

Calendar No. 73

117TH CONGRESS }
1st Session }

SENATE

{ REPORT
117-24

NATIONAL CYBERSECURITY PREPAREDNESS
CONSORTIUM ACT OF 2021

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 658

TO AUTHORIZE THE SECRETARY OF HOMELAND SECURITY
TO WORK WITH CYBERSECURITY CONSORTIA FOR TRAINING,
AND FOR OTHER PURPOSES



JUNE 14, 2021.—Ordered to be printed

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

R E P O R T

[To accompany S. 658]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 658) to authorize the Secretary of Homeland Security to work with cybersecurity consortia for training, 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

The purpose of S. 658, the National Cybersecurity Preparedness Consortium Act of 2021, is to codify the Secretary of Homeland Security's existing authority to work with a consortium, primarily composed of nonprofit entities and academic institutions with expertise in cybersecurity, to address cybersecurity risks and incidents. The Secretary may work with such a consortium to provide assistance to the National Cybersecurity and Communications Integration Center (NCCIC) within the Department of Homeland Security (DHS) to provide cybersecurity-related training and expertise

to state and local first responders and critical infrastructure owners and operators.¹

II. BACKGROUND AND NEED FOR THE LEGISLATION

The Committee recognizes the challenges DHS faces in fulfilling its cyber mission and implementing timely and effective measures to mitigate the security risks posed by cyber vulnerabilities. One major challenge is that, while DHS is responsible for coordinating the Federal Government’s efforts to protect the nation’s critical infrastructure, 85 percent of that infrastructure is owned by private entities.² In May 2020, the Committee held a hearing entitled, *Evolving the U.S. Cybersecurity Strategy and Posture: Reviewing the Cyberspace Solarium Commission Report*, to discuss how Congress can work to ensure that our country is better prepared to deter, prevent, and recover from malicious cyber-attacks, including through improvements to cybersecurity human resource challenges.³ The combination of the cybersecurity workforce shortage and the majority of our nation’s critical infrastructure being in private hands has created a difficult public-private environment in which DHS must operate.⁴

As a means to address these challenges, DHS has partnered since 2004 with the National Cybersecurity Preparedness Consortium (NCPC), an organization of five university partners that “provide research-based, cybersecurity-related training, exercises and technical assistance to local jurisdictions, counties, states and the private sector.”⁵ As of October 2020, NCPC members have trained more than 107,861 participants on topics such as cyberterrorism, critical infrastructure protection, and malware prevention.⁶ By leveraging the expertise of a consortium, DHS can better ensure that its partners in the private sector and state and local governments are prepared to assist the Federal Government in its efforts to combat cyber threats. S. 658 codifies an existing DHS practice and helps strengthen DHS’s efforts to partner with the private sector and academia to secure our nation’s cyber infrastructure.

¹ On Mar. 12, 2019, the Committee approved S. 333, the National Cybersecurity Preparedness Consortium Act of 2019. That bill is substantially similar to S. 658. Accordingly, this committee report is in large part a reproduction of Chairman Johnson’s committee report for S. 333, S. Rep. No. 116–5.

² Press Release, Department of Homeland Security, *The Department’s Five Responsibilities* (Jun. 8, 2009) (<https://www.dhs.gov/blog/2009/06/08/departments-five-responsibilities>); Issue Brief, U.S. Chamber of Commerce, *Critical Infrastructure Protection, Information Sharing and Cyber Security* (<https://www.uschamber.com/issue-brief/critical-infrastructure-protection-information-sharing-and-cyber-security>) (last accessed May 12, 2021).

³ Senate Committee on Homeland Security and Governmental Affairs, Statement of Senator Gary C. Peters (D–MD), Ranking Member, *Hearing on Evolving the U.S. Cybersecurity Strategy and Posture: Reviewing the Cyberspace Solarium Commission Report*, 116th Cong. (May 13, 2020) (<https://www.hsgac.senate.gov/imo/media/doc/Opening%20Statement-Peters-2020-05-13.pdf>).

⁴ *Id.*; U.S. Government Accountability Office, *Cybersecurity Workforce: Agencies Need to Improve Baseline Assessments and Procedures for Coding Positions* (June 2018) (GAO–18–466) (<https://www.gao.gov/assets/700/692498.pdf>).

