

Calendar No. 168

115TH CONGRESS }
1st Session }

SENATE

{ REPORT
115-128

AFG AND SAFER PROGRAM
REAUTHORIZATION ACT OF 2017

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 829

TO REAUTHORIZE THE ASSISTANCE TO FIREFIGHTERS GRANTS
PROGRAM, THE FIRE PREVENTION AND SAFETY GRANTS
PROGRAM, AND THE STAFFING FOR ADEQUATE FIRE AND
EMERGENCY RESPONSE GRANT PROGRAM, AND FOR OTHER
PURPOSES



JULY 11, 2017.—Ordered to be printed

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AFG AND SAFER PROGRAM REAUTHORIZATION ACT OF
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JULY 11, 2017.—Ordered to be printed

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

R E P O R T

[To accompany S. 829]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 829) to reauthorize the Assistance to Firefighters Grants program, the Fire Prevention and Safety Grants program, and the Staffing for Adequate Fire and Emergency Response grant program, and for other purposes, 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

S. 829, the AFG and SAFER Program Reauthorization Act of 2017, reauthorizes the Assistance to Firefighters Grants (AFG) program and the Staffing for Adequate Fire and Emergency Response (SAFER) grant program through fiscal year (FY) 2023. Additionally, the legislation incorporates important tools to improve the grant programs' accountability to Congress and the American taxpayers.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Reauthorization

Congress created the AFG and SAFER grant programs to help address the significant staffing, equipment, training, and health and safety needs of fire departments. SAFER provides funding to help pay the costs associated with hiring personnel to maintain safe staffing levels, while AFG grants fund equipment, training and other fire department needs. Together, these programs help ensure that our nation's 30,000 fire departments have the necessary training, equipment, and staffing to respond to over 30 million emergency calls annually and to continue to reduce community risk.¹

Congress created the AFG program in 2000² reauthorized it in 2004³ and again in the FY2013 National Defense Authorization Act.⁴ The primary goal of the AFG grant program is to meet the firefighting and emergency response needs of fire departments and nonaffiliated emergency medical service organizations by providing funds for the purchase of firefighting equipment, vehicles, training, or wellness and fitness programs.⁵ Fire Prevention and Safety (FP&S) grants are part of the AFG. The primary goal of these grants is to reduce injury and prevent death among high-risk populations. Congress reauthorized funding for FP&S in 2005 and expanded the eligible uses of funds to include Firefighter Safety Research and Development.⁶

In 2002, the U.S. Fire Administration conducted a Needs Assessment of the U.S. Fire Service and found that many departments nationwide were lacking the minimum number of firefighters to safely fight building, vehicle, and other structure fires.⁷ To help alleviate these identified challenges, Congress created the SAFER program in 2003 to provide funding directly to fire departments and volunteer firefighter organizations to help them increase or maintain the number of trained, "front line" firefighters available in their communities.⁸

The National Fire Protection Association (NFPA) minimum standards call for four on-duty firefighters on a fire engine or pumper.⁹ Many jurisdictions still cannot meet that standard. For example, 51 percent of fire departments protecting populations of 250,000 to 499,999 assign less than four firefighters to an appa-

¹See National Fire Protection Association, *Fire department calls*, available at <http://www.nfpa.org/news-and-research/fire-statistics-and-reports/fire-statistics/the-fire-service/fire-department-calls/fire-department-calls> (last visited July 6, 2017).

²FY2001 National Defense Authorization Act (P.L. 106-398), section 1701.

³Ronald W. Reagan National Defense Authorization Act for FY2005, P.L. 108-375, section 3602.

⁴National Defense Authorization Act for FT2013, P.L. 112-239, Section 1803.

⁵The provisions governing the program are codified in section 33 of the Federal Fire Prevention and Control Act of 1974 (FFPCA), 15 U.S.C. 2229; see also Federal Emergency Management Agency, *Assistance to Firefighters Grant Program* (2017), available at <https://www.fema.gov/welcome-assistance-firefighters-grant-program>.

⁶P.L. 108-375, section 3602 (2005).

⁷U.S. Fire Admin., *A Needs Assessment of the U.S. Fire Service*, FA-240, Nov. 2016, p. iv, available at <http://www.nfpa.org/news-and-research/fire-statistics-and-reports/fire-statistics/the-fire-service/administration/needs-assessment>.

⁸FY2004 National Defense Authorization Act (P.L. 108-136). It is codified as section 34 of the FFPCA, 15 U.S.C. 2229a.

