

BORDER TUNNEL TASK FORCE ACT

SEPTEMBER 25, 2018.—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. 6740]

The Committee on Homeland Security, to whom was referred the bill (H.R. 6740) to amend the Homeland Security Act of 2002 to establish Border Tunnel Task Forces, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	3
Hearings	3
Committee Consideration	4
Committee Votes	5
Committee Oversight Findings	5
New Budget Authority, Entitlement Authority, and Tax Expenditures	5
Congressional Budget Office Estimate	5
Statement of General Performance Goals and Objectives	5
Duplicative Federal Programs	5
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	5
Federal Mandates Statement	6
Preemption Clarification	6
Disclosure of Directed Rule Makings	6
Advisory Committee Statement	6
Applicability to Legislative Branch	6
Section-by-Section Analysis of the Legislation	6
Changes in Existing Law Made by the Bill, as Reported	7

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 Tunnel Task Force Act”.

SEC. 2. BORDER TUNNEL DETECTION.

(a) IN GENERAL.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et seq.) is amended by adding at the end the following new section:

“SEC. 420. BORDER TUNNEL TASK FORCES.

“(a) ESTABLISHMENT.—The Secretary shall establish Border Tunnel Task Forces in jurisdictions in which such Border Tunnel Task Forces can contribute to border security missions after evaluating—

“(1) whether the areas in which such Border Tunnel Task Forces would be established are significantly impacted by cross-border threats; and

“(2) the availability of Federal, State, local, and Tribal law enforcement resources to participate in such Border Tunnel Task Forces.

“(b) PURPOSE.—The purpose of the Border Tunnel Task Forces under subsection (a) is to enhance and integrate border security efforts by addressing and reducing cross-border tunnel related threats and violence by—

“(1) facilitating collaboration among Federal, State, local, and Tribal law enforcement agencies to execute coordinated 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 BORDER TUNNEL TASK FORCES.—Border Tunnel Task Forces may be comprised of the following:

“(1) Personnel from U.S. Customs and Border Protection, including the U.S. Border Patrol.

“(2) Personnel from U.S. Immigration and Customs Enforcement, including Homeland Security Investigations.

“(3) Personnel from other Department components and offices, as appropriate.

“(4) Personnel from other Federal, State, local, and Tribal law enforcement agencies, as appropriate.

“(5) Other appropriate personnel at the discretion of the Secretary.

“(d) DUPLICATION OF EFFORTS.—In determining whether to establish a new Border Tunnel Task Force or to expand an existing Border Tunnel Task Force in a given jurisdiction, the Secretary shall ensure that the Border Tunnel Task Force under consideration does not unnecessarily duplicate the efforts of other existing inter-agency task forces or centers within such jurisdiction.

“(e) COORDINATION AMONG COMPONENTS.—The Secretary shall—

“(1) establish targets and performance measures for the Border Tunnel Task Forces that include consideration of whether border barriers impact cross-border tunnel threats;

“(2) direct leadership of each Border Tunnel Task Force to monitor progress on such targets and performance measures for each such task force; and

“(3) periodically report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate regarding progress on such targets and performance measures.”

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 419 the following new item:

“Sec. 420. Border Tunnel Task Forces.”.

PURPOSE AND SUMMARY

H.R. 6740, the “Border Tunnel Task Force Act” formally authorizes the Department of Homeland Security’s (DHS) Border Tunnel Task Forces to enhance the Department’s capacity to detect and eliminate cross-border tunnels used for the illicit smuggling of drugs, people, and weapons underneath the border of the United States. Border Tunnel Task Force teams are comprised of ICE—HSI, CBP, other Departmental personnel, and other Federal, State, local, and tribal law enforcement agencies. This legislation allows the Secretary to establish new teams as needed.

The Border Tunnel Task Force teams are deployed in jurisdictions that are significantly impacted by cross-border threats and participate in a comprehensive law enforcement effort to detect, investigate, and destroy the illicit international highways used for trafficking drugs, humans, and weapons in and out of the United

States. Border Tunnel Task Forces enhance the sharing of critical national security related intelligence among DHS and other law enforcement agencies.

