areas  
16 to develop and recommend to the Secretary, not  
17 later than 1 year after the date of enactment of  
18 this Act, uniform recordkeeping, performance  
19 reporting, evaluation reporting, and auditing re-  
20 quirements for such grantees, States, and units  
21 of general local government, respectively.

22           (B) ESTABLISHMENT OF UNIFORM RE-  
23 PORTING REQUIREMENTS.—Based on the Sec-  
24 retary’s approval of the recommendations sub-  
25 mitted pursuant to subparagraph (A), the Sec-

1           retary shall establish uniform reporting require-  
2           ments for grantees, States, and units of general  
3           local government.

4           (3) **REVIEWS AND AUDITS.**—Not less than an-  
5           nually, the Secretary shall make such reviews and  
6           audits as may be necessary or appropriate to deter-  
7           mine—

8                   (A) in the case of grants awarded under  
9                   section 7(b), whether the grantee—

10                           (i) has carried out its activities;

11                           (ii) where applicable, has carried out  
12                           its activities and its certifications in ac-  
13                           cordance with the requirements and the  
14                           primary objectives of this Act and with  
15                           other applicable laws; and

16                           (iii) has a continuing capacity to carry  
17                           out those activities in a timely manner;  
18                           and

19                   (B) in the case of grants to States made  
20                   under section 7(i), whether the State—

21                           (i) has distributed funds to units of  
22                           general local government in a timely man-  
23                           ner and in conformance to the method of  
24                           distribution described in its statement;

1 (ii) has carried out its certifications in  
2 compliance with the requirements of this  
3 Act and other applicable laws; and

4 (iii) has made such reviews and audits  
5 of the units of general local government as  
6 may be necessary or appropriate to deter-  
7 mine whether they have satisfied the appli-  
8 cable performance criteria described in  
9 subparagraph (A).

10 (4) ADJUSTMENTS.—The Secretary may make  
11 appropriate adjustments in the amount of the an-  
12 nual grants in accordance with the Secretary’s find-  
13 ings under this subsection. With respect to assist-  
14 ance made available to units of general local govern-  
15 ment under section 7(i)(3), the Secretary may ad-  
16 just, reduce, or withdraw such assistance, or take  
17 other action as appropriate in accordance with the  
18 Secretary’s reviews and audits under this subsection,  
19 except that funds already expended on eligible activi-  
20 ties under this Act shall not be recaptured or de-  
21 ducted from future assistance to such units of gen-  
22 eral local government.

23 (c) AUDITS.—Insofar as they relate to funds provided  
24 under this Act, the financial transactions of recipients of  
25 such funds may be audited by the Government Account-

1 ability Office under such rules and regulations as may be  
2 prescribed by the Comptroller General of the United  
3 States. The representatives of the Government Account-  
4 ability Office shall have access to all books, accounts,  
5 records, reports, files, and other papers, things, or prop-  
6 erty belonging to or in use by such recipients pertaining  
7 to such financial transactions and necessary to facilitate  
8 the audit.

9 (d) METROPOLITAN CITY AS PART OF URBAN COUN-  
10 TY.—In any case in which a metropolitan city is located,  
11 in whole or in part, within an urban county, the Secretary  
12 may, upon the joint request of such city and county, ap-  
13 prove the inclusion of the metropolitan city as part of the  
14 urban county for purposes of submitting a statement  
15 under subsection (a) and carrying out activities under this  
16 Act.

17 **SEC. 6. ACTIVITIES ELIGIBLE FOR ASSISTANCE.**

18 Activities assisted under this Act may include—

19 (1) funding additional law enforcement, fire,  
20 and emergency resources, including covering con-  
21 struction, straight time, and overtime expenses;

22 (2) purchasing and refurbishing personal pro-  
23 tective equipment for fire, police, and emergency  
24 personnel and acquire state-of-the-art technology to  
25 improve communication and streamline efforts;

1           (3) improving cyber and infrastructure security  
2           by improving—

3                   (A) security for water treatment plants,  
4                   distribution systems, other water infrastructure,  
5                   nuclear power plants, electrical grids, and other  
6                   energy infrastructure;

7                   (B) security for tunnels, bridges, locks, ca-  
8                   nals, railway systems, airports, land and water  
9                   ports, and other transportation infrastructure;

10                  (C) security for oil and gas pipelines and  
11                  storage facilities;

12                  (D) security for chemical plants and trans-  
13                  portation of hazardous substances;

14                  (E) security for agriculture infrastructure;  
15                  and

16                  (F) security for national icons and Federal  
17                  facilities that may be terrorist targets;

18           (4) assisting local emergency planning commit-  
19           tees so that local public agencies can design, review,  
20           and improve disaster response systems;

21           (5) assisting communities in coordinating their  
22           efforts and sharing information with all relevant  
23           agencies involved in responding to terrorist attacks;

1           (6) establishing timely notification systems that  
2           enable communities to communicate with each other  
3           when a threat emerges;

4           (7) improving communication systems to pro-  
5           vide information to the public in a timely manner  
6           about the facts of any threat and the precautions  
7           the public should take; and

8           (8) devising a homeland security plan, including  
9           determining long-term goals and short-term objec-  
10          tives, evaluating the progress of the plan, and car-  
11          rying out the management, coordination, and moni-  
12          toring of activities necessary for effective planning  
13          implementation.

14 **SEC. 7. ALLOCATION AND DISTRIBUTION OF FUNDS.**

15          (a) SET-ASIDE FOR INDIAN TRIBES.—

16           (1) IN GENERAL.—The Secretary shall reserve  
17           1 percent of the amount appropriated for each fiscal  
18           year for grants pursuant to section 4(b)(1) (exclud-  
19           ing the amounts for activities described in section 6)  
20           for grants to Indian tribes.

21           (2) SELECTION OF INDIAN TRIBES.—

22           (A) IN GENERAL.—The Secretary shall  
23           distribute amounts under this paragraph to In-  
24           dian tribes on the basis of a competition con-

1           ducted pursuant to specific criteria for the se-  
2           lection of Indian tribes to receive such amounts.

