

111TH CONGRESS
1ST SESSION

H. R. 1187

To authorize the Secretary of Homeland Security to make grants to first responders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2009

Mr. FRELINGHUYSEN introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Transportation and Infrastructure, the Judiciary, and Energy and Commerce, 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

A BILL

To authorize the Secretary of Homeland Security to make grants to first responders, 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.**

4 This Act may be cited as the “Smarter Funding for
5 All of America’s Homeland Security Act of 2009”.

1 **SEC. 2. PRESERVATION OF PRE-9/11 GRANT PROGRAMS FOR**
2 **TRADITIONAL FIRST RESPONDER MISSIONS.**

3 (a) IN GENERAL.—This Act does not affect any au-
4 thority to make grants under any Federal grant program
5 in existence immediately prior to September 11, 2001,
6 that enhance traditional missions of State and local law
7 enforcement, firefighters, ports, emergency medical serv-
8 ices, or public health missions.

9 (b) INCLUDED PROGRAMS.—The programs referred
10 to in subsection (a) include the following:

11 (1) FIRE GRANT PROGRAM.—The Fire Grant
12 Program authorized by section 1703 of the Defense
13 Authorization Act of 2001 (Public Law 106–398).

14 (2) EMERGENCY MANAGEMENT PLANNING AND
15 ASSISTANCE ACCOUNT GRANTS.—The Emergency
16 Management Performance Grant program and the
17 Urban Search and Rescue Grants program author-
18 ized by title VI of the Robert T. Stafford Disaster
19 Relief and Emergency Assistance Act (42 U.S.C.
20 5195 et seq.); the Departments of Veterans Affairs
21 and Housing and Urban Development, and Inde-
22 pendent Agencies Appropriations Act, 2000 (113
23 Stat. 1047 et seq.); and the Earthquake Hazards
24 Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

25 (3) DEPARTMENT OF JUSTICE LAW ENFORCE-
26 MENT GRANT PROGRAMS.—The Local Law Enforce-

1 ment Block Grant program of the Department of
2 Justice.

3 (4) BYRNE MEMORIAL FORMULA GRANTS.—The
4 Edward Byrne Memorial State and Local Law En-
5 forcement Assistance Programs authorized by part
6 E of title I of the Omnibus Crime Control and Safe
7 Streets Act of 1968 (42 U.S.C. 3750 et seq.).

8 (5) COPS.—The Public Safety and Community
9 Policing (“COPS ON THE BEAT”) grant program
10 authorized by part Q of title I of the Omnibus Crime
11 Control and Safe Streets Act of 1968 (42 U.S.C.
12 3796dd et seq.).

13 (6) HEALTH AND HUMAN SERVICES GRANT
14 PROGRAMS.—Grant programs under the Public
15 Health Service Act regarding preparedness for bio-
16 terrorism and other public health emergencies (in-
17 cluding grants under sections 319C–1, 319C–2, and
18 319F), and the emergency response assistance pro-
19 gram authorized by section 1412 of the National
20 Defense Authorization Act for Fiscal Year 1997 (50
21 U.S.C. 2312).

22 **SEC. 3. FASTER AND SMARTER FUNDING FOR FIRST RE-**
23 **SPONDERS.**

24 (a) IN GENERAL.—Subtitle A of title VIII of the
25 Homeland Security Act of 2002 (Public Law 107–296; 6

1 U.S.C. 361 et seq.) is amended by adding at the end the
2 following:

3 **“SEC. 802. FASTER AND SMARTER FUNDING FOR FIRST RE-**
4 **SPONDERS.**

5 “(a) SHORT TITLE.—This section may be cited as the
6 ‘Faster and Smarter Funding for First Responders Act’.

7 “(b) FIRST RESPONDER GRANTS AUTHORIZED.—

8 “(1) IN GENERAL.—The Secretary shall estab-
9 lish a State and Regional First Responder Grant
10 Program, under which the Secretary may make
11 grants in accordance with this section to States and
12 eligible regional entities.

