

SECURE COMMUNITIES AND SAFE SCHOOLS ACT

MAY 30, 2019.—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

together with

MINORITY VIEWS

[To accompany H.R. 2383]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 2383) to amend the Homeland Security Act of 2002 to prohibit the expenditure of certain grant funds to purchase firearms, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 2383, the “Secure Communities and Safe Schools Act,” is to prevent Federal homeland security grant dollars from being used to purchase firearms or firearm accessories, particularly in schools. The bill would codify restrictions on buying firearms or firearm accessories such as ammunition, in schools or elsewhere, with State Homeland Security Grant Program (SHSGP) or Urban Area Security Initiative (UASI) funds.¹

BACKGROUND AND NEED FOR LEGISLATION

In recent years, there has been an added focus on school security as school shootings have become more prevalent. Estimates show that there were over 23 school shootings in the first part of 2018 alone, which averaged more than one shooting per week.² In total, 113 people were tragically killed or injured in a school shooting last year.³ According to media reports, there were at least 15 school shootings in 2019.⁴ In an effort to improve security in schools, there has been a push to increase funding for school hardening and mental health services.⁵ Some, including President Trump, have proposed allowing Federal dollars to be used purchase firearms or ammunition to arm teachers.⁶ In fact, at least one state’s governor asked President Trump to look into allowing homeland security grants to be used for this purpose.⁷ Some states, such as Florida, have moved forward with plans to arm teachers in school,⁸ despite the fact that teachers⁹ and families¹⁰ overwhelmingly oppose arming teachers in schools.

Arming teachers is not only opposed by school workers and families but could result in schools being less safe and secure as teachers are not trained law enforcement.¹¹ Over the past five years, there have been over 65 documented instances of guns being mis-

¹FEMA Preparedness Grants Manual. The Federal Emergency Management Agency. April 2019. Accessed May 23, 2019. https://www.fema.gov/media-library-data/1555010612902-389f8b3351d06d759b01df2a8a851284/FEMA_PreparednessGrantsManual_Final_508.pdf.

²Ahmed, Saeed and Walker, Christina. “There has been, on average, 1 school shooting every week this year.” CNN. May 25, 2018. Accessed May 23, 2019. <https://www.cnn.com/2018/03/02/us/school-shootings-2018-list-trnd/index.html>.

³Coughlan, Sean. “2018 ‘worst year for US school shootings.’” BBC. December 12, 2018. Accessed May 23, 2019. <https://www.bbc.com/news/business-46507514>.

⁴Lou, Michelle and Walker, Christina. “There have been 15 school shootings in the US so far this year.” CNN. May 9, 2019. Accessed May 23, 2019. <https://www.cnn.com/2019/05/08/us/school-shootings-us-2019-trnd/index.html>.

⁵Weber, Andrew. “Abbott Prioritizes Increasing Mental Health Services, ‘Hardening’ Schools To Reduce Shootings.” NPR. May 30, 2018. Accessed May 23, 2019. <https://www.kut.org/post/abbott-prioritizes-increasing-mental-health-services-hardening-schools-reduce-shootings>.

⁶Landers, Elizabeth. “Trump tweets support for arming teachers, says ‘up to states.’” CNN. February 24, 2018. Accessed May 23, 2019. <https://www.cnn.com/2018/02/24/politics/trump-tweet-arming-teachers/index.html>.

⁷“LEGISLATION TO BLOCK FIREARM FUNDING FOR TEACHERS.” Congresswoman Val Demings. April 29, 2019. Accessed May 23, 2019. <https://demings.house.gov/media/press-releases/legislation-block-firearm-funding-teachers>.

⁸Lemongello, Steven. “DeSantis signs bill to arm teachers.” May 8, 2019. Accessed May 23, 2019. <https://www.orlandosentinel.com/politics/os-ne-desantis-teachers-armed-bill-20190508-dnp5senyo5gw5hczzbbppkdbmu-story.html>.

⁹“Most U.S. Teachers Oppose Carrying Guns in Schools.” Gallup. March 16, 2018. Accessed May 23, 2019. <https://news.gallup.com/poll/229808/teachers-oppose-carrying-guns-schools.aspx>.

¹⁰Postal, Leslie. “Poll: Parents oppose arming teachers, fear for kids’ safety in school. July 17, 2018. Accessed May 23, 2019. <https://www.orlandosentinel.com/news/education/os-poll-parents-school-safety-20180716-story.html>.

