

Calendar No. 588

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
117-229 }

TRANSNATIONAL CRIMINAL INVESTIGATIVE
UNIT STIPEND ACT

—
R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4326

TO AUTHORIZE THE DIRECTOR OF U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT TO PAY STIPENDS TO
MEMBERS OF TRANSNATIONAL CRIMINAL INVESTIGATIVE
UNITS WHO HAVE BEEN PROPERLY VETTED



DECEMBER 5, 2022.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

39-010

WASHINGTON : 2022

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

GARY C. PETERS, Michigan, *Chairman*

THOMAS R. CARPER, Delaware	ROB PORTMAN, Ohio
MAGGIE HASSAN, New Hampshire	RON JOHNSON, Wisconsin
KYRSTEN SINEMA, Arizona	RAND PAUL, Kentucky
JACKY ROSEN, Nevada	JAMES LANKFORD, Oklahoma
ALEX PADILLA, California	MITT ROMNEY, Utah
JON OSSOFF, Georgia	RICK SCOTT, Florida
	JOSH HAWLEY, Missouri

DAVID M. WEINBERG, *Staff Director*

ZACHARY I. SCHRAM, *Chief Counsel*

CHRISTOPHER J. MULKINS, *Director of Homeland Security*

SARAH C. PIERCE, *Senior Counsel*

KATIE A. CONLEY, *Professional Staff Member*

PAMELA THIESSEN, *Minority Staff Director*

SAM J. MULOPULOS, *Minority Deputy Staff Director*

JEREMY H. HAYES, *Minority Senior Professional Staff Member*

LAURA W. KILBRIDE, *Chief Clerk*

Calendar No. 588

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 117-229

TRANSNATIONAL CRIMINAL INVESTIGATIVE UNIT
STIPEND ACT

DECEMBER 5, 2022.—Ordered to be printed

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

R E P O R T

[To accompany S. 4326]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4326) to authorize the Director of U.S. Immigration and Customs Enforcement to pay stipends to members of Transnational Criminal Investigative Units who have been properly vetted, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	3
IV. Section-by-Section Analysis of the Bill, as Reported	3
V. Evaluation of Regulatory Impact	4
VI. Congressional Budget Office Cost Estimate	4
VII. Changes in Existing Law Made by the Bill, as Reported	7

I. PURPOSE AND SUMMARY

S. 4326, the *Transnational Criminal Investigative Unit Stipend Act*, authorizes the Director of U.S. Immigration and Customs Enforcement (ICE) to pay stipends to members of Transnational Criminal Investigative Units (TCIUs). This bill is intended to enhance the Department of Homeland Security’s (DHS), Homeland Security Investigations (HSI) efforts to combat to interdict drugs and precursors abroad by authorizing HSI to operate TCIUs and to

pay monetary stipends to participating vetted foreign law enforcement officials that facilitate information exchange and bilateral investigations of transnational crime, including drug smuggling.

II. BACKGROUND AND THE NEED FOR LEGISLATION

On September 27, 2011, HSI established the TCIU Program to act as a force multiplier in the fight against transnational criminal organizations.¹ TCIUs are comprised of foreign law enforcement officials and prosecutors who receive extensive training at U.S. based law enforcement training centers. These officials must also undergo a strict vetting process prior to engaging in rapid bilateral investigations of various programmatic areas including weapons trafficking and counter-proliferation, money laundering and bulk cash smuggling, human smuggling and trafficking, narcotics trafficking, and many other violations of law within HSI's investigative purview.