13 “(2) APPLICATION TO OTHER GRANTS.—All
14 grants by the Secretary with amounts made avail-
15 able after the date of the enactment of this Act for
16 first responders shall be awarded under the pro-
17 gram, and shall be made to either States or eligible
18 regional cooperatives in accordance with this section.

19 “(3) ADMINISTRATION.—The Secretary shall
20 administer the program through the Office for State
21 and Local Government Coordination.

22 “(c) GRANT CRITERIA AND ELIGIBILITY.—

23 “(1) GRANT CRITERIA.—The Secretary shall
24 make grants under this section on the basis of the
25 threat to a State or region’s population and critical

1 infrastructure, as determined by the Under Sec-
2 retary for Information Analysis and Infrastructure
3 Protection based on its analysis under subsection (e)
4 of threat-related information from all sources pursu-
5 ant to its authority under section 202.

6 “(2) GRANT ELIGIBILITY.—To be eligible for a
7 grant under this section an applicant must be—

8 “(A) a State; or

9 “(B) a region.

10 “(3) CONSISTENCY.—Any grant awarded under
11 this section shall be used to supplement and support,
12 in a consistent and coordinated manner, activities
13 described under subsection (f) in accordance with a
14 homeland security plan specified in the application
15 for the grant.

16 “(d) APPLICATION FOR GRANT.—

17 “(1) IN GENERAL.—Any State or eligible re-
18 gional entity may apply for a grant under this sec-
19 tion by submitting to the Secretary an application at
20 such time, in such manner, and containing such in-
21 formation as the Secretary may reasonably require.

22 “(2) POINT OF CONTACT.—The Office for State
23 and Local Government Coordination shall be the sole
24 point-of-contact between the Department and appli-
25 cants for grants under this section.

1 “(3) CONTENTS OF APPLICATION.—Each appli-
2 cation for a grant under this section must include
3 the following:

4 “(A) Details of the purpose for which
5 grant funds are sought and the reasons why the
6 applicant needs the grant, including specifica-
7 tion of what the applicant expects to purchase
8 or accomplish with the grant funds.

9 “(B) Identification of the entity that will
10 expend the grant funds.

11 “(C) A detailed capital budget showing
12 how the grant funds will be allocated and spent.

13 “(D) A statement of whether a mutual aid
14 agreement applies to the use of the grant funds.

15 “(E) A description of the source of the
16 threat to which the proposed grant relates, in-
17 cluding the type of attack for which the appli-
18 cant is preparing for in seeking the grant fund-
19 ing.

20 “(F) A statement of why the proposed use
21 of funds is not a traditional first responder mis-
22 sion.

23 “(G) A description of how the applicant in-
24 tends to meet the matching requirement under
25 subsection (g)(2), and a statement of whether

1 the applicant will commit to provide more
2 matching funds than the amount required
3 under that subsection.

4 “(e) THREAT-BASED EVALUATION OF GRANT APPLI-
5 CATIONS.—

6 “(1) IN GENERAL.—The Secretary, acting
7 through the Under Secretary, shall evaluate and
8 prioritize applications for grants under this section
9 based on an objective determination and exhaustive
10 assessment of the threat to the population or assets
11 covered by the application.

12 “(2) CATEGORIES OF THREATS TO BE CONSID-
13 ERED.—In evaluating and prioritizing applications
14 for grants under this section, the Under Secretary
15 for Information Analysis and Infrastructure Protec-
16 tion’s risk analysis shall include consideration of
17 whether and the degree to which threats within the
18 following categories are applicable at that time to
19 the State or region for which the application is
20 made:

21 “(A) Threats to the population of the
22 State or region, including military and tourist
23 populations.

24 “(B) Threats to specific economic sectors
25 or private sector facilities.

1 “(C) Threats to major communications
2 nodes, including cyber and telephonic nodes.

3 “(D) Threats to specific elements of the
4 Nation’s food supply.

5 “(E) Threats to the water supply.

6 “(F) Threats to the energy supply, includ-
7 ing to electrical, petroleum, and nuclear
8 sources.

