

HOMELAND SECURITY CAPABILITIES PRESERVATION ACT

FEBRUARY 1, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 5615]

The Committee on Homeland Security, to whom was referred the bill (H.R. 5615) to direct the Secretary of Homeland Security to submit a plan to make Federal assistance available to certain urban areas that previously received Urban Area Security Initiative funding to preserve homeland security capabilities, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 5615, the “Homeland Security Capabilities Preservation Act” seeks to require the Department of Homeland Security (DHS) to address the needs of jurisdictions that had developed homeland security capabilities with funding under the Urban Area Security

Initiative (UASI) and were removed from the program. Specifically, it directs the Secretary of Homeland Security, acting through the Administrator of the Federal Emergency Management Agency (FEMA), to survey certain current and former UASI jurisdictions regarding capabilities that were achieved through UASI grant funding that are at risk of being reduced or eliminated without Federal assistance. Then, the DHS Secretary is required to submit a plan to Congress for how to make Federal assistance available to former UASI jurisdictions to help such jurisdictions take on the costs of preserving UASI-funded homeland security capabilities.

BACKGROUND AND NEED FOR LEGISLATION

In the wake of September 11, 2001, there was a recognition that U.S. urban centers could be terrorist targets and did not have the resources to develop core capabilities to prevent, protect against, and respond to terrorist attacks and other catastrophic events on their own. Starting in 2003, cities began receiving funding under the UASI program, a program that was established with the goal of enhancing “regional preparedness and capabilities in designated high-threat, high-density areas.”¹ UASI funding is used to provide first responders with the tools, resources, and training they need to do their jobs safely and effectively. FEMA uses a risk formula, which has been modified over time, to determine which jurisdictions will be funded under the program. Specifically, eligibility “. . . is determined through an analysis of relative risk of terrorism faced by the 100 most populous Metropolitan Statistical Areas (MSAs) in the United States, in accordance with the *Homeland Security Act of 2002*, as amended.”²

Over the past 18 years, UASI has played an instrumental role in helping cities prevent and respond to terrorist threats and attacks.³ Orlando Police Chief Orlando Rolón explained, in testimony before the Committee, that for local law enforcement who are on the “front lines of responding to any emergency, whether it be a terrorist attack, natural disaster, or global pandemic, FEMA preparedness grants are critical resources that bolster law enforcement’s ability to prevent and respond to terrorist attacks and other associated threats.”⁴

In recent years, the number of jurisdictions participating in the UASI program has been roughly 30,⁵ which is less of what it was in FY 2010.⁶ While the top tier of at-risk jurisdictions has stayed constant, cities that rank lower on the list face uncertainty. Year-

¹“Homeland Security Grant Program,” Federal Emergency Management Agency, (Aug. 16, 2021), available at <https://www.fema.gov/grants/preparedness/homeland-security>.

²“Fiscal Year 2021 Nonprofit Security Grant Program,” Federal Emergency Management Agency, (April 14, 2021), available at https://www.fema.gov/sites/default/files/documents/fema_fy2021-nsgp-nofp_3-2-2021.pdf.

³See U.S. House Committee on Homeland Security, Subcommittee on Emergency Preparedness, Response, and Recovery, “State and Local Perspectives on DHS Preparedness Grant Programs,” 117th Cong. (April 28, 2021), available at <https://homeland.house.gov/activities/hearings/state-and-local-perspectives-on-dhs-preparedness-grant-programs>, with testimony of Orlando Rolón, Chief of Police for Orlando, Florida, and Eastern Region Representative Major Cities Chiefs Association.

⁴*Id.*

⁵“Fiscal Year 2021 Homeland Security Grant Program,” Federal Emergency Management Agency, (Aug. 21, 2021), available at https://www.fema.gov/sites/default/files/documents/FEMA_FY2021-HSGP-NOFO_02-19-21.pdf.

⁶“Fiscal Year 2010 Homeland Security Grant Program,” Federal Emergency Management Agency, (Dec. 2009), available at https://www.fema.gov/pdf/government/grant/2010/fy10_hsgp_kit.pdf.

to-year changes in the terrorism risk picture, fluctuations in grant funding levels, and changes in DHS' risk formula can result in jurisdictions suddenly falling out of the program, after years of critical investment.

The sudden loss of Federal support for maintaining such core homeland security capabilities can place great strain on jurisdictions who may not have the resources to cover such costs.⁷ In the aftermath of the Pulse Nightclub shooting, Sheriff Jerry Demings, in testimony before the House Committee on Oversight and Government Reform, stated, “. . .we received UASI funding for a video camera surveillance project in the tourist quarter, downtown Orlando. . .due to a loss of [UASI] funding, we have not been able to expand the camera project.”⁸ In 2014, John Sadler, Senior Regional Homeland Security Planner for Hampton Roads, Virginia, stated, “the removal of Hampton Roads from the eligibility list and loss of UASI funds called into question the sustainability of the work of six years of preparation and planning.”⁹

Jurisdictions that have lost UASI grant funding but need to continue to partner with DHS to ensure that they can maintain security capabilities achieved with UASI could be helped under H.R. 5615. Specifically, this measure was introduced to help jurisdictions preserve their capabilities achieved with Federal grant dollars by directing DHS to, for the first time, develop a plan for how to support the transition of costs associated with maintaining UASI-funded homeland security core capabilities.