3                   (B) RULEMAKING.—The Secretary, after  
4           notice and public comment, shall promulgate  
5           regulations, which establish the criteria de-  
6           scribed in subparagraph (A).

7           (b) ALLOCATION TO METROPOLITAN CITIES AND  
8           URBAN COUNTIES.—

9                   (1) ALLOCATION PERCENTAGE.—Of the amount  
10          remaining after allocations have been made to In-  
11          dian tribes under subsection (a), the Secretary shall,  
12          not later than 60 days after the date on which such  
13          funds are appropriated, allocate and directly transfer  
14          70 percent to metropolitan cities and urban counties.

15                  (2) ENTITLEMENT.—Except as otherwise spe-  
16          cifically authorized, each metropolitan city and  
17          urban county shall be entitled to an annual grant,  
18          to the extent authorized beyond fiscal year 2008,  
19          from such allocation in an amount not to exceed its  
20          basic amount computed pursuant to subsections (c)  
21          and (d).

22                  (c) COMPUTATION OF AMOUNT ALLOCATED TO MET-  
23          ROPOLITAN CITIES.—

24                   (1) VULNERABILITY AND THREAT FACTORS.—

25          The Secretary shall calculate the amount to be allo-

1 cated to each metropolitan city, which shall bear the  
2 same ratio to the allocation for all metropolitan cit-  
3 ies as the weighted average of—

4 (A) the population (including tourist, mili-  
5 tary, and commuting populations) of the metro-  
6 politan city divided by the population of all met-  
7 ropolitan cities;

8 (B) the population density of the metro-  
9 politan city;

10 (C) the proximity of the metropolitan city  
11 to international borders;

12 (D) the vulnerability of the metropolitan  
13 city as it pertains to chemical security;

14 (E) the vulnerability of the metropolitan  
15 city as it pertains to nuclear security;

16 (F) the vulnerability of the metropolitan  
17 city as it pertains to land and water port secu-  
18 rity;

19 (G) the vulnerability of the metropolitan  
20 city as it pertains to the security of energy in-  
21 frastructure;

22 (H) the vulnerability of the metropolitan  
23 city as it pertains to the security of inland wa-  
24 terway infrastructure;

1 (I) the vulnerability of the metropolitan  
2 city as it pertains to the security of freight and  
3 passenger rail transportation infrastructure;

4 (J) the vulnerability of the metropolitan  
5 city as it pertains to the security of aviation in-  
6 frastructure;

7 (K) the vulnerability of the metropolitan  
8 city as it pertains to the security of agriculture  
9 infrastructure;

10 (L) the proximity of the metropolitan city  
11 to the nearest national icons and Federal facili-  
12 ties that may be a terrorist target, as deter-  
13 mined by the Department of Homeland Secu-  
14 rity, and the proximity of all metropolitan cities  
15 to the nearest national icons and Federal build-  
16 ings that may be a terrorist target, as deter-  
17 mined by the Department of Homeland Secu-  
18 rity; and

19 (M) the threat to the metropolitan city  
20 based upon intelligence information from the  
21 Department of Homeland Security;

22 (2) CLARIFICATION OF COMPUTATION RA-  
23 TIOS.—

1 (A) RELATIVE WEIGHT OF FACTORS.—In  
2 determining the weighted average of the ratios  
3 under paragraph (1)—

4 (i) threat, as defined by paragraph  
5 (1)(M), shall constitute 25 percent;

6 (ii) population, as defined by para-  
7 graph (1)(A), shall constitute 20 percent;

8 (iii) population density, as defined by  
9 paragraph (1)(B), shall constitute 15 per-  
10 cent; and

11 (iv) the remaining factors shall be  
12 equally weighted.

13 (B) POPULATION DENSITY.—The metro-  
14 politan cities shall be ranked according to the  
15 density of their populations in calculating the  
16 weighted average of this factor. The population  
17 density ratio shall be 1 divided by the total  
18 number of metropolitan cities, not to exceed  
19 100.

20 (C) PROXIMITY TO INTERNATIONAL BOR-  
21 DERS.—If a metropolitan city is located within  
22 50 miles of an international border, the ratio  
23 under paragraph (1)(C) shall be 1 divided by  
24 the total number of metropolitan cities, not to

1 exceed 100, which are located within 50 miles  
2 of an international border.

3 (D) VULNERABILITY AS IT PERTAINS TO  
4 CHEMICAL SECURITY.—If a metropolitan city is  
5 within the vulnerable zone of a worst-case  
6 chemical release (as specified in the most recent  
7 risk management plans filed with the Environ-  
8 mental Protection Agency or another instru-  
9 ment development by the Environmental Pro-  
10 tection Agency or the Department of Homeland  
11 Security that captures the same information for  
12 the same facilities), the ratio under paragraph  
13 (1)(D) shall be 1 divided by the total number  
14 of metropolitan cities that are within such a  
15 zone, not to exceed 100.

16 (E) VULNERABILITY AS IT PERTAINS TO  
17 NUCLEAR SECURITY.—If a metropolitan city is  
18 located within 50 miles of an operating nuclear  
19 power plant, as identified by the Nuclear Regu-  
20 latory Commission, the ratio under paragraph  
21 (1)(E) shall be 1 divided by the total number  
22 of metropolitan cities, not to exceed 100, which  
23 are located within 50 miles of an operating nu-  
24 clear power plant.

1 (F) VULNERABILITY AS IT PERTAINS TO  
2 PORT SECURITY.—If a metropolitan city is lo-  
3 cated within 50 miles of—

4 (i) one of the 75 largest United States  
5 ports, as stated by the Department of  
6 Transportation, Bureau of Transportation  
7 Statistics, United States Ports Report by  
8 All Land Modes; or

9 (ii) one of the 25 largest United  
10 States water ports by metric tons and  
11 value, as stated by the Department of  
12 Transportation, Maritime Administration,  
13 United States Foreign Waterborne Trans-  
14 portation Statistics,

15 the ratio under paragraph (1)(F) shall be 1 di-  
16 vided by the total number of metropolitan cities  
17 that are located within 50 miles of a United  
18 States land or water port, not to exceed 100.

