

114TH CONGRESS  
1ST SESSION

# H. R. 878

To provide for the authorization of border, maritime, and transportation security responsibilities and functions in the Department of Homeland Security and the establishment of United States Customs and Border Protection, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2015

Mrs. MILLER of Michigan (for herself, Mr. MCCAUL, and Mr. VELA) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Ways and Means, 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

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## A BILL

To provide for the authorization of border, maritime, and transportation security responsibilities and functions in the Department of Homeland Security and the establishment of United States Customs and Border Protection, and for other purposes.

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 “United States Customs  
5       and Border Protection Authorization Act”.

1 **SEC. 2. ESTABLISHMENT OF UNITED STATES CUSTOMS AND**  
2 **BORDER PROTECTION.**

3 (a) IN GENERAL.—Section 411 of the Homeland Se-  
4 curity Act of 2002 (6 U.S.C. 211) is amended to read  
5 as follows:

6 **“SEC. 411. ESTABLISHMENT OF UNITED STATES CUSTOMS**  
7 **AND BORDER PROTECTION; COMMISSIONER,**  
8 **DEPUTY COMMISSIONER, AND OPERATIONAL**  
9 **OFFICES.**

10 “(a) IN GENERAL.—There is established in the De-  
11 partment an agency to be known as United States Cus-  
12 toms and Border Protection.

13 “(b) COMMISSIONER OF UNITED STATES CUSTOMS  
14 AND BORDER PROTECTION.—There shall be at the head  
15 of United States Customs and Border Protection a Com-  
16 missioner of United States Customs and Border Protec-  
17 tion (in this section referred to as the ‘Commissioner’),  
18 who shall be appointed by the President, by and with the  
19 advice and consent of the Senate.

20 “(c) DUTIES.—The Commissioner shall—

21 “(1) ensure the interdiction of persons and  
22 goods illegally entering or exiting the United States;

23 “(2) facilitate and expedite the flow of legiti-  
24 mate travelers and trade;

25 “(3) detect, respond to, and interdict terrorists,  
26 drug smugglers and traffickers, human smugglers

1 and traffickers, and other persons who may under-  
2 mine the security of the United States, in cases in  
3 which such persons are entering, or have recently  
4 entered, the United States;

5 “(4) safeguard the borders of the United States  
6 to protect against the entry of dangerous goods;

7 “(5) oversee the functions of the Office of  
8 International Trade established under section 402 of  
9 the Security and Accountability for Every Port Act  
10 of 2006 (19 U.S.C. 2072; Public Law 109–347);

11 “(6) enforce and administer all customs laws of  
12 the United States, including the Tariff Act of 1930;

13 “(7) develop and implement screening and tar-  
14 geting capabilities, including the screening, review-  
15 ing, identifying, and prioritizing of passengers and  
16 cargo across all international modes of transpor-  
17 tation, both inbound and outbound;

18 “(8) in coordination with the Secretary, deploy  
19 technology to collect the data necessary for the Sec-  
20 retary to administer the biometric entry and exit  
21 data system pursuant to section 7208 of the Intel-  
22 ligence Reform and Terrorism Prevention Act of  
23 2004 (8 U.S.C. 1365b);

24 “(9) In coordination with the Under Secretary  
25 for Management of the Department, ensure United

1 States Customs and Border Protection complies with  
2 Federal law, the Federal Acquisition Regulation, and  
3 the Department’s acquisition management directives  
4 for major acquisition programs of United States  
5 Customs and Border Protection;

6 “(10) enforce and administer—

7 “(A) the Container Security Initiative pro-  
8 gram under section 205 of the Security and Ac-  
9 countability for Every Port Act of 2006 (6  
10 U.S.C. 945; Public Law 109–347); and

11 “(B) the Customs-Trade Partnership  
12 Against Terrorism program under sections 211  
13 through 223 of such Act (6 U.S.C. 961–973);

14 “(11) establish the standard operating proce-  
15 dures described in subsection (k);

16 “(12) carry out the training required under  
17 subsection (l); and

18 “(13) carry out other duties and powers pre-  
19 scribed by law or delegated by the Secretary.

20 “(d) DEPUTY COMMISSIONER.—There shall be in  
21 United States Customs and Border Protection a Deputy  
22 Commissioner who shall assist the Commissioner in the  
23 management of United States Customs and Border Pro-  
24 tection.

25 “(e) UNITED STATES BORDER PATROL.—

1           “(1) IN GENERAL.—There is established in  
2 United States Customs and Border Protection the  
3 United States Border Patrol.

4           “(2) CHIEF.—There shall be at the head of the  
5 United States Border Patrol a Chief, who shall be  
6 a uniformed law enforcement officer chosen from the  
7 ranks of the United States Border Patrol and who  
8 shall report to the Commissioner.

9           “(3) DUTIES.—The United States Border Pa-  
10 trol shall—

11                   “(A) serve as the law enforcement office of  
12 United States Customs and Border Protection  
13 with primary responsibility for interdicting per-  
14 sons attempting to illegally enter or exit the  
15 United States or goods being illegally imported  
16 to or exported from the United States at a  
17 place other than a designated port of entry;

18                   “(B) deter and prevent illegal entry of ter-  
19 rorists, terrorist weapons, persons, and contra-  
20 band; and

21                   “(C) carry out other duties and powers  
22 prescribed by the Commissioner.

