

113TH CONGRESS
1ST SESSION

H. R. 3753

To provide emergency funding for port of entry personnel and infrastructure.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2013

Mr. O'ROURKE (for himself, Mr. VELA, Mr. CUELLAR, Mr. GALLEGO, Mr. MICHAUD, and Mr. BARBER) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Ways and Means, Appropriations, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide emergency funding for port of entry personnel
and infrastructure.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Port of
5 Entry Personnel and Infrastructure Funding Act of
6 2013”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the General
3 Services Administration.

4 (2) COMMISSIONER.—The term “Commis-
5 sioner” means the Commissioner of U.S. Customs
6 and Border Protection.

7 (3) NORTHERN BORDER.—The term “Northern
8 border” means the international border between the
9 United States and Canada.

10 (4) SECRETARY.—The term “Secretary” means
11 the Secretary of Homeland Security.

12 (5) SOUTHERN BORDER.—The term “Southern
13 border” means the international border between the
14 United States and Mexico.

15 **SEC. 3. U.S. CUSTOMS AND BORDER PROTECTION PER-**
16 **SONNEL.**

17 (a) STAFF ENHANCEMENTS.—

18 (1) AUTHORIZATION.—In addition to positions
19 authorized before the date of the enactment of this
20 Act and any existing officer vacancies within U.S.
21 Customs and Border Protection on such date, the
22 Secretary, subject to the availability of appropria-
23 tions for such purpose, shall hire, train, and assign
24 to duty, by not later than September 30, 2019—

1 (A) 5,000 full-time U.S. Customs and Bor-
2 der Protection officers to serve on all inspection
3 lanes (primary, secondary, incoming, and out-
4 going) and enforcement teams at United States
5 land ports of entry on the Northern border and
6 the Southern border; and

7 (B) 350 full-time support staff for all
8 United States ports of entry.

9 (2) WAIVER OF FTE LIMITATION.—The Sec-
10 retary may waive any limitation on the number of
11 full-time equivalent personnel assigned to the De-
12 partment of Homeland Security in order to carry
13 out paragraph (1).

14 (b) REPORTS TO CONGRESS.—

15 (1) OUTBOUND INSPECTIONS.—Not later than
16 90 days after the date of the enactment of this Act,
17 the Secretary shall submit a report containing the
18 Department of Homeland Security’s plans for ensur-
19 ing the placement of sufficient U.S. Customs and
20 Border Protection officers on outbound inspections,
21 and adequate outbound infrastructure, at all South-
22 ern border land ports of entry to—

23 (A) the Committee on the Judiciary of the
24 Senate;

1 (B) the Committee on the Judiciary of the
2 House of Representatives;

3 (C) the Committee on Homeland Security
4 and Governmental Affairs of the Senate; and

5 (D) the Committee on Homeland Security
6 of the House of Representatives.

7 (2) SUFFICIENT AGRICULTURAL SPECIALISTS
8 AND PERSONNEL.—Not later than 90 days after the
9 date of the enactment of this Act, the Secretary, in
10 consultation with the Secretary of Agriculture and
11 the Secretary of Health and Human Services, shall
12 submit a report to the committees set forth in para-
13 graph (1) that contains each department’s plans for
14 ensuring the placement of sufficient U.S. Customs
15 and Border Protection agriculture specialists, Ani-
16 mal and Plant Health Inspection Service ento-
17 mologist identifier specialists, Food and Drug Ad-
18 ministration consumer safety officers, and other rel-
19 evant and related personnel at all Southern border
20 land ports of entry.