9 “(G) Threats to civic infrastructure and
10 emergency response capabilities, including
11 threats that would—

12 “(i) substantially eliminate the gov-
13 ernment of the State or region;

14 “(ii) materially degrade the ability of
15 first responders serving the State or region
16 to communicate or to provide assistance
17 during and in the aftermath of an act of
18 terrorism, including a chemical, biological,
19 radiological, or nuclear attack; and

20 “(iii) curtail the availability or effec-
21 tiveness of emergency medical services, in-
22 cluding hospital-based services, needed to
23 serve the population of the State or region
24 during such a terrorist-induced mass-med-
25 ical emergency.

1 “(H) Threats to specific national monu-
2 ments or structures of symbolic national impor-
3 tance, particularly those that routinely attract
4 large numbers of tourist visitors.

5 “(I) Threats to significant concentrations
6 of natural resources on which major economic
7 sectors or population centers depend.

8 “(J) Threats to major transportation sys-
9 tems or nodes.

10 “(3) SPECIFIC THREATS.—In addition to the
11 categories of threats under paragraph (2), the
12 Under Secretary shall consider any other specific
13 threat to a critical vulnerability that the Depart-
14 ment’s Directorate of Information Analysis and In-
15 frastructure Protection has determined exists within
16 the applicant State or region.

17 “(4) IDENTIFICATION OF THREAT REQUIRED.—
18 The Secretary may not make a grant to an applicant
19 under this section unless the Under Secretary identi-
20 fies a specific vulnerability that is subject to a
21 present or analytically projected threat of an act of
22 terrorism.

23 “(5) PRIORITIZATION.—The Under Secretary
24 shall prioritize applications according to the most
25 current analysis by the Department’s Directorate of

1 Information Analysis and Infrastructure Protection
2 of the terrorist threat.

3 “(A) The Under Secretary shall prioritize
4 threats listed under paragraph (2) according,
5 first, to their specificity and tactical immediacy.

6 “(B) The Under Secretary shall, next,
7 prioritize threats according to—

8 “(i) first, whether they pose a risk of
9 significant loss of human life;

10 “(ii) second, whether they pose a risk
11 of large-scale denial of the means of
12 human subsistence, including food or water
13 supply; and

14 “(iii) third, whether they pose a risk
15 of massive disruption to one or more sec-
16 tors of the economy of the United States.

17 “(f) USE OF FUNDS.—

18 “(1) IN GENERAL.—Grants under this section
19 may be used for—

20 “(A) the purchase or upgrading of equip-
21 ment;

22 “(B) exercises to strengthen emergency re-
23 sponse;

24 “(C) training in the use of equipment; and

1 “(D) training for prevention (including de-
2 tection) of, preparedness for, or response to at-
3 tacks involving weapons of mass destruction, re-
4 gardless of their perpetrators or sponsorship,
5 including exercises to strengthen emergency
6 preparedness of State, regional, and local first
7 responders.

8 “(2) PROHIBITED USES.—Grant funds under
9 this section may not be used to supplant State or
10 local funds that would, in the absence of Federal
11 aid, be available for homeland security or other first
12 responder related projects.

13 “(A) CONSTRUCTION.—Grants awarded
14 under this section may not be used to construct
15 buildings or other physical facilities, except
16 those described in section 611 of the Disaster
17 Relief Act of 1974 (42 U.S.C. 5196), or to ac-
18 quire land.

19 “(B) COST SHARING.—Grant funds pro-
20 vided under this section shall not be used for
21 any State or local government cost sharing con-
22 tribution request under this section.

23 “(3) FLEXIBILITY IN UNSPENT HOMELAND SE-
24 curity GRANT FUNDS.—Upon request by a grantee
25 under this section, the Secretary may authorize the

1 grantee to transfer all or part of funds provided as
2 a grant under this section, from uses specified in the
3 grant to other uses authorized under this Act, if the
4 Secretary determines that such transfer is in the in-
5 terests of homeland security.