23           “(f) OFFICE OF AIR AND MARINE OPERATIONS.—

1           “(1) IN GENERAL.—There is established in  
2 United States Customs and Border Protection an  
3 Office of Air and Marine Operations.

4           “(2) ASSISTANT COMMISSIONER.—There shall  
5 be at the head of the Office of Air and Marine Oper-  
6 ations an Assistant Commissioner, who shall report  
7 to the Commissioner.

8           “(3) DUTIES.—The Office of Air and Marine  
9 Operations shall—

10           “(A) serve as the law enforcement office  
11 within United States Customs and Border Pro-  
12 tection with primary responsibility to detect,  
13 interdict, and prevent acts of terrorism and the  
14 unlawful movement of people, illicit drugs, and  
15 other contraband across the borders of the  
16 United States in the air and maritime environ-  
17 ment;

18           “(B) oversee the acquisition, maintenance,  
19 and operational use of United States Customs  
20 and Border Protection integrated air and ma-  
21 rine forces;

22           “(C) provide aviation and marine support  
23 for other Federal, State, and local law enforce-  
24 ment agency needs, as appropriate; and

1           “(D) carry out other duties and powers  
2           prescribed by the Commissioner.

3           “(g) OFFICE OF FIELD OPERATIONS.—

4           “(1) IN GENERAL.—There is established in  
5           United States Customs and Border Protection an  
6           Office of Field Operations.

7           “(2) ASSISTANT COMMISSIONER.—There shall  
8           be at the head of the Office of Field Operations an  
9           Assistant Commissioner, who shall report to the  
10          Commissioner.

11          “(3) DUTIES.—The Office of Field Operations  
12          shall coordinate the enforcement activities of United  
13          States Customs and Border Protection at United  
14          States air, land, and sea ports of entry to—

15                 “(A) deter and prevent terrorists and ter-  
16                 rorist weapons from entering the United States  
17                 at such ports of entry;

18                 “(B) conduct inspections at such ports of  
19                 entry to safeguard the United States from ter-  
20                 rorism and illegal entry of persons;

21                 “(C) prevent illicit drugs, agricultural  
22                 pests, and contraband from entering the United  
23                 States;

1           “(D) in coordination with the Commis-  
2 sioner, facilitate and expedite the flow of legiti-  
3 mate travelers and trade;

4           “(E) administer the National Targeting  
5 Center established under paragraph (4); and

6           “(F) carry out other duties and powers  
7 prescribed by the Commissioner.

8           “(4) NATIONAL TARGETING CENTER.—

9           “(A) IN GENERAL.—There is established in  
10 the Office of Field Operations a National Tar-  
11 geting Center.

12           “(B) EXECUTIVE DIRECTOR.—There shall  
13 be at the head of the National Targeting Center  
14 an Executive Director, who shall report to the  
15 Assistant Commissioner of the Office of Field  
16 Operations.

17           “(C) DUTIES.—The National Targeting  
18 Center shall—

19           “(i) serve as the primary forum for  
20 targeting operations within United States  
21 Customs and Border Protection to collect  
22 and analyze traveler and cargo information  
23 in advance of arrival in the United States;

24           “(ii) identify, review, and target trav-  
25 elers and cargo for examination;



1                   “(iii) coordinate the examination of  
2                   entry and exit of travelers and cargo; and

3                   “(iv) carry out other duties and pow-  
4                   ers prescribed by the Assistant Commis-  
5                   sioner.

6                   “(5) ANNUAL REPORT ON STAFFING.—Not  
7                   later than 30 days after the date of the enactment  
8                   of this section and annually thereafter, the Assistant  
9                   Commissioner shall submit to the appropriate con-  
10                  gressional committees a report on the staffing model  
11                  for the Office of Field Operations, including infor-  
12                  mation on how many supervisors, front-line United  
13                  States Customs and Border Protection officers, and  
14                  support personnel are assigned to each Field Office  
15                  and port of entry.

16                  “(h) OFFICE OF INTELLIGENCE AND INVESTIGATIVE  
17                  LIAISON.—

18                  “(1) IN GENERAL.—There is established in  
19                  United States Customs and Border Protection an  
20                  Office of Intelligence and Investigative Liaison.

21                  “(2) ASSISTANT COMMISSIONER.—There shall  
22                  be at the head of the Office of Intelligence and In-  
23                  vestigative Liaison an Assistant Commissioner, who  
24                  shall report to the Commissioner.

1           “(3) DUTIES.—The Office of Intelligence and  
2 Investigative Liaison shall—

3           “(A) develop, provide, coordinate, and im-  
4 plement intelligence capabilities into a cohesive  
5 intelligence enterprise to support the execution  
6 of the United States Customs and Border Pro-  
7 tection duties and responsibilities;

8           “(B) collect and analyze advance traveler  
9 and cargo information;

10           “(C) establish, in coordination with the  
11 Chief Intelligence Officer of the Department, as  
12 appropriate, intelligence-sharing relationships  
13 with Federal, State, local, and tribal agencies  
14 and intelligence agencies; and

15           “(D) carry out other duties and powers  
16 prescribed by the Commissioner.

