

BORDER ENFORCEMENT SECURITY TASK FORCE
 REAUTHORIZATION ACT OF 2017

MAY 16, 2017.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
 submitted the following

R E P O R T

[To accompany H.R. 2281]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 2281) to amend the Homeland Security Act of 2002 to reauthorize the Border Enforcement Security Task Force program within the Department of Homeland Security, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Border Enforcement Security Task Force Reauthorization Act of 2017”.

SEC. 2. MODIFIED INSTRUCTIONS.

(a) **UPDATED CONSIDERATIONS FOR THE ESTABLISHMENT OF UNITS.**—Paragraph (2) of section 432(c) of the Homeland Security Act of 2002 (6 U.S.C. 240(c)) is amended—

(1) in the matter preceding subparagraph (A), by striking “the Secretary shall consider” and inserting “the Secretary shall apply risk-based criteria that takes into consideration”; and

(2) in subparagraph (A), by inserting before the semicolon the following: “, including threats posed by transnational criminal organizations”;

(3) in subparagraph (C), by striking “and” after the semicolon;

(4) in subparagraph (D), by striking the period at the end and inserting “;”;

and

(5) by adding at the end the following new subparagraphs:

“(E) the extent to which the BEST unit would advance the Department’s homeland and border security strategic priorities and related objectives; and

“(F) whether departmental Joint Task Force operations as established pursuant to section 708 and other joint cross-border initiatives would be enhanced, improved, or otherwise assisted by the BEST unit to be established.”.

(b) **PORT SECURITY.**—Subsection (c) of section 432 of the Homeland Security Act of 2002 (6 U.S.C. 240) is amended by adding at the end the following new paragraph:

“(4) **PORT SECURITY BEST UNITS.**—A BEST unit established pursuant to paragraph (2) with a port security nexus shall be composed of at least one member of each of the following:

“(A) The Coast Guard Investigative Service.

“(B) The geographically-responsible Coast Guard Sector Intelligence Office.”.

(c) **UPDATED REPORT ELEMENTS.**—Subsection (e) of section 432 of the Homeland Security Act of 2002 (6 U.S.C. 240) is amended to read as follows:

“(e) **REPORT.**—Not later than 180 days after the date of the enactment of this section and annually thereafter for the following five years, the Secretary shall submit to Congress a report that includes the following:

“(1) A description of the effectiveness of BEST in enhancing border security, disrupting and dismantling transnational criminal organizations, and reducing drug trafficking, arms smuggling, illegal alien trafficking and smuggling, violence, and kidnapping along and across the international borders of the United States, as measured by crime statistics, including violent deaths, incidents of violence, and drug-related arrests.

“(2) An assessment of how BEST enhances information-sharing, including the dissemination of homeland security information, among Federal, State, local, tribal, and foreign law enforcement agencies.

“(3) A description of how BEST advances the Department’s homeland and border security strategic priorities and effectiveness of BEST in achieving related objectives.

“(4) An assessment of BEST’s joint operational efforts with departmental Joint Task Force operations established pursuant to section 708 and other joint cross-border initiatives.”.

PURPOSE AND SUMMARY

H.R. 2281, the “Border Enforcement Security Task Force Reauthorization Act of 2017” reauthorizes the Border Enforcement Security Task Force (BEST) program and makes modifications to this border security program, including an enhanced focus on mitigating the threats posed by transnational criminal organizations.

This bill updates the considerations for the establishment of by requiring the Department of Homeland Security (DHS) to analyze the extent to which new BEST units would advance the Department’s homeland and border security strategic priorities, related objectives, and whether departmental Joint Task Force operations would be enhanced by the creation of an additional BEST. This leg-

isolation also requires DHS to monitor and report the effectiveness of BEST units and their joint operational efforts with departmental Joint Task Force operations, authorized in Pub. L. 114–328, the National Defense Authorization Act for Fiscal Year 2017.

Additionally, under current law, requirements to report to Congress were set to expire this year. H.R. 2281 extends the requirement by 5 years and requires DHS to track how BEST units are integrating with the newly established departmental Joint Task Forces and how they are supporting current Department-wide strategic priorities.

This bill also mandates that any BEST unit with a port security nexus must include the participation of a U.S. Coast Guard Investigative Service Special Agent and a uniformed Coast Guard Intelligence Officer from the geographically responsible sector intelligence office—increasing intelligence sharing in maritime operations.

BACKGROUND AND NEED FOR LEGISLATION

Transnational criminal organizations (TCOs) have actively competed for control of various drug trafficking corridors along the U.S. southwest border, which has led to an escalation of violence on the Mexican side of the border.

In 2005, in response to the significant increase in this violence, the U.S. Immigration and Customs Enforcement, Homeland Security Investigations (HSI), in partnership with U.S. Customs and Border Protection, as well as other Federal, State, local, and international law enforcement officials created the Border Enforcement Security Task Force (BEST) program.