BACKGROUND AND NEED FOR LEGISLATION

Cross-border tunnels present a unique risk to national security. Since 1990, authorities working along our international border have discovered nearly 200 cross-border tunnels used to smuggle illicit drugs, humans, and weapons. Within DHS, ICE–HSI agents lead a tunnel task force and the U.S. Customs and Border Protection house a tunnel detection and technology program. However, the Committee believes that the Department lacks a dedicated unit to detect, investigate, and eliminate illicit cross-border tunnels. The Committee supports the establishment of a dedicated task force to conduct such operations and believes that this legislation would enhance the Department’s effort to better coordinate the detection, investigation and elimination of illicit underground tunnels beneath our international borders.

Drug cartels and criminal organizations continue to utilize tunnels to move drugs, people, and weapons undetected through our international borders. These tunnels are becoming more and more difficult to detect as the cartels construct illicit underground highways that feature electricity, railways and ventilation systems. Although tunnels can cost millions of dollars and take years to dig, cartels and traffickers can recoup their investment with just one undetected drug shipment into the United States.

Border Tunnel Task Forces will target these illicit tunnel networks and prevent smugglers from remaining undetected. The Committee supports enhanced interagency collaboration throughout the Department and believes that this bill will provide a unified law enforcement approach within DHS that deter the future construction of border tunnels and utilize shared intelligence obtained by DHS and their local, state, federal and tribal partners.

HEARINGS

The Committee did not hold any hearing specifically on H.R. 6740, but the full committee and Subcommittee on Border and Maritime Security held hearings relevant to the bill.

On February 7, 2017, the Committee on Homeland Security held a hearing entitled “Ending the Crisis: America’s Borders and the Path to Security.” The Subcommittee received testimony from The Honorable John F. Kelly, Secretary of U.S. Department of Homeland Security; Mr. Steve C. McCraw, Director of Texas Department of Homeland Security; Mr. Joe Frank Martinez, Sheriff of Val Verde County, Texas; Mr. Leon N. Wilmot, Sheriff of Yuma County, Arizona; and The Honorable Eddie Treviño, Jr., County Judge of Cameron County, Texas.

On February 16, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “A Dangerous and Sophisticated Adversary: The Threat To The Homeland Posed By Cartel Operations.” The Committee received testimony from Vice Admiral Charles Ray, Deputy Commandant for Operations, U.S. Coast Guard; Chief Paul Beeson, Commander, Joint Task Force—West, Arizona; Mr. Matt Allen, Assistant Director for HSI Investigative

Programs, Homeland Security Investigations; Mr. Luis E. Arreaga, Principal Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs.

On July 25, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “Deter, Detect, and Interdict: Technology’s Role in Securing the Border.” The Subcommittee received testimony from Mr. Dennis J. Michelini, Acting Executive Director of Operations, Air and Marine Operations, U.S. Customs and Border Protection; Mr. Todd C. Owens, Executive Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection; Mr. Scott A. Luck, Acting Deputy Chief, U.S. Border Patrol; Ms. Rebecca Gambler, Director, Homeland Security and Justice, U.S. Government Accountability Office.

On November 14, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “Looking North: Assessing the Current Threat at the U.S.-Canada Border.” The Subcommittee received testimony from Mr. Michael Dougherty, Assistant Secretary for Border, Immigration, and Trade Policy, Office of Strategy, Policy, and Plans; Mr. Scott A. Luck, Acting Deputy Chief, U.S. Border Patrol; Mr. Kevin Kelly, Special Agent in Charge, U.S. Immigration and Customs Enforcement; and Dr. Michael Marchand, Chairman, Colville Business Council, National Congress of American Indians.

On March 15, 2018, the Subcommittee on Border and Maritime Security held a hearing entitled “Bang for the Border Security Buck: What do we get for \$33 Billion?” The Subcommittee received testimony from Ms. Claire M. Grady, Under Secretary for Management, Directorate for Management, U.S. Department of Homeland Security; Mr. Ronald D. Vitiello, Acting Deputy Commissioner, U.S. Customs and Border Protection; Ms. Rebecca Gambler, Director, Homeland Security and Justice, U.S. Government Accountability Office; Mr. Brandon Judd, National President, National Border Patrol Council; and Mr. Anthony M. Reardon, National President, National Treasury Employees Union.

COMMITTEE CONSIDERATION

The Committee met on September 14, 2018, to consider H.R. 6740 and ordered the measure to be reported to the House with a favorable recommendation, as amended, by unanimous consent. The Committee took the following actions:

The following amendments were offered:

An en bloc amendment offered by MR. VELA (#1); was AGREED TO by unanimous consent.

