

Calendar No. 193

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-89

PROTECTING FAITH-BASED AND NONPROFIT
ORGANIZATIONS FROM TERRORISM ACT
OF 2019

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1539

TO AMEND THE HOMELAND SECURITY ACT OF 2002 TO PROVIDE
FUNDING TO SECURE NONPROFIT FACILITIES FROM TERRORIST
ATTACKS, AND FOR OTHER PURPOSES



SEPTEMBER 10, 2019.—Ordered to be printed

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SEPTEMBER 10, 2019.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1539]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1539) to amend the Homeland Security Act of 2002 to provide funding to secure nonprofit facilities from terrorist attacks, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 1539, the Protecting Faith-Based and Nonprofit Organizations From Terrorism Act of 2019, authorizes an existing Department of Homeland Security (DHS) grant program, the Nonprofit Security Grant Program (NSGP). The NSGP provides Federal grant money for nonprofit and faith-based organizations through the state in which the organizations are located to implement security measures against physical and cyberattacks. This bill also increases the amount authorized to be appropriated under the NSGP for appli-

cants not located in a designated Urban Area by DHS, thereby increasing the overall NSGP appropriation for each fiscal year (FY) 2020 through 2024 from \$60 million to \$75 million.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Recent tragic incidents against faith-based institutions and nonprofit organizations highlight the need to ensure that these entities have the resources necessary to protect their communities against violent acts of terrorism. In a February 2019 Joint Intelligence Bulletin (JIB), the Federal Bureau of Investigation (FBI), DHS, and National Counterterrorism Center concluded that acts of domestic terrorism are on the rise.¹ The February 2019 JIB noted that since 2017, five incidents targeting racial and religious minority groups resulted in 14 deaths and 12 injuries.² In October 2018, the country grappled with mass shootings at the Tree of Life Synagogue in Pennsylvania, and a grocery store in Kentucky that killed a total of 13 religious and racial minorities.³ The JIB determined that synagogues, religious and cultural institutions, and nonprofit organizations should remain vigilant against acts of domestic terrorism.⁴

In his prepared statement before the House Committee on Appropriations, Subcommittee on Commerce, Justice, Science and Related Agencies, Christopher Wray, Director of the FBI, warned of the persistent and growing threat posed by domestic extremists:

Domestic extremist movements collectively pose a steady threat of violence . . . to the United States. The FBI is most concerned about lone offender attacks, primarily shootings, as they have served as the dominant mode for lethal domestic extremist violence. We anticipate law enforcement, racial minorities, and the U.S. government will continue to be significant targets for many domestic extremist movements.⁵

The NSGP provides resources to nonprofit organizations in both areas that qualify for the State Homeland Security Program (SHSP), and urban areas that qualify for the Urban Area Security Initiative (UASI) program, in order to support physical security enhancements to harden against terrorist threats.⁶ The SHSP allows eligible states to receive funding for nonprofits that are not designated by DHS as Urban Areas.

For FY 2019, Congress appropriated \$60 million for the NSGP: \$10 million for those that qualify for the SHSP, and \$50 million for those that qualify for the UASI program.⁷ In FY 2019, only 21 states have UASI jurisdictions that are eligible for the NSGP fund-

¹ Joint Intelligence Bulletin (IA-32337-19) (Feb. 22, 2019).

² *Id.*

³ Campbell Robertson, Christopher Mele & Sabrina Tavernise, *11 Killed in Synagogue Massacre; Suspect Charged With 29 Counts*, New York Times (Oct. 27, 2018), <https://www.nytimes.com/2018/10/27/us/active-shooter-pittsburgh-synagogue-shooting.html>; Laurel Wamsley, *Killing of 2 At Kentucky Supermarket Is Being Investigated As Hate Crime*, NPR (Oct. 29, 2018 3:28 PM ET), <https://www.npr.org/2018/10/29/661834642/killing-of-2-at-kentucky-supermarket-is-being-investigated-as-hate-crime>.