19 (G) VULNERABILITY AS IT PERTAINS TO  
20 ENERGY INFRASTRUCTURE SECURITY.—If a  
21 metropolitan city is among the 100 metropoli-  
22 tan cities that are closest to, or within 50 miles  
23 of, non-nuclear power generating plants, com-  
24 pressors, and other significant components of  
25 critical energy infrastructure as identified by

1 the Department of Energy or the Department  
2 of Homeland Security, the ratio under para-  
3 graph (1)(G) shall be 1 divided by the total  
4 number of metropolitan cities that are located  
5 within 50 miles of critical energy infrastructure,  
6 not to exceed 100.

7 (H) VULNERABILITY AS IT PERTAINS TO  
8 INLAND WATERWAY INFRASTRUCTURE SECU-  
9 RITY.—If a metropolitan city is among the 100  
10 metropolitan cities that are closest to, or within  
11 50 miles of, the most significant locks, canals,  
12 and other components of critical inland water-  
13 way system infrastructure as identified by the  
14 Department of Transportation, the ratio under  
15 paragraph (1)(H) shall be 1 divided by the total  
16 number of metropolitan cities that are located  
17 within 50 miles of critical inland water infra-  
18 structure, not to exceed 100.

19 (I) VULNERABILITY AS IT PERTAINS TO  
20 RAIL TRANSPORTATION INFRASTRUCTURE SE-  
21 CURITY.—If a metropolitan city is among the  
22 100 metropolitan cities that are closest to, or  
23 within 50 miles of, the largest railroad hubs  
24 and other significant components of critical  
25 freight and passenger rail infrastructure, as

1 identified by the Department of Transportation,  
2 the ratio under paragraph (1)(I) shall be 1 di-  
3 vided by the total number of metropolitan cities  
4 that are located within 50 miles of critical in-  
5 land water infrastructure, not to exceed 100.

6 (J) VULNERABILITY AS IT PERTAINS TO  
7 AVIATION INFRASTRUCTURE SECURITY.—If a  
8 metropolitan city is among the 100 metropoli-  
9 tan cities that are closest to, or within 50 miles  
10 of, major passenger or cargo airports that are  
11 significant components of the Nation’s air  
12 transportation infrastructure as identified by  
13 the Department of Transportation, the ratio  
14 under paragraph (1)(J) shall be 1 divided by  
15 the total number of metropolitan cities that are  
16 located within 50 miles of critical aviation  
17 transportation infrastructure, not to exceed  
18 100.

19 (K) VULNERABILITY AS IT PERTAINS TO  
20 AGRICULTURE INFRASTRUCTURE SECURITY.—If  
21 a metropolitan city is among the 100 metropoli-  
22 tan cities that are closest to, or within 50 miles  
23 of, major feed yards, food processing facilities,  
24 and other significant components of the na-  
25 tion’s agriculture infrastructure, as defined and

1 determined by the Department of Agriculture  
2 and the Department of Homeland Security, the  
3 ratio under paragraph (1)(K) shall be 1 divided  
4 by the total number of metropolitan cities that  
5 are located within 50 miles of critical agri-  
6 culture infrastructure, not to exceed 100.

7 (L) PROXIMITY TO NATIONAL ICONS AND  
8 FEDERAL BUILDINGS.—If a metropolitan city is  
9 among the 100 metropolitan cities that are clos-  
10 est to, or within 50 miles of, national icons and  
11 Federal buildings that the Department of  
12 Homeland Security determines are most vulner-  
13 able with respect to a terrorist attack, the ratio  
14 under paragraph (1)(L) shall be 1 divided by  
15 the total number of metropolitan cities that are  
16 located within 50 miles of such icons or Federal  
17 buildings, not to exceed 100.

18 (M) INTELLIGENCE.—If a metropolitan  
19 city is among the 100 metropolitan cities that  
20 have been identified by the Department of  
21 Homeland Security as being special alert or  
22 heightened alert status for the longest periods  
23 of time, the ratio under paragraph (1)(M) shall  
24 be 1 divided by the total number of metropoli-  
25 tan cities that have been identified by the De-

1           partment of Homeland Security, not to exceed  
2           100.

3           (d) COMPUTATION OF AMOUNT ALLOCATED TO  
4 URBAN COUNTIES.—

5           (1) VULNERABILITY AND THREAT FACTORS.—

6           The Secretary shall determine the amount to be allo-  
7           cated to each urban county, which shall bear the  
8           same ratio to the allocation for all urban counties as  
9           the weighted average of—

10                   (A) the population (including tourist, mili-  
11                   tary, and commuting populations) of the urban  
12                   county divided by the population of all urban  
13                   counties;

14                   (B) the population density of the urban  
15                   county;

16                   (C) the proximity of the urban county to  
17                   international borders;

18                   (D) the vulnerability of the urban county  
19                   as it pertains to chemical security;

20                   (E) the vulnerability of the urban county  
21                   as it pertains to nuclear security;

22                   (F) the vulnerability of the urban county  
23                   as it pertains land and water port security;

1           (G) the vulnerability of the urban county  
2 as it pertains to the security of energy infra-  
3 structure;

4           (H) the vulnerability of the urban county  
5 as it pertains to the security of inland waterway  
6 infrastructure;

7           (I) the vulnerability of the urban county as  
8 it pertains to the security of freight and pas-  
9 senger rail transportation infrastructure;

10          (J) the vulnerability of the urban county  
11 as it pertains to the security of aviation infra-  
12 structure;

13          (K) the vulnerability of the urban county  
14 as it pertains to the security of agriculture in-  
15 frastructure;

16          (L) the proximity of the urban county to  
17 the nearest national icons and Federal facilities  
18 that may be a terrorist target, as determined by  
19 the Department of Homeland Security, and the  
20 proximity of all urban counties to the nearest  
21 national icons and Federal buildings that may  
22 be a terrorist target, as determined by the De-  
23 partment of Homeland Security; and

1 (M) the threat to the urban county based  
2 upon intelligence information from the Depart-  
3 ment of Homeland Security;

4 (2) CLARIFICATION OF COMPUTATION RA-  
5 TIOS.—

6 (A) RELATIVE WEIGHT OF FACTORS.—In  
7 determining the weighted average of the ratios  
8 under paragraph (1)—

9 (i) threat, as defined in paragraph  
10 (1)(M), shall constitute 25 percent;

11 (ii) population, as defined in para-  
12 graph (1)(A), shall constitute 20 percent;

13 (iii) population density, as defined in  
14 paragraph (1)(B), shall constitute 15 per-  
15 cent; and

16 (iv) the remaining factors shall be  
17 equally weighted.

