AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

114TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPT. 114–488 Part 1

BORDER AND MARITIME COORDINATION IMPROVEMENT ACT

APRIL 12, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. MCCAUL, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 3586]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3586) to amend the Homeland Security Act of 2002 to improve border and maritime security coordination in the Department of Homeland Security, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	15
Background and Need for Legislation	15
Hearings	16
Committee Consideration	17
Committee Votes	19
Committee Oversight Findings	19
New Budget Authority, Entitlement Authority, and Tax Expenditures	19
Congressional Budget Office Estimate	19
Statement of General Performance Goals and Objectives	19
Duplicative Federal Programs	19
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits	19
Federal Mandates Statement	20
Preemption Clarification	20
Disclosure of Directed Rule Makings	20
Advisory Committee Statement	20
Applicability to Legislative Branch	20
Section-by-Section Analysis of the Legislation	20
Changes in Existing Law Made by the Bill, as Reported	29
Committee Correspondence	77

The amendment is as follows:

Strike all after the enacting clause and insert the following:

59–006

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Border and Maritime Coordination Improvement Act".

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

Sec. 1. Short title; Table of contents.
Sec. 2. U.S. Customs and Border Protection coordination.
Sec. 3. Border and maritime security efficiencies.
Sec. 4. Public private partnerships.
Sec. 5. Cost-benefit analysis of co-locating operational entities.
Sec. 6. Strategic personnel plan for U.S. Customs and Border Protection personnel deployed abroad.
Sec. 7. Threat assessment for United States-bound international mail.
Sec. 8. Evaluation of Coast Guard Deployable Specialized Forces.
Sec. 9. Customs-Trade Partnership Against Terrorism improvement.
Sec. 10. Strategic plan to enhance the security of the international supply chain.
Sec. 11. Container Security Initiative.
Sec. 12. Transportation Worker Identification Credential waiver and appeals process.
Sec. 13. Annual report on U.S. Customs and Border Protection staffing.
Sec. 14. Conforming amendments.
Sec. 15. Repeals.

SEC. 2. U.S. CUSTOMS AND BORDER PROTECTION COORDINATION.

(a) IN GENERAL.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et seq.) is amended by adding at the end the following new section:

"SEC. 420. IMMIGRATION ADVISORY PROGRAM.

"(a) IN GENERAL.—There is authorized within U.S. Customs and Border Protection a program for Customs and Border Protection officers, pursuant to an agreement with a host country, to assist air carriers and security employees at foreign airports with review of traveler information during the processing of flights bound for the United States.

"(b) ACTIVITIES.—In carrying out the program, Customs and Border Protection officers posted in foreign airports under subsection (a) may—

"(1) be present during processing of flights bound for the United States;

"(2) assist air carriers and security employees with document examination and traveler security assessments;

"(3) provide relevant training to air carriers, their security staff, and host-country authorities;

"(4) analyze electronic passenger information and passenger reservation data to identify potential threats;

"(5) engage air carriers and travelers to confirm potential terrorist watchlist matches;

"(6) make recommendations to air carriers to deny potentially inadmissable passengers boarding flights bound for the United States; and

"(7) conduct other activities to secure flights bound for the United States, as directed by the Commissioner of U.S. Customs and Border Protection.

"SEC. 420A. AIR CARGO ADVANCE SCREENING.

"Not later than one year after the date of the enactment of this section, the Commissioner of U.S. Customs and Border Protection shall—

"(1) establish a program to ensure that the electronic interchange system for the collection of advance electronic information for cargo required by section 343 of the Trade Act of 2002 (19 U.S.C. 2071 note) has the capacity to collect information pertaining to cargo being imported to the United States by air at the earliest point practicable prior to loading of such cargo onto the aircraft destined to or transiting through the United States; and

"(2) coordinate with the Administrator for the Transportation Security Administration to identify opportunities to harmonize requirements for air carriers that are full participants in the system described in paragraph (1).

"SEC. 420B. U.S. CUSTOMS AND BORDER PROTECTION OFFICE OF AIR AND MARINE OPERATIONS ASSET DEPLOYMENT.

"(a) IN GENERAL.—Any deployment of new assets by U.S. Customs and Border Protection's Office of Air and Marine Operations following the date of the enactment of this section, shall, to the greatest extent practicable, occur in accordance with a risk-based assessment that considers mission needs, validated requirements, performance results, threats, costs, and any other relevant factors identified by the Commissioner of U.S. Customs and Border Protection. Specific factors to be included in such assessment shall include, at a minimum, the following:

"(1) Mission requirements that prioritize the operational needs of field commanders to secure the United States border and ports.

"(2) Other Department assets available to help address any unmet border and port security mission requirements, in accordance with paragraph (1).

"(3) Risk analysis showing positioning of the asset at issue to respond to intelligence on emerging terrorist or other threats.

"(4) Cost-benefit analysis showing the relative ability to use the asset at issue in the most cost-effective way to reduce risk and achieve mission success.

"(b) CONSIDERATIONS.—An assessment required under subsection (a) shall consider applicable Federal guidance, standards, and agency strategic and performance plans, including the following:

"(1) The most recent departmental Quadrennial Homeland Security Review under section 707, and any follow-up guidance related to such Review.

"(2) The Department's Annual Performance Plans.

"(3) Department policy guiding use of integrated risk management in resource allocation decisions.

"(4) Department and U.S. Customs and Border Protection Strategic Plans and Resource Deployment Plans.

"(5) Applicable aviation guidance from the Department, including the DHS Aviation Concept of Operations.

"(6) Other strategic and acquisition guidance promulgated by the Federal Government as the Secretary determines appropriate.

"(c) AUDIT AND REPORT.—The Inspector General of the Department shall biennially audit the deployment of new assets by U.S. Customs and Border Protection's Office of Air and Marine Operations and submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the compliance of the Department with the requirements of this section.

"(d) MARINE INTERDICTION STATIONS.—Not later than 180 days after the date of the enactment of this section, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an identification of facilities owned by the Federal Government in strategic locations along the maritime border of California that may be suitable for establishing additional Office of Air and Marine Operations marine interdiction stations.

"SEC. 420C. INTEGRATED BORDER ENFORCEMENT TEAMS.

"(a) ESTABLISHMENT.—The Secretary shall establish within the Department a program to be known as the Integrated Border Enforcement Team program (referred to in this section as 'IBET').

"(b) PURPOSE.—The Secretary shall administer the IBET program in a manner that results in a cooperative approach between the United States and Canada to—

"(1) strengthen security between designated ports of entry;

"(2) detect, prevent, investigate, and respond to terrorism and violations of law related to border security;

"(3) facilitate collaboration among components and offices within the Department and international partners;

"(4) execute coordinated activities in furtherance of border security and homeland security; and

"(5) enhance information-sharing, including the dissemination of homeland security information among such components and offices.

"(c) COMPOSITION AND LOCATION OF IBETS.—

"(1) COMPOSITION.—IBETs shall be led by the United States Border Patrol and may be comprised of personnel from the following:

"(A) Other subcomponents of U.S. Customs and Border Protection.

"(B) U.S. Immigration and Customs Enforcement, led by Homeland Security Investigations.

"(C) The Coast Guard.

"(D) Other Department personnel, as appropriate.

"(E) Other Federal departments and agencies, as appropriate.

"(F) Appropriate State law enforcement agencies.

"(G) Foreign law enforcement partners.

"(H) Local law enforcement agencies from affected border cities and communities.

"(I) Appropriate tribal law enforcement agencies.

"(2) LOCATION.—The Secretary is authorized to establish IBETs in regions in which such teams can contribute to IBET missions, as appropriate. When establishing an IBET, the Secretary shall consider the following:

"(A) Whether the region in which the IBET would be established is significantly impacted by cross-border threats.

"(B) The availability of Federal, State, local, tribal, and foreign law enforcement resources to participate in an IBET.

"(C) Whether, in accordance with paragraph (3), other joint cross-border initiatives already take place within the region in which the IBET would be established, including other Department cross-border programs such as the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.

"(3) DUPLICATION OF EFFORTS.—In determining whether to establish a new IBET or to expand an existing IBET in a given region, the Secretary shall ensure that the IBET under consideration does not duplicate the efforts of other existing interagency task forces or centers within such region, including the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 USC 70101 note) or the Border Enforcement Security Task Force established under section 432.

"(d) OPERATION.—After determining the regions in which to establish IBETs, the Secretary may—

"(1) direct the assignment of Federal personnel to such IBETs; and

"(2) take other actions to assist Federal, State, local, and tribal entities to participate in such IBETs, including providing financial assistance, as appropriate, for operational, administrative, and technological costs associated with such participation.

"(e) COORDINATION.—The Secretary shall coordinate the IBET program with other similar border security and antiterrorism programs within the Department in accordance with the strategic objectives of the Cross-Border Law Enforcement Advisory Committee.

"(f) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into memoranda of understanding with appropriate representatives of the entities specified in subsection (c)(1) necessary to carry out the IBET program.

"(g) REPORT.—Not later than 180 days after the date on which an IBET is established and biannually thereafter for the following six years, the Secretary shall submit to the appropriate Congressional Committees, including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that—

"(1) describes the effectiveness of IBETs in fulfilling the purposes specified in subsection (b);

"(2) assess the impact of certain challenges on the sustainment of cross-border IBET operations, including challenges faced by international partners;

"(3) addresses ways to support joint training for IBET stakeholder agencies and radio interoperability to allow for secure cross-border radio communications; and

"(4) assesses how IBETs, Border Enforcement Security Task Forces, and the Integrated Cross-Border Maritime Law Enforcement Operation Program can better align operations, including interdiction and investigation activities.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by adding after the item relating to section 419 the following new item:

"Sec. 420. Immigration advisory program.
"Sec. 420A. Air cargo advance screening.
"Sec. 420B. U.S. Customs and Border Protection Office of Air and Marine Operations asset deployment.
"Sec. 420C. Integrated Border Enforcement Teams.".

SEC. 3. BORDER AND MARITIME SECURITY EFFICIENCIES.

(a) IN GENERAL.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following new sections:

"SEC. 434. ESTABLISHMENT OF THE OFFICE OF BIOMETRIC IDENTITY MANAGEMENT.

"(a) ESTABLISHMENT.—There is established within the Department an office to be known as the Office of Biometric Identity Management.

"(b) DIRECTOR.—

"(1) IN GENERAL.—There shall be at the head of the Office of Biometric Identity Management a Director of the Office of Biometric Identity Management (in this section referred to as the 'Director').

"(2) QUALIFICATIONS AND DUTIES.—The Director shall—

"(A) have significant professional management experience, as well as experience in the field of biometrics and identity management;

"(B) lead the Department's biometric identity services to support anti-terrorism, counter-terrorism, border security, credentialing, national security, and public safety and enable operational missions across the Department by matching, storing, sharing, and analyzing biometric data;

"(C) deliver biometric identity information and analysis capabilities to—

"(i) the Department and its components;

"(ii) appropriate Federal, State, local, and tribal agencies;

"(iii) appropriate foreign governments; and

"(iv) appropriate private sector entities;

"(D) support the law enforcement, public safety, national security, and homeland security missions of other Federal, State, local and tribal agencies, as appropriate;

"(E) establish and manage the operation and maintenance of the Department's sole biometric repository;

"(F) establish, manage, and operate Biometric Support Centers to provide biometric identification and verification analysis and services to the Department, appropriate Federal, State, local, and tribal agencies, appropriate foreign governments, and appropriate private sector entities;

"(G) in collaboration with the Undersecretary for Science and Technology, establish a Department-wide research and development program to support efforts in assessment, development, and exploration of biometric advancements and emerging technologies;

"(H) oversee Department-wide standards for biometric conformity, and work to make such standards Government-wide;

"(I) in coordination with the Department's Office of Policy, and in consultation with relevant component offices and headquarters offices, enter into data sharing agreements with appropriate Federal agencies to support immigration, law enforcement, national security, and public safety missions;

"(J) maximize interoperability with other Federal, State, local, and international biometric systems, as appropriate; and

"(K) carry out the duties and powers prescribed by law or delegated by the Secretary.

"(c) DEPUTY DIRECTOR.—There shall be in the Office of Biometric Identity Management a Deputy Director, who shall assist the Director in the management of the Office.

"(d) CHIEF TECHNOLOGY OFFICER.—

"(1) IN GENERAL.—There shall be in the Office of Biometric Identity Management a Chief Technology Officer.

"(2) DUTIES.—The Chief Technology Officer shall—

"(A) ensure compliance with policies, processes, standards, guidelines, and procedures related to information technology systems management, enterprise architecture, and data management;

"(B) provide engineering and enterprise architecture guidance and direction to the Office of Biometric Identity Management; and

"(C) leverage emerging biometric technologies to recommend improvements to major enterprise applications, identify tools to optimize information technology systems performance, and develop and promote joint technology solutions to improve services to enhance mission effectiveness.

"(e) OTHER AUTHORITIES.—

"(1) IN GENERAL.—The Director may establish such other offices of the Office of Biometric Identity Management as the Director determines necessary to carry out the missions, duties, functions, and authorities of the Office.