⁴ *Id.*

⁵ FBI, Statement for the Record (Apr. 4, 2019), available at <https://www.fbi.gov/news/testimony/fbi-budget-request-for-fiscal-year-2020>.

⁶ FEMA, *Homeland Security Grant Program*, <https://www.fema.gov/homeland-security-grant-program>.

⁷ Department of Homeland Security, *DHS Announces Funding Opportunity for Fiscal Year 2019 Preparedness Grants*, (Apr. 12, 2019), <https://www.dhs.gov/news/2019/04/12/dhs-announces-funding-opportunity-fiscal-year-2019-preparedness-grants>.

ing.⁸ Accordingly, in FY 2019, \$50 million of the \$60 million in grant funding allocated under NSGP is available to jurisdictions in 21 states.

S. 1539, the Protecting Faith-Based and Nonprofit Organizations From Terrorism Act of 2019, codifies the NSGP and increases the amount authorized to be provided under the SHSP from \$10 to \$25 million, while still authorizing \$50 million for grants for those that qualify for UASI funding. Accordingly, the bill authorizes appropriations for the NSGP to \$75 million, \$15 million over the \$60 million that Congress appropriated for fiscal year 2019. Codifying the NSGP and increasing the individual appropriation for the SHSP ensures that nonprofits outside of UASI-eligible areas facing terrorist threats will have adequate access to resources.

III. LEGISLATIVE HISTORY

Senator Rob Portman (R–OH) introduced S. 1539, the Protecting Faith-Based and Nonprofit Organizations From Terrorism Act of 2019, on May 16, 2019, with Senator Gary Peters (D–MI). The bill was referred to the Committee on the Homeland Security and Governmental Affairs. Senators Rosen (D–NV), Gillibrand (D–NY), Casey (D–PA), Warren (D–MA), Hassan (D–NH), Johnson (R–WI), Lankford (R–OK), Blumenthal (D–CT), Tillis (R–NC), Menendez (D–CT), and Cardin (D–MD) later joined as cosponsors.

The Committee considered S. 1539 at a business meeting on June 19, 2019. The bill was ordered reported favorably by voice vote en bloc without amendment. Senators present for the vote were Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Sinema, and Rosen.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section established that the bill may be cited as the “Protecting Faith-Based and Nonprofit Organizations From Terrorism Act of 2019.”

Section 2. Nonprofit Security Grant Program

Section 2 subsection (a) inserts a new Section 2009 into the Homeland Security Act of 2002 under subtitle A of title XX.

New section 2009 subsection (a) defines the term “eligible nonprofit organization” as one the FEMA Administrator deems at risk of a terrorist attack that is exempt from tax and described as a 501(c)(3).

New section 2009 subsection (b) establishes the NSGP. It provides that the Administrator of FEMA makes the grants available to nonprofit organizations for target hardening and preventative measures to combat physical or cyber terrorist attacks.

New section 2009 subsection (c) details what the NSGP may be used for. The uses include covering the cost of security enhancements and fees for awareness and training.

⁸Dep’t of Homeland Sec., Notice of Funding Opportunity (2019), https://www.fema.gov/media-library-data/1555009440678-8c53df465068047205697ceb04ce2be2/_2019_NSGP_NOFO_FINAL_508.pdf.

New section 2009 subsection (d) states that the FEMA Administrator shall make grants available for a period of not less than three years.

New section 2009 subsection (e) mandates that the Administrator of FEMA for fiscal years 2020 until 2024 submit a report of grant expenditures by each recipient to the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Homeland Security.

New section 2009 subsection (f) authorizes \$75,000,000 for each fiscal year 2020 until 2024 for the grant program. \$50,000,000 is given to organizations in high-risk urban areas and \$25,000,000 for those not in those areas.

Subsection (b) is a conforming amendment that edits section 2002(a) of the Homeland Security Act of 2002 in order to add in section 2009.

Subsection (c) is a clerical amendment that updates the table of contents in the Homeland Security Act of 2002 in order to add in section 2009.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 9, 2019.