Consisting of the following amendments:

Page 3, line 16, insert “unnecessarily” after “not”.

Page 3, line 18, strike the closing quotes and the second period.

Page 3, beginning line 19, insert the following:

“(e) COORDINATION AMONG COMPONENTS.—The Secretary shall—

“(1) establish targets and performance measures for the Border Tunnel Task Forces that include consideration of whether border barriers impact cross-border tunnel threats;

“(2) direct leadership of each Border Tunnel Task Force to monitor progress on such targets and performance measures for each such task force; and

“(3) periodically report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate regarding progress on such targets and performance measures.”.

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. 6740.

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. 6740, the *Border Tunnel Task Force Act*, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

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. 6740 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The goal of this legislation is to authorize the creation of Border Tunnel Task Forces within the Department of Homeland Security.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 6740 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 ear-

marks, 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

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

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. 6740 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 6740 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 Tunnel Task Force Act”.

Sec. 2. Border tunnel detection

This section authorizes the Department of Homeland Security to establish Border Tunnel Task Forces in jurisdictions that can contribute to border security missions. Selected jurisdictions will be evaluated on whether there are significant cross-border threats and the availability of federal, state, local, and tribal agency resources to participate in such Border Tunnel Task Forces.

The purpose of the Border Tunnel Task Forces will be to enhance and integrate border security efforts by reducing cross-border tunnel threats. This will be accomplished through enhanced information-sharing with partner federal, state, local and tribal law enforcement agencies.

Personnel from U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, other DHS components, federal,

state, local, Tribal, and foreign agencies may be appointed to serve on Border Tunnel Task Forces. Lastly, DHS will ensure that establishment of a new Border Tunnel Task Force shall not duplicate other existing interagency task forces.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

* * * * *

TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

Subtitle A—Border, Maritime, and Transportation Security Responsibilities and Functions

Sec. 419. Customs user fees.

Sec. 420. *Border Tunnel Task Forces.*

* * * * *

TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

* * * * *

Subtitle B—U.S. Customs and Border Protection

* * * * *

SEC. 420. BORDER TUNNEL TASK FORCES.

(a) *ESTABLISHMENT.*—*The Secretary shall establish Border Tunnel Task Forces in jurisdictions in which such Border Tunnel Task Forces can contribute to border security missions after evaluating—*

(1) whether the areas in which such Border Tunnel Task Forces would be established are significantly impacted by cross-border threats; and

(2) the availability of Federal, State, local, and Tribal law enforcement resources to participate in such Border Tunnel Task Forces.

(b) *PURPOSE.*—*The purpose of the Border Tunnel Task Forces under subsection (a) is to enhance and integrate border security efforts by addressing and reducing cross-border tunnel related threats and violence by—*

(1) *facilitating collaboration among Federal, State, local, and Tribal law enforcement agencies to execute coordinated 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 BORDER TUNNEL TASK FORCES.*—*Border Tunnel Task Forces may be comprised of the following:*

(1) *Personnel from U.S. Customs and Border Protection, including the U.S. Border Patrol.*

(2) *Personnel from U.S. Immigration and Customs Enforcement, including Homeland Security Investigations.*

(3) *Personnel from other Department components and offices, as appropriate.*

(4) *Personnel from other Federal, State, local, and Tribal law enforcement agencies, as appropriate.*

(5) *Other appropriate personnel at the discretion of the Secretary.*

(d) *DUPLICATION OF EFFORTS.*—*In determining whether to establish a new Border Tunnel Task Force or to expand an existing Border Tunnel Task Force in a given jurisdiction, the Secretary shall ensure that the Border Tunnel Task Force under consideration does not unnecessarily duplicate the efforts of other existing interagency task forces or centers within such jurisdiction.*

(e) *COORDINATION AMONG COMPONENTS.*—*The Secretary shall—*

(1) *establish targets and performance measures for the Border Tunnel Task Forces that include consideration of whether border barriers impact cross-border tunnel threats;*

(2) *direct leadership of each Border Tunnel Task Force to monitor progress on such targets and performance measures for each such task force; and*

(3) *periodically report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate regarding progress on such targets and performance measures.*

* * * * *