⁹Nat'l. Fire Protection Assoc., *Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments (NFPA 1710)*. Available at <http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=1710>.

ratus, as do 80 percent of fire departments protecting populations of 50,000 to 99,000.¹⁰

The current authorization for the AFG and SAFER grant programs contains a sunset provision that would permanently eliminate both programs on January 2, 2018.¹¹ Given the importance of these grant programs to emergency response, S. 829 eliminates the sunset provision, and authorizes the programs through FY 2023. In place of the sunset, oversight mechanisms have been added to require the Federal Emergency Management Agency (FEMA) to better manage and monitor these grants, as discussed below.

Accountability

Although the AFG and SAFER programs are important and necessary for enhancing the ability for fire departments to protect the public from fires and other hazards, the Department of Homeland Security Office of Inspector General (DHS OIG) has alerted Congress to problems with FEMA's oversight and monitoring of these grants programs.¹² According to the DHS OIG, 64 percent (243 of 379) of AFG grant recipients reviewed did not comply with grant guidance and requirements to prevent waste, fraud, and abuse of grant funds.¹³ Out of the \$50 million in grant funds reviewed by the OIG, investigators questioned whether \$7.1 million complied with the grant requirements and Federal law.¹⁴

According to the same report, 63 percent (88 of 139) of SAFER grant recipients reviewed did not comply with grant guidance and requirements to prevent waste, fraud, and abuse of grant funds.¹⁵ Out of the \$72 million in grant funds examined by the OIG, investigators questioned whether \$18.4 million of those funds complied with the grant requirements and Federal law.¹⁶

The OIG concluded that FEMA cannot assure AFG funds were used to help local fire departments and other first responder organizations obtain equipment, protective gear, emergency vehicles, training, and other resources; nor could FEMA assure that SAFER grant funds were used to help local fire departments and other first responder organizations hire and retain firefighters, obtain equipment, and provide training.¹⁷ The OIG recommended FEMA develop and implement an organizational framework to manage the risk of fraud, waste, abuse, and mismanagement.¹⁸

For this reason, S. 829 includes strong oversight provisions to make FEMA and the grant recipients under these grant programs more accountable to the American taxpayer. First, it authorizes the Administrator of FEMA, acting through the Administrator of the United States Fire Administration, to develop and make widely

¹⁰ Letter from International Association of Fire Chiefs to Sen. Gary Peters (May 9, 2017).

¹¹ 15 U.S.C. 2229.

¹² Dep't of Homeland Sec. Office of Inspector General, OIG-16-100, FEMA's Grant Programs Directorate Did Not Effectively Manage Assistance to Firefighters Grant Program—AFG Grants (2016) [hereinafter OIG Report AFG], available at <https://www.oig.dhs.gov/assets/Mgmt/2016/OIG-16-100-Jun16.pdf>; see also Dep't of Homeland Sec. Office of Inspector General, OIG-16-98, FEMA's Grant Programs Directorate Did Not Effectively Manage Assistance to Firefighters Grant Program SAFER Grants (2016) [hereinafter OIG Report SAFER], available at <https://www.oig.dhs.gov/assets/Mgmt/2016/OIG-16-98-Jun16.pdf>.

¹³ OIG Report AFG, *supra* note 12.

¹⁴ *Id.*

¹⁵ OIG Report SAFER, *supra* note 12.

¹⁶ *Id.*

¹⁷ OIG Report AFG and OIG Report SAFER, *supra* note 12.

¹⁸ *Id.*

available online grants administration training for members of the fire and emergency response community that will allow them to better access and manage grants. Second, S. 829 requires FEMA to develop and implement an oversight framework that will mitigate and minimize these grant programs' susceptibility to waste, fraud, abuse, and mismanagement, as required by the OIG. With these additional oversight requirements, these grants will become more accountable to the American taxpayers.

III. LEGISLATIVE HISTORY

On April 5, 2017, Senator John McCain (R-AZ) introduced S. 829, the AFG and SAFER Program Reauthorization Act of 2017, with Senators Jon Tester (D-MT), Susan Collins (R-ME), and Tom Carper (D-DE). The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senators Richard Blumenthal (D-CT), Christopher Coons (D-DE), Kirsten Gillibrand (D-NY), Claire McCaskill (D-MO), Gary C. Peters (D-MI), Robert Menendez (D-NJ), Chris Van Hollen (D-MD) and Patrick Leahy (D-VT) later joined as cosponsors.