"(2) NOTIFICATION.—If the Director exercises the authority provided pursuant to paragraph (1), the Director shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate not later than 30 days before exercising such authority.

"SEC. 435. BORDER SECURITY JOINT TASK FORCES.

"(a) ESTABLISHMENT.—The Secretary shall establish and operate the following departmental Joint Task Forces (in this section referred to as 'Joint Task Force') to conduct joint operations using Department component and office personnel and capabilities to secure the land and maritime borders of the United States:

"(1) JOINT TASK FORCE–EAST.—Joint Task Force-East shall, at the direction of the Secretary and in coordination with Joint Task Force West, create and execute a strategic plan to secure the land and maritime borders of the United

States and shall operate and be located in a place or region determined by the Secretary.

"(2) JOINT TASK FORCE–WEST.—Joint Task Force-West shall, at the direction of the Secretary and in coordination with Joint Task Force East, create and execute a strategic plan to secure the land and maritime borders of the United States and shall operate and be located in a place or region determined by the Secretary.

"(3) JOINT TASK FORCE–INVESTIGATIONS.—Joint Task Force-Investigations shall, at the direction of the Secretary, be responsible for coordinating criminal investigations supporting Joint Task Force–West and Joint Task Force–East.

"(b) JOINT TASK FORCE DIRECTORS.—The Secretary shall appoint a Director to head each Joint Task Force. Each Director shall be senior official selected from a relevant component or office of the Department, rotating between relevant components and offices every two years. The Secretary may extend the appointment of a Director for up to two additional years, if the Secretary determines that such an extension is in the best interest of the Department.

"(c) INITIAL APPOINTMENTS.—The Secretary shall make the following appointments to the following Joint Task Forces:

"(1) The initial Director of Joint Task Force–East shall be a senior officer of the Coast Guard.

"(2) The initial Director of Joint Task Force–West shall be a senior official of U.S. Customs and Border Protection.

"(3) The initial Director of Joint Task Force–Investigations shall be a senior official of U.S. Immigration and Customs Enforcement.

"(d) JOINT TASK FORCE DEPUTY DIRECTORS.—The Secretary shall appoint a Deputy Director for each Joint Task Force. The Deputy Director of a Joint Task Force shall be an official of a different component or office than the Director of each Joint Task Force.

"(e) RESPONSIBILITIES.—Each Joint Task Force Director shall—

"(1) identify and prioritize border and maritime security threats to the homeland;

"(2) maintain situational awareness within their areas of responsibility, as determined by the Secretary;

"(3) provide operational plans and requirements for standard operating procedures and contingency operations;

"(4) plan and execute joint task force activities within their areas of responsibility, as determined by the Secretary;

"(5) set and accomplish strategic objectives through integrated operational planning and execution;

"(6) exercise operational direction over personnel and equipment from Department components and offices allocated to the respective Joint Task Force to accomplish task force objectives;

"(7) establish operational and investigative priorities within the Director's operating areas;

"(8) coordinate with foreign governments and other Federal, State, and local agencies, where appropriate, to carry out the mission of the Director's Joint Task Force;

"(9) identify and provide to the Secretary the joint mission requirements necessary to secure the land and maritime borders of the United States; and

"(10) carry out other duties and powers the Secretary determines appropriate.

"(f) PERSONNEL AND RESOURCES OF JOINT TASK FORCES.—The Secretary may, upon request of the Director of a Joint Task Force, allocate on a temporary basis component and office personnel and equipment to the requesting Joint Task Force, with appropriate consideration of risk given to the other primary missions of the Department.

"(g) COMPONENT RESOURCE AUTHORITY.—As directed by the Secretary—

"(1) each Director of a Joint Task Force shall be provided sufficient resources from relevant components and offices of the Department and the authority necessary to carry out the missions and responsibilities required under this section;

"(2) the resources referred to in paragraph (1) shall be under the operational authority, direction, and control of the Director of the Joint Task Force to which such resources were assigned; and

"(3) the personnel and equipment of the Joint Task Forces shall remain under the administrative direction of its primary component or office.

"(h) JOINT TASK FORCE STAFF.—Each Joint Task Force shall have a staff to assist the Directors in carrying out the mission and responsibilities of the Joint Task Forces. Such staff shall be filled by officials from relevant components and offices of the Department.

"(i) ESTABLISHMENT OF PERFORMANCE METRICS.—The Secretary shall—

"(1) establish performance metrics to evaluate the effectiveness of the Joint Task Forces in securing the land and maritime borders of the United States;

"(2) submit such metrics to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate by the date that is not later than 120 days after the date of the enactment of this section; and

"(3) submit to such Committees—

"(A) an initial report that contains the evaluation described in paragraph (1) by not later than January 31, 2017; and

"(B) a second report that contains such evaluation by not later than January 31, 2018.

"(j) JOINT DUTY TRAINING PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a Department joint duty training program for the purposes of enhancing departmental unity of efforts and promoting workforce professional development. Such training shall be tailored to improve joint operations as part of the Joint Task Forces established under subsection (a).

"(2) ELEMENTS.—The joint duty training program established under paragraph (1) shall address, at minimum, the following topics:

"(A) National strategy.

"(B) Strategic and contingency planning.

"(C) Command and control of operations under joint command.

"(D) International engagement.

"(E) The Homeland Security Enterprise.

"(F) Border security.

"(G) Interagency collaboration.

"(H) Leadership.

"(3) OFFICERS AND OFFICIALS.—The joint duty training program established under paragraph (1) shall consist of—

"(A) one course intended for mid-level officers and officials of the Department assigned to or working with the Joint Task Forces, and

"(B) one course intended for senior officers and officials of the Department assigned to or working with the Joint Task Forces,

to ensure a systematic, progressive, and career-long development of such officers and officials in coordinating and executing Department-wide joint planning and operations.

"(4) TRAINING REQUIRED.—

"(A) DIRECTORS AND DEPUTY DIRECTORS.—Except as provided in subparagraph (C), each Joint Task Force Director and Deputy Director of a Joint Task Force shall complete the joint duty training program under this subsection prior to assignment to a Joint Task Force.

"(B) JOINT TASK FORCE STAFF.—All senior and mid-level officers and officials serving on the staff of a Joint Task Force shall complete the joint training program under this subsection within the first year of assignment to a Joint Task Force.

"(C) EXCEPTION.—Subparagraph (A) does not apply in the case of the initial Directors and Deputy Directors of a Joint Task Force.

"(k) ESTABLISHING ADDITIONAL JOINT TASK FORCES.—The Secretary may establish additional Joint Task Forces for the purposes of—

"(1) coordinating operations along the northern border of the United States;

"(2) preventing and responding to homeland security crises, as determined by the Secretary;

"(3) establishing other regionally-based operations; or

"(4) cybersecurity.

"(l) NOTIFICATION.—

"(1) IN GENERAL.—The Secretary shall submit a notification to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate 90 days prior to the establishment of an additional Joint Task Force under subsection (k).

"(2) WAIVER AUTHORITY.—The Secretary may waive the requirement of paragraph (1) in the event of an emergency circumstance that imminently threatens the protection of human life or the protection of property.

"(m) REVIEW.—

"(1) IN GENERAL.—The Inspector General of the Department shall conduct a review of the Joint Task Forces established under this section.

"(2) CONTENTS.—The review required under paragraph (1) shall include an assessment of the effectiveness of the Joint Task Force structure in securing the land and maritime borders of the United States, together with recommendations for enhancements to such structure to further strengthen border security.

"(3) SUBMISSION.—The Inspector General of the Department shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that contains the review required under paragraph (1) by not later than January 31, 2018.

"(n) DEFINITION.—In this section, the term 'situational awareness' means a knowledge and unified understanding of unlawful cross-border activity, including threats and trends concerning illicit trafficking and unlawful crossings, and the ability to forecast future shifts in such threats and trends, the ability to evaluate such threats and trends at a level sufficient to create actionable plans, and the operational capability to conduct continuous and integrated surveillance of the land and martime borders of the United States.

"(o) SUNSET.—This section expires on September 30, 2018.

"SEC. 436. UPDATES OF MARITIME OPERATIONS COORDINATION PLAN.

"(a) IN GENERAL.—Not later than 180 days after the enactment of this section, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a maritime operations coordination plan for the coordination and cooperation of maritime operations undertaken by components and offices of the Department with responsibility for maritime security missions. Such plan shall update the maritime operations coordination plan released by the Department in July 2011, and shall address the following:

"(1) Coordination of planning, integration of maritime operations, and development of joint situational awareness of any component or office of the Department with responsibility for maritime homeland security missions.

"(2) Maintaining effective information sharing and, as appropriate, intelligence integration, with Federal, State, and local officials and the private sector, regarding threats to maritime security.

"(3) Leveraging existing departmental coordination mechanisms, including the interagency operational centers as authorized under section 70107A of title 46, United States Code, Coast Guard's Regional Coordinating Mechanisms, the U.S. Customs and Border Protection Air and Marine Operations Center, the U.S. Customs and Border Protection Operational Integration Center, and other regional maritime operational command centers.

"(4) Cooperation and coordination with other departments and agencies of the Federal Government, and State and local agencies, in the maritime environment, in support of maritime homeland security missions.

"(5) Work conducted within the context of other national and Department maritime security strategic guidance.

"(b) ADDITIONAL UPDATES.—Not later than July 1, 2020, the Secretary, acting through the Department's Office of Operations Coordination and Planning, shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an update to the maritime operations coordination plan required under subsection (a).".

(b) LOCATION AND REPORTING STRUCTURE.—The Secretary of Homeland Security may not change the location or reporting structure of the Office of Biometric Identity Management (established pursuant to section 420 of the Homeland Security Act of 2002, as added by subsection (a) of this section) unless the Secretary of Homeland Security receives prior authorization from Congress permitting such change.

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by adding after the item relating to section 433 the following new items:

"Sec. 434. Establishment of the Office of Biometric Identity Management.
"Sec. 435. Border Security Joint Task Forces.
"Sec. 436. Updates of maritime operations coordination plan.".

SEC. 4. PUBLIC PRIVATE PARTNERSHIPS.

(a) IN GENERAL.—Title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle G—U.S. Customs and Border Protection Public Private Partnerships

"SEC. 481. FEE AGREEMENTS FOR CERTAIN SERVICES AT PORTS OF ENTRY.

"(a) IN GENERAL.—Notwithstanding section 13031(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)) and section 451 of the Tariff

Act of 1930 (19 U.S.C. 1451), the Commissioner of U.S. Customs and Border Protection for border security, port security, transportation security, or counter-terrorism purposes, may, upon the request of any entity, enter into a fee agreement with such entity under which—

"(1) U.S. Customs and Border Protection shall provide services described in subsection (c) at a United States port of entry or any other facility at which U.S. Customs and Border Protection provides or will provide such services;

"(2) such entity shall remit to U.S. Customs and Border Protection a fee imposed under subsection (e) in an amount equal to the full costs that are incurred or will be incurred in providing such services; and

"(3) each facility at which U.S. Customs and Border Protection services are performed shall be provided, maintained, and equipped by such entity, without cost to the Federal Government, in accordance with U.S. Customs and Border Protection specifications.

"(b) SERVICES DESCRIBED.—The services described in this section are any activities of any employee or contractor of U.S. Customs and Border Protection pertaining to, or in support of, customs, agricultural processing, border security, or immigration inspection-related matters at a port of entry or any other facility at which U.S. Customs and Border Protection provides or will provide services.

"(c) LIMITATIONS.—

"(1) IMPACTS OF SERVICES.—The Commissioner of U.S. Customs and Border Protection—

"(A) may enter into fee agreements under this section only for services that will increase or enhance the operational capacity of U.S. Customs and Border Protection based on available staffing and workload and that will not shift the cost of services funded in any appropriations Act, or provided from any account in the Treasury of the United States derived by the collection of fees, to entities under this Act; and

"(B) may not enter into a fee agreement under this section if such agreement would unduly and permanently impact services funded in any appropriations Act, or provided from any account in the Treasury of the United States, derived by the collection of fees.

"(2) NUMBER.—There shall be no limit to the number of fee agreements that the Commissioner of U.S. Customs and Border Protection may enter into under this section.

"(d) FEE.—

"(1) IN GENERAL.—The amount of the fee to be charged pursuant to an agreement authorized under subsection (a) shall be paid by each entity requesting U.S. Customs and Border Protection services, and shall be for the full cost of providing such services, including the salaries and expenses of employees and contractors of U.S. Customs and Border Protection, to provide such services and other costs incurred by U.S. Customs and Border Protection relating to such services, such as temporary placement or permanent relocation of such employees and contractors.

"(2) TIMING.—The Commissioner of U.S. Customs and Border Protection may require that the fee referred to in paragraph (1) be paid by each entity that has entered into a fee agreement under subsection (a) with U.S. Customs and Border Protection in advance of the performance of U.S. Customs and Border Protection services.