17           “(i) OFFICE OF INTERNATIONAL AFFAIRS.—

18           “(1) IN GENERAL.—There is established in  
19 United States Customs and Border Protection an  
20 Office of International Affairs.

21           “(2) ASSISTANT COMMISSIONER.—There shall  
22 be at the head of the Office of International Affairs  
23 an Assistant Commissioner, who shall report to the  
24 Commissioner.

1           “(3) DUTIES.—The Office of International Af-  
2           fairs, in collaboration with the Office of Inter-  
3           national Affairs of the Department, shall—

4                   “(A) coordinate and support United States  
5           Customs and Border Protection’s foreign initia-  
6           tives, policies, programs, and activities;

7                   “(B) coordinate and support United States  
8           Customs and Border Protection’s personnel sta-  
9           tioned abroad;

10                   “(C) maintain partnerships and informa-  
11           tion sharing agreements and arrangements with  
12           foreign governments, international organiza-  
13           tions, and United States agencies in support of  
14           United States Customs and Border Protection  
15           duties and responsibilities;

16                   “(D) provide necessary capacity building,  
17           training, and assistance to foreign border con-  
18           trol agencies to strengthen global supply chain  
19           and travel security;

20                   “(E) coordinate mission support services to  
21           sustain United States Customs and Border Pro-  
22           tection’s global activities;

23                   “(F) coordinate, in collaboration with the  
24           Office of Policy of the Department, as appro-  
25           priate, United States Customs and Border Pro-

1           tection’s engagement in international negotia-  
2           tions; and

3                   “(G) carry out other duties and powers  
4           prescribed by the Commissioner.

5           “(j) OFFICE OF INTERNAL AFFAIRS.—

6                   “(1) IN GENERAL.—There is established in  
7           United States Customs and Border Protection an  
8           Office of Internal Affairs.

9                   “(2) ASSISTANT COMMISSIONER.—There shall  
10          be at the head of the Office of Internal Affairs an  
11          Assistant Commissioner, who shall report to the  
12          Commissioner.

13                  “(3) DUTIES.—The Office of Internal Affairs  
14          shall—

15                   “(A) investigate criminal and administra-  
16                  tive matters and misconduct by officers, agents,  
17                  and other employees of United States Customs  
18                  and Border Protection;

19                   “(B) perform investigations of United  
20                  States Customs and Border Protection appli-  
21                  cants and periodic reinvestigations (in accord-  
22                  ance with section 3001 of the Intelligence Re-  
23                  form and Terrorism Prevention Act of 2004 (50  
24                  U.S.C. 3341; Public Law 108–458)) of officers,  
25                  agents, and other employees of United States

1 Custom and Border Protection, including inves-  
2 tigations to determine suitability for employ-  
3 ment and eligibility for access to classified in-  
4 formation;

5 “(C) conduct polygraph examinations in  
6 accordance with section 3(1) of the Anti-Border  
7 Corruption Act of 2010 (Public Law 111–376);

8 “(D) perform inspections of United States  
9 Customs and Border Protection programs, op-  
10 erations, and offices;

11 “(E) conduct risk-based covert testing of  
12 United States Customs and Border Protection  
13 operations, including for nuclear and radio-  
14 logical risks;

15 “(F) manage integrity of United States  
16 Customs and Border Protection counter-intel-  
17 ligence operations, including conduct of  
18 counter-intelligence investigations;

19 “(G) conduct research and analysis regard-  
20 ing misconduct of officers, agents, and other  
21 employees of United States Customs and Bor-  
22 der Protection; and

23 “(H) carry out other duties and powers  
24 prescribed by the Commissioner.

25 “(k) STANDARD OPERATING PROCEDURES.—

1           “(1) IN GENERAL.—The Commissioner shall es-  
2       tablish—

3           “(A) standard operating procedures for  
4       searching, reviewing, retaining, and sharing in-  
5       formation contained in communication, elec-  
6       tronic, or digital devices encountered by United  
7       States Customs and Border Protection per-  
8       sonnel at United States ports of entry;

9           “(B) standard use of force procedures offi-  
10      cers and agents of United States Customs and  
11      Border Protection may employ in the execution  
12      of their duties, including the use of deadly force  
13      and procedures for deescalating confrontations,  
14      where possible;

15          “(C) a uniform, standardized, and pub-  
16      lically-available procedure for processing and in-  
17      vestigating complaints against officers, agents,  
18      and employees of United States Customs and  
19      Border Protection for violations of professional  
20      conduct, including the timely disposition of  
21      complaints and a written notification to the  
22      complainant of the status or outcome, as appro-  
23      priate, of the related investigation, in accord-  
24      ance with section 552a of title 5, United States

1 Code (commonly referred to as the ‘Privacy  
2 Act’ or the ‘Privacy Act of 1974’);

3 “(D) an internal, uniform reporting mech-  
4 anism regarding incidents involving the use of  
5 deadly force by an officer or agent of United  
6 States Customs and Border Protection, includ-  
7 ing an evaluation of the degree to which the  
8 procedures required under subparagraph (B)  
9 were followed; and