21 (3) ANNUAL IMPLEMENTATION REPORT.—Not
22 later than 1 year after the date of the enactment of
23 this Act, and annually thereafter, the Secretary shall
24 submit a report to the committees set forth in para-
25 graph (1) that—

1 (A) details the Department of Homeland
2 Security's implementation plan for the staff en-
3 hancements required under subsection
4 (a)(1)(A);

5 (B) includes the number of additional per-
6 sonnel assigned to duty at land ports of entry,
7 classified by location;

8 (C) describes the methodology used to de-
9 termine the distribution of additional personnel
10 to address northbound and southbound cross-
11 border inspections; and

12 (D) includes—

13 (i) the strategic plan required under
14 section 5(a)(1);

15 (ii) the model required under section
16 5(b), including the underlying assump-
17 tions, factors, and concerns that guide the
18 decisionmaking and allocation process; and

19 (iii) the new outcome-based perform-
20 ance measures adopted under section
21 5(c)(1).

22 (c) SECURE COMMUNICATION.—The Secretary shall
23 ensure that each U.S. Customs and Border Protection of-
24 ficer is equipped with a secure 2-way communication and
25 satellite-enabled device, supported by system interoper-

1 ability, that allows U.S. Customs and Border Protection
2 officers to communicate—

3 (1) between ports of entry and inspection sta-
4 tions; and

5 (2) with other Federal, State, tribal, and local
6 law enforcement entities.

7 (d) BORDER AREA SECURITY INITIATIVE GRANT
8 PROGRAM.—The Secretary shall establish a program for
9 awarding grants for the purchase of—

10 (1) identification and detection equipment; and

11 (2) mobile, hand-held, 2-way communication de-
12 vices for State and local law enforcement officers
13 serving on the Southern border.

14 (e) PORT OF ENTRY INFRASTRUCTURE IMPROVE-
15 MENTS.—The Commissioner may aid in the enforcement
16 of Federal customs, immigration, and agriculture laws
17 by—

18 (1) designing, constructing, and modifying—

19 (A) United States ports of entry;

20 (B) living quarters for officers, agents, and
21 personnel;

22 (C) technology and equipment, including
23 those deployed in support of standardized and
24 automated collection of vehicular travel time;
25 and

1 (D) other structures and facilities, includ-
2 ing those owned by municipalities, local govern-
3 ments, or private entities located at land ports
4 of entry;

5 (2) acquiring, by purchase, donation, exchange,
6 or otherwise, land or any interest in land determined
7 to be necessary to carry out the Commissioner's du-
8 ties under this section; and

9 (3) constructing additional ports of entry along
10 the Southern border and the Northern border.

11 (f) PRIORITIZATION.—In selecting improvements
12 under subsection (e), the Commissioner, in coordination
13 with the Administrator shall give priority consideration to
14 projects that will substantially—

15 (1) reduce commercial and passenger vehicle
16 and pedestrian crossing wait times at one or more
17 ports of entry on the same border;

18 (2) increase trade, travel efficiency, and the
19 projected total annual volume at one or more ports
20 of entry on the same border; and

21 (3) enhance safety and security at border facili-
22 ties at one or more ports of entry on the same bor-
23 der.

24 (g) CONSULTATION.—

1 (1) LOCATIONS FOR NEW PORTS OF ENTRY.—

2 The Secretary is encouraged to consult with the Sec-
3 retary of the Interior, the Secretary of Agriculture,
4 the Secretary of State, the International Boundary
5 and Water Commission, the International Joint
6 Commission, and appropriate representatives of
7 States, Indian tribes, local governments, and prop-
8 erty owners—

9 (A) to determine locations for new ports of
10 entry; and

11 (B) to minimize adverse impacts from such
12 ports on the environment, historic and cultural
13 resources, commerce, and the quality of life of
14 the communities and residents located near
15 such ports.

16 (2) SAVINGS PROVISION.—Nothing in this sub-
17 section may be construed—

18 (A) to create any right or liability of the
19 parties described in paragraph (1);

20 (B) to affect the legality or validity of any
21 determination by the Secretary under this Act;

22 or

23 (C) to affect any consultation requirement
24 under any other law.