18 (B) POPULATION DENSITY.—The popu-  
19 lation density ratio shall be 1 divided by the  
20 total number of urban counties, not to exceed  
21 100. The urban counties shall be ranked ac-  
22 cording to the density of their populations in  
23 calculating the weighted average of this factor.

24 (C) PROXIMITY TO INTERNATIONAL BOR-  
25 DERS.—If an urban county is located within 50

1 miles of an international border, the ratio under  
2 paragraph (1)(C) shall be 1 divided by the total  
3 number of urban counties, not to exceed 100,  
4 which are located within 50 miles of an inter-  
5 national border.

6 (D) VULNERABILITY AS IT PERTAINS TO  
7 CHEMICAL SECURITY.—If an urban county is  
8 within the vulnerable zone of a worst-case  
9 chemical release (as specified in the most recent  
10 risk management plans filed with the Environ-  
11 mental Protection Agency or another instru-  
12 ment development by the Environmental Pro-  
13 tection Agency or the Department of Homeland  
14 Security that captures the same information for  
15 the same facilities), the ratio under paragraph  
16 (1)(D) shall be 1 divided by the total number  
17 of urban counties that are within such a zone,  
18 not to exceed 100.

19 (E) VULNERABILITY AS IT PERTAINS TO  
20 NUCLEAR SECURITY.—If an urban county is lo-  
21 cated within 50 miles of an operating nuclear  
22 power plant, as identified by the Nuclear Regu-  
23 latory Commission, the ratio under paragraph  
24 (1)(E) shall be 1 divided by the total number  
25 of urban counties, not to exceed 100, which are

1 located within 50 miles of an operating nuclear  
2 power plant.

3 (F) VULNERABILITY AS IT PERTAINS TO  
4 PORT SECURITY.—If an urban county is located  
5 within 50 miles of—

6 (i) one of the 75 largest United States  
7 ports, as stated by the Department of  
8 Transportation, Bureau of Transportation  
9 Statistics, United States Ports Report by  
10 All Land Modes; or

11 (ii) one of the 25 largest United  
12 States water ports by metric tons and  
13 value, as stated by the Department of  
14 Transportation, Maritime Administration,  
15 United States Foreign Waterborne Trans-  
16 portation Statistics, the ratio under para-  
17 graph (1)(F) shall be 1 divided by the total  
18 number of urban counties that are located  
19 within 50 miles of a United States land or  
20 water port, not to exceed 100.

21 (G) VULNERABILITY AS IT PERTAINS TO  
22 ENERGY INFRASTRUCTURE SECURITY.—If an  
23 urban county is among the 100 urban counties  
24 that are closest to, or within 50 miles of, non-  
25 nuclear power generating plants, compressors,

1 and other significant components of critical en-  
2 ergy infrastructure as identified by the Depart-  
3 ment of Energy or the Department of Home-  
4 land Security, the ratio under paragraph (1)(G)  
5 shall be 1 divided by the total number of urban  
6 counties that are located within 50 miles of  
7 critical energy infrastructure, not to exceed  
8 100.

9 (H) VULNERABILITY AS IT PERTAINS TO  
10 INLAND WATERWAY INFRASTRUCTURE SECUR-  
11 ITY.—If an urban county is among the 100  
12 urban counties that are closest to, or within 50  
13 miles of, the most significant locks, canals, and  
14 other components of critical inland waterway  
15 system infrastructure as identified by the De-  
16 partment of Transportation, the ratio under  
17 paragraph (1)(H) shall be 1 divided by the total  
18 number of urban counties that are located with-  
19 in 50 miles of critical inland water infrastruc-  
20 ture, not to exceed 100.

21 (I) VULNERABILITY AS IT PERTAINS TO  
22 RAIL TRANSPORTATION INFRASTRUCTURE SE-  
23 CURITY.—If an urban county is among the 100  
24 urban counties that are closest to, or within 50  
25 miles of, the largest railroad hubs and other

1 significant components of critical freight and  
2 passenger rail infrastructure, as identified by  
3 the Department of Transportation, the ratio  
4 under paragraph (1)(I) shall be 1 divided by  
5 the total number of urban counties that are lo-  
6 cated within 50 miles of critical inland water in-  
7 frastructure, not to exceed 100.

8 (J) VULNERABILITY AS IT PERTAINS TO  
9 AVIATION INFRASTRUCTURE SECURITY.—If an  
10 urban county is among the 100 urban counties  
11 that are closest to, or within 50 miles of, major  
12 passenger or cargo airports that are significant  
13 components of the Nation’s air transportation  
14 infrastructure as identified by the Department  
15 of Transportation, the ratio under paragraph  
16 (1)(J) shall be 1 divided by the total number of  
17 urban counties that are located within 50 miles  
18 of critical aviation transportation infrastruc-  
19 ture, not to exceed 100.

20 (K) VULNERABILITY AS IT PERTAINS TO  
21 AGRICULTURE INFRASTRUCTURE SECURITY.—If  
22 urban county is among the 100 urban counties  
23 that are closest to, or within 50 miles of, major  
24 feed yards, food processing facilities, and other  
25 significant components of the Nation’s agri-

1 culture infrastructure, as defined and deter-  
2 mined by the Department of Agriculture and  
3 the Department of Homeland Security, the  
4 ratio under paragraph (1)(K) shall be 1 divided  
5 by the total number of urban counties that are  
6 located within 50 miles of critical agriculture  
7 infrastructure, not to exceed 100.