¹¹Arming Teachers is a dangerous proposal. Everytown for Gun Safety. August 15, 2018. Accessed May 23, 2019. <https://everytownresearch.org/arming-teachers-dangerous-proposal/>.

handled in schools.¹² There is some evidence that the availability of firearms is closely related to childhood gun fatalities.¹³

SHSGP is used to assist State, tribal, and local governments with preparedness activities that address high-priority preparedness gaps across all core capabilities where a nexus to terrorism exists. UASI assists high-threat, high-density urban areas to build and sustain the capabilities necessary to prevent, protect against, mitigate, respond to, and recover from terrorist attacks. These grants were established to bolster terrorism preparedness and response capabilities in the wake of the terrorist attacks on the United States on September 11, 2001. In its seminal report, the National Commission on Terrorist Attacks Upon the United States (also referred to as the 9/11 Commission) recommended that Congress provide funding, based on risk and vulnerability, to support state and local efforts to develop robust preparedness and response capabilities.¹⁴ The Committee has received hearing testimony from witnesses stating that while the current grants help recipients make critical investments in their homeland security preparedness, more money is needed to protect against the current, evolving threat landscape.¹⁵ Although buying firearms with these funds is currently disallowed by FEMA through administrative actions, this bill will make clear for this and future Administrations that Congress will not allow limited terrorism preparedness and response grants to be diverted to purchase firearms, especially in schools.

Language prohibiting the use of UASI and SHSGP grants from purchasing firearms and firearm accessories has received bipartisan support as recently as the 115th Congress. The text of this legislation was included in H.R. 4627, the “Shielding Public Spaces from Vehicular Terrorism Act,” introduced by then-Representative Dan Donovan (R-NY), which passed out of the Committee on Homeland Security unanimously and passed the then-Republican-controlled House by a voice vote. Additionally, a bill introduced by Representative John Rutherford (R-FL), the “STOP School Violence Act of 2018,” that barred a Department of Justice school safety grant program from being used to purchase firearms or firearms trainings was included in legislation that was signed into law.¹⁶

H.R. 2383 is supported by the National Association of School Resource Officers.

HEARINGS

The Committee did not hold a legislative hearing on H.R. 2383 in the 116th Congress; however, the Committee held the following oversight hearings:

¹²Drane, Kelly. “Every Incident of Mishandled Guns in Schools.” Giffords Law Center. May 1, 2019. Accessed May 23, 2019. <https://giffords.org/2019/05/every-incident-of-mishandled-guns-in-schools/>.

¹³Ingraham, Christopher. “More than 26,000 children and teens have been killed in gun violence since 1999.” Washington Post. March 23, 2018. Accessed May 23, 2019. https://www.washingtonpost.com/news/wonk/wp/2018/03/23/more-than-26000-children-and-teens-have-been-killed-in-gun-violence-since-1999/?utm_term=.f44d9774dbed.

¹⁴The National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* 394–97 (2004).

¹⁵Improving the Federal Response: Perspectives on the State of Emergency Management. 116th Congress. Chief James Waters, Counterterrorism, New York Police Department. March 13, 2019. <https://homeland.house.gov/sites/democrats.homeland.house.gov/files/documents/Testimony-Waters.pdf>.

¹⁶Public Law No. 115–141.

115th Congress

On April 23, 2018, the Committee held a hearing entitled “Securing Our Communities: Federal Support to High-Risk Urban Areas.” The Committee received testimony from Mr. Thomas DiNanno, Assistant Administrator for Grant Programs, Federal Emergency Management Agency, Department of Homeland Security; Mr. Brian Murphy, Acting Principal Deputy Under Secretary, Office of Intelligence and Analysis, DHS; Bill Sweeney, Assistant Director, Federal Bureau of Investigations; Mr. Chris P. Currie, Director, Homeland Security and Justice Issues, Government Accountability Office; Mr. John Miller, Deputy Commissioner, New York Police Department; Chief Pfeifer, New York City Fire Department; Mr. Joseph Esposito, Commissioner, New York City Emergency Management; Mr. John Bilich, Chief Security Officer, Port Authority of New York and New Jersey; and Mr. Jared Maples, Director, New Jersey Office of Homeland Security and Preparedness.

On July 9, 2018, the Committee held a hearing entitled “Protecting Our Future: Addressing School Security Challenges in America.” The Committee received testimony from Mr. Jason Botel, Deputy Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education; Mr. Alan Hanson, Principal Deputy Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice; Mr. Robert Kolasky, Deputy Assistant Secretary, Office of Infrastructure Protection, National Protection and Programs Directorate, U.S. Department of Homeland Security; Mr. Jared Maples, Director, Office of Homeland Security and Preparedness, State of New Jersey; Mr. Ben Castillo, Director, Office of School Preparedness and Emergency Planning, Department of Education, State of New Jersey; Ms. Jeanne Hengemuhle, Commanding Officer, Division of Human Resources Section, New Jersey State Police; Mr. Timothy Gerity, President, New Jersey Association of School Resource Officers; and Mr. Michael Reilly, President, Community Education Council 31, Staten Island, New York.