The Committee considered S. 829 at a business meeting on May 17, 2017. Senators McCain and Tester offered a manager's amendment incorporating oversight language to require the FEMA Administrator and Assistant Administrator for the Grant Program Directorate to develop and implement a grant monitoring and oversight framework, as well as authorizing the development of electronic, online training for members of the fire and emergency response community on matters relating to the administration of these grants.

Senators Peters and Heitkamp offered an additional amendment to allow SAFER funds to convert part-time firefighters to full-time firefighters.

The Committee favorably reported the bill, as amended by both amendments, by voice vote *en bloc*. Senators present for the vote on the amendments and final passage were Johnson, McCain, Portman, Paul, Lankford, Enzi, Hoeven, Daines, McCaskill, Tester, Heitkamp, Peters, Hassan, and Harris.

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

Section 1. Short title

This section specifies that the bill may be cited as the "AFG and SAFER Program Reauthorization Act of 2017."

Sec. 2. Reauthorization of Assistance to Firefighters Grants program and the Fire Prevention and Safety Grants program

Subsection (a) repeals the AFG grant program sunset.

Subsection (b) authorizes appropriations through FY 2023.

Subsection (c) makes a technical correction in The 21st Century Cures Act (P.L. 114-255), which amended the SAFER grant program, to detail the allowable uses for grant funds, including eligible training activities.

Sec. 3. Reauthorization of Staffing for Adequate Fire and Emergency Response grant program

Subsection (a) repeals the SAFER grant program sunset.

Subsection (b) authorizes appropriations through FY 2023.

Subsection (c) is a technical correction to 15 U.S.C. 2229a(b), which details specific requirements that applicants for a SAFER grant must meet. The technical correction corrects the subsection referred to in (b)(3)(B).

Subsection (d) removes an anachronism date of November 24, 2004, and replaces it with the grant application date.

Subsection (e) is a technical correction that ensures the statute properly permits a waiver for jurisdictions with demonstrated local hardship to use SAFER funds to supplant state and local funds, the local match, and the requirement that applicants have sustained their fire-related programs and emergency response budgets by at least 80 percent in the three preceding years.

Subsection (f) is a technical correction outlining the use of grant funds. The SAFER program provides grants specifically for staffing, not training. This section moves this provision under 15 U.S.C. 2229(c)(3), the section outlining the “Use of Grant Funds” under the Assistance to Firefighters (AFG) grant program.

Subsection (g) expands the use for SAFER grants so that fire departments may change part-time or paid-on-call firefighters to full-time firefighters.

Sec. 4. Training on Administration of Fire Grant programs

Subsection (a) authorizes the Administrator of FEMA, acting through the Administrator of the United States Fire Administration, to develop and make widely available an online grants management training course for members of the fire and emergency response community.

Subsection (b) outlines the training requirements for the course, including that it must be tailored to the financial and time constraints of all individuals in the career field.

Sec. 5. Framework for oversight and monitoring of the Assistance to Firefighters grants program, the Fire Prevention and Safety Grants program, and the Staffing for Adequate Fire and Emergency Response grant program

Subsection (a) requires the FEMA Administrator, through the Administrator of the United States Fire Administration, to develop and implement an oversight framework that will mitigate and minimize these grant programs’ susceptibility to waste, fraud, abuse, and mismanagement.

Section (b) outlines the requirements of the framework, including ensuring standardized guidance and training for grant recipients, conducting regular risk assessments, conducting desk reviews and site visits, enforcing mechanisms to recoup questioned costs, and ensuring any other oversight and monitoring tools deemed necessary to reduce the risks of waste, fraud, and abuse.

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

JUNE 15, 2017.

Hon. RON JOHNSON,
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. 829, the AFG and SAFER Program Reauthorization Act of 2017.

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

Sincerely,

KEITH HALL.

Enclosure.

S. 829—AFG and SAFER Program Reauthorization Act of 2017

Summary: S. 829 would extend through 2023 the authorization of appropriations for two programs—Staffing for Adequate Fire and Emergency Response (SAFER) and Assistance to Firefighter Grants (AFG). The authorization for those programs expires at the end of fiscal year 2017. Assuming appropriation of the full amounts, CBO estimates that implementing S. 829 would cost about \$4.8 billion over the 2018–2022 period, and \$5.2 billion in years after 2022.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 829 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 829 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated Cost to the Federal Government: The estimated budgetary effect of S. 829 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—						
	2017	2018	2019	2020	2021	2022	2017–2022
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level	0	1,611	1,649	1,688	1,728	1,770	8,446
Estimated Outlays	0	32	436	1,171	1,521	1,653	4,813

Basis of estimate: For this estimate, CBO assumes that S. 829 will be enacted near the end of 2017 and that the estimated amounts will be appropriated each fiscal year.