There are over 500 vetted and trained foreign law enforcement officers in 13 countries that comprise the 12 TCIUs and two International Task Forces, which include personnel from multiple countries working together to combat transnational crime.² TCIUs further the ICE HSI mission by investigating and prosecuting individuals involved in transnational criminal activity that pose continuing threats to the homeland security of the United States. TCIUs identify targets, collect evidence, share intelligence, and facilitate the prosecution of transnational criminal organizations (TCOs) both in-country and through the U.S. judicial system. For example, in Mexico in fiscal year (FY) 2021, "the HSI Mexico TCIU made approximately 100 arrests; seized 3 million USD; 4,300 pounds of cocaine; 350 pounds of fentanyl; 717,000 pounds of drug precursor chemicals, and 58,000 pounds of other drugs."³

The FY 2022 Appropriations Bill, as well as previous appropriations bills, authorize ICE to fund "overseas vetted units," to include paying for training, equipment, vetting requirements and other operational expenses.⁴ However, this authority does not specifically authorize ICE to pay TCIU members a salary supplement, nor does it specify the role of the TCIUs in carrying out HSI's mission to combat transnational organized crime. This limitation differs from other U.S. federal law enforcement agencies, such as the Drug Enforcement Administration (DEA), which have been granted the authority by the Congress to provide salary supplements to overseas vetted units.^{5 6}

While host foreign countries will remain responsible for paying the salaries of TCIU personnel, salary supplements are important for HSI to recruit and retain the highest caliber foreign law enforcement officials. TCIUs perform an important role in HSI's abil-

¹ United States House of Representatives Committee on Homeland Security; Subcommittee on Border Security, Facilitation, and Operations; Testimony Submitted for the Record of Assistant Director Steven W. Cagen, Homeland Security Investigations, Hearing on *Examining DHS's Efforts to Combat the Opioid Epidemic*, 117th Cong. (May 18, 2022) (H.R. Hrg. 117-124).

² *Id.*

³ *Id.*

⁴ Consolidated Appropriations Act, 2021 Pub. L. 116-260, Sec. 9, Division F, Title II (December 27, 2020).

⁵ Omnibus Consolidated Appropriations Act of 1997, Pub. L. 104-208 (September 30, 1996).

⁶ House of Representatives, Departments of Commerce, Justice, and State, the Judiciary, and related agencies Appropriations Bill, Fiscal Year 1997, 104th Cong. (Report 104-676) (July 16, 1996).

ity to disrupt and dismantle TCOs that pose a direct threat to U.S. border security. The current inability for HSI to provide salary supplements has resulted in a high turnover rate as TCIU personnel seek employment opportunities that offer higher compensation or choose to work with other agencies such as DEA, which has the authority to pay salary supplements. Given the time and fiscal resources required to recruit, vet, and train new TCIU members and the need for continuity to bring long-term, complex investigations to a successful conclusion, the current high turnover rate is detrimental to HSI's efforts to combat TCOs.

III. LEGISLATIVE HISTORY

Senator Portman (R–OH), along with Senator Hassan (D–NH), introduced S. 4326, *Transnational Criminal Investigative Unit Stipend Act*, on May 26, 2022. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4326 at a business meeting on August 3, 2022. During the business meeting, an amendment, as modified, was offered by Senator Scott and adopted by voice vote *en bloc*. The amendment requires the Director of ICE to provide an annual unclassified briefing for a 5-year period upon enactment to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House, that identifies the number of vetted members of TCIUs in each country; the amount paid in stipends to such members, disaggregated by country; and relevant enforcement statistics, such as arrests and progress made on joint investigations, in each such country. The amendment also provides for a classified briefing, if necessary, to ensure the Committees are provided any necessary classified information.

The bill, as amended, was ordered reported favorably by voice vote *en bloc*. Senators present for the vote were: Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley.

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

Section 1. Short title

This section cites the short title as the “Transnational Criminal Investigative Unit Stipend Act”.

Section 2. Homeland Security Investigations Transnational Criminal Investigative Units

This section amends Section H of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 451 et seq.) by adding the following:

Subsection (a) authorizes the Secretary of the Department of Homeland Security to operate TCIUs through ICE, HSI.

Subsection (b) authorizes TCIUs to be composed of trained foreign law enforcement officials who shall collaborate with HSI to investigate and prosecute individuals.

Subsection (c) requires TCIU foreign law enforcement officials to pass security evaluations, which may include a background check, a polygraph examination, a urinalysis test, and other various security evaluations as determined necessary by the Director of ICE. This section also requires the Director to report to the Committee

on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives on the procedures used for the vetting of these members and if any additional measures should be implemented to prevent personnel in vetted units from being compromised by criminal organizations.