10 “(E) standard operating procedures, acting  
11 through the Assistant Commissioner for Air  
12 and Marine Operations and in coordination  
13 with the Office of Civil Rights and Civil Lib-  
14 erties and the Office of Privacy of the Depart-  
15 ment, to provide command, control, communica-  
16 tion, surveillance, and reconnaissance assistance  
17 through the use of unmanned aerial systems,  
18 including the establishment of—

19 “(i) a process for other Federal,  
20 State, and local law enforcement agencies  
21 to submit mission requests;

22 “(ii) a formal procedure to determine  
23 whether to approve or deny such a mission  
24 request;

1           “(iii) a formal procedure to determine  
2           how such mission requests are prioritized  
3           and coordinated;

4           “(iv) a process for establishing agree-  
5           ments with other Federal, State, and local  
6           law enforcement agencies regarding reim-  
7           bursement for such mission costs; and

8           “(v) a process regarding the protec-  
9           tion and privacy of data and images col-  
10          lected by United States Customs and Bor-  
11          der Protection through the use of un-  
12          manned aerial systems.

13           “(2) REQUIREMENTS REGARDING CERTAIN NO-  
14          TIFICATIONS.—The standard operating procedures  
15          established pursuant to subparagraph (A) of para-  
16          graph (1) shall require—

17           “(A) in the case of a search of information  
18          conducted on an electronic device by United  
19          States Customs and Border Protection per-  
20          sonnel, the Commissioner to notify the indi-  
21          vidual subject to such search of the purpose  
22          and authority for such search, and how such in-  
23          dividual may obtain information on reporting  
24          concerns about such search; and



1           “(B) in the case of information collected  
2 by United States Customs and Border Protec-  
3 tion through a search of an electronic device, if  
4 such information is transmitted to another Fed-  
5 eral agency for subject matter assistance, trans-  
6 lation, or decryption, the Commissioner to no-  
7 tify the individual subject to such search of  
8 such transmission.

9           “(3) EXCEPTIONS.—

10           “(A) IN GENERAL.—The Commissioner  
11 may withhold the notifications required under  
12 paragraphs (1)(C) and (2) if the Commissioner  
13 determines that such notifications would impair  
14 national security, law enforcement, or other  
15 operational interests.

16           “(B) TERRORIST WATCH LISTS.—

17           “(i) SEARCHES.—If the individual  
18 subject to search of an electronic device  
19 pursuant to subparagraph (A) of para-  
20 graph (1) is included on a Government-op-  
21 erated or Government-maintained terrorist  
22 watch list, the notifications required under  
23 paragraph (2) shall not apply.

24           “(ii) COMPLAINTS.—If the complain-  
25 ant using the process established under

1           subparagraph (C) of paragraph (1) is in-  
2           cluded on a Government-operated or Gov-  
3           ernment-maintained terrorist watch list,  
4           the notification required under such sub-  
5           paragraph shall not apply.

6           “(4) UPDATE AND REVIEW.—The Commis-  
7           sioner shall review and update every three years the  
8           standard operating procedures required under this  
9           subsection.

10          “(5) AUDITS.—The Inspector General of the  
11          Department of Homeland Security shall develop and  
12          annually administer an auditing mechanism to re-  
13          view whether searches of electronic devices at or be-  
14          tween United States ports of entry are being con-  
15          ducted in conformity with the standard operating  
16          procedures required under subparagraph (A) of  
17          paragraph (1). Such audits shall be submitted to the  
18          appropriate congressional committees and shall in-  
19          clude the following:

20                 “(A) A description of the activities of offi-  
21                 cers and agents of United States Customs and  
22                 Border Protection with respect to such  
23                 searches.

24                 “(B) The number of such searches.

1           “(C) The number of instances in which in-  
2           formation contained in such devices that were  
3           subjected to such searches was retained, copied,  
4           shared, or entered in an electronic database.

5           “(D) The number of such devices detained  
6           as the result of such searches.

7           “(E) The number of instances in which in-  
8           formation collected from such device was sub-  
9           jected to such searches was transmitted to a  
10          another Federal agency, including whether such  
11          transmission resulted in a prosecution or con-  
12          viction.

13          “(6) REQUIREMENTS REGARDING OTHER NOTI-  
14          FICATIONS.—The standard operating procedures es-  
15          tablished pursuant to subparagraph (B) of para-  
16          graph (1) shall require—

17                 “(A) in the case of an incident of the use  
18                 of deadly force by United States Customs and  
19                 Border Protection personnel, the Commissioner  
20                 to notify the appropriate congressional commit-  
21                 tees; and

22                 “(B) the Commissioner to provide to such  
23                 committees a copy of the evaluation pursuant to  
24                 subparagraph (D) of such paragraph not later

1           than 30 days after completion of such evalua-  
2           tion.