8 (L) PROXIMITY TO NATIONAL ICONS AND  
9 FEDERAL BUILDINGS.—If an urban county is  
10 among the 100 urban counties that are closest  
11 to, or within 50 miles of, national icons and  
12 Federal buildings that the Department of  
13 Homeland Security determines are most vulner-  
14 able with respect to a terrorist attack, the ratio  
15 under paragraph (1)(L) shall be 1 divided by  
16 the total number of urban counties that are lo-  
17 cated within 50 miles of such icons or Federal  
18 buildings, not to exceed 100.

19 (M) INTELLIGENCE.—If an urban county  
20 is among the 100 urban counties that have been  
21 identified by the Department of Homeland Se-  
22 curity as being special alert or heightened alert  
23 status for the longest periods of time, the ratio  
24 under paragraph (1)(M) shall be 1 divided by  
25 the total number of urban counties that have

1           been identified by the Department of Homeland  
2           Security, not to exceed 100.

3           (e) EXCLUSIONS.—

4           (1) IN GENERAL.—In computing amounts or  
5           exclusions under subsection (d) with respect to any  
6           urban county, units of general local government lo-  
7           cated in the county that are not included in the pop-  
8           ulation of the county in determining the eligibility of  
9           the county to receive a grant under this subsection  
10          shall be excluded, except that any independent city  
11          (as defined by the Bureau of the Census) shall be  
12          included if it—

13                   (A) is not part of any county;

14                   (B) is not eligible for a grant;

15                   (C) is contiguous to the urban county;

16                   (D) has entered into cooperation agree-  
17                   ments with the urban county which provide that  
18                   the urban county is to undertake or to assist in  
19                   the undertaking of essential community devel-  
20                   opment and housing assistance activities with  
21                   respect to such independent city; and

22                   (E) is not included as a part of any other  
23                   unit of general local government for purposes of  
24                   this section.

1           (2) INDEPENDENT CITIES.—Any independent  
2 city that is included in any fiscal year for purposes  
3 of computing amounts pursuant to the preceding  
4 sentence shall not be eligible to receive assistance  
5 under subsection (i) for that fiscal year.

6 (f) INCLUSIONS.—

7           (1) LOCAL GOVERNMENT STRADDLING COUNTY  
8 LINE.—In computing amounts under subsection (d)  
9 with respect to any urban county, there shall be in-  
10 cluded all of the area of any unit of local govern-  
11 ment which is part of, but is not located entirely  
12 within the boundaries of, such urban county if—

13                   (A) the part of such unit of local govern-  
14 ment that is within the boundaries of such  
15 urban county would otherwise be included in  
16 computing the amount for such urban county  
17 under this section; and

18                   (B) the part of such unit of local govern-  
19 ment that is not within the boundaries of such  
20 urban county is not included as a part of any  
21 other unit of local government for the purpose  
22 of this section.

23           (2) USE OF GRANT FUNDS OUTSIDE URBAN  
24 COUNTY.—Any amount received under this section  
25 by an urban county described under paragraph (1)

1 may be used with respect to the part of such unit  
2 of local government that is outside the boundaries of  
3 such urban county.

4 (g) POPULATION.—

5 (1) EFFECT OF CONSOLIDATION.—Where data  
6 are available, the amount to be allocated to a metro-  
7 politan city that has been formed by the consolida-  
8 tion of 1 or more metropolitan cities within an  
9 urban county shall be equal to the sum of the  
10 amounts that would have been allocated to the urban  
11 county or cities and the balance of the consolidated  
12 government, if such consolidation had not occurred.

13 (2) LIMITATION.—Paragraph (1) shall apply  
14 only to a consolidation that—

15 (A) included all metropolitan cities that re-  
16 ceived grants under this section for the fiscal  
17 year preceding such consolidation and that were  
18 located within the urban county;

19 (B) included the entire urban county that  
20 received a grant under this section for the fiscal  
21 year preceding such consolidation; and

22 (C) took place on or after January 1,  
23 2005.

1           (3) GROWTH RATE.—The population growth  
2 rate of all metropolitan cities defined in section  
3 3(a)(6) shall be based on the population of—

4           (A) metropolitan cities other than consoli-  
5 dated governments the grant for which is deter-  
6 mined under this paragraph; and

7           (B) cities that were metropolitan cities be-  
8 fore their incorporation into consolidated gov-  
9 ernments.

10          (4) ENTITLEMENT SHARE.—For purposes of  
11 calculating the entitlement share for the balance of  
12 the consolidated government under this subsection,  
13 the entire balance shall be considered to have been  
14 an urban county.

15          (h) REALLOCATION.—

16          (1) IN GENERAL.—Except as provided under  
17 paragraph (2), any amounts allocated to a metro-  
18 politan city or an urban county under this section  
19 that are not received by the city or county for a fis-  
20 cal year because of failure to meet the requirements  
21 of subsection (a) or (b) of section 5, or that other-  
22 wise became available, shall be reallocated in the  
23 succeeding fiscal year to the other metropolitan cit-  
24 ies and urban counties in the same metropolitan  
25 area that certify to the satisfaction of the Secretary

1 that they would be adversely affected by the loss of  
2 such amounts from the metropolitan area.

3 (2) **RATIO.**—The amount of the share of funds  
4 reallocated under this subsection for any metropoli-  
5 tan city or urban county shall bear the same ratio  
6 to the total of such reallocated funds in the metro-  
7 politan area as the amount of funds awarded to the  
8 city or county for the fiscal year in which the reallo-  
9 cated funds become available bears to the total  
10 amount of funds awarded to all metropolitan cities  
11 and urban counties in the same metropolitan area  
12 for that fiscal year.

13 (3) **TRANSFER.**—Notwithstanding paragraphs  
14 (1) and (2), the Secretary may, upon request, trans-  
15 fer to any metropolitan city the responsibility for the  
16 administration of any amounts received, but not ob-  
17 ligated, by the urban county in which such city is lo-  
18 cated if—

19 (A) such city was an included unit of gen-  
20 eral local government in such county prior to  
21 the qualification of such city as a metropolitan  
22 city;

23 (B) such amounts were designated and re-  
24 ceived by such county for use in such city prior

1 to the qualification of such city as a metropoli-  
2 tan city; and

3 (C) such city and county agree to such  
4 transfer of responsibility for the administration  
5 of such amounts.