"(3) OVERSIGHT OF FEES.—The Commissioner of U.S. Customs and Border Protection shall develop a process to oversee the services for which fees are charged pursuant to an agreement under subsection (a), including the following:

"(A) A determination and report on the full costs of providing such services, as well as a process for increasing such fees, as necessary.

"(B) Establishment of a periodic remittance schedule to replenish appropriations, accounts, or funds, as necessary.

"(C) Identification of costs paid by such fees.

"(e) DEPOSIT OF FUNDS.—

"(1) ACCOUNT.—Funds collected pursuant to any agreement entered into under subsection (a) shall be deposited as offsetting collections, shall remain available until expended without fiscal year limitation, and shall be credited to the applicable appropriation, account, or fund for the amount paid out of such appropriation, account, or fund for any expenses incurred or to be incurred by U.S. Customs and Border Protection in providing U.S. Customs and Border Protection services under any such agreement and any other costs incurred or to be incurred by U.S. Customs and Border Protection relating to such services.

"(2) RETURN OF UNUSED FUNDS.—The Commissioner of U.S. Customs and Border Protection shall return any unused funds collected and deposited into the account described in paragraph (1) in the event that a fee agreement entered

into under subsection (a) is terminated for any reason, or in the event that the terms of such fee agreement change by mutual agreement to cause a reduction of U.S. Customs and Border Protections services. No interest shall be owed upon the return of any such unused funds.

"(f) TERMINATION.—

"(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall terminate the provision of services pursuant to a fee agreement entered into under subsection (a) with an entity that, after receiving notice from the Commissioner that a fee under subsection (d) is due, fails to pay such fee in a timely manner. In the event of such termination, all costs incurred by U.S. Customs and Border Protection which have not been paid shall become immediately due and payable. Interest on unpaid fees shall accrue based on the rate and amount established under sections 6621 and 6622 of the Internal Revenue Code of 1986.

"(2) PENALTY.—Any entity that, after notice and demand for payment of any fee under subsection (d), fails to pay such fee in a timely manner shall be liable for a penalty or liquidated damage equal to two times the amount of such fee. Any such amount collected pursuant to this paragraph shall be deposited into the appropriate account specified under subsection (e) and shall be available as described in such subsection.

"(g) ANNUAL REPORT.—The Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate an annual report identifying the activities undertaken and the agreements entered into pursuant to this section.

"SEC. 482. PORT OF ENTRY DONATION AUTHORITY.

"(a) AGREEMENTS AUTHORIZED.—

"(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, in collaboration with the Administrator of the General Services Administration as applicable under subsection (f), may enter into an agreement with any entity to accept a donation of real or personal property, including monetary donations, or nonpersonal services, for uses described in subsection (c) at a new or existing land, sea, or air port of entry, or any facility or other infrastructure at a location at which U.S. Customs and Border Protection performs or will be performing inspection services.

"(2) GSA.—If the Administrator of the General Services Administration owns or leases a new or existing land port of entry at a location at which U.S. Customs and Border Protection performs or will be performing inspection services, the Administrator, in collaboration with the Commissioner of U.S. Customs and Border Protection, may enter into an agreement with any entity to accept a donation of real or personal property, including monetary donations, or nonpersonal services, at such location for uses described in subsection (c).

"(b) LIMITATION ON MONETARY DONATIONS.—Any monetary donation accepted pursuant to subsection (a) may not be used to pay the salaries of U.S. Customs and Border Protection employees performing inspection services.

"(c) USE.—Donations accepted pursuant to subsection (a) may be used for activities related to construction, alteration, operation, or maintenance of a new or existing land, sea, or air port of entry, as appropriate, or any facility or other infrastructure at a location at which U.S. Customs and Border Protection performs or will be performing inspections services, including expenses related to—

"(1) land acquisition, design, construction, repair, or alteration;

"(2) furniture, fixtures, equipment, or technology, including installation or the deployment thereof; and

"(3) operation and maintenance of such port of entry, facility, infrastructure, equipment, or technology.

"(d) TRANSFER.—Notwithstanding any other provision of law, donations accepted by the Commissioner of U.S. Customs and Border Protection or the Administrator of the General Services Administration pursuant to subsection (a) may be transferred between U.S. Customs and Border Protection and the General Services Administration.

"(e) DURATION.—An agreement entered into under subsection (a) may last as long as required to meet the terms of such agreement.

"(f) ROLE OF THE ADMINISTRATOR.—The role, involvement, and authority of the Administrator of the General Services Administration under this section shall be limited to donations made at new or existing land ports of entry, facilities, or other infrastructure owned or leased by the General Services Administration.

"(g) COORDINATION.—In carrying out agreements entered into under subsection (a), the Commissioner of U.S. Customs and Border Protection and the Administrator of the General Services Administration shall establish criteria that includes the following:

"(1) Selection and evaluation of donors.

"(2) Identification of roles and responsibilities between U.S. Customs and Border Protection, the General Services Administration, and donors.

"(3) Decision-making and dispute resolution processes.

"(4) Processes for U.S. Customs and Border Protection and the General Services Administration to terminate agreements if selected donors are not meeting the terms of any such agreement, including the security standards established by U.S. Customs and Border Protection.

"(h) EVALUATION PROCEDURES.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection, in consultation with the Administrator of the General Services Administration, as appropriate, shall—

"(A) establish criteria for evaluating a proposal to enter into an agreement under subsection (a); and

"(B) make such criteria publicly available.

"(2) CONSIDERATIONS.—Criteria established pursuant to paragraph (1) shall consider the following:

"(A) The impact of such proposal on the land, sea, or air port of entry or facility or other infrastructure at issue and other ports of entry or similar facilities or other infrastructure near the location of the proposed donation.

"(B) The proposal's potential to increase trade and travel efficiency through added capacity.

"(C) The proposal's potential to enhance the security of the port of entry or facility or other infrastructure at issue.

"(D) The funding available to complete the intended use of a donation under this subsection, if such donation is real property.

"(E) The costs of maintaining and operating such donation.

"(F) Whether such donation, if real property, satisfies the requirements of such proposal, or whether additional real property would be required.

"(G) The impact of such proposal on U.S. Customs and Border Protection staffing requirements.

"(H) Other factors that the Commissioner or Administrator determines to be relevant.

"(3) DETERMINATION AND NOTIFICATION.—Not later than 180 days after receiving a proposal to enter into an agreement under subsection (a), the Commissioner of U.S. Customs and Border Protection shall make a determination to deny or approve such proposal, and shall notify the entity that submitted such proposal of such determination.

"(i) SUPPLEMENTAL FUNDING.—Donations made pursuant to subsection (a) may be used in addition to any other funding for such purpose, including appropriated funds, property, or services.

"(j) RETURN OF DONATIONS.—The Commissioner of U.S. Customs and Border Protection or the Administrator of the General Services Administration, as the case may be, may return any donation made pursuant to subsection (a). No interest shall be owed to the donor with respect to any donation provided under such subsection that is returned pursuant to this subsection.

"(k) ANNUAL REPORTS.—The Commissioner of U.S. Customs and Border Protection, in collaboration with the Administrator of the General Services Administration, as appropriate, shall submit to the Committee on Homeland Security, the Committee on Transportation and Infrastructure, and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs, the Committee on Environment and Public Works, and the Committee on Appropriations of the Senate an annual report identifying the activities undertaken and agreements entered into pursuant to this section.

"(l) RULE OF CONSTRUCTION.—Except as otherwise provided in this section, nothing in this section may be construed as affecting in any manner the responsibilities, duties, or authorities of U.S. Customs and Border Protection or the General Services Administration.

"SEC. 483. CURRENT AND PROPOSED AGREEMENTS.

"Nothing in this subtitle may be construed as affecting in any manner—

"(1) any agreement entered into pursuant to section 560 of division D of the Consolidated and Further Continuing Appropriations Act, 2013 (Public Law

113–6) or section 559 of title V of division F of the Consolidated Appropriations Act, 2014 (6 U.S.C. 211 note; Public Law 113–76), as in existence on the day before the date of the enactment of this subtitle, and any such agreement shall continue to have full force and effect on and after such date; or

"(2) a proposal accepted for consideration by U.S. Customs and Border Protection pursuant to such section 559, as in existence on the day before such date of enactment.

"SEC. 484. DEFINITIONS.

"In this subtitle:

"(1) DONOR.—The term 'donor' means any entity that is proposing to make a donation under this Act.

"(2) ENTITY.—The term 'entity' means any—

"(A) person;

"(B) partnership, corporation, trust, estate, cooperative, association, or any other organized group of persons;

"(C) Federal, State or local government (including any subdivision, agency or instrumentality thereof); or

"(D) any other private or governmental entity.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by adding at the end of the list of items relating to title IV the following new items:

"Subtitle G—U.S. Customs and Border Protection Public Private Partnerships

"Sec. 481. Fee agreements for certain services at ports of entry.
"Sec. 482. Port of entry donation authority.
"Sec. 483. Current and proposed agreements.
"Sec. 484. Definitions.".

(c) REPEALS.—Section 560 of division D of the Consolidated and Further Continuing Appropriations Act, 2013 (Public Law 113–6) and section 559 of title V of division F of the Consolidated Appropriations Act, 2014 (6 U.S.C. 211 note; Public Law 113–76) are repealed.

SEC. 5. COST-BENEFIT ANALYSIS OF CO-LOCATING OPERATIONAL ENTITIES.

(a) IN GENERAL.—For any location in which U.S. Customs and Border Protection's Office of Air and Marine Operations is based within 45 miles of locations where any other Department of Homeland Security agency also operates air and marine assets, the Secretary of Homeland Security shall conduct a cost-benefit analysis to consider the potential cost of and savings derived from co-locating aviation and maritime operational assets of the respective agencies of the Department. In analyzing such potential cost savings achieved by sharing aviation and maritime facilities, such analysis shall consider, at a minimum, the following factors:

(1) Potential enhanced cooperation derived from Department personnel being co-located.

(2) Potential costs of, and savings derived through, shared maintenance and logistics facilities and activities.

(3) Joint use of base and facility infrastructure, such as runways, hangars, control towers, operations centers, piers and docks, boathouses, and fuel depots.

(4) Potential operational costs of co-locating aviation and maritime assets and personnel.

(5) Short term moving costs required in order to co-locate facilities.

(6) Acquisition and infrastructure costs for enlarging current facilities, as needed.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report summarizing the results of the cost-benefit analysis required under subsection (a) and any planned actions based upon such results.

SEC. 6. STRATEGIC PERSONNEL PLAN FOR U.S. CUSTOMS AND BORDER PROTECTION PERSONNEL DEPLOYED ABROAD.

(a) IN GENERAL.—Not later than 270 days of after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall provide to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a three year strategic plan for deployment of U.S. Customs and Border Protection (in this section referred to as "CBP") personnel to locations outside the United States.

(b) CONTENTS.—The plan required under subsection (a) shall include the following:

(1) A risk-based method for determining expansion of CBP international programs to new locations, given resource constraints.

(2) A plan to ensure CBP personnel deployed at locations outside the United States have appropriate oversight and support to ensure performance in support of program goals.

(3) Information on planned future deployments of CBP personnel for a three year period, together with corresponding information on locations for such deployments outside the United States.

(c) CONSIDERATIONS.—In preparing the plan required under subsection (a), the Commissioner of U.S. Customs and Border Protection shall consider, and include information on, the following:

(1) Existing CBP programs in operation outside of the United States, together with specific information on locations outside the United States in which each such program operates.

(2) The number of CBP personnel deployed at each location outside the United States during the preceding fiscal year.

SEC. 7. THREAT ASSESSMENT FOR UNITED STATES-BOUND INTERNATIONAL MAIL.

Not later than 180 days after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an assessment of the security threats posed by United States-bound international mail.

SEC. 8. EVALUATION OF COAST GUARD DEPLOYABLE SPECIALIZED FORCES.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report that describes and assesses the state of the Coast Guard's Deployable Specialized Forces (in this section referred to as the "DSF"). Such report shall include, at a minimum, the following elements:

(1) For each of the past three fiscal years, and for each type of DSF, the following:

(A) A cost analysis, including training, operating, and travel costs.

(B) The number of personnel assigned.

(C) The total number of units.

(D) The total number of operations conducted.

(E) The number of operations requested by each of the following:

(i) The Coast Guard.

(ii) Other components or offices of the Department of Homeland Security.

(iii) Other Federal departments or agencies.

(iv) State agencies.

(v) Local agencies.

(F) The number of operations fulfilled by the entities specified in subparagraph (E).

(2) Mission impact, feasibility, and cost, including potential cost savings, of consolidating DSF capabilities, including the following scenarios:

(A) Combining DSFs, primarily focused on counterdrug operations, under one centralized command.

(B) Distributing counter-terrorism and anti-terrorism capabilities to DSFs in each major United States port.

(b) DEPLOYABLE SPECIALIZED FORCE DEFINED.—In this section, the term "Deployable Specialized Force" means a unit of the Coast Guard that serves as a quick reaction force designed to be deployed to handle counter-drug, counter-terrorism, and anti-terrorism operations or other maritime threats to the United States.

SEC. 9. CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM IMPROVEMENT.