BEST criminal investigations focus on TCOs that operate drug distribution networks throughout the United States' interior and move illicit drug proceeds and weapons southbound.

To date, a total of 44 BESTs have been initiated across 16 States and in Puerto Rico. These teams comprise over 1,000 members who represent over 100 law enforcement agencies who have jointly committed to investigate transnational criminal activity along the Southwest and Northern Borders and at our Nation's major seaports.

While BESTs have been highly successful with over 13,000 criminal arrests and large amounts of seized narcotics, contraband, weapons, and bulk cash, the current authorization does not reflect changes in the border security landscape, including the establishment of DHS Joint Task Forces and the shift in strategic priorities toward securing our borders and dismantling transnational criminal organizations. In addition, while the U.S. Coast Guard is a current partner in BEST program, not all maritime BEST units have Coast Guard personnel assigned them.

Requiring the Coast Guard to assign personnel to maritime BEST units Nation-wide will allow for the dissemination of maritime-based intelligence to other participating BEST agencies, furthering the interdiction of illicit maritime activity within Coast Guard's unique jurisdiction, where other Federal, State, or local entities may be positioned to act.

HEARINGS

No hearings were held on H.R. 2281 in the 115th Congress.

COMMITTEE CONSIDERATION

The Committee met on May 3, 2017, to consider H.R. 2281, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote. The Committee took the following actions:

The Committee agreed to H.R. 2281, as amended, by voice vote.

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MR. RUTHERFORD (#1); was **AGREED TO** by voice vote.

Page 3, line 3, redesignate subsection (b) as subsection (c).

Page 3, beginning line 3, insert a new subsection entitled "(b) Port Security."

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. 2281.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2281, the Border Enforcement Security Task Force Reauthorization Act of 2017, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 12, 2017.

Hon. MICHAEL MCCAUL,
*Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2281, the Border Enforcement Security Task Force Reauthorization Act of 2017.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2281—Border Enforcement Security Task Force Reauthorization Act of 2017

H.R. 2281 would require the Department of Homeland Security (DHS), for five years after the bill's enactment, to submit an annual report to the Congress on a DHS task force working to improve border security. The report would include an evaluation of the task force's effectiveness in enhancing border security, reducing crime, and improving the sharing of information among law enforcement agencies. Based on the cost of similar activities, CBO estimates that the report would cost less than \$500,000 annually; such spending would be subject to the availability of appropriated funds.

Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 2281 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2281 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 2281 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The general performance goal or objective of this bill is to align BEST strategic priorities with those of DHS and track the integration of the BESTs with the newly authorized DHS Joint Task Forces.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 2281 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

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(e), 9(f), or 9(g) of the rule XXI.

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.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 2281 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 2281 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section provides that this bill may be cited as the “Border Enforcement Security Task Force Reauthorization Act of 2017”.

Sec. 2. Modified Instructions.

This section updates the consideration for the establishment of BEST Units and sets for their criteria. This section also analyzes the extent to which the BEST units would advance the Department’s homeland and border security strategic priorities, related objectives, and whether departmental Joint Task Force operations as established pursuant to joint cross-border initiatives. Updated annual reporting requirements are also established in this section to track how BEST is integrating with Joint Task Forces and how they are supporting current Department-wide strategic priorities.

The Committee believes that BESTs are an invaluable program for sharing information among Federal, State and local partners to secure our borders. Moreover, BESTs serve as an important mechanism within DHS to quickly intercept, dismantle, and disrupt transnational criminal organizations operating along the borders of the United States. While the Committee is highly supportive of the work of BESTs, we want to ensure that BESTs receive clear guidance on their strategic priorities and track the integration of BESTs with the new Joint Task Forces to reduce duplication of ef-

forts and strengthen interagency cooperation through both mechanisms.

Additionally, this section mandates that any BEST with a port security nexus must include the participation of a Coast Guard Investigative Service Special Agent and a uniformed Coast Guard Intelligence Officer from the geographically responsible Sector intelligence office.

The Committee believes that the Coast Guard is unique in that they are in contact with local mariners and port operators each and every day under their broad Federal authorities, giving them critical situational awareness of the maritime domain. The USCG is the only DHS component that is an independent member of the Intelligence Community. This unique trait positions the Coast Guard to make significant contributions to the work of the BESTs.

The Committee believes that by utilizing both plain-clothes investigators and uniformed intelligence officers, BESTs will be able to partner with the Coast Guard in ongoing criminal investigations and the generation of actionable maritime intelligence. Better yet, the Coast Guard will be able to disseminate the intelligence of other participating BEST agencies to their men and women on the water, furthering the interdiction of illicit maritime activity within Coast Guard's unique jurisdiction, where other Federal, State, or local entities may not be able to act.