⁵ National Cybersecurity Preparedness Consortium, About Page (<https://nationalcpc.org/about.html>) (last accessed May 12, 2021).

⁶ *Id.*; Center for Infrastructure Assurance and Security (CIAS), DHS FEMA Training (<https://cias.utsa.edu/dhs-fema-training.html>); Texas A&M Engineering Extension Service (TEEX), DHS-FEMA-Funded (<https://teex.org/dhs-fema-funded/>); Cyberterrorism Defense Initiative (CDI), Malware Prevention, Discovery, and Recovery (MPDR) (<https://www.cybersecuritydefenseinitiative.org/mpdr.html>) (all websites last accessed May 12, 2021).

III. LEGISLATIVE HISTORY

Senators John Cornyn (R–TX) and Patrick Leahy (D–VT) introduced S. 658 on March 10, 2021. The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 658 at a business meeting on March 17, 2021. During the business meeting, S. 658 was ordered reported favorably without amendment by voice vote *en bloc*. The Senators present for the voice vote were Peters, Rosen, Padilla, Portman, Johnson, Lankford, Romney, Scott, and Hawley.

The Senate passed S. 333, an identical bill to S. 658, by unanimous consent in the 116th Congress on November 21, 2019. Senator John Cornyn introduced S. 333 with Senator Ted Cruz (R–TX) and Senator Patrick Leahy on February 5, 2019, and the Committee reported S. 333 favorably without amendment on March 12, 2019.

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 “National Cybersecurity Preparedness Consortium Act of 2021.”

Section 2. Definitions

This section includes definitions of the terms “consortium,” “cybersecurity risk,” “incident,” “Department,” and “Secretary.”

Section 3. National Cybersecurity Preparedness Consortium

Subsection (a) gives the Secretary the authority to work with a consortium on cybersecurity-related issues.

Subsection (b) gives the Secretary guidance on the type of assistance that a consortium may provide to the NCCIC. Under this subsection, the consortium may be used to assist in the training of state and local first responders and private industry actors to address cybersecurity threats and risks. DHS may also work with the consortium to develop and update cybersecurity-related curricula and provide technical assistance related to cybersecurity risks and incidents. In addition, DHS may work with the consortium to incorporate cybersecurity incident prevention, risk, and response in existing state and local emergency plans.

Subsection (c) requires the Secretary to consider prior cybersecurity training experience and geographic diversity when selecting consortium members.

Subsection (d) requires the Secretary to establish metrics for effectiveness of consortium activities.

Subsection (e) requires the Secretary to inform minority-serving institutions of their ability to participate in the consortium and support DHS’s cybersecurity efforts.

Section 4. Rule of construction

This section prohibits the consortium from commanding any law enforcement agency or agents.

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 bill (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, April 5, 2021.

Hon. GARY C. 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 S. 658, the National Cybersecurity Preparedness Consortium Act of 2021.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 658, National Cybersecurity Preparedness Consortium Act of 2021			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 17, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	3	18	not estimated
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 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 658 would authorize the Department of Homeland Security (DHS) to coordinate with a consortium of academic and nonprofit entities to help state and local governments prepare for and respond to cybersecurity risks.

Since 2014, the department has awarded \$15 million from existing general grant programs to members of the National Cybersecurity Preparedness Consortium. Members of the consortium deliver cybersecurity training and technical assistance to state and local governments. CBO expects that when implementing S. 658, DHS would establish a new, dedicated grant program to support the consortium, thereby increasing the Department's total grant spending. CBO estimates that DHS would provide \$3 million in new grant funding each year—similar to the amount it currently allocates from other sources. Such spending would be subject to the availability of appropriations. In total, implementing S. 658 would cost \$18 million over the 2021–2026 period.

The CBO staff contact for this estimate is Aldo Prospero. The estimate was reviewed by Leo Lex, Deputy Director of Budget Analysis.

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

Because this legislation would not repeal or amend any provision of current law, it would not make changes in existing law within the meaning of clauses (a) and (b) of paragraph 12 of rule XXVI of the Standing Rules of the Senate.