Subsection (d) authorizes the Director of ICE to pay TCIU members a monetary stipend for the work conducted in furtherance of their unit duties.

Subsection (e) requires the Director of ICE for a five-year period following enactment of the bill to provide Congress with a briefing on the number of TCIU members located in each country, the amount of stipends paid, and relevant enforcement statistics.

This section also provides a clerical amendment to the table of contents for the Homeland Security Act of 2002 (6 U.S.C. note) by inserting "Sec. 890C. Transnational Criminal Investigative Units."

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 9, 2022.

Hon. GARY C. PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed table summarizing estimated budgetary effects and mandates information for some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress.

If you wish further details, we will be pleased to provide them. The CBO staff contact for each estimate is listed on the enclosed table.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

SUMMARY ESTIMATES OF LEGISLATION ORDERED REPORTED

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as

much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation's estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION

Bill number	Title	Status	Last action	Budget function	Direct spending, 2023-2032	Revenues, 2023-2032	Spending subject to appropriation, 2023-2027	Pay-as-you-go procedures apply?	Increases on-budget deficits beginning in 2033?	Mandates	Contact
S. 4326	Transnational Criminal Investigative Unit Suspend Act	Ordered reported	08/03/22	750	0	0	Not estimated	No	No	No	Jeremy Crimm

S. 4326 would authorize Immigration and Customs Enforcement (ICE) to operate Transnational Criminal Investigative Units (TCIUs)—teams of foreign law enforcement officials working with ICE to investigate and prosecute individuals involved in transnational criminal activity. The bill also would authorize ICE to pay stipends to TCIU members. CBO estimates that enacting S. 4326 would not affect direct spending or revenues. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

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):

HOMELAND SECURITY ACT OF 2002**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) * * *

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

* * * * *

Sec. 890B. Homeland Security critical domain research and development.

Sec. 890C. *Transnational Criminal Investigative Units.*

* * * * *

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

* * * * *

Subtitle H—Miscellaneous Provisions

* * * * *

SEC. 890C. TRANSNATIONAL CRIMINAL INVESTIGATIVE UNITS.

(a) *IN GENERAL.*—The Secretary shall operate Transnational Criminal Investigative Units within United States Immigration and Customs Enforcement, Homeland Security Investigations.

(b) *COMPOSITION.*—Each Transnational Criminal Investigative Unit shall be composed of trained foreign law enforcement officials who shall collaborate with Homeland Security Investigations to investigate and prosecute individuals involved in transnational criminal activity.

(c) *VETTING REQUIREMENT.*—

(1) *IN GENERAL.*—Upon entry into a Transnational Criminal Investigative Unit, and at periodic intervals while serving in such a unit, foreign law enforcement officials shall be required to pass certain security evaluations, which may include a background check, a polygraph examination, a urinalysis test, or other measures that the Director of U.S. Immigration and Customs Enforcement determines to be appropriate.

(2) *REPORT.*—The Director of U.S. Immigration and Customs Enforcement shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the

Committee on Homeland Security of the House of Representatives that describes—

(A) the procedures used for vetting Transnational Criminal Investigative Unit members; and

(B) any additional measures that should be implemented to prevent personnel in vetted units from being compromised by criminal organizations.

(d) MONETARY STIPEND.—The Director of U.S. Immigration and Customs Enforcement is authorized to pay vetted members of a Transnational Criminal Investigative Unit a monetary stipend in an amount associated with their duties dedicated to unit activities.

(e) ANNUAL BRIEFING.—The Director of U.S. Immigration and Customs Enforcement, during the 5-year period beginning on the date of the enactment of this Act, shall provide an annual unclassified briefing to the congressional committees referred to in subsection (c)(2), which may include a classified session, if necessary, that identifies—

(1) the number of vetted members of Transnational Criminal Investigative Unit in each country;

(2) the amount paid in stipends to such members, disaggregated by country; and

(3) relevant enforcement statistics, such as arrests and progress made on joint investigations, in each such country.

* * * * *