6 (i) ALLOCATION TO STATES ON BEHALF OF NON-  
7 QUALIFYING COMMUNITIES.—

8 (1) IN GENERAL.—Of the amount appropriated  
9 pursuant to section 4 that remains after allocations  
10 under subsections (a) and (b), the Secretary shall al-  
11 locate 30 percent among the States for use in non-  
12 qualifying communities.

13 (2) ALLOCATION FORMULA.—

14 (A) FACTORS.—The Secretary shall make  
15 the allocation for each State based on factors  
16 such as threat, vulnerability, population, popu-  
17 lation density, the presence of critical infra-  
18 structure, and other factors considered appro-  
19 priate by the Secretary.

20 (B) PRO-RATA REDUCTION.—The Sec-  
21 retary shall make a pro rata reduction of each  
22 amount allocated to the nonqualifying commu-  
23 nities in each State under subparagraph (A) so  
24 that the nonqualifying communities in each  
25 State will receive the same percentage of the

1 total amount available under this subsection as  
2 the percentage that such communities would  
3 have received if the total amount available had  
4 equaled the total amount allocated under sub-  
5 paragraph (A).

6 (3) DISTRIBUTION.—

7 (A) STATES.—A State shall distribute  
8 amounts it receives under this subsection to  
9 units of general local government located in  
10 nonqualifying areas of the State in such man-  
11 ner and at such time as the Secretary shall pre-  
12 scribe, consistent with the statement submitted  
13 under section 5(a), and not later than 45 days  
14 after the date on which the State receives such  
15 amounts from the Federal Government.

16 (B) CERTIFICATION.—Before a State may  
17 receive or distribute amounts allocated under  
18 this subsection, the State must certify that—

19 (i) with respect to units of general  
20 local government in nonqualifying areas,  
21 the State—

22 (I) provides, or will provide, tech-  
23 nical assistance to units of general  
24 local government in connection with  
25 homeland security initiatives;

1 (II) will not refuse to distribute  
2 such amounts to any unit of general  
3 local government on the basis of the  
4 particular eligible activity selected by  
5 such unit of general local government  
6 to meet its homeland security objec-  
7 tives, except that this clause may not  
8 be considered to prevent a State from  
9 establishing priorities in distributing  
10 such amounts on the basis of the ac-  
11 tivities selected; and

12 (III) has consulted with local  
13 elected officials from among units of  
14 general local government located in  
15 nonqualifying areas of that State in  
16 determining the method of distribu-  
17 tion of funds required by subpara-  
18 graph (A); and

19 (ii) each unit of general local govern-  
20 ment to be distributed funds will be re-  
21 quired to identify its homeland security ob-  
22 jectives, and the activities to be undertaken  
23 to meet such objectives.

24 (4) MINIMUM AMOUNT.—

1 (A) IN GENERAL.—Except as provided  
2 under subparagraph (B), each State shall be al-  
3 located, for each fiscal year authorized under  
4 this Act and under this section, the greater  
5 of—

6 (i) 0.25 percent of the total amount  
7 appropriated in the fiscal year for grants  
8 to States that are not located on an inter-  
9 national border under this section;

10 (ii) 0.45 percent of the fatal amount  
11 appropriated in the fiscal year for grants  
12 to States that are located on an inter-  
13 national border; or

14 (iii) the amount the State would oth-  
15 erwise be allocated under the formula set  
16 forth in this section.

17 (B) EXCEPTION.—Notwithstanding sub-  
18 paragraph (A), the United States Virgin Is-  
19 lands, American Samoa, Guam, and the North-  
20 ern Mariana Islands shall each be allocated  
21 0.25 percent of the total amount appropriated  
22 in each fiscal year for grants to States under  
23 this section.

24 (5) ADMINISTRATION.—

1 (A) IN GENERAL.—Each State shall be re-  
2 sponsible for the administration of all funds re-  
3 ceived and distributed under paragraph (1). Ex-  
4 cept as provided under subparagraph (B), the  
5 State shall pay for all administrative expenses  
6 incurred by the State in carrying out its respon-  
7 sibilities under this Act.

8 (B) FEDERAL SHARE.—From the amounts  
9 received by each State for distribution in non-  
10 qualifying areas, the State may deduct an  
11 amount to pay—

12 (i) the first \$150,000 of its adminis-  
13 trative expenses under this subsection; and

14 (ii) 50 percent of any State adminis-  
15 trative expenses under this subsection in  
16 excess of \$150,000, which amount shall  
17 not exceed 2 percent of the amount re-  
18 ceived by the State under paragraph (1).

19 (C) DISTRIBUTION.—Any distribution by  
20 the Secretary under paragraph (1) shall be  
21 made in accordance with—

22 (i) determinations of the Secretary;

23 (ii) statements submitted and the  
24 other requirements under section 5 (except  
25 for subsection (c));

1 (iii) regulations and procedures pre-  
2 scribed by the Secretary.

3 (D) REALLOCATION.—

4 (i) FAILURE TO COMPLY.—Any  
5 amounts allocated for use in a State under  
6 paragraph (1) that are not received by the  
7 State for any fiscal year because of failure  
8 to meet the requirements of subsection (a)  
9 or (b) of section 5 shall be added to  
10 amounts allocated to all States under para-  
11 graph (1) for the succeeding fiscal year.

12 (ii) CLOSEOUT.—Any amounts allo-  
13 cated for use in a State under paragraph  
14 (1) that become available as a result of the  
15 closeout of a grant made by the Secretary  
16 under this section in nonqualifying areas of  
17 the State shall be added to amounts allo-  
18 cated to the State under paragraph (1) for  
19 the fiscal year in which such amounts be-  
20 come available.

21 (6) SINGLE UNIT.—Any combination of units of  
22 general local governments may not be required to  
23 obtain recognition by the Secretary to be treated as  
24 a single unit of general local government for pur-  
25 poses of this subsection.

1           (7) DEDUCTION.—From the amounts received  
2 under paragraph (1) for distribution in nonquali-  
3 fying areas, the State may use not more than 1 per-  
4 cent to provide technical assistance to local govern-  
5 ments.