Under current law, \$750 million was authorized in 2013 for the SAFER program, which provides grants to fire departments to facilitate retention and hiring of personnel, and another \$750 million for the AFG program, which provides grants to fire departments, state fire-training academies, and other organizations. The law provides that those specified amounts be adjusted each year for the

change in the Consumer Price Index through 2017. Under S. 829, that authorization of appropriations would be extended through 2023.

Including the adjustments for anticipated inflation, CBO estimates that S. 829 would authorize the appropriation of about \$8.4 billion, in total, over the next five years for the two programs. Based on historical spending patterns, CBO estimates that implementing S. 829 would cost about \$4.8 billion over the 2018–2022 period and another \$5.2 billion in years after 2022. In 2017, a total of \$690 million was appropriated for those grant programs.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 829 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

Intergovernmental and private-sector impact: S. 829 contains no intergovernmental or private-sector mandates as defined in UMRA. State, local, and tribal governments would benefit from grants reauthorized in the bill to fund specialized training for first responders. Any costs to state, local, or tribal governments would result from complying with conditions of assistance.

Estimate prepared by: Federal costs: Robert Reese; Impact on state, local, and tribal governments: Rachel Austin; Impact on the private sector: Logan Smith.

Estimate approved by: H. Samuel Papenfuss Deputy Assistant Director for Budget Analysis.

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

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 15—COMMERCE AND TRADE

* * * * *

CHAPTER 49—FIRE PREVENTION AND CONTROL

* * * * *

SEC. 2229. FIREFIGHTER ASSISTANCE

(a) * * *

(b) * * *

(c) ASSISTANCE TO FIREFIGHTERS GRANTS.—

(1) * * *

(2) * * *

(3) USE OF GRANT FUNDS.—

(A) * * *

* * * * *

(N) To provide specialized training to firefighters, paramedics, emergency medical service workers, and other first responders to recognize individuals who have mental illness and how to properly intervene with individual with mental illness, including strategies for verbal de-escalation of crisis.

- * * * * *
- (q) * * *
 (1) * * *
 (A) * * *
 (B) for each of the fiscal years 2014 through **2017** 2023, an amount equal to the amount authorized for the previous fiscal year increased by the percentage by which—

* * * * *

[(r) SUNSET OF AUTHORITIES.—The authority to award assistance and grants under this section shall expire on the date that is 5 years after January 2, 2013.]

* * * * *

SEC. 2229a. STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE

- (a) **EXPANDED AUTHORITY TO MAKE GRANTS.—**
HIRING GRANTS.—
 (A) * * *
 (B) Grants made under this paragraph shall be for 3 years and be used for programs to hire new, additional firefighters **and to provide specialized training to paramedics, emergency medical service workers, and other first responders to recognize individuals who have mental illness and how to properly intervene with individuals with mental illness, including strategies for verbal de-escalation of crises** or to change the status of part-time or paid-on-call (as defined in section 33(a)) firefighters to full-time firefighters.
- (b) **APPLICATIONS.—**
 (1) * * *
 (2) * * *
 (3) At a minimum, each application for a grant under this section shall—
 (A) * * *
 (B) in the case of a grant under subsection (a)(1), explain how the applicant plans to meet the requirements **of subsection (a)(1)(B)(ii) and (F)** of subsection (a)(1)(F);
 (C) * * *
 (D) * * *
- (c) **LIMITATION ON USE OF FUNDS.—**
 (1) * * *
 (2) No grant shall be awarded pursuant to this section to a municipality or other recipient whose annual budget at the time of the application for fire-related programs and emergency response has been reduced below 80 percent of the average funding level in the 3 years **prior to November 24, 2003** prior to the date of the application for the grant.

(3) * * *

(4) * * *

(d) WAIVERS.—

(1) IN GENERAL.—In a case of demonstrated economic hardship, the Administrator of FEMA may—

(A) * * *

(B) waive or reduce the requirements in [subsection (a)(1)(E) or subsection (c)(2)] (a)(1)(E), (c)(2), or (c)(4).

* * * * *

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the purposes of carrying out this section—

(A) * * *

* * * * *

(I) for each of fiscal years 2014 through [2017] 2023, an amount equal to the amount authorized for the previous fiscal year increased by which—

* * * * *

[(k) SUNSET OF AUTHORITIES.—The authority to award assistance and grants under this section shall expire on the date that is 5 years after January 2, 2013.]

* * * * *