Hon. RON JOHNSON,
Chairman Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1539, the Protecting Faith-Based and Nonprofit Organizations from Terrorism Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Sperl.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 1539, Protecting Faith-Based and Nonprofit Organizations from Terrorism Act of 2019			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on June 19, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	166	368
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 1539 would authorize the appropriation of \$75 million annually from 2020 through 2024 for the Federal Emergency Management Agency (FEMA) to provide grants to certain nonprofit organizations to enhance security measures aimed at guarding against terrorist attacks. Those measures would include hardening potential targets with physical security and covering the costs of security training for employees. Under the bill, states would administer the grants to the nonprofit organizations. The bill also would require FEMA to report annually to the Congress about the spending of funds provided to recipients.

FEMA currently administers the Nonprofit Security Grant Program and in 2018 allocated funds totaling \$60 million to make grants under that program.

Based on historical spending patterns for the grants made under that program, CBO estimates implementing the bill would cost \$166 million over the 2020–2024 period and \$202 million after 2024, assuming appropriation of the authorized amounts.

The costs of the legislation (detailed in Table 1) fall within budget function 450 (community and regional development).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 1539

	By fiscal year, millions of dollars—						
	2019	2020	2021	2022	2023	2024	2019–2024
Estimated Authorization	0	75	75	75	75	75	375
Estimated Outlays	0	5	17	31	49	64	166

On July 9, 2019, CBO transmitted a cost estimate for H.R. 2476, the Securing American Non-Profit Organizations Against Terrorism Act of 2019, as passed by the House of Representatives on June 10, 2019. The two pieces of legislation are similar and CBO's estimates of their costs are the same.

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman:

HOMELAND SECURITY ACT OF 2002

* * * * *

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

* * * * *

Sec. 2008. Use of Funds.

Sec. 2009. Nonprofit security grant program.

* * * * *

TITLE XX—HOMELAND SECURITY GRANTS

* * * * *

SEC. 2002. HOMELAND SECURITY GRANT PROGRAMS.

(a) GRANTS AUTHORIZED.—The Secretary, through the Administrator, may award grants under [sections 2003 and 2004] *sections 2003, 2004, and 2009* to State, local, and tribal governments.

* * * * *

SEC. 2009. NONPROFIT SECURITY GRANT PROGRAM.

(a) DEFINITION.—*In this section, the term “eligible nonprofit organization” means an organization that is—*

(1) *described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and*

(2) *determined to be at risk of a terrorist attack by the Administrator.*

(b) ESTABLISHMENT.—*There is established in the Department a program to be known as the “Nonprofit Security Grant Program”, under which the Secretary, acting through the Administrator, shall make grants to eligible nonprofit organizations, through the State in which such organizations are located, for target hardening and other security enhancements to protect against terrorist attacks.*

(c) PERMITTED USES.—*The recipient of a grant under this section may use such grant for any of the following uses:*

(1) *Target hardening activities, including physical security enhancement equipment and inspection and screening systems.*

(2) *Fees for security training relating to physical security and cybersecurity, target hardening, terrorism awareness, and employee awareness.*

(3) *Any other appropriate activity, including cybersecurity resilience activities, as determined by the Administrator.*

(d) *PERIOD OF PERFORMANCE.*—The Administrator shall make funds provided under this section available for use by a recipient of a grant for a period of not less than 36 months.

(e) *REPORT.*—The Administrator shall annually for each of fiscal years 2020 through 2024 submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report containing information on the expenditure by each recipient of grant funds provided under this section.

(f) *AUTHORIZATION OF APPROPRIATIONS.*—

(1) *IN GENERAL.* There is authorized to be appropriated \$75,000,000 for each of fiscal years 2020 through 2024 to carry out this section.

(2) *SPECIFICATION.*—Of the amounts authorized to be appropriated pursuant to paragraph (1)—

(A) \$50,000,000 is authorized for eligible nonprofit organizations located in jurisdictions that receive funding under section 2003; and

(B) \$25,000,000 is authorized for eligible nonprofit organizations located in jurisdictions not receiving funding under section 2003.

* * * * *