6           (8) APPLICABILITY.—Any activities conducted  
7 with amounts received by a unit of general local gov-  
8 ernment under this subsection shall be subject to the  
9 applicable provisions of this Act and other Federal  
10 law in the same manner and to the same extent as  
11 activities conducted with amounts received by a unit  
12 of general local government under subsection (a).

13          (j) QUALIFICATIONS AND DETERMINATIONS.—The  
14 Secretary may prescribe such qualification or submission  
15 dates as the Secretary determines to be necessary to per-  
16 mit the computations and determinations required by this  
17 section to be made in a timely manner, and all such com-  
18 putations and determinations shall be final and conclusive.

19          (k) PRO RATA REDUCTION AND INCREASE.—

20           (1) REDUCTION.—If the total amount available  
21 for distribution in any fiscal year to metropolitan  
22 cities and urban counties under this section is insuf-  
23 ficient to provide the amounts to which metropolitan  
24 cities and urban counties would be entitled under  
25 this section, and funds are not otherwise appro-

1        appropriated to meet the deficiency, the Secretary shall  
2        meet the deficiency through a pro rata reduction of  
3        all amounts determined under this section.

4            (2) INCREASE.—If the total amount available  
5        for distribution in any fiscal year to metropolitan  
6        cities and urban counties under this section exceeds  
7        the amounts to which metropolitan cities and urban  
8        counties would be entitled under this section, the  
9        Secretary shall distribute the excess through a pro  
10       rata increase of all amounts determined under this  
11       section.

12 **SEC. 8. STATE AND REGIONAL PLANNING AND COMMU-**  
13 **NICATION SYSTEMS.**

14        (a) ALLOCATIONS.—From the amounts appropriated  
15       pursuant to section 4(b)(2), the Secretary shall allocate  
16       \$1,000,000,000 to States, regional cooperations, and units  
17       of general local government for—

18            (1) homeland defense planning within the  
19       States;

20            (2) providing increased security through addi-  
21       tional first responder personnel;

22            (3) purchasing and refurbishing personal pro-  
23       tective equipment for first responder personnel;

24            (4) homeland defense planning within the re-  
25       gions;

1           (5) the development and maintenance of State-  
2 wide training facilities and homeland security best-  
3 practices clearinghouses; and

4           (6) the development and maintenance of com-  
5 munications systems that can be used between and  
6 among first responders, including law enforcement,  
7 fire, and emergency medical personnel.

8           (b) USE OF FUNDS.—Of the amount allocated under  
9 subsection (a)—

10           (1) \$500,000,000 shall be used by the States  
11 for homeland defense planning and coordination  
12 within each State;

13           (2) \$50,000,000 shall be used by regional co-  
14 operations and regional, multistate, or intrastate au-  
15 thorities for homeland defense planning and coordi-  
16 nation within each region;

17           (3) \$50,000,000 shall be used by the States to  
18 develop and maintain statewide training facilities  
19 and best-practices clearinghouses; and

20           (4) \$400,000,000 shall be used by the States  
21 and units of general local government to develop and  
22 maintain communications systems that can be used  
23 between and among first responders at the State  
24 and local level, including law enforcement, fire, and  
25 emergency personnel.

1 (c) ALLOCATIONS TO STATES.—

2 (1) IN GENERAL.—Amounts allocated to States  
3 under this section shall be allocated among the  
4 States based on factors such as threat, vulnerability,  
5 population, population density, the presence of crit-  
6 ical infrastructure, and other factors considered ap-  
7 propriate by the Secretary.

8 (2) MINIMUM AMOUNT PROVISION.—The provi-  
9 sion under section 7(i)(4) relating to a minimum  
10 amount shall apply to amounts allocated to States  
11 under this section.

12 (3) LOCAL COMMUNICATIONS SYSTEMS.—

13 (A) IN GENERAL.—Not less than 50 per-  
14 cent of the amounts allocated under subsection  
15 (b)(4) shall be used for the development and  
16 maintenance of local communications systems.

17 (B) DISTRIBUTION OF FUNDS.—Each  
18 State shall distribute amounts reserved for local  
19 communications systems in that State under  
20 subparagraph (A) to units of general local gov-  
21 ernment not later than 45 days after the State  
22 receives such amounts from the Federal Gov-  
23 ernment.

24 (d) ALLOCATIONS TO REGIONAL COOPERATIONS.—

25 Funds allocated under subsection (b)(2) shall be allocated

1 to regional cooperations and regional, multistate, or intra-  
2 state authorities, based upon the population of the areas  
3 covered by each regional cooperative.

4 **SEC. 9. URBAN AREA SECURITY INITIATIVE.**

5 (a) ALLOCATIONS.—

6 (1) IN GENERAL.—From the amounts appro-  
7 priated pursuant to section 4(b)(3), the Secretary  
8 shall allocate \$2,000,000 for discretionary grants  
9 made under the Urban Area Security Initiative to  
10 high-threat, high-risk urban areas, as determined by  
11 the Secretary, for their homeland security needs,  
12 and for rail security, port security, inter-city bus se-  
13 curity, trucking industry security, and high-threat  
14 non-profit organizations.

15 (2) DISTRIBUTION.—Grant funds awarded  
16 under this section shall be transferred directly to  
17 Urban Areas Security Initiative recipients not later  
18 than 60 days after the date on which funds are ap-  
19 propriated pursuant to section 4(b)(3).

20 (b) SELECTION CRITERIA.—In selecting high-threat,  
21 high-risk urban area grantees under this section, the Sec-  
22 retary shall consider—

23 (1) credible threat;

24 (2) vulnerability;

1           (3) the presence of critical infrastructure, in-  
2           cluding infrastructure described in section 7;  
3           (4) population;  
4           (5) population density;  
5           (6) identified needs of public agencies; and  
6           (7) other factors considered appropriate by the  
7           Secretary.

8           (c) **HOMELAND SECURITY PLAN.**—Each grantee  
9           awarded a grant under this section shall submit a home-  
10          land security plan to the State in which it is located and  
11          to the Secretary that describes the intended use of grant  
12          funds received under this section.