3           “(7) REPORT ON UNMANNED AERIAL SYS-  
4           TEMS.—The Commissioner shall submit to the ap-  
5           propriate congressional committees an annual report  
6           that reviews whether the use of unmanned aerial  
7           systems are being conducted in conformity with the  
8           standard operating procedures required under sub-  
9           paragraph (E) of paragraph (1). Such reports—

10                   “(A) shall be submitted with the Presi-  
11                   dent’s annual budget;

12                   “(B) may be submitted in classified form  
13                   if the Commissioner determines that such is ap-  
14                   propriate, and

15                   “(C) shall include—

16                           “(i) a detailed description of how,  
17                           where, and for how long data and images  
18                           collected through the use of unmanned aer-  
19                           ial systems by United States Customs and  
20                           Border Protection is collected and stored;  
21                           and

22                           “(ii) a list of Federal, State, and local  
23                           law enforcement agencies that submitted  
24                           mission requests in the previous year and  
25                           the disposition of such requests.

1           “(l) TRAINING.—The Commissioner shall require all  
2 officers and agents of United States Customs and Border  
3 Protection to participate in a specified amount of con-  
4 tinuing education (to be determined by the Commissioner)  
5 to maintain an understanding of Federal legal rulings,  
6 court decisions, and departmental policies, procedures,  
7 and guidelines.

8           “(m) SHORT TERM DETENTION STANDARDS.—

9                   “(1) ACCESS TO FOOD AND WATER.—The Com-  
10 missioner shall make every effort to ensure that ade-  
11 quate access to food and water is provided to an in-  
12 dividual apprehended and detained by a United  
13 States Border Patrol agent between a United States  
14 port of entry as soon as practicable following the  
15 time of such apprehension or during subsequent  
16 short term detention.

17                   “(2) ACCESS TO INFORMATION ON DETAINEE  
18 RIGHTS AT BORDER PATROL PROCESSING CEN-  
19 TERS.—

20                   “(A) IN GENERAL.—The Commissioner  
21 shall ensure that an individual apprehended by  
22 a United States Border Patrol agent is provided  
23 with information concerning such individual’s  
24 rights, including the right to contact a rep-

1           representative of such individual’s government for  
2           purposes of United States treaty obligations.

3           “(B) FORM.—The information referred to  
4           in subparagraph (A) may be provided either  
5           verbally or in writing, and shall be posted in the  
6           detention holding cell in which such individual  
7           is being held. The information shall be provided  
8           in a language understandable to such indi-  
9           vidual.

10          “(3) SHORT TERM DETENTION DEFINED.—In  
11          this subsection, the term ‘short term detention’  
12          means detention in a United States Border Patrol  
13          processing center for 72 hours or less, before repa-  
14          triation to a country of nationality or last habitual  
15          residence.

16          “(4) REPORT ON PROCUREMENT PROCESS AND  
17          STANDARDS.—Not later than 180 days after the  
18          date of the enactment of this section, the Comp-  
19          troller General of the United States shall submit to  
20          the appropriate congressional committees a report  
21          on the procurement process and standards of enti-  
22          ties with which United States Customs and Border  
23          Protection has contracts for the transportation and  
24          detention of individuals apprehended by agents or  
25          officers of United States Customs and Border Pro-

1        tection. Such report should also consider the oper-  
2        ational efficiency of contracting the transportation  
3        and detention of such individuals.

4            “(5) REPORT ON INSPECTIONS OF SHORT-TERM  
5        CUSTODY FACILITIES.—The Commissioner shall—

6            “(A) annually inspect all facilities utilized  
7        for short term detention; and

8            “(B) make publically available information  
9        collected pursuant to such inspections, including  
10       information regarding the requirements under  
11       paragraphs (1) and (2) and, where appropriate,  
12       issue recommendations to improve the condi-  
13       tions of such facilities.

14       “(n) WAIT TIMES TRANSPARENCY.—

15       “(1) IN GENERAL.—The Commissioner shall—

16       “(A) publish live wait times at the 20  
17       United States airports that support the highest  
18       volume of international travel (as determined by  
19       available Federal flight data);

20       “(B) make information about such wait  
21       times available to the public in real time  
22       through the United States Customs and Border  
23       Protection Web site;

24       “(C) submit to the appropriate congres-  
25       sional committees quarterly reports that include

1           compilations of all such wait times and a rank-  
2           ing of such United States airports by wait  
3           times; and

4           “(D) provide adequate staffing at the  
5           United States Customs and Border Protection  
6           information center to ensure timely access for  
7           travelers attempting to submit comments or  
8           speak with a representative about their entry  
9           experiences.

10          “(2) CALCULATION.—The wait times referred  
11          to in paragraph (1)(A) shall be determined by calcu-  
12          lating the time elapsed between an individual’s entry  
13          into the United States Customs and Border Protec-  
14          tion inspection area and such individual’s clearance  
15          by a United States Customs and Border Protection  
16          officer.

17          “(o) OTHER AUTHORITIES.—

18          “(1) IN GENERAL.—The Secretary may estab-  
19          lish such other offices or Assistant Commissioners  
20          (or other similar officers or officials) as the Sec-  
21          retary determines necessary to carry out the mis-  
22          sions, duties, functions, and authorities of United  
23          States Customs and Border Protection.