(a) C-TPAT EXPORTERS.—Section 212 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 962) is amended by inserting "exporters," after "Importers,".

(b) RECOGNITION OF OTHER COUNTRIES' TRUSTED SHIPPER PROGRAMS.—

(1) IN GENERAL.—Section 218 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 968) is amended to read as follows:

"SEC. 218. RECOGNITION OF OTHER COUNTRIES' TRUSTED SHIPPER PROGRAMS.

"Not later than 30 days before signing an arrangement between the United States and a foreign government providing for mutual recognition of supply chain security practices which might result in the utilization of benefits described in section 214, 215, or 216, the Secretary shall—

"(1) notify the appropriate congressional committees of the proposed terms of such arrangement; and

"(2) determine, in consultation with the Commissioner, that such foreign government's supply chain security program provides comparable security as that provided by C-TPAT.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Security and Accountability for Every Port Act of 2006 is amended by amending the item relating to section 218 to read as follows:

"Sec. 218. Recognition of other countries' trusted shipper programs.".

SEC. 10. STRATEGIC PLAN TO ENHANCE THE SECURITY OF THE INTERNATIONAL SUPPLY CHAIN.

Paragraph (2) of section 201(g) of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 941) is amended to read as follows:

"(2) UPDATES.—Not later than 270 days after the date of the enactment of this paragraph and every three years thereafter, the Secretary shall submit to the appropriate congressional committees a report that contains an update of the strategic plan described in paragraph (1).".

SEC. 11. CONTAINER SECURITY INITIATIVE.

Subsection (l) of section 205 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 945) is amended—

(1) by striking "(1) IN GENERAL.—Not later than September 30, 2007," and inserting "Not later than 270 days after the date of the enactment of the Border and Maritime Security Coordination Improvement Act,";

(2) by redesignating subparagraphs (A) through (H) as paragraphs (1) through (8), respectively (and by moving the margins of such paragraphs 2 ems to the left); and

(3) by striking paragraph (2).

SEC. 12. TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL WAIVER AND APPEALS PROCESS.

(a) IN GENERAL.—Section 70105 of title 46, United States Code, is amended by adding at the end the following new section:

"(r) SECURING THE TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL AGAINST USE BY UNAUTHORIZED ALIENS.—

"(1) IN GENERAL.—The Secretary, acting through the Administrator of the Transportation Security Administration, shall seek to strengthen the integrity of transportation security cards issued under this section against improper access by an individual who is not lawfully present in the United States.

"(2) COMPONENTS.—In carrying out subsection (a), the Administrator of the Transportation Security Administration shall—

"(A) publish a list of documents that will identify non-United States citizen transportation security card applicants and verify the immigration statuses of such applicants by requiring each such applicant to produce a document or documents that demonstrate—

"(i) identity; and

"(ii) proof of lawful presence in the United States; and

"(B) enhance training requirements to ensure that trusted agents at transportation security card enrollment centers receive training to identify fraudulent documents.

"(3) EXPIRATION.—A transportation security card issued under this section expires on the date of its expiration or on the date on which the individual to whom such card is issued is no longer lawfully entitled to be present in the United States, whichever is earlier.".

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall provide to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate information on the following:

(1) The average time for the completion of an appeal under the appeals process established pursuant to paragraph (4) of subsection (c) of section 70105 of title 46, United States Code.

(2) The most common reasons for any delays at each step in such process.

(3) Recommendations on how to resolve any such delays as expeditiously as possible.

SEC. 13. ANNUAL REPORT ON U.S. CUSTOMS AND BORDER PROTECTION STAFFING.

Not later than 30 days after the date of the enactment of this Act and annually thereafter, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the staffing model for the Office of Field Operations, including information on how many supervisors, front-line Customs and Border Protection officers, Agriculture Specialists, and support personnel are assigned to each field office and port of entry.

SEC. 14. CONFORMING AMENDMENTS.

Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et seq.) is amended—

(1) by striking "United States Customs Service" each place it appears and inserting "U.S. Customs and Border Protection";

(2) by striking "Commissioner of Customs" each place it appears and inserting "Commissioner of U.S. Customs and Border Protection";

(3) in the heading of such subtitle, by striking "**United States Customs Service**" and inserting "**U.S. Customs and Border Protection**"; and

(4) in section 411—

(A) in the section heading, by striking "**COMMISSIONER OF CUSTOMS**" and inserting "**COMMISSIONER OF U.S. CUSTOMS AND BORDER PROTECTION**"; and

(B) in subsection (b)—

(i) in the subsection heading, by striking "COMMISSIONER OF CUSTOMS" and inserting "COMMISSIONER OF U.S. CUSTOMS AND BORDER PROTECTION"; and

(ii) in paragraph (1), by striking "Customs Service" and inserting "U.S. Customs and Border Protection".

SEC. 15. REPEALS.

The following provisions of the Security and Accountability for Every Port Act of 2006 (Public Law 109–347) are repealed:

(1) Section 105 (and the item relating to such section in the table of contents of such Act).

(2) Subsection (c) of section 108.

(3) Subsections (c), (d), and (e) of section 121 (6 U.S.C. 921).

(4) Section 122 (6 U.S.C. 922) (and the item relating to such section in the table of contents of such Act).

(5) Section 127 (and the item relating to such section in the table of contents of such Act).

(6) Subsection (c) of section 233 (6 U.S.C. 983).

(7) Section 235 (6 U.S.C. 984) (and the item relating to such section in the table of contents of such Act).

(8) Section 701 (and the item relating to such section in the table of contents of such Act).

(9) Section 708 (and the item relating to such section in the table of contents of such Act).

PURPOSE AND SUMMARY

The purpose of H.R. 3586 is to amend the Homeland Security Act of 2002 to improve border and maritime security coordination in the Department of Homeland Security, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

More than 12 years after the Department of Homeland Security (DHS) was established, stovepipes remain among the 22 different agencies that joined to form the Department. In particular, with respect to border and maritime security efforts, operations between Customs and Border Protection (CBP) and the U.S. Coast Guard (USCG) have not been coordinated in a manner to ensure that such efforts are fully effective and successful.

H.R. 3586 seeks to provide DHS the necessary tools and authorities to better streamline operations amongst the relevant components while enhancing security. H.R. 3586 provides authority to

DHS to establish, on a short-term basis, Joint Task Forces (JTFs) to secure the land and maritime borders of the United States. The bill statutorily authorizes three tasks forces. The first two, JTF-East and JTF-West, are geographically based, while the third, JTF-Investigations, is designed to perform specific investigative functions. The Department has recently established these JTFs and their effectiveness is not yet proven. Therefore, H.R. 3586 includes a sunset date for the initiative to provide DHS with time to demonstrate to Congress that this organizational structure has measurably contributed to border security.

H.R. 3586 also seeks to promote greater efficiency in how the Department carries out its maritime security mission. Specifically, H.R. 3586 include measures to identify where co-locating assets amongst CBP and the USCG would be beneficial, make improvements to the Transportation Worker Identification Credential (TWIC) program, and update CBP's Container Security Initiative (CSI) and Custom-Trade Partnership Against Terrorism (C-TPAT) programs. Additionally, provisions in H.R. 3586 provide the framework for CBP's Office of Field Operations (OFO), Air and Marine Operations (AMO) and the USCG to evaluate their role in maritime and supply chain security and ensure their missions are consistent with current threats. Taken together, these common-sense steps are intended to improve operations and coordination and save taxpayers' dollars.

H.R. 3586 also authorizes key programs intended to "push the borders out", such as the Air Cargo Advance Screening pilot and the Immigration Advisory Program, both of which help identify possible threats prior to an aircraft departing for the United States. These provisions reflect technology advancements and enhancements to information-sharing with international partners to improve the Department's ability to prevent dangerous people and material from entering the United States by plane.

Finally, H.R. 3586 authorizes the Department's Office of Biometric Identity Management (OBIM) for the first time. Since 2003, confirming identities through biometrics has become an important part of the Nation's security efforts. Today, we collect biometrics on most foreign travelers, refugees, and visa holders and regularly screen their fingerprints against our criminal, defense and immigration holdings. OBIM is the agency responsible for the matching, storing, and sharing of this vital biometric data and operating the principal biometric database for the Federal Government. Given its importance to the Department and the Federal Government as a whole, H.R. 3586 formally authorizes OBIM in statute.

HEARINGS

The Committee held no legislative hearings on H.R. 3586; however, the Committee held the following oversight hearings.

113th Congress

On March 20, 2013, the Subcommittee on Border and Maritime Security held a hearing entitled "Measuring Outcomes to Understand the State of Border Security." The Subcommittee received testimony from Mr. Michael J. Fisher, Chief, Border Patrol, Department of Homeland Security; Mr. Kevin McAleenan, Acting Assistant Commissioner, Office of Field Operations, U.S. Customs

and Border Protection, Department of Homeland Security; Mr. Mark Borkowski, Assistant Commissioner, Office of Technology Innovation and Acquisition, U.S. Customs and Border Protection, Department of Homeland Security; and Hon. Veronica Escobar, County Judge, El Paso County, Texas.

On September 26, 2013, the Subcommittee on Border and Maritime Security held a hearing entitled "Fulfilling A Key 9/11 Commission Recommendation: Implementing Biometric Exit." The Subcommittee received testimony from Mr. John Wagner, Acting Deputy Assistant Commissioner, Office of Field Operations, Customs and Border Protection, U.S. Department of Homeland Security; Mr. John Woods, Assistant Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security; and Ms. Rebecca Gambler, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office.

On November 19, 2013, the Subcommittee on Border and Maritime Security held a hearing entitled "What Does a Secure Maritime Border Look Like?" The Subcommittee received testimony from RADM William D. Lee, Deputy For Operations Policy and Capabilities, U.S. Coast Guard, Department of Homeland Security; Mr. Stephen L. Caldwell, Director, Homeland Security and Justice, Government Accountability Office; and Capt. Marcus Woodring, (Ret. USCG), Managing Director, Health, Safety, Security and Environmental, Port of Houston Authority.

On February 4, 2014, the Subcommittee on Border and Maritime Security held a hearing entitled "Future of the Homeland Security Missions of the Coast Guard." The Subcommittee received testimony from ADM Robert J. Papp, Jr., Commandant, U.S. Coast Guard, U.S. Department of Homeland Security.

On July 16, 2014, the Subcommittee on Border and Maritime Security held a hearing entitled "Port of Entry Infrastructure: How Does the Federal Government Prioritize Investments?" The Subcommittee received testimony from Mr. John P. Wagner, Assistant Commissioner, Office of Field Operations, Customs and Border Protection, U.S. Department of Homeland Security; *accompanied by Mr. Eugene H. Schied, Assistant Commissioner, Office of Administration, U.S. Customs and Border Protection, U.S. Department of Homeland Security*; Hon. Michael Gelber, Deputy Commissioner, Public Buildings Service, U.S. General Services Administration; and Hon. Oscar Leeser, Mayor, City of El Paso, Texas.

114th Congress

On July 14, 2015, the Subcommittee on Border and Maritime Security held a hearing entitled "Securing the Maritime Border: The future of the CBP Air and Marine." The Subcommittee received testimony from Mr. Randolph D. Alles, Assistant Commissioner, Office of Air and Marine, U.S. Customs and Border Protection, U.S. Department of Homeland Security; and Hon. John Roth, Inspector General, Office of Inspector General, U.S. Department of Homeland Security.

COMMITTEE CONSIDERATION

The Committee met on September 30, 2015, to consider H.R. 3586, and ordered the measure to be reported to the House

with a favorable recommendation, as amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MRS. MILLER of Michigan (#1); was AGREED TO, as amended, by voice vote.

An en bloc amendment to the Amendment in the Nature of a Substitute offered by MR. THOMPSON of Mississippi (#1A); was AGREED TO by voice vote.

Consisting of the following amendments:

An amendment listed on the roster by Ms. Loretta Sanchez of California:

Page 11, beginning line 20 insert a new section entitled "Sec. 420B. Immigration Advisory Program."

An amendment to listed on the roster by Ms. Loretta Sanchez of California:

Page 19, beginning line 17, insert a new section entitled "Sec. 4. Strategic Personnel Plan for U.S. Customs and Border Protection Deployed Abroad."

An amendment listed on the roster by Ms. Loretta Sanchez of California:

Page 19, beginning line 17, insert a new section entitled "Sec. 4. Threat Assessment For United States-Bound International Mail."

An amendment listed on the roster by Ms. Loretta Sanchez of California:

At the end of the bill, insert a new section entitled "Sec. 9. Conforming Amendment."

An amendment to the Amendment in the Nature of a Substitute offered by MR. KATKO (#1B); was AGREED TO by voice vote.

At the appropriate place in the bill, insert a new section entitled "Sec. 420E. Integrated Border Enforcement Teams."

An amendment to the Amendment in the Nature of a Substitute offered by MR. PAYNE (#1C); was AGREED TO by voice vote.

Page 11, beginning line 20, insert a new section entitled "Sec. 420B. Air Cargo Advance Screening."

