

HOMELAND SECURITY CAPABILITIES  
PRESERVATION ACT

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

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



DECEMBER 5, 2022.—Ordered to be printed

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U.S. GOVERNMENT PUBLISHING OFFICE

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SENATE

{ REPORT  
117-230

**HOMELAND SECURITY CAPABILITIES PRESERVATION ACT**

DECEMBER 5, 2022.—Ordered to be printed

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

**R E P O R T**

[To accompany H.R. 5615]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which 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 with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

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**I. PURPOSE AND SUMMARY**

H.R. 5615, the *Homeland Security Capabilities Preservation Act*, directs the Federal Emergency Management Agency (FEMA) to submit a report to Congress with a plan to make federal assistance available to certain urban areas that previously received Urban Areas Security Initiative (UASI) funding, but no longer receive that funding, to preserve homeland security capabilities related to preventing acts of terrorism achieved with federal dollars. The bill includes a requirement that the report include an analysis from

FEMA on whether this plan, if implemented, would actually help former UASI recipients maintain and preserve homeland capabilities, and whether changes need to be made to the UASI program to ensure current UASIs are able to preserve homeland security capabilities on a long-term basis without supplemental funding.

## II. BACKGROUND AND NEED FOR THE LEGISLATION

The UASI program was established for the purpose of “assisting high-threat, high-density, Urban Area efforts to build, sustain, and deliver the capabilities necessary to prevent, prepare for, protect against, and respond to acts of terrorism.”<sup>1</sup> Grants are awarded through this program based on FEMA’s risk-based grant assessment model ranking and comparing each urban area annually and incorporating Department of Homeland Security (DHS) leadership decisions on where to allocate funding.<sup>2</sup> The Government Accountability Office (GAO) has found that since 2008, FEMA has taken steps to strengthen the risk-based model used to determine the urban areas that are eligible for grants under this program.<sup>3</sup> However, due to changes in the risk rankings and the limited number of urban areas eligible for funding each year, some urban areas find themselves losing funding unexpectedly without the ability to make up such shortfalls elsewhere and perhaps losing the preparedness capabilities developed through federal investments. During the April 28, 2021 hearing before the House Committee on Homeland Security’s Subcommittee on Emergency Preparedness, Response, and Recovery titled “State and Local Perspectives on DHS Preparedness Grant Programs,” witnesses testified that suddenly losing Federal support under the UASI program places a great strain on jurisdictions who might not have the resources to cover costs once provided by the grant program.<sup>4</sup>

H.R. 5615 takes steps to address this issue by requiring FEMA to create a plan to provide temporary federal assistance to those jurisdictions. Additionally, the bill requires the FEMA Administrator to provide analysis on whether additional temporary federal assistance for the former UASI funded jurisdictions would help preserve their homeland security capabilities. FEMA is directed to submit the plan to Congress but not act on it unless it receives further legislative direction.

## III. LEGISLATIVE HISTORY

H.R. 5615 was introduced on October 19, 2021, by Representatives Demings (D–FL–10) and Bacon (R–NE–2) and referred to The House Committee on Homeland Security. Representative Cleaver (D–MO–5) later joined as a cosponsor on October 26, 2021. The bill was referred to the Subcommittee on Emergency Preparedness, Response, and Recovery, discharged from the Subcommittee, and con-

<sup>1</sup> Federal Emergency Management Agency, The Department of Homeland Security (DHS) Notice of Funding Opportunity (NOFO) Fiscal Year 2022 Homeland Security Grant Program (<https://www.fema.gov/grants/preparedness/homeland-security/fy-22-nofo>) (accessed Sept. 23, 2022).

<sup>2</sup> Government Accountability Office, *HOMELAND SECURITY GRANT PROGRAM: Additional Actions Could Further Enhance FEMA’s Risk-Based Grant Assessment Model* (GAO–18–354) (Sept. 2018).

<sup>3</sup> *Id.*

<sup>4</sup> House Subcommittee on Emergency Preparedness, Response, & Recovery, *Hearing on State and Local Perspectives on DHS Preparedness Grant Programs*, 117th Cong. (Apr. 28, 2021) (H. Hrg. 117–9).

sidered by the full Committee for markup on October 26, 2021. The bill was passed out of the Committee by voice vote during the business meeting. On March 7, 2022, the bill was passed by voice vote in the House.

H.R. 5615 was referred to the Senate Committee on Homeland Security and Governmental Affairs on March 8, 2022. The Committee considered the bill at a business meeting on August 3, 2022. During the meeting, Chairman Peters offered an amendment in the nature of a substitute that added a rule of construction, and required FEMA to provide an analysis on whether additional federal funding to former UASI recipients would actually help them maintain and preserve homeland capabilities, and whether changes need to be made to the UASI program to ensure current UASIs are able to preserve homeland security capabilities on a long-term basis.

The substitute amendment was adopted *en bloc* by voice vote with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley present for the vote. The Committee ordered the bill, as amended, to be favorably reported by voice vote *en bloc*. Senators present for the vote were: Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley.

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

##### *Section 1. Short title*

This section designates the name of the bill as the “Homeland Security Capabilities Preservation Act.”

##### *Section 2. Preservation of Homeland Security capabilities*

Subsection (a) defines the terms “Administrator,” “appropriate congressional committees,” “covered homeland security capabilities,” “covered urban area,” “Secretary”, and “UASI.”

Subsection (b) provides that a report and proposal must be submitted to Congress within 18 months after the bill is enacted regarding preserving covered homeland security capabilities to covered urban areas. The report must include an analysis from FEMA on whether this plan required under this bill, if implemented, would help former UASI recipients preserve homeland capabilities, and whether changes need to be made to the UASI program to ensure current UASIs are able to preserve homeland security capabilities on a long-term basis. This subsection also sets forth requirements relating to UASI funds and any proposed supplemental funds that are considered in this plan.

Subsection (c) provides that the FEMA Administrator must conduct a survey to ascertain the scope of the Federal financial assistance required under this measure.

Subsection (d) provides that the Secretary has the authority to exempt the Administrator from certain requirements in carrying out the survey in subsection (c).

Subsection (e) provides that this bill does not authorize or direct the Administrator to implement the proposal required in Subsection (b).

## 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, September 15, 2022.*

Hon. GARY PETERS,  
*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 H.R. 5615, the Homeland Security Capabilities Preservation Act.

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

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>H.R. 5615, Homeland Security Capabilities Preservation Act</b>			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on August 3, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Statutory pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 5615 would require the Federal Emergency Management Agency (FEMA) to submit a plan to the Congress to ensure that federal assistance is available to certain urban jurisdictions under the Urban Area Security Initiative (UASI). UASI provides grants to state and local law enforcement agencies in urban areas that are at high-risk for acts of terrorism to cover the costs of planning, equipment, and training. Specifically, the act would require that

grants be made available under the program for at least three consecutive years to jurisdictions that did not receive UASI funding in the current fiscal year.

In developing the plan, FEMA would be required to survey urban jurisdictions to confirm the need for federal assistance. Based on the cost of similar plans, CBO estimates that implementing H.R. 5615 would cost less than \$500,000 over the 2022–2027 period; any spending would be subject to the availability of appropriated funds.

On May 3, 2022, CBO transmitted a cost estimate for H.R. 5615, the Homeland Security Capabilities Preservation Act, as passed by the House of Representatives on March 7, 2022. The two pieces of legislation are similar, and CBO's estimated costs are the same.

The CBO staff contact for this estimate is Madeleine Fox. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

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

This legislation would make no change in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.