24          “(2) NOTIFICATION.—If the Secretary exercises  
25          the authority provided pursuant to paragraph (1),



1 the Secretary shall notify the appropriate congress-  
2 sional committees not later than 30 days before ex-  
3 ercising such authority.

4 “(p) OTHER FEDERAL AGENCIES.—Nothing in this  
5 section may be construed as affecting in any manner the  
6 existing authority of any other Federal agency, including  
7 the Transportation Security Administration with respect  
8 to the duties of United States Customs and Border Pro-  
9 tection described in subsection (c).”.

10 (b) SPECIAL RULES.—

11 (1) TREATMENT.—Section 411 of the Home-  
12 land Security Act of 2002, as amended by subsection  
13 (a) of this section, shall be treated as if included in  
14 such Act as of the date of the enactment of such  
15 Act, and, in addition to the functions, missions, du-  
16 ties, and authorities specified in such amended sec-  
17 tion 411, United States Customs and Border Protec-  
18 tion shall continue to perform and carry out the  
19 functions, missions, duties, and authorities under  
20 section 411 of such Act as in existence on the day  
21 before such date of enactment, and section 415 of  
22 such Act.

23 (2) RULES OF CONSTRUCTION.—

24 (A) RULES AND REGULATIONS.—Notwith-  
25 standing paragraph (1), nothing in this Act

1           may be construed as affecting in any manner  
2           any rule or regulation issued or promulgated  
3           pursuant to any provision of law, including sec-  
4           tion 411 of the Homeland Security Act of 2002  
5           as in existence on the day before the date of the  
6           enactment of this Act, and any such rule or  
7           regulation shall continue to have full force and  
8           effect on and after such date.

9           (B) OTHER ACTIONS.—Notwithstanding  
10          paragraph (1), nothing in this Act may be con-  
11          strued as affecting in any manner any action,  
12          determination, policy, or decision pursuant to  
13          section 411 of the Homeland Security Act of  
14          2002 as in existence on the day before the date  
15          of the enactment of this Act, and any such ac-  
16          tion, determination, policy, or decision shall  
17          continue to have full force and effect on and  
18          after such date.

19          (c) CONTINUATION IN OFFICE.—

20               (1) COMMISSIONER.—The individual serving as  
21          the Commissioner of Customs on the day before the  
22          date of the enactment of this Act may serve as the  
23          Commissioner of United States Customs and Border  
24          Protection on and after such date of enactment until  
25          a Commissioner of United States Customs and Bor-

1 der Protection is appointed under section 411 of the  
2 Homeland Security Act of 2002, as amended by sub-  
3 section (a) of this section.

4 (2) OTHER POSITIONS.—The individuals serv-  
5 ing as Assistant Commissioners and other officers  
6 and officials under section 411 of the Homeland Se-  
7 curity Act of 2002 on the day before the date of the  
8 enactment of this Act may serve as the appropriate  
9 Assistant Commissioners and other officers and offi-  
10 cials under such section 411 as amended by sub-  
11 section (a) of this section unless the Commissioner  
12 of United States Customs and Border Protection de-  
13 termines that another individual should hold such  
14 position or positions.

15 (d) REFERENCE.—

16 (1) TITLE 5.—Section 5314 of title 5, United  
17 States Code, is amended by striking “Commissioner  
18 of Customs, Department of Homeland Security” and  
19 inserting “Commissioner of United States Customs  
20 and Border Protection, Department of Homeland  
21 Security”.

22 (2) OTHER REFERENCES.—On and after the  
23 date of the enactment of this Act, any reference in  
24 law or regulations to the “Commissioner of Cus-  
25 toms” or the “Commissioner of the Customs Serv-

1 ice” shall be deemed to be a reference to the Com-  
2 missioner of United States Customs and Border  
3 Protection.

4 (e) CLERICAL AMENDMENT.—The table of contents  
5 in section 1(b) of the Homeland Security Act of 2002 (6  
6 U.S.C. 101 et seq.) is amended by striking the item relat-  
7 ing to section 411 and inserting the following new item:

“Sec. 411. Establishment of United States Customs and Border Protection;  
Commissioner, Deputy Commissioner, and operational offices.”.

8 **SEC. 3. REPEALS.**

9 Sections 416, 418, and 443 of the Homeland Security  
10 Act of 2002 (6 U.S.C. 216, 218, and 253), and the items  
11 relating to such sections in the table of contents in section  
12 1(b) of such Act, are repealed.