116th Congress

On March 13, 2019, the Committee held a hearing entitled “Improving the Federal Response: Perspectives on the State of Emergency Management.” The Committee received testimony from Major Louis V. Bucchere, Commanding Officer, Emergency Management Section, New Jersey State Police; Mr. Steve Reaves, FEMA Local 4060 President, American Federation of Government Employees (AFGE); Mr. Martin “Marty” Senterfitt, Fire Deputy Chief & Director of Emergency Management, Monroe County, Florida; and Mr. James Waters, Chief, Counterterrorism, NYPD.

COMMITTEE CONSIDERATION

The Committee met on May 15, 2019, with a quorum being present, to consider H.R. 2383 and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives 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. 2383.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, 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 of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee adopts as its own the estimate of the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office.

H.R. 2383, Secure Communities and Safe Schools Act			
As ordered reported by the House Committee on Homeland Security on May 15, 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	0	0
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

H.R. 2383 would prohibit federal funds provided by the Federal Emergency Management Agency (FEMA) under two of the agency's grant programs (the State Homeland Security Grant Program and the Urban Areas Security Initiative) from being used to purchase firearms or ammunition for use by teachers.

According to FEMA, the agency's current guidance and policies prohibit the use of grants to purchase weapons and ammunition. As a result, CBO estimates that H.R. 2383 would have no effect on the federal budget.

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

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 2383 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 2383 would require FEMA to continue its policy disallowing UASI or SHSGP funding to be used to purchase firearms or firearm accessories.

ADVISORY ON EARMARKS

In compliance with rule XXI of the Rules of the House of Representatives, 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 the rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that this bill may be cited as the Secure Communities and Safe Schools Act".

Sec. 2. Prohibition on expenditure of certain Homeland Security grant funds to purchase firearms

This section would codify current FEMA grant guidance restrictions on buying firearms or firearm accessories such as ammunition, in schools or elsewhere, with SHSGP or UASI grant funds.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE XX—HOMELAND SECURITY GRANTS

* * * * *

Subtitle A—Grants to States and High-Risk Urban Areas

* * * * *

SEC. 2008. USE OF FUNDS.

(a) PERMITTED USES.—The Administrator shall permit the recipient of a grant under section 2003 or 2004 to use grant funds to achieve target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans, including by working in conjunction with a National Laboratory (as defined in section 2(3) of the Energy Policy Act of 2005 (42 U.S.C. 15801(3))), through—

(1) developing and enhancing homeland security, emergency management, or other relevant plans, assessments, or mutual aid agreements;

(2) designing, conducting, and evaluating training and exercises, including training and exercises conducted under section 512 of this Act and section 648 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748);

(3) protecting a system or asset included on the prioritized critical infrastructure list established under section 2214(a)(2);

(4) purchasing, upgrading, storing, or maintaining equipment, including computer hardware and software;

(5) ensuring operability and achieving interoperability of emergency communications;

(6) responding to an increase in the threat level under the Homeland Security Advisory System, or to the needs resulting from a National Special Security Event;

(7) establishing, enhancing, and staffing with appropriately qualified personnel State, local, and regional fusion centers that comply with the guidelines established under section 210A(i);

(8) enhancing school preparedness;

(9) enhancing the security and preparedness of secure and nonsecure areas of eligible airports and surface transportation systems;

(10) supporting public safety answering points;

(11) paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts, regardless of whether such analysts are current or new full-time employees or contract employees;

(12) paying expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant;

(13) any activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the State Homeland Se-

curity Grant Program, the Urban Area Security Initiative (including activities permitted under the full-time counterterrorism staffing pilot), or the Law Enforcement Terrorism Prevention Program; and

(14) any other appropriate activity, as determined by the Administrator.

(b) LIMITATIONS ON USE OF FUNDS.—

(1) IN GENERAL.—Funds provided under section 2003 or 2004 may not be used—

(A) to supplant State or local funds, except that nothing in this paragraph shall prohibit the use of grant funds provided to a State or high-risk urban area for otherwise permissible uses under subsection (a) on the basis that a State or high-risk urban area has previously used State or local funds to support the same or similar uses; or

(B) for any State or local government cost-sharing contribution.