6 “(g) STATE AND REGIONAL RESPONSIBILITIES.—

7 “(1) PASS-THROUGH.—The Secretary shall re-
8 quire a recipient of a grant under this section that
9 is a State or multi-State entity to provide to local
10 governments, first responders, and other local
11 groups, consistent with homeland security plans
12 specified in the application for the grant, not less
13 than 80 percent of the grant funds, resources pur-
14 chased with the grant funds having a value equal to
15 at least 80 percent of the amount of the grant, or
16 a combination thereof, by not later than the end of
17 the 45-day period beginning on the date the grant
18 recipient receives the grant funds.

19 “(2) COST SHARING.—

20 “(A) IN GENERAL.—The Federal share of
21 the costs of an activity carried out with a grant
22 to a State or region under this section shall not
23 exceed 75 percent.

24 “(B) EFFECTIVE DATE.—The matching
25 requirement under subparagraph (A) shall take

1 effect 2 years after the date of enactment of
2 this subparagraph.

3 “(3) REPORT ON HOMELAND SECURITY SPEND-
4 ING.—Each recipient of a grant under this section
5 shall annually submit a report to the Secretary that
6 contains the following information:

7 “(A) The amount and the dates of receipt
8 of all grant funds received.

9 “(B) The amount and the dates of dis-
10 bursements of all funds expended in compliance
11 with subsection (g)(1) or pursuant to mutual
12 aid agreements or other sharing arrangements
13 that apply within a region.

14 “(C) How the funds were utilized by each
15 ultimate recipient or beneficiary.

16 “(h) INCENTIVES TO EFFICIENT ADMINISTRATION
17 OF HOMELAND SECURITY GRANTS.—

18 “(1) PENALTIES FOR FAILURE TO PROVIDE
19 LOCAL SHARE.—If a grant recipient under this sec-
20 tion that is a State or multi-State entity fails to pro-
21 vide to local governments, first responders, and
22 other local groups funds or resources as required by
23 subsection (g)(1) within 45 days after receiving
24 grant funds under this section, the Secretary may—

1 “(A) reduce grant payments to the grant
2 recipient from the portion of grant funds that
3 is not required to be provided under subsection
4 (g)(1);

5 “(B) terminate payment of grant funds
6 under this section to the recipient, and transfer
7 the appropriate portion of those funds directly
8 to local first responders that were intended to
9 receive funding under that grant; or

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

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

16 “(ii) requiring the grant recipient to
17 distribute to local government beneficiaries
18 all or a portion of grant funds that are not
19 required to be provided under subsection
20 (g)(1); or

21 “(iii) for each day that the grant re-
22 cipient fails to provide funds or resources
23 in accordance with subsection (g)(1), re-
24 ducing grant payments to the grant recipi-
25 ent from the portion of grant funds that is

1 not required to be provided under sub-
2 section (g)(1), except that the total amount
3 of such reduction may not exceed 20 per-
4 cent of the total amount of the grant.

5 “(2) PROVISION OF NON-LOCAL SHARE TO
6 LOCAL GOVERNMENT.—(A) The Secretary, acting
7 through the Office for State and Local Government
8 Coordination, may upon request by a local govern-
9 ment pay to the local government a portion of the
10 amount of a grant to a State or multi-State entity
11 in the jurisdiction of which the local government is
12 located, if—

13 “(i) the local government will use the
14 amount paid to expedite planned enhancements
15 to its homeland security-related readiness; and

16 “(ii) the State or multi-State entity has
17 failed to provide funds or resources in accord-
18 ance with subsection (g)(1).

19 “(B) To receive a payment under this para-
20 graph, a local government must demonstrate that—

21 “(i) it is identified explicitly as an ultimate
22 recipient or intended beneficiary in the ap-
23 proved grant application submitted by the
24 grantee;

1 “(ii) it was intended by the grantee to re-
2 ceive a severable portion of the overall grant for
3 a specific purpose that is identified in the grant
4 application;

5 “(iii) it petitioned the grantee for the
6 funds or resources after expiration of the period
7 within which the funds or resources were re-
8 quired to be provided under subsection (g)(1);
9 and

10 “(iv) it did not receive the portion of the
11 overall grant that was earmarked or designated
12 for its use or benefit.

