

IMPROVING FUSION CENTERS' ACCESS TO INFORMATION  
 ACT

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. 2169]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 2169) to amend the Homeland Security Act of 2002 to enhance information sharing in the Department of Homeland Security State, Local, and Regional Fusion Center Initiative, 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 “Improving Fusion Centers’ Access to Information Act”.

**SEC. 2. ENHANCED INFORMATION SHARING IN THE DEPARTMENT OF HOMELAND SECURITY STATE, LOCAL, AND REGIONAL FUSION CENTER INITIATIVE.**

Subsection (b) of section 210A of the Homeland Security Act of 2002 (6 U.S.C. 124h) is amended—

(1) in paragraph (2), by inserting before the semicolon at the end the following: “and conduct outreach to such fusion centers to identify any gaps in information sharing and consult with other Federal agencies to develop methods to address such gaps, as appropriate”;

(2) by redesignating paragraphs (3) through (12) as paragraphs (4) through (13), respectively; and

(3) by inserting after paragraph (2) the following new paragraph:

“(3) identify Federal databases and datasets, including databases and datasets used, operated, or managed by Department components, the Federal Bureau of Investigation, and the Department of the Treasury, that are appropriate, in accordance with Federal laws and policies, to address any gaps identified pursuant to paragraph (2), for inclusion in the information sharing environment and coordinate with the appropriate Federal agency to deploy or access such databases and datasets;”.

**PURPOSE AND SUMMARY**

This bill amends Section 210A of the Homeland Security Act of 2002 (Pub. L. 107–296) which pertains to the Department of Homeland Security State, Local and Regional Fusion Center Initiative. The bill requires the Secretary to conduct outreach to fusion centers to proactively identify gaps in information sharing and coordinate with the appropriate Federal agency to deploy or provide access to these systems or information sources as appropriate.

**BACKGROUND AND NEED FOR LEGISLATION**

In the aftermath of the September 11, 2001 terrorist attacks, a number of information sharing failures through U.S. Government agencies were identified. In response, States and localities began to stand up fusion centers to coordinate Federal, State and local information sharing. Since then, fusion centers have become a significant conduit for sharing terrorism, homeland security, and criminal information with State, local, tribal, and territorial partners. The National Network of Fusion Centers, made up of 78 recognized fusion centers, has continued to mature into a national asset, but has struggled to gain access to information that will further enhance fusion centers’ abilities to detect and prevent terrorist attacks.

In 2007, Congress included language in the Implementing Recommendations of the 9/11 Commission Act (Pub. L. 110–53) to require the Department of Homeland Security (DHS) establish the Department of Homeland Security State, Local, and Regional Fusion Center Initiative to increase DHS support for fusion centers. Current law requires the Secretary of Homeland Security to “provide operational and intelligence advice,” “support efforts to include State, local and regional fusion centers into efforts to establish an information sharing environment,” and “serve as a point of contact to ensure the dissemination of information within the scope of the information sharing environment.”, among other requirements. Despite these existing requirements, the Committee has found that

the Department does not regularly assess if fusion centers have access to necessary information or data bases held by other Federal agencies.<sup>1</sup>

During the 114th Congress, the Counterterrorism and Intelligence Subcommittee held two hearings with State and local law enforcement representatives to receive testimony regarding gaps in Federal, State, and local information sharing. At both hearings, Members heard that State and local law enforcement officials and fusion centers did not have access to certain information and information systems, including those operated by the Federal Bureau of Investigation and the Department of Treasury. Witnesses mentioned several reasons, including personnel relationships and Federal policies, that continue to prevent State and local law enforcement and fusion centers from getting access to the information and information systems needed to keep their communities safe.

H.R. 2169, the Improving Fusion Centers' Access to Information Act, addresses this concern by requiring the Secretary to conduct outreach with the fusion centers to identify information sharing gaps and work with the appropriate Federal agencies to address these gaps. Additionally, the Secretary is required to identify Federal data bases and information systems that should be included in the information sharing environment and coordinate with the appropriate Federal agency to deploy such systems. In short, the bill requires the Department of Homeland Security to be an information sharing advocate on behalf of fusion centers.

#### HEARINGS

No hearings were held on H.R. 2169 in the 115th Congress.

#### COMMITTEE CONSIDERATION

The Committee met on May 3, 2017, to consider H.R. 2169, 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. 2169, as amended, by voice vote.

The following amendment was offered:

An amendment offered by MR. KATKO (#1); was AGREED TO by voice vote.

An amendment offered by Mr. Katko (#1); Page 2, beginning line 18, strike "information systems" and insert "datasets".

Page 2, line 19, strike "including systems" and insert "including databases and datasets".