13 **SEC. 4. CLERICAL AND CONFORMING AMENDMENTS.**

14 (a) IN GENERAL.—The Homeland Security Act of  
15 2002 (6 U.S.C. 101 et seq.) is amended—

16 (1) in title I—

17 (A) in section 102(f)(10) (6 U.S.C.  
18 112(f)(10)), by striking “the Directorate of  
19 Border and Transportation Security” and in-  
20 serting “Commissioner of United States Cus-  
21 toms and Border Protection”; and

22 (B) in section 103(a)(1) (6 U.S.C.  
23 113(a)(1))—

1 (i) in subparagraph (C), by striking  
2 “An Under Secretary for Border and  
3 Transportation Security.” and inserting  
4 “A Commissioner of United States Cus-  
5 toms and Border Protection.”; and

6 (ii) in subparagraph (G), by striking  
7 “A Director of the Office of Counter-  
8 narcotics Enforcement.” and inserting “A  
9 Director for United States Immigration  
10 and Customs Enforcement.”; and

11 (2) in title IV—

12 (A) by striking the title heading and in-  
13 sserting “**BORDER, MARITIME, AND**  
14 **TRANSPORTATION SECURITY**”;

15 (B) in subtitle A—

16 (i) by striking the subtitle heading  
17 and inserting “**Border, Maritime, and**  
18 **Transportation Security Respon-**  
19 **sibilities and Functions**”; and

20 (ii) in section 402 (6 U.S.C. 202)—

21 (I) in the section heading, by  
22 striking “**RESPONSIBILITIES**” and  
23 inserting “**BORDER, MARITIME,**  
24 **AND TRANSPORTATION RESPON-**  
25 **SIBILITIES**”; and

1 (II) by striking “, acting through  
2 the Under Secretary for Border and  
3 Transportation Security,”;

4 (C) in subtitle B—

5 (i) by striking the subtitle heading  
6 and inserting “**United States Customs and Border Protection**”;

8 (ii) in section 412(b) (6 U.S.C. 212),  
9 by striking “United States Customs Service” each place it appears and inserting  
10 “United States Customs and Border Protection”;  
11  
12

13 (iii) in section 413 (6 U.S.C. 213), by  
14 striking “available to the United States  
15 Customs Service or”;

16 (iv) in section 414 (6 U.S.C. 214), by  
17 striking “United States Customs Service”  
18 and inserting “United States Customs and  
19 Border Protection”; and

20 (v) in section 415 (6 U.S.C. 215)—

21 (I) in paragraph (7), by inserting  
22 before the colon the following: “, and  
23 of United States Customs and Border  
24 Protection on the day before the effective  
25 date of the United States Customs and Border Protection Act of 2011”;

1                   toms and Border Protection Author-  
2                   ization Act”); and

3                   (II) in paragraph (8), by insert-  
4                   ing before the colon the following: “,  
5                   and of United States Customs and  
6                   Border Protection on the day before  
7                   the effective date of the United States  
8                   Customs and Border Protection Au-  
9                   thorization Act”);

10                  (D) in subtitle C—

11                   (i) by striking section 424 (6 U.S.C.  
12                   234) and inserting the following new sec-  
13                   tion:

14   **“SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY**  
15                   **ADMINISTRATION AS A DISTINCT ENTITY.**

16                  “Notwithstanding any other provision of this Act, the  
17   Transportation Security Administration shall be main-  
18   tained as a distinct entity within the Department.”; and

19                   (ii) in section 430 (6 U.S.C. 238)—

20                   (I) by amending subsection (a) to  
21                   read as follows:

22                  “(a) ESTABLISHMENT.—There is established in the  
23   Department an Office for Domestic Preparedness.”;

24                   (II) in subsection (b), by striking  
25                   the second sentence; and

1 (III) in subsection (c)(7), by  
2 striking “Directorate” and inserting  
3 “Department”; and

4 (E) in subtitle D—

5 (i) in section 441 (6 U.S.C. 251)—

6 (I) by striking the section head-  
7 ing and inserting “**TRANSFER OF**  
8 **FUNCTIONS**”; and

9 (II) by striking “Under Secretary  
10 for Border and Transportation Secu-  
11 rity” and inserting “Secretary”; and

12 (ii) by amending section 444 (6  
13 U.S.C. 254) to read as follows:

14 **“SEC. 444. EMPLOYEE DISCIPLINE.**

15 “Notwithstanding any other provision of law, the Sec-  
16 retary may impose disciplinary action on any employee of  
17 United States Immigration and Customs Enforcement and  
18 United States Customs and Border Protection who will-  
19 fully deceives Congress or agency leadership on any mat-  
20 ter.”.

21 (b) CONFORMING AMENDMENTS.—Section 401 of the  
22 Homeland Security Act of 2002 (6 U.S.C. 201) is re-  
23 pealed.



1 (c) CLERICAL AMENDMENTS.—The table of contents  
 2 in section 1(b) of the Homeland Security Act of 2002 is  
 3 amended—

4 (1) by striking the item relating to title IV and  
 5 inserting the following:

“TITLE IV—BORDER, MARITIME, AND TRANSPORTATION  
 SECURITY”;

6 (2) by striking the item relating to subtitle A  
 7 of title IV and inserting the following:

“Subtitle A—Border, Maritime, and Transportation Security Responsibilities  
 and Functions”;

8 (3) by striking the item relating to section 401;

9 (4) by striking the item relating to subtitle B  
 10 of title IV and inserting the following:

“Subtitle B—United States Customs and Border Protection”;

11 (5) by striking the item relating to section 441  
 12 and inserting the following:

“Sec. 441. Transfer of functions.”;

13 and

14 (6) by striking the item relating to section 442  
 15 and inserting the following:

“Sec. 442. United States Immigration and Customs Enforcement.”.

