



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

December 5, 2013

H.R. 2278 **Strengthen and Fortify Enforcement Act**

As ordered reported by the House Committee on the Judiciary on June 18, 2013

SUMMARY

H.R. 2278 would authorize the appropriation of funds for: additional personnel and equipment for the Department of Homeland Security (DHS); grants to state and local governments to cover costs relating to inadmissible aliens; certain activities of the Department of State; and other programs to improve enforcement of U.S. immigration laws. The bill also would increase penalties and fines for certain violations of immigration law.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 2278 would cost \$22.9 billion over the 2014-2018 period. CBO estimates that enacting the bill would increase direct spending by \$8 million and increase revenues by \$17 million over the 2014-2023 period, thereby decreasing the deficit through those changes by \$9 million. Because the legislation would affect direct spending and revenues, pay-as-you-go procedures apply.

H.R. 2278 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) on educational institutions by requiring background checks and training under some circumstances. In addition, the bill would impose intergovernmental mandates on state and local governments by requiring information sharing. The bill would impose other mandates on entities in the private sector that include flight schools, educational accrediting associations, foreign students, and other individuals. CBO estimates that the aggregate costs of the mandates would fall below the annual thresholds for intergovernmental and private-sector mandates established in UMRA (\$75 million and \$150 million in 2013, respectively, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2278 is shown in the following table. The costs of this legislation fall within budget functions 150 (international affairs) and 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars					2014- 2018
	2014	2015	20165	2017	2018	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Additional DHS Personnel, Equipment, and Compensation						
Estimated Authorization Level	418	929	1,328	1,365	1,403	5,442
Estimated Outlays	391	929	1,328	1,369	1,403	5,417
Grants to State and Local Governments						
Estimated Authorization Level	3,594	4,226	4,226	4,226	4,226	20,497
Estimated Outlays	791	2,008	3,276	4,112	4,226	14,412
Department of State						
Estimated Authorization Level	432	592	609	628	648	2,909
Estimated Outlays	432	592	609	628	648	2,909
Expand Visa Security Program						
Estimated Authorization Level	60	60	0	0	0	120
Estimated Outlays	48	60	12	0	0	120
Other Programs						
Estimated Authorization Level	5	0	0	0	0	5
Estimated Outlays	3	2	0	0	0	5
Total Changes						
Estimated Authorization Level	4,509	5,807	6,162	6,218	6,277	28,973
Estimated Outlays	1,665	3,592	5,224	6,105	6,277	22,863
CHANGES IN DIRECT SPENDING^a						
Estimated Budget Authority	*	1	1	1	1	4
Estimated Outlays	*	*	1	1	1	3
CHANGES IN REVENUES^a						
Estimated Revenues	*	1	2	2	2	7
NET DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES^a						
Impact on the Deficit	*	-1	-1	-1	-1	-4

Notes: DHS = Department of Homeland Security; * = less than \$500,000.

Components may not sum to totals because of rounding.

a. Over the 2014-2023 period, CBO estimates that enacting H.R. 2278 would increase direct spending by \$8 million, increase revenues by \$17 million, and thus decrease the deficit by \$9 million.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the end of 2013, that the necessary amounts will be provided each year, and that spending will follow historical spending patterns for activities related to the enforcement of immigration laws.

Spending Subject to Appropriation

Additional DHS Personnel, Equipment, and Compensation. H.R. 2278 would direct Immigration and Customs Enforcement (ICE) in DHS to hire the following additional personnel:

- 5,000 deportation officers;
- 700 support staff; and
- 60 trial attorneys in the Office of the Principal Legal Advisor.

The legislation would require ICE to provide handguns, rifles, and tasers for its deportation officers and immigration enforcement agents. The bill also would increase salaries and benefits for immigration enforcement agents to match those paid to deportation officers. Based on information from DHS about the costs of equipment and additional personnel, including salaries, benefits, training, and support activities, CBO estimates that implementing those provisions would cost about \$5.4 billion (primarily for salaries) over the 2014-2018 period.

Grants to State and Local Governments. CBO estimates that the grants to state and local governments authorized by H.R. 2278 would require additional appropriations of about \$3.6 billion for the remainder of fiscal year 2014 and about \$4.2 billion annually thereafter. We estimate that spending of those appropriations would sum to \$14.4 billion over the 2014-2018 period.