Page 2, line 22, insert ", in accordance with Federal laws and policies, to address any gaps identified pursuant to paragraph (2)," after "appropriate".

Page 2, line 25, strike "systems" and insert "databases and datasets".

#### 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. 2169.

<sup>1</sup> This was confirmed most recently during a briefing with representatives from the Office of Intelligence and Analysis (I&A) and Committee staff on April 7, 2017.

## 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. 2169, the Improving Fusion Centers' Access to Information Act, 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. 2169, the Improving Fusion Centers' Access to Information Act.

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. 2169—Improving Fusion Centers' Access to Information Act*

H.R. 2169 would modify current laws relating to fusion centers, which are supported by the Department of Homeland Security (DHS); those centers facilitate information sharing among federal, state, and local authorities. The bill's provisions would aim to improve and expand communication. Because the department is currently carrying out activities similar to those required by the bill, CBO estimates that implementing H.R. 2169 would not have a significant effect on spending by DHS.

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. 2169 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2169 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. 2169 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The goal of this legislation is to strengthen information sharing with the State, Local, and Regional Fusion Centers by requiring the Secretary to identify gaps in information sharing and address such gaps and identify additional information that may be appropriately shared with such fusion centers.

#### DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 2169 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. 2169 does not preempt any State, local, or Tribal law.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 2169 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 “Improving Fusion Centers’ Access to Information Act”.

*Sec. 2. Enhanced Information Sharing in the Department of Homeland Security State, Local, and Regional Fusion Center Initiative.*

This section amends 210A(b) of the Homeland Security Act of 2002 (Pub. L. 107–296) to require the Secretary to conduct outreach to fusion centers to identify gaps in information sharing and consult with other federal agencies to develop methods to address these gaps. Additionally, this section requires the Secretary to identify Federal databases and data sets, including those operated by the Federal Bureau of Investigation and the Department of Treasury, that are appropriate for inclusion in the information sharing environment and requires the Secretary to coordinate with the appropriate Federal agency to provide access to these databases and data sets.

## 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 italic, and existing law in which no change is proposed is shown in roman):

**HOMELAND SECURITY ACT OF 2002**

\* \* \* \* \*

**TITLE II—INFORMATION ANALYSIS AND  
INFRASTRUCTURE PROTECTION****Subtitle A—Information and Analysis and  
Infrastructure Protection; Access to In-  
formation**

\* \* \* \* \*

**SEC. 210A. DEPARTMENT OF HOMELAND SECURITY STATE, LOCAL,  
AND REGIONAL FUSION CENTER INITIATIVE.**

(a) ESTABLISHMENT.—The Secretary, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Attorney General, the Privacy Officer of the Department, the Officer for Civil Rights and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall establish a Department of Homeland Security State,

Local, and Regional Fusion Center Initiative to establish partnerships with State, local, and regional fusion centers.

(b) DEPARTMENT SUPPORT AND COORDINATION.—Through the Department of Homeland Security State, Local, and Regional Fusion Center Initiative, and in coordination with the principal officials of participating State, local, or regional fusion centers and the officers designated as the Homeland Security Advisors of the States, the Secretary shall—

(1) provide operational and intelligence advice and assistance to State, local, and regional fusion centers;

(2) support efforts to include State, local, and regional fusion centers into efforts to establish an information sharing environment *and conduct outreach to such fusion centers to identify any gaps in information sharing and consult with other Federal agencies to develop methods to address such gaps, as appropriate;*

(3) *identify Federal databases and datasets, including databases and datasets used, operated, or managed by Department components, the Federal Bureau of Investigation, and the Department of the Treasury, that are appropriate, in accordance with Federal laws and policies, to address any gaps identified pursuant to paragraph (2), for inclusion in the information sharing environment and coordinate with the appropriate Federal agency to deploy or access such databases and datasets;*

[(3)] (4) conduct tabletop and live training exercises to regularly assess the capability of individual and regional networks of State, local, and regional fusion centers to integrate the efforts of such networks with the efforts of the Department;

[(4)] (5) coordinate with other relevant Federal entities engaged in homeland security-related activities;

[(5)] (6) provide analytic and reporting advice and assistance to State, local, and regional fusion centers;

[(6)] (7) review information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, that is gathered by State, local, and regional fusion centers, and to incorporate such information, as appropriate, into the Department's own such information;

[(7)] (8) provide management assistance to State, local, and regional fusion centers;

[(8)] (9) serve as a point of contact to ensure the dissemination of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information;

[(9)] (10) facilitate close communication and coordination between State, local, and regional fusion centers and the Department;

[(10)] (11) provide State, local, and regional fusion centers with expertise on Department resources and operations;

[(11)] (12) provide training to State, local, and regional fusion centers and encourage such fusion centers to participate in terrorism threat-related exercises conducted by the Department; and

[(12)] (13) carry out such other duties as the Secretary determines are appropriate.