An en bloc amendment to the Amendment in the Nature of a Substitute offered by MR. HURD (#1D); was AGREED TO by voice vote.

Consisting of the following amendments:

Page 10, beginning line 9, insert a new subsection entitled "(i) Establishment of Performance Metrics."

At the appropriate place in the bill insert a new section entitled "Sec. __, Public Private Partnerships."

An en bloc amendment to the Amendment in the Nature of a Substitute offered by MS. MCSALLY (#1E); was AGREED TO by voice vote.

Consisting of the following amendments:

Page 10, beginning line 9, insert a new subsection entitled "(i) Joint Duty Training Program."

Page 11, line 8, insert a new subsection entitled "(k) Review."

An amendment to the Amendment in the Nature of a Substitute offered by MR. VELA (#1F); was AGREED TO by voice vote.

Page 23, beginning line 21, insert a new section entitled "Sec. 8. Annual Report on U.S. Customs and Border Protection Staffing."

An amendment to the Amendment in the Nature of a Substitute offered by MR. RICHMOND (#1G); was AGREED TO by voice vote.

Page 23, line 21, insert a new section entitled "Sec. 8. Transportation Worker Identification Credential Waiver and Appeals Process."

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 3586.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3586, the Border and Maritime Coordination Improvement Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 3586 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The General Performance Goals and Objectives of H.R. 3586 are to foster greater coordination amongst the border and maritime security components of the Department of Homeland Security to secure the land and maritime borders of the United States, identify and execute operational efficiencies across the Department, and save taxpayer dollars.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 3586 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional ear-

marks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 3586 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 3586 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title; Table of Contents.

This section provides that bill may be cited as the "Border and Maritime Coordination Improvement Act" and includes the table of contents for this measure.

Sec. 2. U.S. Customs and Border Protection Coordination.

This section amends Subtitle B of title IV of the Homeland Security Act of 2002 by adding:

"SEC. 420. IMMIGRATION ADVISORY PROGRAM."

Section 420 amends the Homeland Security Act of 2002 to authorize the Immigration Advisory Program (IAP) within CBP. IAP assists air carriers and security employees at foreign airports with reviews of traveler information during the processing of flights bound to the United States. This section authorizes the activities of IAP officers in the course of their duties, including making recommendations to air carriers to deny potentially inadmissible passengers from boarding flights bound for this country. The Com-

mittee believes programs like IAP are effective tools to "push the borders out," and can help prevent would-be terrorists, including foreign fighters, as well as other potentially inadmissible individuals from boarding aircraft bound for the United States.

"SEC. 420A. AIR CARGO ADVANCE SCREENING."

In October 2010, authorities discovered two U.S.-bound packages from Yemen containing viable bombs capable of bringing down aircraft. Forensic experts found that the two bombs were designed to detonate in mid-air over Chicago, and the plot was attributed to Al Qaeda in the Arabian Peninsula (AQAP).

In response to these attacks, CBP and the Transportation Security Administration (TSA) jointly implemented a pilot program to receive electronic information to screen high-risk air cargo shipments at the earliest practicable point prior to leading onto a U.S.-bound aircraft.

Section 420A establishes the Air Cargo Advance Screening (ACAS) program within CBP, and requires CBP to have the capacity to collect electronic information from air carriers on air cargo destined for the United States prior to loading the aircraft. The Committee believes all inbound high-risk air cargo should be screened as early as possible prior to arriving in the United States and encourages participation in the ACAS program.

The Committee understands that air carriers participating in the ACAS program are burdened with duplicative DHS reporting requirements for air cargo entering the United States. Section 420A harmonizes the reporting requirements for air carriers participating in ACAS and provides an incentive for air carriers to provide CBP with advanced information allowing additional time to better target high-risk shipments, and avoid disruption to their supply chain and logistics model.

The Committee is also concerned about the scarcity of information provided to CBP regarding inbound letter packets and parcels delivered to the U.S. via private carriers and postal operators.

"SEC. 420B. U.S. CUSTOMS AND BORDER PROTECTION OFFICE OF AIR AND MARINE OPERATIONS ASSET DEPLOYMENT."

This section amends the Homeland Security Act of 2002 to ensure that any new asset deployments by CBP's AMO are carried out using a risk-based analysis. The Committee is concerned by a recent GAO report, GAO 112-518, "Opportunities Exist to Ensure More Effective Use of DHS's Air and Marine Assets," that identified weaknesses in CBP's documentation to clearly link deployment decisions with its goals.

To ensure that future deployments are based on risk and the needs of mission commanders, AMO is required to document decision-making analysis on asset mix and placement. Moreover, the Committee strongly encourages CBP to use a documented, repeatable, and systematic method of asset deployment based on risk for any future asset deployment.

"SEC. 420C. INTEGRATED BORDER ENFORCEMENT TEAMS."

Section 420C establishes the program known as the Integrated Border Enforcement Team (IBET) program. The purpose of the program is to foster a cooperative approach between the United States

and Canada regarding security between designated ports of entry; detect, prevent, investigate, and respond to terrorism and violations of law related to border security; facilitate collaboration among components and offices of DHS and international partners; execute coordinated activities in furtherance of border security and homeland security; and enhance information-sharing.

This section further establishes the composition of the IBETs, including the United States Border Patrol as the lead office. The Committee recognizes that multiple components and agencies play a role in integrated cross-border operations, but supports having an agency responsible for the day-to-day management of the program for the U.S. government, allowing for ease of collaboration with international stakeholders, like the Royal Canadian Mounted Police, who are designated as the lead agency for the Government of Canada.

The Committee is aware of concerns previously identified by GAO related to possible duplication of effort between the Border Patrol-led IBET program, and the ICE-led Border Enforcement Security Team (BEST) program and notes that the Coast Guard also leads joint cross-border operations through its Shiprider program. Given these concerns, this section is intended to ensure IBETs work collaboratively with Shiprider and BEST. The Committee believes DHS has been responsive to the GAO's concerns with the establishment of the Cross-Border Law Enforcement Advisory Committee. Through participation under the umbrella of this Advisory Committee, each program is more strategically aligned to achieve the goals of the Committee for each program.

To ensure the success of the IBET program, this section directs reporting to Congress that assesses the effectiveness of the program; identifies challenges to sustainment based on international partner engagement; addresses ways to support joint-training and radio interoperability; and assesses how IBET, BEST, and Shiprider can better align operations, including interdiction and investigation activities.

Sec. 3. Border and Maritime Security Efficiencies.

This section amends Subtitle C of title IV of the Homeland Security Act of 2002 by adding:

"SEC. 434. ESTABLISHMENT OF THE OFFICE OF BIOMETRIC IDENTITY MANAGEMENT."

H.R. 3586 amends the Homeland Security Act of 2002 to establish DHS's Office of Biometric Identity Management (OBIM) for the first time.

The Committee strongly supports the mission of the Department of Homeland Security's Office of Biometric Identity Management (OBIM) to protect the Nation by providing biometric identification services that help federal, state, and local government agencies accurately identify individuals they encounter and determine whether they pose a risk to the United States.

OBIM's biometric identification and verification capabilities support decision-makers with comprehensive, up-to-date biometric information on immigration violators, criminals, and known or suspected terrorists.

On March 26, 2013, the President signed the *Consolidated and Further Continuing Appropriations Act, 2013* (Pub. Law 113-6). This law designated OBIM as the lead entity within DHS for biometric identity management and analysis services. The same year, DHS transitioned the biometric identity management functions of the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) to the newly created OBIM. This transition also included the transfer of the overstay mission in whole to Immigration and Customs Enforcement (ICE) and the entry/exit policy and operations to Customs and Border Protection (CBP).

A major function of OBIM is to operate and maintain the Automated Biometric Identification System (IDENT), the U.S. Government's largest biometric depository, storing 180 million biometric identities. IDENT processes over 300,000 transactions and verifies over 7,000 derogatory matches each day and is used across the Federal government for national security, border enforcement, immigration, and intelligence purposes.

According to DHS, "IDENT has grown significantly in daily transaction volume and number of stored biometrics, and has added or expanded existing capabilities which greatly exceed the original design. The legacy IDENT system has inherent scalability and stability limitations that cannot be addressed without fundamentally re-architecting (i.e. replacing) the system." As a result, OBIM has undertaken a multiyear process to replace the legacy IDENT system with an improved "Replacement Biometric System."

The Committee supports OBIM and its mission and efforts to replace the legacy IDENT system.

The Committee further recommends that OBIM conduct periodic technology assessments to ensure the system is meeting operational requirements in terms of accuracy, system security, and reliability. The Committee believes such assessments could help to mitigate any technology obsolescence issues.

"SEC. 435. BORDER SECURITY JOINT TASK FORCE."

Proposed section 435 amends the Homeland Security Act of 2002 to authorize the Secretary of DHS to establish and operate Border Security JTFs utilizing Department component personnel and capabilities to secure the land and maritime borders of the United States. It establishes Joint Task Force - East (JTF-E) and a Joint Task Force - West (JTF-W). These JTFs are directed to create and execute a strategic plan to secure land and maritime borders of the U.S. In addition, it establishes Joint Task Force - Investigations (JTF-I), which is directed to coordinate criminal investigations supporting JTF-E and JTF-W.

On May 8, 2014, as part of a Unity of Effort initiative, the Secretary of Homeland Security introduced the Southern Border and Approaches Campaign, consisting of the three task forces authorized in this section. Two of these task forces will be geographically based and one will be operationally focused. All three JTFs will incorporate and integrate elements of the relevant components within DHS including the USCG, CBP, ICE, and U.S. Citizenship and Immigration Services (USCIS).

JTF-E is responsible for the southern maritime border and approaches. It is located in Portsmouth, Virginia, with the USCG serving as the initial lead component for Task Force activities.

JTF-W is responsible for the southern land border and the western maritime border of the United States. It is located in San Antonio, Texas, with CBP serving as the initial lead component for Task Force activities. JTF-I is located in Washington D.C. and is responsible for supporting the other geographic JTF's by conducting investigations that further advance mission goals and objectives. ICE serves as the initial lead component for JTF-I activities.

This section provides for a Director and a Deputy Director to lead each JTF. These senior officers and officials will be selected from relevant components in the Department and will rotate every two years. It is the Committee's belief that rotating leadership of the JTFs leverages the varying strengths and expertise that each component has in order to increase the collective breadth of knowledge of the JTF. Additionally, as Directors and Deputy Directors gain experience as senior level officials charged with the daily operations of the JTFs, the Department will be able to take full advantage of the experience gained during their time at the JTF to make it a more efficient and effective entity.

The Committee supports the concept of a streamlined operational command structure to secure the land and maritime borders of the United States. This is a fundamental change to the way strategy and operations have been conducted within the Homeland Security Enterprise. The Committee understands this program is in the early stages and its operational effectiveness has not yet been recognized. It is for this reason that the Committee chose to sunset the JTF authority on September 30, 2018. If, and when, DHS proves that such a construct is beneficial for border security operations both conceptually and operationally, the Committee would consider continued authorization.

"SEC. 436. UPDATES OF MARITIME OPERATIONS COORDINATION PLAN."

This section amends the Homeland Security Act of 2002 to require DHS to update the Maritime Operations Coordination Plan (MOC-P), which was first released in July 2011. The Committee believes that this plan was an important first step towards establishing a national framework for DHS cooperation in the maritime environment and that an update is long overdue.

Specifically, Section 436 requires the updated versions of the MOC-P be provided to Congress within 180 days of enactment of this Act and again on July 1, 2020. The Committee intends the MOC-P to be updated on a periodic basis and expects that the next iteration of the MOC-P will include mechanisms to share best practices among and between the Regional Coordinating Mechanisms (ReCoMs); a process for feedback to filter up, down, and between the Department and the ReCoMs; a method to measure the effectiveness of ReCoMs; and a process for local and State law enforcement agencies and other port stakeholders to provide feedback to the ReCoMs and the Department.

Sec. 4. Public Private Partnerships.

In January of 2014, the President signed the "Consolidated Appropriations Act, 2014" into law. Under section 559 of Division F of that Act, CBP was granted the authority, under a pilot program, to enter into partnerships with the private sector and other govern-

mental entities at ports of entry to reimburse the cost of CBP services and accept certain donations.

The Committee recognizes that in today's budget constrained environment, public-private partnerships fund certain CBP duties at our nation's ports of entry, including customs, border security, agricultural processing, and immigration-related services, to reduce wait times at the border. This section authorizes CBP's Public-Private Partnership program in the Homeland Security Act of 2002.

Title IV of the Homeland Security Act of 2002 is amended by adding the following:

"SUBTITLE G—U.S. CUSTOMS AND BORDER PROTECTION PUBLIC PRIVATE PARTNERSHIPS."

"SEC. 481. FEE AGREEMENTS FOR CERTAIN SERVICES AT PORTS OF ENTRY."