State Criminal Alien Assistance Program (SCAAP) Grants. H.R. 2278 would authorize the appropriation of the necessary amounts for fiscal year 2014 and subsequent years for the SCAAP program, which makes grants to state and local governments to cover the portion of salaries of state and local correctional officers related to the incarceration of undocumented aliens *convicted* of certain crimes. The legislation also would transfer the program from the Department of Justice (DOJ) to DHS and would expand it to cover costs of detaining aliens *charged* with certain crimes.

In recent years, the amounts appropriated for SCAAP have fallen far short of the amounts requested by states. In fiscal year 2013, \$250 million was appropriated for SCAAP although DOJ anticipates that state and local governments will request about \$1.4 billion for costs incurred that year. Based on that expected request, CBO estimates that appropriations of \$1.2 billion would be needed for the remainder of fiscal year 2014 and

around \$1.6 billion annually thereafter would be required to extend and expand the program as provided by H.R. 2278.

Grants for Incarceration and Transportation Costs. The bill would permit states and localities to seek reimbursement from DHS for any costs relating to the incarceration and transportation of inadmissible or deportable aliens. The SCAAP program currently covers only the costs of state and local correctional officers, and we estimate that DHS would need additional appropriations of \$1.9 billion for the remainder of fiscal year 2014 and \$2.5 billion annually thereafter to reimburse state and local governments for all incarceration and transportation expenses. This estimate is based on a 2004 DOJ study on the costs of operating state detention facilities (including personnel, food, supplies, health care, and utilities) that indicates that expenses for correctional officers represent roughly 40 percent of total detention costs.

Grants for Equipment, Technology, Facilities, and Other Costs. In addition, H.R. 2278 would authorize DHS to make grants to certain state and local governments to procure equipment, technology, facilities, and other items related to investigating, arresting, detaining, and transporting inadmissible or deportable aliens. Based on the costs of similar programs that award grants for multiple purposes to jurisdictions across the country (such as DOJ's Byrne program), we estimate that DHS would require funding of \$500 million in 2014 and \$100 million annually thereafter to make grants to hundreds of state and local entities that would be eligible for such assistance under the bill's provisions. This estimate assumes that most procurement costs would be initiated in 2014.

Department of State. H.R. 2278 would amend current law authorizing the Department of State to collect and retain surcharges on passports and immigrant visas to cover the costs of certain border security functions. Under the bill, the department would no longer have the authority to collect or retain surcharges on passports, and the surcharge on immigrant visas would instead be retained by ICE and spent on the Visa Security Program.

Based on information from the Department of State, CBO estimates that the department would be unable to raise other consular fees to compensate for the lost collections under the bill and the department would require additional appropriations of \$432 million in 2014. After adjusting for anticipated inflation, CBO estimates that the department would spend about \$2.9 billion over the 2014-2018 period on border security functions that are currently offset by fee collections, assuming appropriation of the necessary amounts.

Expand Visa Security Program. H.R. 2278 would specifically authorize the appropriation of \$60 million for each of fiscal years 2014 and 2015 for DHS to review visa applications at designated overseas locations. We estimate that implementing this provision would cost \$120 million over the 2014-2016 period.

Other Programs. H.R. 2278 would direct DHS to carry out several other activities, including a pilot program to test electronic processing of deportation documents and an effort to increase states' access to federal program information to identify inadmissible aliens. Based on the cost of similar activities, CBO estimates that it would cost about \$5 million over the 2014-2015 period to carry out those provisions.

Direct Spending

H.R. 2278 would establish new criminal penalties for being unlawfully present in the United States. Any collections of criminal fines under this provision (which are recorded in the budget as revenues and discussed below) would later be spent from the Crime Victims Fund by DOJ. CBO estimates that spending from the fund would increase by \$9 million over the 2014-2023 period (about \$1 million each year).