13          (d) **MINIMUM AMOUNT.**—Section 1014(c)(3) of the  
14          USA PATRIOT ACT (42 U.S.C. 3711(c)(3)) and section  
15          7(i)(4) of this Act shall not apply to funds awarded under  
16          this section.

17          **SEC. 10. FLEXIBLE EMERGENCY ASSISTANCE FUND.**

18          (a) **IN GENERAL.**—From the amounts appropriated  
19          pursuant to section 4(b)(4), \$500,000,000 shall be used  
20          to create a flexible emergency assistance fund, from which  
21          the Secretary shall provide funds directly to State and  
22          units of local government that incur extraordinary home-  
23          land security costs.

1 (b) RELEASE OF FUNDS.—The Secretary may release  
2 emergency assistance funds to a State or local community  
3 as the Secretary determines to be appropriate, including—

4 (1) when the Secretary determines that a State  
5 or local community may be the specific target of a  
6 terrorist threat;

7 (2) when a local community is the venue of a  
8 high profile trial related to homeland security or ter-  
9 rorism;

10 (3) when the State or local community has been  
11 asked to assist in a Federal investigation concerning  
12 homeland security or terrorism; and

13 (4) when an agency of the Federal Government  
14 has requested the State or local community to assist  
15 that agency in performing homeland security func-  
16 tions.

17 (c) REIMBURSEMENTS.—The Secretary may disburse  
18 flexible emergency assistance funds to reimburse States  
19 and units of general local government for increased per-  
20 sonnel costs associated with the activation of first respond-  
21 ers who serve in the Reserves or National Guard.

22 (d) MINIMUM AMOUNT.—Section 1014(c)(3) of the  
23 USA PATRIOT ACT (42 U.S.C. 3711(c)(3)) and section  
24 7(i)(4) of this Act shall not apply to funds awarded under  
25 this section.

1 **SEC. 11. FEDERAL PREPAREDNESS, EQUIPMENT, AND**  
2 **TRAINING STANDARDS.**

3 (a) IN GENERAL.—The Department of Homeland Se-  
4 curity shall develop national homeland security prepared-  
5 ness, first responder training, and equipment standards,  
6 and best practices to facilitate the most effective and effi-  
7 cient use of funds authorized under this Act.

8 (b) CONSULTATION.—Not later than 1 year after the  
9 date of enactment of this Act, the Secretary shall develop  
10 the standards described in subsection (a) in consultation  
11 with first responders, States, local communities, non-  
12 governmental homeland security experts, and such other  
13 persons and organizations as the Secretary determines to  
14 be appropriate.

15 (c) REPORTS.—

16 (1) DEVELOPMENT OF STANDARDS AND BEST  
17 PRACTICES.—The Secretary shall submit a report to  
18 Congress on the progress made in developing the  
19 standards and best practices described in subsection  
20 (a)—

21 (A) not later than 90 days after the date  
22 of enactment of this Act; and

23 (B) not later than 180 days after the date  
24 of enactment of this Act.

25 (2) ALLOCATION METHODS.—The Secretary  
26 shall submit a report to Congress detailing the spe-



1 **SEC. 13. REMEDIES FOR NONCOMPLIANCE WITH REQUIRE-**  
2 **MENTS.**

3 If the Secretary finds, after reasonable notice and op-  
4 portunity for a hearing, that a recipient of assistance  
5 under this Act has failed to comply substantially with any  
6 provision of this Act, the Secretary shall—

7 (1) terminate payments to the recipient under  
8 this Act;

9 (2) reduce payments to the recipient under this  
10 Act by an amount equal to the amount of such pay-  
11 ments which were not expended in accordance with  
12 this Act; or

13 (3) limit the availability of payments under this  
14 Act to programs, projects, or activities not affected  
15 by such failure to comply.

16 **SEC. 14. REPORTING REQUIREMENTS.**

17 (a) IN GENERAL.—Not later than 180 days after the  
18 end of each fiscal year in which assistance is awarded  
19 under this Act, the Secretary shall submit to Congress a  
20 report containing—

21 (1) a description of the progress made in ac-  
22 complishing the objectives under this Act;

23 (2) a summary of the use of such funds during  
24 the preceding fiscal year; and

25 (3) a description of the activities carried out  
26 under section 7.

1 (b) REPORTS TO SECRETARY.—The Secretary may  
2 require recipients of assistance under this Act to submit  
3 such reports and other information as may be necessary  
4 in order for the Secretary to comply with subsection (a).

5 **SEC. 15. CONSULTATION BY ATTORNEY GENERAL.**

6 In carrying out the provisions of this Act including  
7 the issuance of regulations, the Secretary shall consult  
8 with the Attorney General and other Federal departments  
9 and agencies administering Federal grant-in-aid pro-  
10 grams.

11 **SEC. 16. INTERSTATE AGREEMENTS OR COMPACTS; PUR-**  
12 **POSES.**

13 The consent of Congress is hereby given to any 2 or  
14 more States to enter into agreements or compacts, not in  
15 conflict with any law of the United States—

16 (1) for cooperative effort and mutual assistance  
17 in support of homeland security planning and pro-  
18 grams carried out under this Act as they pertain to  
19 interstate areas and to localities within such States;  
20 and

21 (2) to establish such agencies, joint or other-  
22 wise, that the States consider desirable for making  
23 such agreements and compacts effective.

1 **SEC. 17. MATCHING REQUIREMENTS; SUSPENSION OF RE-**  
2 **QUIREMENTS FOR ECONOMICALLY DIS-**  
3 **TRESSED AREAS.**

4 (a) **MATCHING REQUIREMENT.**—Grant recipients  
5 shall contribute, from funds other than those received  
6 under this Act, an amount equal to 10 percent of the total  
7 funds received under this Act, which shall be used in ac-  
8 cordance with the grantee’s statement of homeland secu-  
9 rity objectives.

10 (b) **WAIVER FOR ECONOMIC DISTRESS.**—The Sec-  
11 retary shall waive the matching requirement under sub-  
12 section (a) for grant recipients that the Secretary deter-  
13 mines to be economically distressed.

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