HEARINGS

For the purposes of clause 3(c)(6) of rule XIII, the following hearings were used to develop H.R. 5615:

The Committee did not hold a legislative hearing on H.R. 5615 in the 117th Congress. However, the legislation was informed by the following hearings in the 117th Congress:

- On April 28, 2021, the Subcommittee on Emergency Preparedness, Response, and Recovery held a hearing entitled, “State and Local Perspectives on DHS Preparedness Grant Programs.” The Subcommittee received testimony from Mr. David Ige, Governor, Hawaii; Mr. Jared Maples, Director, New Jersey Office of Homeland Security and Preparedness; Mr. Orlando Rolón, Chief of Police, City of Orlando, Florida; and Mr. Robert Altman, Battalion Chief, Ocala Fire Rescue.
- On June 29, 2021, the Committee on Homeland Security held a hearing entitled, “Examining FEMA’s Readiness to Meet Its Mission.” The Committee received testimony from Deanne Criswell, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security.

⁷ See U.S. House Committee on Homeland Security, Subcommittee on Emergency Preparedness, Response, and Communications, “State of Emergency: The Disaster of Cutting Preparedness Grants,” 114th Cong. (Mar. 15, 2016), available at <https://www.govinfo.gov/content/pkg/CHRG-114hhrg22623/html/CHRG-114hhrg22623.htm>, with testimony of the Honorable Bill De Blasio, Mayor, New York, New York.

⁸ See U.S. House Committee on Oversight and Government Reform, Subcommittee on Transportation and Public Assets and the Subcommittee on National Security, “Oversight of the Urban Area Security Initiative Grant Program,” 114th Cong. (July 15, 2016), available at <https://www.govinfo.gov/content/pkg/CHRG-114hhrg22963/html/CHRG-114hhrg22963.htm>, with testimony of Sheriff Jerry Demings, Sheriff of Orange County, Orlando, Florida.

⁹ Joe Turner, “Region Reinstated as a UASI Funded Region,” Hampton Roads Planning District Commission, (April 10, 2014), available at <https://www.hrpdcva.gov/news/index/view/id/1646>.

H.R. 5615 was also informed by the following hearing in the 116th Congress:

- On January 9, 2020, the Subcommittee on Emergency Preparedness, Response, and Recovery held a hearing entitled, “Understanding the Importance of DHS Preparedness Grants: Perspectives from the Field.” The Subcommittee received testimony from Mr. W. Greg Kierce, Director, Jersey City Office of Emergency Management and Homeland Security; Mr. Michael A. Sprayberry, Director, North Carolina Emergency Management, North Carolina Office of Recovery and Resiliency; Mr. Michael G. Masters, National Director and CEO, Secure Community Network; and Mr. John J. Miller, Deputy Commissioner, Intelligence and Counterterrorism, New York City Police Department.

H.R. 5615 was also informed by the following hearings in the 114th Congress:

- On March 15, 2016, the Subcommittee on Emergency Preparedness, Response, and Communications held a hearing entitled, “State of Emergency: The Disaster of Cutting Preparedness Grants.” The Subcommittee received testimony from the Honorable Bill de Blasio, Mayor, City of New York, New York; Mr. Jim Butterworth, Director, Emergency Management Agency/Homeland Security, State of Georgia; Ms. Rhoda Mae Kerr, Fire Chief, City of Austin Fire Department, Austin, Texas; Mr. George Turner, Chief of Police, Atlanta Police Department, Atlanta, Georgia; Mr. Mike Sena, Director, Northern California Regional Intelligence Center; and Sgt. W. Greg Kierce, Director, Office of Emergency Management & Homeland Security, City of Jersey City, New Jersey.
- On July 15, 2016, the House Committee on Oversight and Government Reform, Subcommittee on Transportation and Public Assets and Subcommittee on National Security held a joint hearing entitled, “Oversight of the Urban Area Security Initiative Grant Program.” The Subcommittees received testimony from Sheriff Jerry Demings, Orange County Sheriff’s Office; Chief John Mina, Orlando Police Department; Mr. Walter Purdy, President, Terrorism Research Center; Mr. Brian E. Kamoie, Assistant Administrator of Grant Program, Federal Emergency Management Agency.

COMMITTEE CONSIDERATION

The Committee met on October 26, 2021, a quorum being present, to consider H.R. 5615 and ordered the measure to be favorably reported to the House, without amendment, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 5615.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

FEDERAL MANDATES STATEMENTS

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 5615 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of H.R. 5615 is to ensure that the Department of Homeland Security evaluates what actions it can take to help certain urban areas maintain capabilities that were achieved with Urban Area Security Initiative funding when such urban area no longer receives UASI grant funding and, based on that evaluation, issue a plan for how to support urban areas who want to take on the cost of preserving such homeland security capabilities.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 5615 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section states that the Act may be cited as the “Homeland Security Capabilities Preservation Act”.

Sec. 2. Preservation of Homeland Security Capabilities.

This section requires a survey of certain current and former UASI jurisdictions regarding capabilities that were achieved through UASI grant funding that are at risk of being reduced or eliminated without Federal assistance.

Additionally, it would require the Secretary to submit a plan to Congress, within a year of enactment, for how to make Federal assistance available to former UASI jurisdictions to help such jurisdictions take on the costs of preserving UASI-funded homeland security capabilities. The plan is to be informed by the survey and is to contain the following: information on eligibility criteria for a jurisdiction to receive Federal UASI homeland security capabilities preservation funding; information on a range of approaches to make funding available to include the modifications of the UASI program and the establishment of a competitive grant or formula grant program; and a timeline for implementation together with a legislative proposal, if necessary.