Section 481 grants CBP the authority to enter into fee agreements, provides for the services such fees can be used for, and sets out limitations placed upon CBP for the use of the funds. The Committee supports the use of this authority to supplement existing staffing levels for ad hoc surges at the nation's ports of entry to facilitate legitimate traffic and commerce. However, the Committee believes that in the long-term CBP should be funded for an appropriate level of staffing consistent with CBP's workflow staffing model. As the text makes clear, this provision does not replace CBP's obligation to provide inspectional services, nor is it intended to shift the cost burden wholesale to private sector entities.

"SEC. 482. PORT OF ENTRY DONATION AUTHORITY."

Section 482 allows CBP to accept donations of real or personal property for the purpose of construction, alteration, or maintenance at new or existing ports of entry. The Committee is fully cognizant of the potential challenges with this grant of authority, and for that reason has included a sunset date. It is the Committee's hope that CBP and GSA can, in time, provide the Committee with concrete examples of the necessity and value of accepting donations of both real and personal property, in the absence of regular appropriations, to modernize the nation's aging ports of entry. As supported by the hearing held on these provisions, Committee's clear intent, and plain read of the text, support our view is that this authority is limited, and is in no way designed as a mechanism that can fund an entire port of entry, or significant expansion. The Committee believes Congressional appropriations alone are appropriate for such large scale projects of national importance.

"SEC. 483. CURRENT AND PROPOSED AGREEMENTS."

Section 483 makes clear that nothing in this new legislation should affect any agreement made by CBP under the legislative authority under the *Consolidated Appropriation Act, 2014* (Pub. Law 113-76).

"SEC. 484. DEFINITIONS."

Section 484 sets forth the definitions of key terms used in section 4 to authorize CBP's Public-Private Partnership program.

Sec. 5. Cost-Benefit Analysis of Co-Locating Operational Entities.

This section requires DHS to examine locations where both CBP AMO and the USCG have maritime or aviation assets deployed and to determine the potential for cost savings through co-location. The Committee strongly believes that where operationally feasible, DHS should maximize limited resources and increase operational efficiencies.

Sec. 6. Strategic Personnel Plan for U.S. Customs and Border Protection Personnel Deployed Abroad.

This section requires the Commissioner of CBP to submit to Congress a three-year strategic plan for the deployment of CBP personnel to locations outside of the United States. This plan must also include the risk-based method of determining where to deploy personnel, a plan to ensure oversight of personnel while stationed overseas, and information on where personnel will be deployed in the future.

The Committee supports CBP's efforts to grow its presence overseas and "push the border out." Nonetheless, an important part of this effort is proper Congressional oversight. This report will guide oversight of CBP's international programs to ensure that CBP is taking a strategic look at its operations and how it plans to manage those operations and personnel in the future.

Sec. 7. Threat Assessment for United States-bound International Mail.

This section requires the Commissioner of CBP to submit to Congress an assessment of threats posed by international mail bound for the United States. The Committee is concerned that given the relative lack of information about international mail inbound to the U.S., potential security threats must be better understood so that they can be mitigated.

Sec. 8. Evaluation of Coast Guard Deployable Specialized Forces.

This section requires the Comptroller General to submit to Congress a report that describes and assesses the state of the Coast Guard's homeland security related Deployable Specialized Forces (DSF). This report will address the cost, capability and operations completed as part of the program. This report will also provide recommendations for future coordination of the DSF.

The Committee believes the DSF provides the Coast Guard with a necessary counter-terrorism, anti-terrorism and counter-narcotic capability. However, the Committee is concerned that some of the high-cost capabilities of the DSF have not provided tangible operational results to date. The Coast Guard made many changes following the *Stem to Stern Review of the Deployable Specialized Forces* and this section will provide additional insight for the future direction of the DSF program.

Sec. 9. Customs-Trade Partnership Against Terrorism Improvement.

Subsection (a) of Section 9 amends Section 212 of the SAFE Port Act of 2006 (SAFE Port) to authorize an Exporter program within CBP's Customs-Trade Partnership Against Terrorism (C-TPAT) program. CBP established a C-TPAT Exporter program earlier this

year under the "other entities" authority provided to them in SAFE Port. The Committee supports the creation of the Exporter program within C-TPAT and, therefore, provides an authorization for it in section 212.

"SEC. 218. RECOGNITION OF OTHER COUNTRIES TRUSTED SHIPPER PROGRAM."

Section 218 authorizes CBP to provide mutual recognition of another country's trusted shipper programs, provided the country reciprocates to C-TPAT member companies, and the other country's program provides an equivalent level of security to C-TPAT. The Committee believes that by recognizing trusted shipper programs from other countries, the Department will save money and increase the efficiency of the international supply chain.

Sec. 10. Strategic Plan to Enhance the Security of the International Supply Chain.

This section requires DHS, every three years, to provide a detailed strategy to enhance the security of the international supply chain. The Committee expects the strategy to be focused on reducing unnecessary redundancies, building resiliency, and utilizing existing resources, technology, and concepts. The strategy should also consider providing incentives for the private sector to improve global supply chain security and should include measurable goals and metrics to assess success of the strategy.

The Committee remains frustrated by the brief National Strategy for Global Supply Chain Security issued by DHS in January of 2012, and is concerned that the document did not comply with the statutory requirements of the SAFE Port Act of 2006. The Committee believes that this provision will correct that deficiency by requiring the Department to publish an in-depth strategy that more fully comports with the original Congressional intent.

Sec. 11. Container Security Initiative.

CBP developed the Container Security Initiative (CSI) in 2002 to identify and examine maritime containers at foreign ports that may pose a risk for terrorism before the containers are shipped to the United States. This section amends section 205 of the SAFE Port Act of 2006 and requires the Secretary to submit an updated report on CSI that addresses location, investment, expansion and effectiveness of the program. The Committee believes CSI effectively pushes our security efforts out beyond the geographic borders of the United States to increase opportunities to detect high-risk containers before they are loaded overseas and arrive at our ports. However, the Committee is concerned that the current CSI ports do not include a number of additional high-risk ports.

Sec. 12. Transportation Worker Identification Credential Waiver and Appeals Process.

Section 70105 of Title 46 is amended by adding:

"(r) SECURING THE TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL AGAINST USE BY UNAUTHORIZED ALIENS."

This section prevents unauthorized aliens from being able to acquire a Transportation Worker Identification Credential (TWIC) by

directing the Secretary to ensure the TWIC enrollment and distribution process requires an applicant to present proof of U.S. citizenship or authorization to work in the United States. Furthermore, the Secretary is directed to modify the TWIC enrollment process so that a TWIC will expire upon the same date that a TWIC-holder's work authorization or visa will expire—whichever comes sooner.

The Committee recognizes that the Secretary has already implemented some of these changes. This provision will codify and expand on those changes, to ensure all TWIC holders have authorization to work in the United States.

This section also requires the Secretary to provide Congress with a report on the status of the TWIC appeals process. The required report includes information on the average wait time for the completion of an appeal as well as the most common reasons for delays and recommendations for resolving such delays.

The Committee remains concerned with the significant delays and backlogs that have plagued the TWIC program over the past several years. This report will provide enhanced oversight over the TWIC program as Congress and the Committee moves towards determining its future.

Sec. 13. Annual Report of U.S. Customs and Border Protection Staffing.

This section requires CBP to submit to Congress the OFO staffing model and staffing levels that are assigned to each port of entry, including CBP officers, Agriculture Specialists, and support staff. The Committee believes this information is vital for oversight purposes to properly inform the Congress regarding OFO staffing needs and hold CBP accountable for minimizing wait times at our Nation's ports of entry.

The Committee understands that it takes CBP approximately 18 months to recruit, hire and train new Officers. Ports of entry, and particularly airports, are dynamic environments, with some airports expecting rapid growth and other airports experiencing a decline in international passenger traffic. Therefore, the Committee believes that future staffing decisions should be based on more than a snapshot in time. Rather, staffing decisions should take into account a robust analysis of projected changes in passenger and cargo flow at ports of entry, as well as business transformation initiatives ongoing at our nation's ports.

In complying with this section, the Committee directs OFO to consider projected changes at CBP facilities beyond an 18-month window when determining future staffing needs. In order to determine future needs, OFO should actively consult with key stakeholders at airports, sea ports and land ports of entry, especially those with major expansion plans underway.

Sec. 14. Conforming Amendments.

Section 14 offers conforming language to Title IV of the Homeland Security Act of 2002 to replace: "United States Customs Service" with "U.S. Customs and Border Protection"; "Customs Service" with "U.S. Customs and Border Protection"; and "Commissioner of Customs' with "Commissioner of U.S. Customs and Border Protection".

Sec. 15. Repeals.

Section 15 repeals several provisions of the SAFE Port Act of 2006. These include several reporting requirements that DHS completed several years ago.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeland Security Act of 2002".

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

* * * * * * *

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

* * * * * * *

Subtitle B—United States Customs Service

* * * * * * *

Sec. 420. Immigration advisory program.
Sec. 420A. Air cargo advance screening.
Sec. 420B. U.S. Customs and Border Protection Office of Air and Marine Operations asset deployment.
Sec. 420C. Integrated Border Enforcement Teams.

Subtitle C—Miscellaneous Provisions

* * * * * * *

Sec. 434. Establishment of the Office of Biometric Identity Management.
Sec. 435. Border Security Joint Task Forces.
Sec. 436. Updates of maritime operations coordination plan.

* * * * * * *

Subtitle G—U.S. Customs and Border Protection Public Private Partnerships

Sec. 481. Fee agreements for certain services at ports of entry.
Sec. 482. Port of entry donation authority.
Sec. 483. Current and proposed agreements.
Sec. 484. Definitions.

* * * * * * *

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

* * * * * * *

Subtitle B—[United States Customs Service] *U.S. Customs and Border Protection*

SEC. 411. ESTABLISHMENT; [COMMISSIONER OF CUSTOMS] *COMMISSIONER OF U.S. CUSTOMS AND BORDER PROTECTION.*

(a) ESTABLISHMENT.—There is established in the Department the [United States Customs Service] *U.S. Customs and Border Protection*, under the authority of the Under Secretary for Border and Transportation Security, which shall be vested with those functions including, but not limited to those set forth in section 415(7), and the personnel, assets, and liabilities attributable to those functions.

(b) [COMMISSIONER OF CUSTOMS] *COMMISSIONER OF U.S. CUSTOMS AND BORDER PROTECTION.*—

(1) IN GENERAL.—There shall be at the head of the [Customs Service] *U.S. Customs and Border Protection* a [Commissioner of Customs] *Commissioner of U.S. Customs and Border Protection*, who shall be appointed by the President, by and with the advice and consent of the Senate.

* * * * * * *

(3) CONTINUATION IN OFFICE.—The individual serving as the [Commissioner of Customs] *Commissioner of U.S. Customs and Border Protection* on the day before the effective date of this Act may serve as the [Commissioner of Customs] *Commissioner of U.S. Customs and Border Protection* on and after such effective date until a [Commissioner of Customs] *Commissioner of U.S. Customs and Border Protection* is appointed under paragraph (1).

SEC. 412. RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.

(a) RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.—

(1) RETENTION OF AUTHORITY.—Notwithstanding section 403(a)(1), authority related to Customs revenue functions that was vested in the Secretary of the Treasury by law before the effective date of this Act under those provisions of law set forth in paragraph (2) shall not be transferred to the Secretary by reason of this Act, and on and after the effective date of this Act, the Secretary of the Treasury may delegate any such authority to the Secretary at the discretion of the Secretary of the Treasury. The Secretary of the Treasury shall consult with the Secretary regarding the exercise of any such authority not delegated to the Secretary.

(2) STATUTES.—The provisions of law referred to in paragraph (1) are the following: the Tariff Act of 1930; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66); section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the

Uruguay Round Agreements Act; the Caribbean Basin Economic Recovery Act; the Andean Trade Preference Act; the African Growth and Opportunity Act; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(b) MAINTENANCE OF CUSTOMS REVENUE FUNCTIONS.—

(1) MAINTENANCE OF FUNCTIONS.—Notwithstanding any other provision of this Act, the Secretary may not consolidate, discontinue, or diminish those functions described in paragraph (2) performed by the [United States Customs Service] *U.S. Customs and Border Protection* (as established under section 411) on or after the effective date of this Act, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) FUNCTIONS.—The functions referred to in paragraph (1) are those functions performed by the following personnel, and associated support staff, of the [United States Customs Service] *U.S. Customs and Border Protection* on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(c) NEW PERSONNEL.—The Secretary of the Treasury is authorized to appoint up to 20 new personnel to work with personnel of the Department in performing customs revenue functions.

SEC. 413. PRESERVATION OF CUSTOMS FUNDS.

Notwithstanding any other provision of this Act, no funds available to the [United States Customs Service] *U.S. Customs and Border Protection* or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 may be transferred for use by any other agency or office in the Department.

SEC. 414. SEPARATE BUDGET REQUEST FOR CUSTOMS.

The President shall include in each budget transmitted to Congress under section 1105 of title 31, United States Code, a separate budget request for the [United States Customs Service] *U.S. Customs and Border Protection*.

SEC. 415. DEFINITION.

In this subtitle, the term "customs revenue function" means the following:

(1) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for purposes of such assessment.

(2) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

(3) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

(4) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.