13 “(C) To obtain a payment under this para-
14 graph, a local government must provide a copy of
15 the original application.

16 “(D) Payment of grant funds to a local govern-
17 ment under this paragraph—

18 “(i) shall not affect any payment to an-
19 other local government under this paragraph;
20 and

21 “(ii) shall not prejudice consideration of a
22 request for payment under this paragraph that
23 is submitted by another local government.

24 “(E) The Office for State and Local Govern-
25 ment Coordination shall approve or disapprove each

1 request for payment under this paragraph by not
2 later than 15 days after the date the request is re-
3 ceived by the Office.

4 “(i) REPORTS REGARDING DISTRIBUTION OF GRANT
5 FUNDS TO LOCAL GOVERNMENTS.—The recipient of a
6 grant under this section shall report to the Secretary, by
7 not later than 30 days after the expiration of the period
8 described in subsection (g)(1) with respect to the grant,
9 regarding the speed of distribution of grant funds and re-
10 sources to local governments, first responders, and other
11 local groups pursuant to subsection (g)(1).

12 “(j) REPORTS TO CONGRESS.—The Secretary shall
13 submit an annual report to the Select Committee on
14 Homeland Security of the House of Representatives and
15 the Committee on Governmental Affairs of the Senate—

16 “(1) describing in detail the amount of Federal
17 funds provided as grants under this section that
18 were directed to each State and region; and

19 “(2) containing information on the use of such
20 grant funds by grantees.

21 “(k) DEFINITIONS.—For purposes of this section:

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

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

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

3 “(2) HOMELAND SECURITY PLAN.—The term
4 ‘homeland security plan’ means a 3-year plan devel-
5 oped by a State to—

6 “(A) assess a State’s risks, threats, and
7 vulnerabilities to acts of terrorism;

8 “(B) determine a State’s capabilities to re-
9 spond to acts of terrorism; and

10 “(C) set priorities for the allocation of
11 grant funds received under this section.

12 “(3) UNDER SECRETARY.—The term ‘Under
13 Secretary’ means the Under Secretary for Informa-
14 tion Analysis and Infrastructure Protection.

15 “(4) REGION.—The term ‘region’ means a
16 multi-State or intra-State entity, established by law
17 or by agreement of two or more governments or gov-
18 ernmental agencies in a mutual aid agreement.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 in section 1(b) of the Homeland Security Act of 2002 (6
21 U.S.C. 101 et seq.) is amended by inserting at the end
22 of the items relating to subtitle A of title VIII the fol-
23 lowing:

 “Sec. 802. Faster and smarter funding for first responders.”.

1 **SEC. 4. ADVISORY COUNCIL ON FIRST RESPONDERS.**

2 (a) IN GENERAL.—Subtitle A of title VIII of the
3 Homeland Security Act of 2002 (Public Law 107–296; 6
4 U.S.C. 361 et seq.) is further amended by adding at the
5 end the following:

6 **“SEC. 803. ADVISORY COUNCIL ON FIRST RESPONDERS.**

7 “(a) ESTABLISHMENT.—The Secretary shall estab-
8 lish the Advisory Council on First Responders, which shall
9 report to the Secretary through the head of the Office of
10 State and Local Government Coordination (in this section
11 referred to as the ‘Advisory Council’).

12 “(b) FUNCTIONS.—The Advisory Council shall—

13 “(1) advise the Secretary as to whether there is
14 a need for a Federal standard with respect to any
15 particular first responder equipment or training; and

16 “(2) have such additional responsibilities as the
17 Secretary may assign in furtherance of the Depart-
18 ment’s homeland security mission with respect to en-
19 hancing the capabilities of State and local first re-
20 sponders.

21 “(c) MEMBERSHIP.—

22 “(1) IN GENERAL.—The Advisory Council shall
23 consist of members appointed by the Secretary and
24 shall—

25 “(A) represent a cross section of first re-
26 sponder disciplines; and

1 “(B) include both State and local rep-
2 resentatives within each discipline.