16 **SEC. 5. REPORTS AND ASSESSMENTS.**

17 (a) REPORT ON BUSINESS TRANSFORMATION INITIA-  
 18 TIVE.—Not later than 90 days after the date of the enact-  
 19 ment of this Act, the Commissioner of United States Cus-  
 20 toms and Border Protection shall submit to the Committee

1 on Homeland Security and the Committee on Ways and  
2 Means of the House of Representatives and the Committee  
3 on Homeland Security and Governmental Affairs and the  
4 Committee on Finance of the Senate a report on United  
5 States Customs and Border Protection’s Business Trans-  
6 formation Initiative, including locations where the Initia-  
7 tive is deployed, the types of equipment utilized, a descrip-  
8 tion of protocols and procedures, information on wait  
9 times at such locations since deployment, and information  
10 regarding the schedule for deployment at new locations.

11 (b) PORT OF ENTRY INFRASTRUCTURE NEEDS AS-  
12 SESSMENTS.—Not later 180 days after the date of the en-  
13 actment of this Act, the Commissioner of United States  
14 Customs and Border Protection shall assess the physical  
15 infrastructure and technology needs at the 20 busiest land  
16 ports of entry (as measured by United States Customs and  
17 Border Protection) with a particular attention to identify  
18 ways to—

19 (1) improve travel and trade facilitation;

20 (2) reduce wait times;

21 (3) improve physical infrastructure and condi-  
22 tions for individuals accessing pedestrian ports of  
23 entry;

24 (4) enter into long-term leases with nongovern-  
25 mental and private sector entities;

1           (5) enter into lease-purchase agreements with  
2           nongovernmental and private sector entities; and

3           (6) achieve cost savings through leases de-  
4           scribed in paragraphs (4) and (5).

5           (c) **PERSONAL SEARCHES.**—Not later than 90 days  
6 after the date of the enactment of this Act, the Commis-  
7 sioner of United States Customs and Border Protection  
8 shall submit to the Committee on Homeland Security of  
9 the House of Representatives and the Committee on  
10 Homeland Security and Governmental Affairs of the Sen-  
11 ate a report on supervisor-approved personal searches con-  
12 ducted in the previous year by United States Customs and  
13 Border Protection personnel. Such report shall include the  
14 number of personal searches conducted in each sector and  
15 field office, the number of invasive personal searches con-  
16 ducted in each sector and field office, whether personal  
17 searches were conducted by Office of Field Operations or  
18 United States Border Patrol personnel, and how many  
19 personal searches resulted in the discovery of contraband.

20 **SEC. 6. TRUSTED TRAVELER PROGRAMS.**

21           The Secretary of Homeland Security may not enter  
22 into or renew an agreement with the government of a for-  
23 eign country for a trusted traveler program administered  
24 by United States Customs and Border Protection unless  
25 the Secretary certifies in writing that such government—

1 (1) routinely submits to INTERPOL for inclu-  
2 sion in INTERPOL's Stolen and Lost Travel Docu-  
3 ments database information about lost and stolen  
4 passports and travel documents of the citizens and  
5 nationals of such country; or

6 (2) makes available to the United States Gov-  
7 ernment the information described in paragraph (1)  
8 through another means of reporting.

9 **SEC. 7. SENSE OF CONGRESS REGARDING THE FOREIGN**  
10 **LANGUAGE AWARD PROGRAM.**

11 (a) FINDINGS.—Congress finds the following:

12 (1) Congress established the Foreign Language  
13 Award Program (FLAP) to incentivize employees at  
14 United States ports of entry to utilize their foreign  
15 language skills on the job by providing a financial  
16 incentive for the use of the foreign language for at  
17 least ten percent of their duties after passage of  
18 competency tests. FLAP incentivizes the use of more  
19 than two dozen languages and has been instrumental  
20 in identifying and utilizing United States Customs  
21 and Border Protection officers and agents who are  
22 proficient in a foreign language.

23 (2) In 1993, Congress provided for dedicated  
24 funding for this program by stipulating that certain

1 fees collected by United States Customs and Border  
2 Protection to fund FLAP.

3 (3) Through FLAP, foreign travelers are aided  
4 by having an officer at a port of entry who speaks  
5 their language, and United States Customs and Bor-  
6 der Protection benefits by being able to focus its  
7 border security efforts in a more effective manner.

8 (b) SENSE OF CONGRESS.—It is the sense of Con-  
9 gress that FLAP incentivizes United States Customs and  
10 Border Protection officers and agents to attain and main-  
11 tain competency in a foreign language, thereby improving  
12 the efficiency of operations for the functioning of United  
13 States Customs and Border Protection’s security mission,  
14 making the United States a more welcoming place when  
15 foreign travelers find officers can communicate in their  
16 language, and helping to expedite traveler processing to  
17 reduce wait times.

18 **SEC. 8. PROHIBITION ON NEW APPROPRIATIONS.**

19 No additional funds are authorized to be appro-  
20 priated to carry out this Act and the amendments made  
21 by this Act, and this Act and such amendments shall be  
22 carried out using amounts otherwise made available for  
23 such purposes.

○