Revenues

CBO estimates that enacting H.R. 2278 would increase collections of criminal and civil fines by \$17 million over the 2014-2023 period. About half of the additional revenue would result from changes made to the process for imposing civil penalties for violations of voluntary departure orders. The remainder would result from new criminal penalties imposed on individuals who knowingly are unlawfully present in the United States. Collections of criminal fines are recorded in the budget as revenues, deposited in the Crime Victims Fund, and subsequently spent without further appropriation (discussed above under Direct Spending).

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 2278 as ordered reported by the House Committee on the Judiciary on June 18, 2013

	By Fiscal Year, in Millions of Dollars											
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2014-2018	2014-2023
NET INCREASE OR DECREASE (-) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-9
Memorandum:												
Changes in Outlays	0	0	1	1	1	1	1	1	1	1	3	8
Changes in Revenues	0	1	2	2	2	2	2	2	2	2	7	17

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 2278 would impose intergovernmental and private-sector mandates as defined in UMRA. CBO estimates that the aggregate costs of the mandates would fall below the annual thresholds for intergovernmental and private-sector mandates established in UMRA (\$75 million and \$150 million in 2013, respectively, adjusted annually for inflation).

Mandates that Apply to Both Public and Private Entities

The bill would require educational institutions that participate in the Student and Exchange Visitor Program (SEVP) to conduct background checks and training for individuals serving as designated school officials and others who have been granted access to the Student and Exchange Visitor Information System (SEVIS). Information from the Department of Homeland Security indicates that approximately 35,000 individuals would be required to complete background checks in the first year of implementation at a cost of \$100 to \$250 per background check. Based on that information, CBO estimates that the cost for both public and private entities to comply with this mandate would total between \$3.5 million and \$8.8 million in the first year. The cost in the following years would depend on the turnover of designated school officials. Based on information from DHS, CBO estimates that the cost for the online SEVP training would be small.

In addition, educational institutions would be required to report any changes to specific information about those foreign students to SEVIS within 10 days and to have at least one designated school official for every 200 students who have nonimmigrant status. Currently, institutions have 21 days to report any such change or modification and most schools meet the requirement for the number of school officials. CBO estimates that the cost to comply with those mandates would be minimal.

Mandates that Apply to Public Entities Only

The bill would require state and local governments to provide DHS information about apprehended individuals whom law enforcement officials believe are inadmissible or deportable. Governments would have to provide DHS the individual's name and address, a physical description, details of apprehension, identification documents and vehicle information (if applicable), and a photo and fingerprints (if readily available). Based on information from public entities, CBO expects that the number of individuals about whom information would need to be sent would be small. We also expect that states would collect the required information during the normal apprehension process and that the cost to transmit the data would be minimal. The bill would require DHS to reimburse state and local governments for the cost of providing the information.

Mandates that Apply to Private Entities Only

Flight Schools. The bill would require flight schools in the United States to be certified by the Federal Aviation Administration (FAA) in order to participate in the SEVP program and enroll foreign students. Foreign students interested in studying in the United States must first be admitted to a school or university before applying for a visa at a U.S. embassy or consulate overseas. According to information from the FAA and DHS, most flight schools interested in participating in SEVP either already have an FAA certification or are in the process of obtaining one. Therefore, CBO expects that the cost to comply with this mandate would be minimal.

Educational Accrediting Associations. In addition, the bill would require an agency or association that accredits certain higher-education institutions to notify DHS if an educational institution is denied accreditation or if accreditation is suspended, withdrawn, or terminated. CBO estimates that the cost to comply with this notification requirement would be small.

Individuals. The bill would impose additional mandates on foreign students and other individuals in the private sector, including the following:

- Certain students with F-visas who are currently in the United States would be required to attend accredited institutions;
- Foreign-born individuals in the United States would be prohibited from seeking judicial review if their visa is revoked, which would eliminate an existing right of action;
- Individuals in the United States who have been convicted of certain sex offenses would be prohibited from petitioning for relatives to be granted a U.S. visa.

On the basis of information from DHS, the Department of State, and representatives of an education association about the limited costs of complying with each of those mandates, CBO expects that the total cost of compliance would be small.

Other Impacts

Assuming appropriation of the authorized and estimated amounts, state and local governments would receive about \$35 billion over the 2014-2023 period for costs related to investigating, detaining, transporting, and incarcerating inadmissible or deportable aliens.

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