(5) Collecting accurate import data for compilation of international trade statistics.

(6) Enforcing reciprocal trade agreements.

(7) Functions performed by the following personnel, and associated support staff, of the [United States Customs Service] *U.S. Customs and Border Protection* on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(8) Functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the [United States Customs Service] *U.S. Customs and Border Protection* on the day before the effective date of this Act: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

SEC. 416. GAO REPORT TO CONGRESS.

Not later than 3 months after the effective date of this Act, the Comptroller General of the United States shall submit to Congress a report that sets forth all trade functions performed by the executive branch, specifying each agency that performs each such function.

SEC. 417. ALLOCATION OF RESOURCES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary shall ensure that adequate staffing is provided to assure that levels of customs revenue services provided on the day before the effective date of this Act shall continue to be provided.

(b) NOTIFICATION OF CONGRESS.—The Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at least 90 days prior to taking any action which would—

(1) result in any significant reduction in customs revenue services, including hours of operation, provided at any office within the Department or any port of entry;

(2) eliminate or relocate any office of the Department which provides customs revenue services; or

(3) eliminate any port of entry.

(c) DEFINITION.—In this section, the term "customs revenue services" means those customs revenue functions described in paragraphs (1) through (6) and paragraph (8) of section 415.

SEC. 418. REPORTS TO CONGRESS.

(a) CONTINUING REPORTS.—The [United States Customs Service] *U.S. Customs and Border Protection* shall, on and after the effective date of this Act, continue to submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate any report required, on the day before such

the effective date of this Act, to be so submitted under any provision of law.

(b) REPORT ON CONFORMING AMENDMENTS.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under section 412(a)(2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the ⟦Commissioner of Customs⟧ *Commissioner of U.S. Customs and Border Protection* on or before the effective date of this section.

* * * * * * *

SEC. 420. IMMIGRATION ADVISORY PROGRAM.

(a) IN GENERAL.—There is authorized within U.S. Customs and Border Protection a program for Customs and Border Protection officers, pursuant to an agreement with a host country, to assist air carriers and security employees at foreign airports with review of traveler information during the processing of flights bound for the United States.

(b) ACTIVITIES.—In carrying out the program, Customs and Border Protection officers posted in foreign airports under subsection (a) may—

(1) be present during processing of flights bound for the United States;

(2) assist air carriers and security employees with document examination and traveler security assessments;

(3) provide relevant training to air carriers, their security staff, and host-country authorities;

(4) analyze electronic passenger information and passenger reservation data to identify potential threats;

(5) engage air carriers and travelers to confirm potential terrorist watchlist matches;

(6) make recommendations to air carriers to deny potentially inadmissable passengers boarding flights bound for the United States; and

(7) conduct other activities to secure flights bound for the United States, as directed by the Commissioner of U.S. Customs and Border Protection.

SEC. 420A. AIR CARGO ADVANCE SCREENING.

Not later than one year after the date of the enactment of this section, the Commissioner of U.S. Customs and Border Protection shall—

(1) establish a program to ensure that the electronic interchange system for the collection of advance electronic information for cargo required by section 343 of the Trade Act of 2002 (19 U.S.C. 2071 note) has the capacity to collect information pertaining to cargo being imported to the United States by air at the earliest point practicable prior to loading of such cargo onto the aircraft destined to or transiting through the United States; and

(2) coordinate with the Administrator for the Transportation Security Administration to identify opportunities to harmonize

requirements for air carriers that are full participants in the system described in paragraph (1).

SEC. 420B. U.S. CUSTOMS AND BORDER PROTECTION OFFICE OF AIR AND MARINE OPERATIONS ASSET DEPLOYMENT.

(a) IN GENERAL.—Any deployment of new assets by U.S. Customs and Border Protection's Office of Air and Marine Operations following the date of the enactment of this section, shall, to the greatest extent practicable, occur in accordance with a risk-based assessment that considers mission needs, validated requirements, performance results, threats, costs, and any other relevant factors identified by the Commissioner of U.S. Customs and Border Protection. Specific factors to be included in such assessment shall include, at a minimum, the following:

(1) Mission requirements that prioritize the operational needs of field commanders to secure the United States border and ports.

(2) Other Department assets available to help address any unmet border and port security mission requirements, in accordance with paragraph (1).

(3) Risk analysis showing positioning of the asset at issue to respond to intelligence on emerging terrorist or other threats.

(4) Cost-benefit analysis showing the relative ability to use the asset at issue in the most cost-effective way to reduce risk and achieve mission success.

(b) CONSIDERATIONS.—An assessment required under subsection (a) shall consider applicable Federal guidance, standards, and agency strategic and performance plans, including the following:

(1) The most recent departmental Quadrennial Homeland Security Review under section 707, and any follow-up guidance related to such Review.

(2) The Department's Annual Performance Plans.

(3) Department policy guiding use of integrated risk management in resource allocation decisions.

(4) Department and U.S. Customs and Border Protection Strategic Plans and Resource Deployment Plans.

(5) Applicable aviation guidance from the Department, including the DHS Aviation Concept of Operations.

(6) Other strategic and acquisition guidance promulgated by the Federal Government as the Secretary determines appropriate.

(c) AUDIT AND REPORT.—The Inspector General of the Department shall biennially audit the deployment of new assets by U.S. Customs and Border Protection's Office of Air and Marine Operations and submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the compliance of the Department with the requirements of this section.

(d) MARINE INTERDICTION STATIONS.—Not later than 180 days after the date of the enactment of this section, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an identification of facilities owned by the Federal Government in strategic locations along the maritime border of California that

may be suitable for establishing additional Office of Air and Marine Operations marine interdiction stations.

SEC. 420C. INTEGRATED BORDER ENFORCEMENT TEAMS.

(a) ESTABLISHMENT.—The Secretary shall establish within the Department a program to be known as the Integrated Border Enforcement Team program (referred to in this section as "IBET").

(b) PURPOSE.—The Secretary shall administer the IBET program in a manner that results in a cooperative approach between the United States and Canada to—

(1) strengthen security between designated ports of entry;

(2) detect, prevent, investigate, and respond to terrorism and violations of law related to border security;

(3) facilitate collaboration among components and offices within the Department and international partners;

(4) execute coordinated activities in furtherance of border security and homeland security; and

(5) enhance information-sharing, including the dissemination of homeland security information among such components and offices.

(c) COMPOSITION AND LOCATION OF IBETS.—

(1) COMPOSITION.—IBETs shall be led by the United States Border Patrol and may be comprised of personnel from the following:

(A) Other subcomponents of U.S. Customs and Border Protection.

(B) U.S. Immigration and Customs Enforcement, led by Homeland Security Investigations.

(C) The Coast Guard.

(D) Other Department personnel, as appropriate.

(E) Other Federal departments and agencies, as appropriate.

(F) Appropriate State law enforcement agencies.

(G) Foreign law enforcement partners.

(H) Local law enforcement agencies from affected border cities and communities.

(I) Appropriate tribal law enforcement agencies.

(2) LOCATION.—The Secretary is authorized to establish IBETs in regions in which such teams can contribute to IBET missions, as appropriate. When establishing an IBET, the Secretary shall consider the following:

(A) Whether the region in which the IBET would be established is significantly impacted by cross-border threats.

(B) The availability of Federal, State, local, tribal, and foreign law enforcement resources to participate in an IBET.

(C) Whether, in accordance with paragraph (3), other joint cross-border initiatives already take place within the region in which the IBET would be established, including other Department cross-border programs such as the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement Security Task Force established under section 432.

(3) DUPLICATION OF EFFORTS.—In determining whether to establish a new IBET or to expand an existing IBET in a given region, the Secretary shall ensure that the IBET under consideration does not duplicate the efforts of other existing interagency task forces or centers within such region, including the Integrated Cross-Border Maritime Law Enforcement Operation Program established under section 711 of the Coast Guard and Maritime Transportation Act of 2012 (46 USC 70101 note) or the Border Enforcement Security Task Force established under section 432.

(d) OPERATION.—After determining the regions in which to establish IBETs, the Secretary may—

(1) direct the assignment of Federal personnel to such IBETs; and

(2) take other actions to assist Federal, State, local, and tribal entities to participate in such IBETs, including providing financial assistance, as appropriate, for operational, administrative, and technological costs associated with such participation.

(e) COORDINATION.—The Secretary shall coordinate the IBET program with other similar border security and antiterrorism programs within the Department in accordance with the strategic objectives of the Cross-Border Law Enforcement Advisory Committee.

(f) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into memoranda of understanding with appropriate representatives of the entities specified in subsection (c)(1) necessary to carry out the IBET program.

(g) REPORT.—Not later than 180 days after the date on which an IBET is established and biannually thereafter for the following six years, the Secretary shall submit to the appropriate Congressional Committees, including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that—

(1) describes the effectiveness of IBETs in fulfilling the purposes specified in subsection (b);

(2) assess the impact of certain challenges on the sustainment of cross-border IBET operations, including challenges faced by international partners;

(3) addresses ways to support joint training for IBET stakeholder agencies and radio interoperability to allow for secure cross-border radio communications; and

(4) assesses how IBETs, Border Enforcement Security Task Forces, and the Integrated Cross-Border Maritime Law Enforcement Operation Program can better align operations, including interdiction and investigation activities.

Subtitle C—Miscellaneous Provisions

* * * * * * *

SEC. 434. ESTABLISHMENT OF THE OFFICE OF BIOMETRIC IDENTITY MANAGEMENT.

(a) ESTABLISHMENT.—There is established within the Department an office to be known as the Office of Biometric Identity Management.

(b) DIRECTOR.—

(1) IN GENERAL.—There shall be at the head of the Office of Biometric Identity Management a Director of the Office of Biometric Identity Management (in this section referred to as the "Director").

(2) QUALIFICATIONS AND DUTIES.—The Director shall—

(A) have significant professional management experience, as well as experience in the field of biometrics and identity management;

(B) lead the Department's biometric identity services to support anti-terrorism, counter-terrorism, border security, credentialing, national security, and public safety and enable operational missions across the Department by matching, storing, sharing, and analyzing biometric data;

(C) deliver biometric identity information and analysis capabilities to—

(i) the Department and its components;

(ii) appropriate Federal, State, local, and tribal agencies;

(iii) appropriate foreign governments; and

(iv) appropriate private sector entities;

(D) support the law enforcement, public safety, national security, and homeland security missions of other Federal, State, local and tribal agencies, as appropriate;

(E) establish and manage the operation and maintenance of the Department's sole biometric repository;

(F) establish, manage, and operate Biometric Support Centers to provide biometric identification and verification analysis and services to the Department, appropriate Federal, State, local, and tribal agencies, appropriate foreign governments, and appropriate private sector entities;

(G) in collaboration with the Undersecretary for Science and Technology, establish a Department-wide research and development program to support efforts in assessment, development, and exploration of biometric advancements and emerging technologies;

(H) oversee Department-wide standards for biometric conformity, and work to make such standards Government-wide;

(I) in coordination with the Department's Office of Policy, and in consultation with relevant component offices and headquarters offices, enter into data sharing agreements with appropriate Federal agencies to support immigration, law enforcement, national security, and public safety missions;

(J) maximize interoperability with other Federal, State, local, and international biometric systems, as appropriate; and

(K) carry out the duties and powers prescribed by law or delegated by the Secretary.

(c) DEPUTY DIRECTOR.—There shall be in the Office of Biometric Identity Management a Deputy Director, who shall assist the Director in the management of the Office.

(d) CHIEF TECHNOLOGY OFFICER.—

(1) IN GENERAL.—There shall be in the Office of Biometric Identity Management a Chief Technology Officer.

(2) DUTIES.—The Chief Technology Officer shall—

(A) ensure compliance with policies, processes, standards, guidelines, and procedures related to information technology systems management, enterprise architecture, and data management;

(B) provide engineering and enterprise architecture guidance and direction to the Office of Biometric Identity Management; and

(C) leverage emerging biometric technologies to recommend improvements to major enterprise applications, identify tools to optimize information technology systems performance, and develop and promote joint technology solutions to improve services to enhance mission effectiveness.

(e) OTHER AUTHORITIES.—

(1) IN GENERAL.—The Director may establish such other offices of the Office of Biometric Identity Management as the Director determines necessary to carry out the missions, duties, functions, and authorities of the Office.

(2) NOTIFICATION.—If the Director exercises the authority provided pursuant to paragraph (1), the Director shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate not later than 30 days before exercising such authority.

SEC. 435. BORDER SECURITY JOINT TASK FORCES.

(a) ESTABLISHMENT.—The Secretary shall establish and operate the following departmental Joint Task Forces (in this section referred to as "Joint Task Force") to conduct joint operations using Department component and office personnel and capabilities to secure the land and maritime borders of the United States:

(1) JOINT TASK FORCE–EAST.—Joint Task Force-East shall, at the direction of the Secretary and in coordination with Joint Task Force West, create and execute a strategic plan to secure the land and maritime borders of the United States and shall operate and be located in a place or region determined by the Secretary.