(2) PERSONNEL.—

(A) IN GENERAL.—Not more than 50 percent of the amount awarded to a grant recipient under section 2003 or 2004 in any fiscal year may be used to pay for personnel, including overtime and backfill costs, in support of the permitted uses under subsection (a).

(B) WAIVER.—At the request of the recipient of a grant under section 2003 or 2004, the Administrator may grant a waiver of the limitation under subparagraph (A).

(3) LIMITATIONS ON DISCRETION.—

(A) IN GENERAL.—With respect to the use of amounts awarded to a grant recipient under section 2003 or 2004 for personnel costs in accordance with paragraph (2) of this subsection, the Administrator may not—

(i) impose a limit on the amount of the award that may be used to pay for personnel, or personnel-related, costs that is higher or lower than the percent limit imposed in paragraph (2)(A); or

(ii) impose any additional limitation on the portion of the funds of a recipient that may be used for a specific type, purpose, or category of personnel, or personnel-related, costs.

(B) ANALYSTS.—If amounts awarded to a grant recipient under section 2003 or 2004 are used for paying salary or benefits of a qualified intelligence analyst under subsection (a)(10), the Administrator shall make such amounts available without time limitations placed on the period of time that the analyst can serve under the grant.

(4) CONSTRUCTION.—

(A) IN GENERAL.—A grant awarded under section 2003 or 2004 may not be used to acquire land or to construct buildings or other physical facilities.

(B) EXCEPTIONS.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), nothing in this paragraph shall prohibit the use of a grant awarded under section 2003 or 2004 to achieve target capabilities related to preventing, preparing for, protecting against, or responding to acts of terrorism,

including through the alteration or remodeling of existing buildings for the purpose of making such buildings secure against acts of terrorism.

(ii) REQUIREMENTS FOR EXCEPTION.—No grant awarded under section 2003 or 2004 may be used for a purpose described in clause (i) unless—

(I) specifically approved by the Administrator;

(II) any construction work occurs under terms and conditions consistent with the requirements under section 611(j)(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(j)(9)); and

(III) the amount allocated for purposes under clause (i) does not exceed the greater of \$1,000,000 or 15 percent of the grant award.

(5) RECREATION.—Grants awarded under this subtitle may not be used for recreational or social purposes.

(6) FIREARMS.—*A grant awarded under section 2003 or 2004 may not be used to purchase firearms or firearms accessories, such as ammunition, including for use by teachers.*

(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this subtitle shall be construed to prohibit State, local, or tribal governments from using grant funds under sections 2003 and 2004 in a manner that enhances preparedness for disasters unrelated to acts of terrorism, if such use assists such governments in achieving target capabilities related to preventing, preparing for, protecting against, or responding to acts of terrorism.

(d) REIMBURSEMENT OF COSTS.—

(1) PAID-ON-CALL OR VOLUNTEER REIMBURSEMENT.—In addition to the activities described in subsection (a), a grant under section 2003 or 2004 may be used to provide a reasonable stipend to paid-on-call or volunteer emergency response providers who are not otherwise compensated for travel to or participation in training or exercises related to the purposes of this subtitle. Any such reimbursement shall not be considered compensation for purposes of rendering an emergency response provider an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(2) PERFORMANCE OF FEDERAL DUTY.—An applicant for a grant under section 2003 or 2004 may petition the Administrator to use the funds from its grants under those sections for the reimbursement of the cost of any activity relating to preventing, preparing for, protecting against, or responding to acts of terrorism that is a Federal duty and usually performed by a Federal agency, and that is being performed by a State or local government under agreement with a Federal agency.

(e) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a grant under section 2003 or 2004, the Administrator may authorize the grant recipient to transfer all or part of the grant funds from uses specified in the grant agreement to other uses authorized under this section, if the Administrator determines that such transfer is in the interests of homeland security.

(f) EQUIPMENT STANDARDS.—If an applicant for a grant under section 2003 or 2004 proposes to upgrade or purchase, with assist-

ance provided under that grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards developed under section 647 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 747), the applicant shall include in its application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

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MINORITY VIEWS

While the purchase of firearms or firearms accessories or the purchase of ammunition is not permitted under the State Homeland Security Grant Program (SHSGP) or under the Urban Area Security Initiative (UASI) Grant Program currently, that prohibition is solely based on policy and not as a matter of law.

We are concerned that codifying this prohibition into law would eliminate any future flexibilities for state and local law enforcement to address specific threats of terrorism. Congress should encourage these communities to come up with appropriate solutions to stop violent acts instead of preemptively limiting their options.

The threat landscape is constantly evolving and it is imperative that those receiving SHSGP or UASI grant funding should be able accommodate accordingly.

MIKE ROGERS,
Ranking Member.

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