3 “(2) SELECTION OF MEMBERS.—The Sec-
4 retary—

5 “(A) shall include in the membership of
6 the Advisory Council—

7 “(i) members selected from traditional
8 first responder fields, including fire-
9 fighters, police, and emergency manage-
10 ment personnel; and

11 “(ii) experts representing hospitals
12 (including emergency and inpatient med-
13 ical service providers), the public health
14 profession, and public works; and

15 “(B) may include in the membership of the
16 Advisory Council, at the Secretary’s discretion,
17 elected State and local officials with demon-
18 strable expertise in homeland security-related
19 matters.

20 “(d) MEETINGS.—The Advisory Council shall meet
21 not less than quarterly.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 in section 1(b) of the Homeland Security Act of 2002 (6
24 U.S.C. 101 et seq.) is further amended by inserting at

1 the end of the items relating to subtitle A of title VIII
2 the following:

“Sec. 803. Advisory Council on First Responders.”.

3 **SEC. 5. MODIFICATION OF HOMELAND SECURITY ADVI-**
4 **SORY SYSTEM.**

5 (a) IN GENERAL.—Subtitle A of title II of the Home-
6 land Security Act of 2002 (Public Law 107–296; 6 U.S.C.
7 121 et seq.) is amended by adding at the end the fol-
8 lowing:

9 **“SEC. 210F. HOMELAND SECURITY ADVISORY SYSTEM.**

10 “(a) IN GENERAL.—The Secretary shall revise the
11 Homeland Security Advisory System referred to in section
12 201(d)(7) to require that any designation of a threat level
13 or other warning shall be accompanied by a designation
14 of the geographic regions and economic sectors to which
15 the designation applies.

16 “(b) REPORTS.—The Secretary shall report annually
17 to the Congress regarding the geographic region-specific
18 and economic sector-specific warnings issued in the pre-
19 ceding year under the Homeland Security Advisory Sys-
20 tem referred to in section 201(d)(7), and the bases for
21 such warnings. This report shall be submitted in unclassi-
22 fied form and may, as necessary, include a classified
23 annex.”.

24 (b) CLERICAL AMENDMENT.—The table of contents
25 in section 1(b) of the Homeland Security Act of 2002 (6

1 U.S.C. 101 et seq.) is amended by inserting at the end
2 of the items relating to subtitle A of title II the following:

“Sec. 210F. Homeland Security Advisory System.”.

3 **SEC. 6. INFORMATION SHARING WITH STATE AND LOCAL**
4 **GOVERNMENTS.**

5 (a) IN GENERAL.—Subtitle I of title VIII of the
6 Homeland Security Act of 2002 (Public Law 107–296; 6
7 U.S.C. 361 et seq.) is further amended by adding at the
8 end the following:

9 **“SEC. 899a. REPORTS ON INFORMATION SHARING WITH**
10 **STATE AND LOCAL GOVERNMENTS.**

11 “(a) IN GENERAL.—The Secretary shall report to the
12 Congress annually on the following:

13 “(1) The number and level of security clear-
14 ances granted by Federal agencies to State and local
15 government officials.

16 “(2) The number of State and local government
17 officials who have sought to be cleared by Federal
18 agencies for such access.

19 “(3) The number of instances in which State
20 and local government officials were granted by Fed-
21 eral agencies situational access to classified informa-
22 tion based only on signing a Federal non-disclosure
23 form.

8 “(6) All entities that conduct clearance proc-
9 essing for the Department, including private con-
10 tractors.”.

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is further amended by inserting at the end of the items relating to subtitle I of title VIII the following:

20 SEC. 7. SPECTRUM FOR FIRST RESPONDER COMMUNICA-
21 TIONS.

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1 additional bands of frequencies of electromagnetic spec-
2 trum to assist and enable State and local first responders
3 in meeting their needs associated with a catastrophic re-
4 gional or national emergency.

5 (b) REPORT.—The Under Secretary shall submit a
6 report on the findings of the study to the Congress by
7 not later than 180 days after the date of the enactment
8 of this Act.

○