

118TH CONGRESS }
2d Session }

SENATE

{ REPORT
118-160 }

IMPROVING FEDERAL BUILDING SECURITY
ACT OF 2024

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 3613

TO REQUIRE FACILITY SECURITY COMMITTEES TO
RESPOND TO SECURITY RECOMMENDATIONS ISSUED BY
THE FEDERAL PROTECTIVE SERVICE RELATING TO
FACILITY SECURITY, AND FOR OTHER PURPOSES



MARCH 14, 2024.—Ordered to be printed

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Calendar No. 347

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IMPROVING FEDERAL BUILDING SECURITY ACT OF 2024

MARCH 14, 2024.—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 S. 3613]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3613) to require Facility Security Committees to respond to security recommendations issued by the Federal Protective Service relating to facility security, and for other purposes, having considered the same, reports favorably thereon with an the amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 3613, the *Improving Federal Building Security Act*, would require Facility Security Committees (FSCs) to adequately respond to security recommendations issued by the Federal Protective Service (FPS) within 90 days of the recommendations’ issuance. While agencies may choose to adopt or reject FPS recommendations, they must provide an explanation to the Department of Homeland Security (DHS) detailing their reasons for rejecting any recommendations in whole or in part. The legislation would also require DHS to develop a method to monitor these responses to FPS security as-

assessments and take reasonable actions to ensure agency responses. This bill would require DHS to report annually to Congress on agency responses to FPS security assessments, which would provide a regular snapshot of the security landscape for federal facilities across the country.

II. BACKGROUND AND NEED FOR THE LEGISLATION

FPS, an agency within DHS, is responsible for protecting over 9,000 federal facilities that house 1.4 million employees and countless visitors.¹ FPS plays role in keeping federal facilities safe by making facility security recommendations. Individual FSCs, made up of agency tenants at each federal facility, are responsible for reviewing FPS recommendations for their facility's safety. Between fiscal years 2017 and 2021, the Government Accountability Office (GAO) found that FPS submitted over 25,000 facility security recommendations, yet agency FSCs ignored and failed to acknowledge 57% of those recommendations. Of the remaining 43%—where agencies at least acknowledged the receipt of FPS recommendations—agencies only approved 27% of FPS's recommendations. Agencies affirmatively rejected 12% of the recommendations and responded in a manner classified as “other” to the final 4%.²

FPS conducts its facility security assessments every three to five years, presenting its findings, including its recommended countermeasures, in a report to a given facility's security committee or designated official. Recommended countermeasures can include security cameras, physical access control systems, and x-ray screening equipment, which are aimed at preventing potentially dangerous security incidents. FSCs are tasked with responding to FPS guidance by either accepting the risk of rejecting security recommendations or adopting the recommendations. However, GAO has found that agencies largely ignore FPS's recommendations by failing to provide a response.³

Federal real-property management has been on GAO's High Risk List for two decades, in part due to security issues.⁴ Yet, as these management problems persist, political violence has seen its sharpest rise in half a century.⁵ In 2022, DHS and the Federal Bureau of Investigation (FBI) observed “an increase in violent threats posted on social media against federal officials and facilities.”⁶ Additionally, in May 2023, DHS observed that they expect a heightened threat environment in 2024, warning of potential attacks against government buildings.⁷ Facing a heightened threat landscape, agencies must be held accountable to responding to FPS assessments and doing all they can to secure their facilities.

In order to further examine GAO's findings, the Committee held a hearing to examine the landscape of current threats, the ways

¹ Government Accountability Office, *Federal Facilities: Improved Oversight Needed for Security Recommendations* (GAO 23-105649) (May 2023).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Political violence in polarized U.S. at its worst since 1970s*, Reuters (Aug. 9, 2023) (www.reuters.com/investigates/special-report/usa-politics-violence/).

⁶ *FBI/DHS bulletin warns of “increase in violent threats posted on social media against federal officials and facilities.”* CBS News (Aug. 14, 2022) (www.cbsnews.com/miami/news/fbi-dhs-bulletin-mar-a-lago-ohio-gunman-ricky-shiffer-call-to-violence/).

⁷ *DHS warns of attacks against government buildings, minority groups ahead of 2024 election.* NBC News (May 24, 2023) (www.nbcnews.com/politics/dhs-warns-attacks-government-buildings-minority-groups-ahead-2024-elec-rcna86067).

Congress can improve the countermeasure assessment process, and ways to improve federal agency responsiveness when agencies receive security recommendations.⁸ The hearing also examined the Executive Order issued by President Biden in November 2023, which clarified the role of the Interagency Security Committee and helped update interagency roles and responsibilities for keeping these facilities safe.⁹ This legislation builds on the Committee’s hearing and President Biden’s Executive Order. It would improve security for federal employees and members of the public who use federal buildings, by requiring federal agencies to respond to FPS recommendations on security measures.