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

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TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

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Subtitle C—Miscellaneous Provisions

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SEC. 432. BORDER ENFORCEMENT SECURITY TASK FORCE.

(a) ESTABLISHMENT.—There is established within the Department a program to be known as the Border Enforcement Security Task Force (referred to in this section as “BEST”).

(b) PURPOSE.—The purpose of BEST is to establish units to enhance border security by addressing and reducing border security threats and violence by—

- (1) facilitating collaboration among Federal, State, local, tribal, and foreign law enforcement agencies to execute coordi-

nated activities in furtherance of border security, and homeland security; and

(2) enhancing information-sharing, including the dissemination of homeland security information among such agencies.

(c) COMPOSITION AND ESTABLISHMENT OF UNITS.—

(1) COMPOSITION.—BEST units may be comprised of personnel from—

- (A) U.S. Immigration and Customs Enforcement;
- (B) U.S. Customs and Border Protection;
- (C) the United States Coast Guard;
- (D) other Department personnel, as appropriate
- (E) other Federal agencies, as appropriate;
- (F) appropriate State law enforcement agencies;
- (G) foreign law enforcement agencies, as appropriate;
- (H) local law enforcement agencies from affected border cities and communities; and
- (I) appropriate tribal law enforcement agencies.

(2) ESTABLISHMENT OF UNITS.—The Secretary is authorized to establish BEST units in jurisdictions in which such units can contribute to BEST missions, as appropriate. Before establishing a BEST unit, **the Secretary shall consider** *the Secretary shall apply risk-based criteria that takes into consideration—*

(A) whether the area in which the BEST unit would be established is significantly impacted by cross-border threats, *including threats posed by transnational criminal organizations;*

(B) the availability of Federal, State, local, tribal, and foreign law enforcement resources to participate in the BEST unit;

(C) the extent to which border security threats are having a significant harmful impact in the jurisdiction in which the BEST unit is to be established, and other jurisdictions in the country; **and**

(D) whether or not an Integrated Border Enforcement Team already exists in the area in which the BEST unit would be established**[.]**;

(E) the extent to which the BEST unit would advance the Department's homeland and border security strategic priorities and related objectives; and

(F) whether departmental Joint Task Force operations as established pursuant to section 708 and other joint cross-border initiatives would be enhanced, improved, or otherwise assisted by the BEST unit to be established.

(3) DUPLICATION OF EFFORTS.—In determining whether to establish a new BEST unit or to expand an existing BEST unit in a given jurisdiction, the Secretary shall ensure that the BEST unit under consideration does not duplicate the efforts of other existing interagency task forces or centers within that jurisdiction.

(4) *PORT SECURITY BEST UNITS.—A BEST unit established pursuant to paragraph (2) with a port security nexus shall be composed of at least one member of each of the following:*

- (A) The Coast Guard Investigative Service.*

(B) The geographically-responsible Coast Guard Sector Intelligence Office.

(d) OPERATION.—After determining the jurisdictions in which to establish BEST units under subsection (c)(2), and in order to provide Federal assistance to such jurisdictions, the Secretary may—

(1) direct the assignment of Federal personnel to BEST, subject to the approval of the head of the department or agency that employs such personnel; and

(2) take other actions to assist Federal, State, local, and tribal entities to participate in BEST, including providing financial assistance, as appropriate, for operational, administrative, and technological costs associated with the participation of Federal, State, local, and tribal law enforcement agencies in BEST.

[(e) REPORT.—Not later than 180 days after the date on which BEST is established under this section, and annually thereafter for the following 5 years, the Secretary shall submit a report to Congress that describes the effectiveness of BEST in enhancing border security and reducing the drug trafficking, arms smuggling, illegal alien trafficking and smuggling, violence, and kidnapping along and across the international borders of the United States, as measured by crime statistics, including violent deaths, incidents of violence, and drug-related arrests.]

(e) REPORT.—Not later than 180 days after the date of the enactment of this section and annually thereafter for the following five years, the Secretary shall submit to Congress a report that includes the following:

(1) A description of the effectiveness of BEST in enhancing border security, disrupting and dismantling transnational criminal organizations, and reducing drug trafficking, arms smuggling, illegal alien trafficking and smuggling, violence, and kidnapping along and across the international borders of the United States, as measured by crime statistics, including violent deaths, incidents of violence, and drug-related arrests.

(2) An assessment of how BEST enhances information-sharing, including the dissemination of homeland security information, among Federal, State, local, tribal, and foreign law enforcement agencies.

(3) A description of how BEST advances the Department's homeland and border security strategic priorities and effectiveness of BEST in achieving related objectives.

(4) An assessment of BEST's joint operational efforts with departmental Joint Task Force operations established pursuant to section 708 and other joint cross-border initiatives.

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