1 (h) AUTHORITY TO ACQUIRE LEASEHOLDS.—Not-
2 withstanding any other provision of law, if the Secretary
3 determines that the acquisition of a leasehold interest in
4 real property and the construction or modification of any
5 facility on the leased property are necessary to facilitate
6 the implementation of this Act, the Secretary may—

7 (1) acquire such leasehold interest; and

8 (2) construct or modify such facility.

9 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to carry out this section,
11 for each of the fiscal years 2014 through 2019,
12 \$1,000,000,000, of which \$5,000,000 shall be used for
13 grants authorized under subsection (d).

14 (j) OFFSET, RESCISSION OF UNOBLIGATED FED-
15 ERAL FUNDS.—

16 (1) IN GENERAL.—There is hereby rescinded,
17 from appropriated discretionary funds that remain
18 available for obligation on the date of the enactment
19 of this Act (other than the unobligated funds re-
20 ferred to in paragraph (4)), amounts determined by
21 the Director of the Office of Management and Budg-
22 et that are equal, in the aggregate, to the amount
23 authorized to be appropriated under subsection (i).

1 (2) IMPLEMENTATION.—The Director of the
2 Office of Management and Budget shall determine
3 and identify—

4 (A) the appropriation accounts from which
5 the rescission under paragraph (1) shall apply;
6 and

7 (B) the amount of the rescission that shall
8 be applied to each such account.

9 (3) REPORT.—Not later than 60 days after the
10 date of the enactment of this Act, the Director of
11 the Office of Management and Budget shall submit
12 a report to Congress and to the Secretary of the
13 Treasury that describes the accounts and amounts
14 determined and identified under paragraph (2) for
15 rescission under paragraph (1).

16 (4) EXCEPTIONS.—This subsection shall not
17 apply to unobligated funds of—

18 (A) the Department of Defense;

19 (B) the Department of Veterans Affairs; or

20 (C) the Department of Homeland Security.

21 **SEC. 4. CROSS-BORDER TRADE ENHANCEMENT.**

22 (a) AGREEMENTS AUTHORIZED.—For purposes of
23 facilitating the construction, alteration, operation, or
24 maintenance of a new or existing facility or other infra-
25 structure at a port of entry, the Administrator may—

1 (1) enter into cost-sharing or reimbursement
2 agreements; or

3 (2) accept donations of—

4 (A) real or personal property (including
5 monetary donations); or

6 (B) nonpersonal services.

7 (b) EVALUATION PROCEDURES.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of the enactment of this Act, the Ad-
10 ministrator, in consultation with the Secretary, shall
11 establish procedures for evaluating a proposal sub-
12 mitted by any person under subsection (a)—

13 (A) to enter into a cost-sharing or reim-
14 bursement agreement with the General Services
15 Administration to facilitate the construction, al-
16 teration, operation, or maintenance of a new or
17 existing facility or other infrastructure at a
18 land border port of entry; or

19 (B) to provide the Administration with a
20 donation of real or personal property (including
21 monetary donations) or nonpersonal services to
22 be used in the construction, alteration, oper-
23 ation, or maintenance of a facility or other in-
24 frastructure at a land border port of entry
25 under the control of the Administration.

1 (2) SPECIFICATION.—Donations made under
2 paragraph (1)(B) may specify—

3 (A) the land port of entry facility or facili-
4 ties in support of which the donation is being
5 made; and

6 (B) the time frame in which the donated
7 property or services shall be used.

8 (3) RETURN OF DONATION.—If the Adminis-
9 trator does not use the property or services donated
10 pursuant to paragraph (1)(B) for the specific facility
11 or facilities designated pursuant to paragraph (2)(A)
12 or within the time frame specified pursuant to para-
13 graph (2)(B), such donated property or services
14 shall be returned to the person that made the dona-
15 tion.

16 (4) DETERMINATION AND NOTIFICATION.—

17 (A) IN GENERAL.—Not later than 90 days
18 after receiving a proposal pursuant to sub-
19 section (a) with respect to the construction or
20 maintenance of a facility or other infrastructure
21 at a land border port of entry, the Adminis-
22 trator shall—

23 (i) make a determination with respect
24 to whether or not to approve the proposal;
25 and

1 (ii) notify the person that submitted
2 the proposal of—

3 (I) the determination; and

4 (II) if the Administrator did not
5 approve the proposal, the reasons for
6 such disapproval.