III. LEGISLATIVE HISTORY

Senator Gary Peters (D–MI) introduced S. 3613, the *Improving Federal Building Security Act*, on January 18, 2024, with original cosponsor Senator Rick Scott (R–FL). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 3613 at a business meeting on January 31, 2024. At the business meeting, Senator Peters offered a substitute amendment to the bill, as well as a modification to the substitute amendment. The Peters substitute amendment, as modified, required a report to Congress, no later than 180 days after the enactment of this legislation, on all surveillance technology recommended by FPS and the intended use of the technology. The modification also: directed GAO to submit a report to Congress on the effectiveness of this bill; added a 5-year sunset to the bill; prohibited the authorization of additional funds to carry out the bill; and required a summary of the financial implications of FSC responses to FPS’s recommendations, including if the benefits outweigh the costs. The modified substitute amendment also revised the reporting requirements, by allowing DHS to report summary statistics and specifying its report must be unclassified but may include a classified annex if necessary.

The Committee adopted the modification to the Peters substitute amendment, and the Peters substitute amendment as modified, by unanimous consent, with Senators Peters, Carper, Hassan, Rosen, Ossoff, Paul, Lankford, Romney, Scott, and Marshall present. The bill, as amended by the Peters substitute amendment as modified, was ordered favorably by roll call vote of 10 yeas to 0 nays, with Senators Peters, Carper, Hassan, Rosen, Ossoff, Paul, Lankford, Romney, Scott, and Marshall voting in the affirmative. Senators Sinema, Blumenthal, Butler, Johnson, and Hawley voted yea by proxy, for the record only. Consistent with Committee Rule 3(G), the Committee reports the bill with a technical amendment by mutual agreement of the Chairman and Ranking Member.

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

Section 1. Short title

This section establishes the short title of the bill as the “Improving Federal Building Security Act of 2024.”

⁸Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Examining the Security of Federal Facilities*, 118th Cong. (Nov. 29, 2023) (S. Hrg. 118–XX).

⁹Exec. Order No. 14111, 88 Fed. Reg. 83809 (Nov. 27, 2023).

Section 2. Responding to security recommendations

Subsection (a) defines the terms “agency,” “Facility Security Committee,” and “Secretary.”

Subsection (b)(1) requires the head or designee of an FSC to respond to FPS when a security recommendation is issued, within 90 days of the date the recommendation was issued.

Subsection (b)(2) requires DHS to develop a method to monitor the recommendations issued by FPS and responses by FSCs and take reasonable action to ensure FSCs are responsive.

Subsection (c)(1) requires DHS to submit an annual report to the Senate Committee on Homeland Security and Governmental Affairs and the House Homeland Security and Transportation and Infrastructure Committees, with information including: a summary of the recommendations issued by FPS, the percentage of recommendations adopted or rejected by FSCs, the percentage of facilities that failed to respond to recommendations, the justifications for rejected recommendations, financial implications of FSC responses, risk mitigation analysis, and analysis on trends.

Subsection (c)(2) requires the DHS report be unclassified but may include a classified annex.

Subsection (c)(3) requires DHS to annually brief the Senate Committee on Homeland Security and Governmental Affairs and the House Homeland Security and Transportation and Infrastructure Committees on the findings of the most recent report.

Subsection (d) requires a report to Congress within 180 days after the enactment of this bill on all surveillance technology recommended by FPS and the intended use of the technology.

Subsection (e) provides that no additional funds are authorized to be appropriated for the purpose of carrying out this bill.

Subsection (f)(1) terminates the provisions of this bill five years after its enactment.

Subsection (f)(2) directs GAO to submit a report to Congress on the effectiveness of this bill no later than five years after enactment.

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

S. 3613, Improving Federal Building Security Act of 2024			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on January 31, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
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	1	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply? No	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Mandate Effects	
		Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 3613 would require the facility security committee of each federal building to respond to security recommendations from the Federal Protective Service (FPS) within 90 days. The FPS conducts security assessments of federal facilities and makes recommendations for improvements to each building's security committee. Each committee, which includes representatives from all federal tenants in a nonmilitary facility, decides whether to implement those recommendations.

S. 3613 would require the FPS to monitor its recommendations and the responses it receives and annually report that information to the Congress. The bill also would require the FPS to report to the Congress within 180 days of enactment on the surveillance technology it recommends be used at federal facilities. Additionally, the Government Accountability Office would need to report to the Congress within five years of enactment on the effectiveness of the bill. The bill's requirements would sunset five years after enactment.

Based on the costs of similar reports, CBO estimates that the required reports would cost \$1 million over the 2024–2029 period. Any spending would be subject to the availability of appropriated funds. Because facility security committees are currently required to respond to the agency's recommendations within 45 days, CBO expects that implementing that requirement would not have a cost.

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

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

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.

