

LEGISLATIVE UPDATE – HR 2825; DHS Authorization Act

TO: NEMA State Directors
FROM: NEMA Legislative Committee
DATE: March 9, 2018
SUBJECT: Passage of Senate Substitute to HR 2825, authorizing the Department of Homeland Security

BACKGROUND

On March 7, the Senate Homeland Security and Government Affairs Committee (HSGAC) marked-up and passed a Senate substitute to H.R. 2825, the DHS Authorization Act. The House passed its version of this legislation in July 2017. Procedurally, by doing a substitute amendment instead of a standalone Senate bill, the ability for the committees of the two chambers to come together and find agreement on differences is nearly impossible. Instead, the House will be forced to either accept the Senate version “as is,” or amend the bill yet again and send it back to the Senate. Given the dearth of floor time available in the Senate, the outlook for this effort is grim.

Many in Congress believe DHS should be authorized with some regularity like the relationship between the Department of Defense and the National Defense Authorization Act (NDAA). Given jurisdictional battles, mainly in the House, however, any effort to authorize all of DHS has fallen flat since the creation of the Department. Regardless of the outlook, *several provisions impact FEMA and the emergency management and homeland security community including TITLE V which includes provisions of the Disaster Recovery Reform Act (DRRA).*

SUMMARY

TITLE I – DEPARTMENT OF HOMELAND SECURITY HEADQUARTERS

- Clarifies the roles and responsibilities of myriad positions, requires a **Quadrennial Homeland Security Review**, authorizes the new **Countering Weapons of Mass Destruction Office**, and requires various reports on program effectiveness and efficiencies.

TITLE II – DHS ACQUISITION ACCOUNTABILITY AND EFFICIENCY

- Provides certain authorities to the various acquisition officials in headquarters.
- Authorizes review boards, leadership councils, and clarifies Inspector General oversight.
- Requires Congressional notifications for major acquisitions and allows for the study of multi-year procurements.

TITLE III – INTELLIGENCE AND INFORMATION SHARING

- Requires establishment of a Homeland Intelligence Doctrine; guidance **for sharing information** between all levels of government; and the conduct of an annual terrorist threat assessment.
- Establishes the **DHS Fusion Center Partnership Initiative** meant to coordinate assistance provided to the National Network of Fusion Centers; support integration of fusion centers into the

information sharing environment; facilitate information sharing between fusion centers and the National Cybersecurity and Communications Integration Center; coordinate training and exercises; ensure the dissemination of cyber-threat indicators; ensure fusion centers have privacy policies; and develop and disseminate best practices.

- Requires annual reports on activities conducted by the Assistant Secretary for State and Local Law Enforcement, and the development of a catalog on DHS training, publications, programs, and services for law enforcement agencies.

TITLE IV – EMERGENCY PREPAREDNESS, RESPONSE, AND COMMUNICATIONS

- Requires states to provide **Urban Area Security Initiative** (UASI) jurisdictions “with a detailed accounting of the items, services, or activities on which any funds retained by the State” are expended.
- Codifies UASI jurisdictions to participate in the Threat Hazard Identification and Risk Assessment (THIRA) process and a 36-month period of performance.
- Codifies THIRA as a condition of receiving **State Homeland Security Grant Program** (SHSGP) funds and requires states to “solicit input from local and tribal governments” and a 36-month period of performance.
- **Defines “first responder”** to include “representatives of local governmental and nongovernmental fire, law enforcement, emergency management, and emergency medical personnel.”
- Codifies eligibility of **tribal governments**.
- Makes changes to the **risk calculation** to include tourists, commuters, and military populations.
- Addresses limitations on the purchase of communications **equipment** (must be consistent with statewide interoperability plan) and the approval of new allowable equipment.
- Requires FEMA to assess and report on how SHSGP and UASI have **closed capability gaps** identified in State Preparedness Reports, and the Department to conduct a review on the **efficacy of consolidating preparedness grants**.
- Reauthorizes Port and Transit grant programs, Operation Stonegarden, and the Non-Profit Security Grant Program (including eligibility under SHSGP in addition to UASI).
- Clarifies some of the responsibilities of the Assistance Director for **Emergency Communications** and includes the FEMA Administrator; requires an annual report; adds considerations for the National Emergency Communications Plan; and requires the development of training.

TITLE V – FEDERAL EMERGENCY MANAGEMENT AGENCY

- Reauthorizes FEMA including funding levels for the Operations and Support appropriation; the National Domestic Preparedness Consortium; and the Rural Domestic Preparedness Consortium.
- Establishes a **Center for Faith-Based and Neighborhood Partnerships** to coordinate DHS outreach efforts to the faith-based community.
- Requires updating of the **Emergency Support Functions** and **National Incident Management System** every 5 years.
- Codifies FEMA’s Senior Law Enforcement Advisor and requires the Administrator to designate a chief management official to serve as principle advisory on mission support functions.

- Includes the following provisions from the **Disaster Recovery Reform Act (DRRA)**:
 - Increases **management costs** for HMGP to 15 percent (10 percent grantee, 5 percent sub-grantee) and Public Assistance to 12 percent (7 percent grantee, 5 percent sub-grantee)
 - Allows the **conversion of FEMA temporary personnel** to full-time career status.
 - Requires FEMA to **publicize all PA projects or mission assignments** exceeding \$1 million.
 - Establishes the **National Public Infrastructure Predisaster Mitigation Assistance Program** (“PDM on Steroids”) setting aside 6 percent of disaster costs to be made available for pre-disaster mitigation activities.

TITLE VI – CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY

- Essentially changes the name of the National Protection and Programs Directorate (NPPD), reorganizes functions, and clarifies roles related to cybersecurity.

The full text of the substitute and individual amendments can be found at:
<https://www.hsgac.senate.gov/download/dhs-auth-johnson-mccaskill-substitute-amendment>

The full text of the bill can be found at:
<https://www.congress.gov/bill/115th-congress/house-bill/2825/text>

Should you have any questions, please feel free to contact the following NEMA staff:

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