(c) PERSONNEL ASSIGNMENT.—

(1) IN GENERAL.—The Under Secretary for Intelligence and Analysis shall, to the maximum extent practicable, assign officers and intelligence analysts from components of the Department to participating State, local, and regional fusion centers.

(2) PERSONNEL SOURCES.—Officers and intelligence analysts assigned to participating fusion centers under this subsection may be assigned from the following Department components, in coordination with the respective component head and in consultation with the principal officials of participating fusion centers:

- (A) Office of Intelligence and Analysis.
- (B) Office of Infrastructure Protection.
- (C) Transportation Security Administration.
- (D) United States Customs and Border Protection.
- (E) United States Immigration and Customs Enforcement.
- (F) United States Coast Guard.
- (G) Other components of the Department, as determined by the Secretary.

(3) QUALIFYING CRITERIA.—

(A) IN GENERAL.—The Secretary shall develop qualifying criteria for a fusion center to participate in the assigning of Department officers or intelligence analysts under this section.

(B) CRITERIA.—Any criteria developed under subparagraph (A) may include—

(i) whether the fusion center, through its mission and governance structure, focuses on a broad counterterrorism approach, and whether that broad approach is pervasive through all levels of the organization;

(ii) whether the fusion center has sufficient numbers of adequately trained personnel to support a broad counterterrorism mission;

(iii) whether the fusion center has—

(I) access to relevant law enforcement, emergency response, private sector, open source, and national security data; and

(II) the ability to share and analytically utilize that data for lawful purposes;

(iv) whether the fusion center is adequately funded by the State, local, or regional government to support its counterterrorism mission; and

(v) the relevancy of the mission of the fusion center to the particular source component of Department officers or intelligence analysts.

(4) PREREQUISITE.—

(A) INTELLIGENCE ANALYSIS, PRIVACY, AND CIVIL LIBERTIES TRAINING.—Before being assigned to a fusion center under this section, an officer or intelligence analyst shall undergo—

(i) appropriate intelligence analysis or information sharing training using an intelligence-led policing curriculum that is consistent with—

(I) standard training and education programs offered to Department law enforcement and intelligence personnel; and

(II) the Criminal Intelligence Systems Operating Policies under part 23 of title 28, Code of Federal Regulations (or any corresponding similar rule or regulation);

(ii) appropriate privacy and civil liberties training that is developed, supported, or sponsored by the Privacy Officer appointed under section 222 and the Officer for Civil Rights and Civil Liberties of the Department, in consultation with the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note); and

(iii) such other training prescribed by the Under Secretary for Intelligence and Analysis.

(B) PRIOR WORK EXPERIENCE IN AREA.—In determining the eligibility of an officer or intelligence analyst to be assigned to a fusion center under this section, the Under Secretary for Intelligence and Analysis shall consider the familiarity of the officer or intelligence analyst with the State, locality, or region, as determined by such factors as whether the officer or intelligence analyst—

(i) has been previously assigned in the geographic area; or

(ii) has previously worked with intelligence officials or law enforcement or other emergency response providers from that State, locality, or region.

(5) EXPEDITED SECURITY CLEARANCE PROCESSING.—The Under Secretary for Intelligence and Analysis—

(A) shall ensure that each officer or intelligence analyst assigned to a fusion center under this section has the appropriate security clearance to contribute effectively to the mission of the fusion center; and

(B) may request that security clearance processing be expedited for each such officer or intelligence analyst and may use available funds for such purpose.

(6) FURTHER QUALIFICATIONS.—Each officer or intelligence analyst assigned to a fusion center under this section shall satisfy any other qualifications the Under Secretary for Intelligence and Analysis may prescribe.

(d) RESPONSIBILITIES.—An officer or intelligence analyst assigned to a fusion center under this section shall—

(1) assist law enforcement agencies and other emergency response providers of State, local, and tribal governments and fusion center personnel in using information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, to develop a comprehensive and accurate threat picture;

(2) review homeland security-relevant information from law enforcement agencies and other emergency response providers of State, local, and tribal government;

(3) create intelligence and other information products derived from such information and other homeland security-relevant information provided by the Department; and

(4) assist in the dissemination of such products, as coordinated by the Under Secretary for Intelligence and Analysis, to law enforcement agencies and other emergency response providers of State, local, and tribal government, other fusion centers, and appropriate Federal agencies.