7 (B) CONSIDERATIONS.—In determining
8 whether or not to approve a proposal under this
9 subsection, the Administrator shall consider—

10 (i) the impact of the proposal on re-
11 ducing wait times at that port of entry and
12 other ports of entry on the same border;

13 (ii) the potential of the proposal to in-
14 crease trade and travel efficiency through
15 added capacity; and

16 (iii) the potential of the proposal to
17 enhance the security of the port of entry.

18 (c) DELEGATION.—For facilities at which the Admin-
19 istrator has delegated or transferred to the Secretary, op-
20 erations, ownership, or other authorities over land border
21 ports of entry, the authorities and requirements of the Ad-
22 ministrator under this section shall be deemed to apply
23 to the Secretary.

1 **SEC. 5. IMPLEMENTATION OF GOVERNMENT ACCOUNT-**
2 **ABILITY OFFICE FINDINGS.**

3 (a) **BORDER WAIT TIME DATA COLLECTION.**—

4 (1) **STRATEGIC PLAN.**—The Secretary, in con-
5 sultation with the Commissioner, the Administrator
6 of the Federal Highway Administration, State De-
7 partments of Transportation, and other public and
8 private stakeholders, shall develop a strategic plan
9 for standardized collection of vehicle wait times at
10 land ports of entry.

11 (2) **ELEMENTS.**—The strategic plan required
12 under paragraph (1) shall include—

13 (A) a description of how U.S. Customs and
14 Border Protection will ensure standardized
15 manual wait time collection practices at ports of
16 entry;

17 (B) a timeline for incorporating standard-
18 ized data into existing online platforms for pub-
19 lic reporting;

20 (C) the identification of a standardized
21 measurement and validation wait time data tool
22 for use at all land ports of entry; and

23 (D) an assessment of the feasibility and
24 cost for supplementing and replacing manual
25 data collection with automation, which should

1 utilize existing automation efforts and re-
2 sources.

3 (b) STAFF ALLOCATION.—The Secretary, in con-
4 sultation with the Commissioner and State, municipal, and
5 private sector stakeholders at each port of entry, shall de-
6 velop a standardized model for the allocation of U.S. Cus-
7 toms and Border Protection officers and support staff at
8 land ports of entry, including allocations specific to field
9 offices and the port level that utilizes—

10 (1) current and future operational priorities
11 and threats;

12 (2) historical staffing levels and patterns; and

13 (3) anticipated traffic flows.

14 (c) OUTCOME-BASED PERFORMANCE MEASURES.—

15 (1) IN GENERAL.—The Secretary, in consulta-
16 tion with the Commissioner and relevant public and
17 private sector stakeholders, shall identify and adopt
18 new outcome-based performance measures that sup-
19 port the trade facilitation goals of U.S. Customs and
20 Border Protection.

21 (2) EFFECT OF TRUSTED TRAVELER AND SHIP-
22 PER PROGRAMS.—Outcome-based performance meas-
23 ures identified under this subsection may include—

24 (A) the extent to which trusted traveler
25 and shipper program participants experience

1 decreased annual percentage wait time com-
2 pared to nonparticipants; and

3 (B) the extent to which trusted traveler
4 and shipper program participants experience an
5 annual reduction in percentage of referrals to
6 secondary inspection facilities compared to non-
7 participants.

8 (3) REPORT.—Not later than 90 days after the
9 date of the enactment of this Act, the Secretary
10 shall submit a report to the committees set forth in
11 section 3(b)(1) that identifies—

12 (A) the new performance measures devel-
13 oped under this subsection; and

14 (B) the process for the incorporation of
15 such measures into existing performance meas-
16 ures.

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