(e) BORDER INTELLIGENCE PRIORITY.—

(1) IN GENERAL.—The Secretary shall make it a priority to assign officers and intelligence analysts under this section from United States Customs and Border Protection, United States Immigration and Customs Enforcement, and the Coast Guard to participating State, local, and regional fusion centers located in jurisdictions along land or maritime borders of the United States in order to enhance the integrity of and security at such borders by helping Federal, State, local, and tribal law enforcement authorities to identify, investigate, and otherwise interdict persons, weapons, and related contraband that pose a threat to homeland security.

(2) BORDER INTELLIGENCE PRODUCTS.—When performing the responsibilities described in subsection (d), officers and intelligence analysts assigned to participating State, local, and regional fusion centers under this section shall have, as a primary responsibility, the creation of border intelligence products that—

(A) assist State, local, and tribal law enforcement agencies in deploying their resources most efficiently to help detect and interdict terrorists, weapons of mass destruction, and related contraband at land or maritime borders of the United States;

(B) promote more consistent and timely sharing of border security-relevant information among jurisdictions along land or maritime borders of the United States; and

(C) enhance the Department's situational awareness of the threat of acts of terrorism at or involving the land or maritime borders of the United States.

(f) DATABASE ACCESS.—In order to fulfill the objectives described under subsection (d), each officer or intelligence analyst assigned to a fusion center under this section shall have appropriate access to all relevant Federal databases and information systems, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment for the implementation and management of that environment.

(g) CONSUMER FEEDBACK.—

(1) IN GENERAL.—The Secretary shall create a voluntary mechanism for any State, local, or tribal law enforcement officer or other emergency response provider who is a consumer of the intelligence or other information products referred to in subsection (d) to provide feedback to the Department on the quality and utility of such intelligence products.

(2) REPORT.—Not later than one year after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and annually thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that includes a description of the consumer feedback obtained under paragraph (1) and, if applicable, how the Department has adjusted its production of intelligence products in response to that consumer feedback.

(h) RULE OF CONSTRUCTION.—

(1) IN GENERAL.—The authorities granted under this section shall supplement the authorities granted under section 201(d) and nothing in this section shall be construed to abrogate the authorities granted under section 201(d).

(2) PARTICIPATION.—Nothing in this section shall be construed to require a State, local, or regional government or entity to accept the assignment of officers or intelligence analysts of the Department into the fusion center of that State, locality, or region.

(i) GUIDELINES.—The Secretary, in consultation with the Attorney General, shall establish guidelines for fusion centers created and operated by State and local governments, to include standards that any such fusion center shall—

(1) collaboratively develop a mission statement, identify expectations and goals, measure performance, and determine effectiveness for that fusion center;

(2) create a representative governance structure that includes law enforcement officers and other emergency response providers and, as appropriate, the private sector;

(3) create a collaborative environment for the sharing of intelligence and information among Federal, State, local, and tribal government agencies (including law enforcement officers and other emergency response providers), the private sector, and the public, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment;

(4) leverage the databases, systems, and networks available from public and private sector entities, in accordance with all applicable laws, to maximize information sharing;

(5) develop, publish, and adhere to a privacy and civil liberties policy consistent with Federal, State, and local law;

(6) provide, in coordination with the Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department, appropriate privacy and civil liberties training for all State, local, tribal, and private sector representatives at the fusion center;

(7) ensure appropriate security measures are in place for the facility, data, and personnel;

(8) select and train personnel based on the needs, mission, goals, and functions of that fusion center;

(9) offer a variety of intelligence and information services and products to recipients of fusion center intelligence and information; and

(10) incorporate law enforcement officers, other emergency response providers, and, as appropriate, the private sector, into all relevant phases of the intelligence and fusion process, consistent with the mission statement developed under paragraph (1), either through full time representatives or liaison relationships with the fusion center to enable the receipt and sharing of information and intelligence.

(j) DEFINITIONS.—In this section—

(1) the term “fusion center” means a collaborative effort of 2 or more Federal, State, local, or tribal government agencies that combines resources, expertise, or information with the goal of maximizing the ability of such agencies to detect, prevent, investigate, apprehend, and respond to criminal or terrorist activity;

(2) the term “information sharing environment” means the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485);

(3) the term “intelligence analyst” means an individual who regularly advises, administers, supervises, or performs work in the collection, gathering, analysis, evaluation, reporting, production, or dissemination of information on political, economic, social, cultural, physical, geographical, scientific, or military conditions, trends, or forces in foreign or domestic areas that directly or indirectly affect national security;

(4) the term “intelligence-led policing” means the collection and analysis of information to produce an intelligence end product designed to inform law enforcement decision making at the tactical and strategic levels; and

(5) the term “terrorism information” has the meaning given that term in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 for each of fiscal years 2008 through 2012, to carry out this section, except for subsection (i), including for hiring officers and intelligence analysts to replace officers and intelligence analysts who are assigned to fusion centers under this section.

\* \* \* \* \*

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