(2) JOINT TASK FORCE–WEST.—Joint Task Force-West shall, at the direction of the Secretary and in coordination with Joint Task Force East, create and execute a strategic plan to secure the land and maritime borders of the United States and shall operate and be located in a place or region determined by the Secretary.

(3) JOINT TASK FORCE–INVESTIGATIONS.—Joint Task Force-Investigations shall, at the direction of the Secretary, be responsible for coordinating criminal investigations supporting Joint Task Force–West and Joint Task Force–East.

(b) JOINT TASK FORCE DIRECTORS.—The Secretary shall appoint a Director to head each Joint Task Force. Each Director shall be senior official selected from a relevant component or office of the Department, rotating between relevant components and offices every two years. The Secretary may extend the appointment of a Director for up to two additional years, if the Secretary determines that such an extension is in the best interest of the Department.

(c) INITIAL APPOINTMENTS.—The Secretary shall make the following appointments to the following Joint Task Forces:

(1) The initial Director of Joint Task Force–East shall be a senior officer of the Coast Guard.

(2) The initial Director of Joint Task Force–West shall be a senior official of U.S. Customs and Border Protection.

(3) The initial Director of Joint Task Force–Investigations shall be a senior official of U.S. Immigration and Customs Enforcement.

(d) JOINT TASK FORCE DEPUTY DIRECTORS.—The Secretary shall appoint a Deputy Director for each Joint Task Force. The Deputy Director of a Joint Task Force shall be an official of a different component or office than the Director of each Joint Task Force.

(e) RESPONSIBILITIES.—Each Joint Task Force Director shall—

(1) identify and prioritize border and maritime security threats to the homeland;

(2) maintain situational awareness within their areas of responsibility, as determined by the Secretary;

(3) provide operational plans and requirements for standard operating procedures and contingency operations;

(4) plan and execute joint task force activities within their areas of responsibility, as determined by the Secretary;

(5) set and accomplish strategic objectives through integrated operational planning and execution;

(6) exercise operational direction over personnel and equipment from Department components and offices allocated to the respective Joint Task Force to accomplish task force objectives;

(7) establish operational and investigative priorities within the Director's operating areas;

(8) coordinate with foreign governments and other Federal, State, and local agencies, where appropriate, to carry out the mission of the Director's Joint Task Force;

(9) identify and provide to the Secretary the joint mission requirements necessary to secure the land and maritime borders of the United States; and

(10) carry out other duties and powers the Secretary determines appropriate.

(f) PERSONNEL AND RESOURCES OF JOINT TASK FORCES.—The Secretary may, upon request of the Director of a Joint Task Force, allocate on a temporary basis component and office personnel and equipment to the requesting Joint Task Force, with appropriate consideration of risk given to the other primary missions of the Department.

(g) COMPONENT RESOURCE AUTHORITY.—As directed by the Secretary—

(1) each Director of a Joint Task Force shall be provided sufficient resources from relevant components and offices of the Department and the authority necessary to carry out the missions and responsibilities required under this section;

(2) the resources referred to in paragraph (1) shall be under the operational authority, direction, and control of the Director of the Joint Task Force to which such resources were assigned; and

(3) the personnel and equipment of the Joint Task Forces shall remain under the administrative direction of its primary component or office.

(h) JOINT TASK FORCE STAFF.—Each Joint Task Force shall have a staff to assist the Directors in carrying out the mission and responsibilities of the Joint Task Forces. Such staff shall be filled by officials from relevant components and offices of the Department.

(i) ESTABLISHMENT OF PERFORMANCE METRICS.—The Secretary shall—

(1) establish performance metrics to evaluate the effectiveness of the Joint Task Forces in securing the land and maritime borders of the United States;

(2) submit such metrics to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate by the date that is not later than 120 days after the date of the enactment of this section; and

(3) submit to such Committees—

(A) an initial report that contains the evaluation described in paragraph (1) by not later than January 31, 2017; and

(B) a second report that contains such evaluation by not later than January 31, 2018.

(j) JOINT DUTY TRAINING PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a Department joint duty training program for the purposes of enhancing departmental unity of efforts and promoting workforce professional development. Such training shall be tailored to improve joint operations as part of the Joint Task Forces established under subsection (a).

(2) ELEMENTS.—The joint duty training program established under paragraph (1) shall address, at minimum, the following topics:

(A) National strategy.

(B) Strategic and contingency planning.

(C) Command and control of operations under joint command.

(D) International engagement.

(E) The Homeland Security Enterprise.

(F) Border security.

(G) Interagency collaboration.

(H) Leadership.

(3) OFFICERS AND OFFICIALS.—The joint duty training program established under paragraph (1) shall consist of—

(A) one course intended for mid-level officers and officials of the Department assigned to or working with the Joint Task Forces, and

(B) one course intended for senior officers and officials of the Department assigned to or working with the Joint Task Forces,

to ensure a systematic, progressive, and career-long development of such officers and officials in coordinating and executing Department-wide joint planning and operations.

(4) TRAINING REQUIRED.—

(A) DIRECTORS AND DEPUTY DIRECTORS.—Except as provided in subparagraph (C), each Joint Task Force Director and Deputy Director of a Joint Task Force shall complete

the joint duty training program under this subsection prior to assignment to a Joint Task Force.

(B) JOINT TASK FORCE STAFF.—All senior and mid-level officers and officials serving on the staff of a Joint Task Force shall complete the joint training program under this subsection within the first year of assignment to a Joint Task Force.

(C) EXCEPTION.—Subparagraph (A) does not apply in the case of the initial Directors and Deputy Directors of a Joint Task Force.

(k) ESTABLISHING ADDITIONAL JOINT TASK FORCES.—The Secretary may establish additional Joint Task Forces for the purposes of—

(1) coordinating operations along the northern border of the United States;

(2) preventing and responding to homeland security crises, as determined by the Secretary;

(3) establishing other regionally-based operations; or

(4) cybersecurity.

(l) NOTIFICATION.—

(1) IN GENERAL.—The Secretary shall submit a notification to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate 90 days prior to the establishment of an additional Joint Task Force under subsection (k).

(2) WAIVER AUTHORITY.—The Secretary may waive the requirement of paragraph (1) in the event of an emergency circumstance that imminently threatens the protection of human life or the protection of property.

(m) REVIEW.—

(1) IN GENERAL.—The Inspector General of the Department shall conduct a review of the Joint Task Forces established under this section.

(2) CONTENTS.—The review required under paragraph (1) shall include an assessment of the effectiveness of the Joint Task Force structure in securing the land and maritime borders of the United States, together with recommendations for enhancements to such structure to further strengthen border security.

(3) SUBMISSION.—The Inspector General of the Department shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that contains the review required under paragraph (1) by not later than January 31, 2018.

(n) DEFINITION.—In this section, the term "situational awareness" means a knowledge and unified understanding of unlawful cross-border activity, including threats and trends concerning illicit trafficking and unlawful crossings, and the ability to forecast future shifts in such threats and trends, the ability to evaluate such threats and trends at a level sufficient to create actionable plans, and the operational capability to conduct continuous and integrated surveillance of the land and martime borders of the United States.

(o) SUNSET.—This section expires on September 30, 2018.

SEC. 436. UPDATES OF MARITIME OPERATIONS COORDINATION PLAN.

(a) IN GENERAL.—Not later than 180 days after the enactment of this section, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a maritime operations coordination plan for the coordination and cooperation of maritime operations undertaken by components and offices of the Department with responsibility for maritime security missions. Such plan shall update the maritime operations coordination plan released by the Department in July 2011, and shall address the following:

(1) Coordination of planning, integration of maritime operations, and development of joint situational awareness of any component or office of the Department with responsibility for maritime homeland security missions.

(2) Maintaining effective information sharing and, as appropriate, intelligence integration, with Federal, State, and local officials and the private sector, regarding threats to maritime security.

(3) Leveraging existing departmental coordination mechanisms, including the interagency operational centers as authorized under section 70107A of title 46, United States Code, Coast Guard's Regional Coordinating Mechanisms, the U.S. Customs and Border Protection Air and Marine Operations Center, the U.S. Customs and Border Protection Operational Integration Center, and other regional maritime operational command centers.

(4) Cooperation and coordination with other departments and agencies of the Federal Government, and State and local agencies, in the maritime environment, in support of maritime homeland security missions.

(5) Work conducted within the context of other national and Department maritime security strategic guidance.

(b) ADDITIONAL UPDATES.—Not later than July 1, 2020, the Secretary, acting through the Department's Office of Operations Coordination and Planning, shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an update to the maritime operations coordination plan required under subsection (a).

* * * * * * *

Subtitle G—U.S. Customs and Border Protection Public Private Partnerships

SEC. 481. FEE AGREEMENTS FOR CERTAIN SERVICES AT PORTS OF ENTRY.

(a) IN GENERAL.—Notwithstanding section 13031(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)) and section 451 of the Tariff Act of 1930 (19 U.S.C. 1451), the Commissioner of U.S. Customs and Border Protection for border security, port security, transportation security, or counter-terrorism purposes, may, upon the request of any entity, enter into a fee agreement with such entity under which—

(1) U.S. Customs and Border Protection shall provide services described in subsection (c) at a United States port of entry or any other facility at which U.S. Customs and Border Protection provides or will provide such services;

(2) such entity shall remit to U.S. Customs and Border Protection a fee imposed under subsection (e) in an amount equal to the full costs that are incurred or will be incurred in providing such services; and

(3) each facility at which U.S. Customs and Border Protection services are performed shall be provided, maintained, and equipped by such entity, without cost to the Federal Government, in accordance with U.S. Customs and Border Protection specifications.

(b) SERVICES DESCRIBED.—The services described in this section are any activities of any employee or contractor of U.S. Customs and Border Protection pertaining to, or in support of, customs, agricultural processing, border security, or immigration inspection-related matters at a port of entry or any other facility at which U.S. Customs and Border Protection provides or will provide services.

(c) LIMITATIONS.—

(1) IMPACTS OF SERVICES.—The Commissioner of U.S. Customs and Border Protection—

(A) may enter into fee agreements under this section only for services that will increase or enhance the operational capacity of U.S. Customs and Border Protection based on available staffing and workload and that will not shift the cost of services funded in any appropriations Act, or provided from any account in the Treasury of the United States derived by the collection of fees, to entities under this Act; and

(B) may not enter into a fee agreement under this section if such agreement would unduly and permanently impact services funded in any appropriations Act, or provided from any account in the Treasury of the United States, derived by the collection of fees.

(2) NUMBER.—There shall be no limit to the number of fee agreements that the Commissioner of U.S. Customs and Border Protection may enter into under this section.

(d) FEE.—

(1) IN GENERAL.—The amount of the fee to be charged pursuant to an agreement authorized under subsection (a) shall be paid by each entity requesting U.S. Customs and Border Protection services, and shall be for the full cost of providing such services, including the salaries and expenses of employees and contractors of U.S. Customs and Border Protection, to provide such services and other costs incurred by U.S. Customs and Border Protection relating to such services, such as temporary placement or permanent relocation of such employees and contractors.

(2) TIMING.—The Commissioner of U.S. Customs and Border Protection may require that the fee referred to in paragraph (1) be paid by each entity that has entered into a fee agreement under subsection (a) with U.S. Customs and Border Protection in advance of the performance of U.S. Customs and Border Protection services.

(3) OVERSIGHT OF FEES.—The Commissioner of U.S. Customs and Border Protection shall develop a process to oversee the services for which fees are charged pursuant to an agreement under subsection (a), including the following:

(A) A determination and report on the full costs of providing such services, as well as a process for increasing such fees, as necessary.

(B) Establishment of a periodic remittance schedule to replenish appropriations, accounts, or funds, as necessary.

(C) Identification of costs paid by such fees.

(e) DEPOSIT OF FUNDS.—

(1) ACCOUNT.—Funds collected pursuant to any agreement entered into under subsection (a) shall be deposited as offsetting collections, shall remain available until expended without fiscal year limitation, and shall be credited to the applicable appropriation, account, or fund for the amount paid out of such appropriation, account, or fund for any expenses incurred or to be incurred by U.S. Customs and Border Protection in providing U.S. Customs and Border Protection services under any such agreement and any other costs incurred or to be incurred by U.S. Customs and Border Protection relating to such services.

(2) RETURN OF UNUSED FUNDS.—The Commissioner of U.S. Customs and Border Protection shall return any unused funds collected and deposited into the account described in paragraph (1) in the event that a fee agreement entered into under subsection (a) is terminated for any reason, or in the event that the terms of such fee agreement change by mutual agreement to cause a reduction of U.S. Customs and Border Protections services. No interest shall be owed upon the return of any such unused funds.

(f) TERMINATION.—

(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall terminate the provision of services pursuant to a fee agreement entered into under subsection (a) with an entity that, after receiving notice from the Commissioner that a fee under subsection (d) is due, fails to pay such fee in a timely manner. In the event of such termination, all costs incurred by U.S. Customs and Border Protection which have not been paid shall become immediately due and payable. Interest on unpaid fees shall accrue based on the rate and amount established under sections 6621 and 6622 of the Internal Revenue Code of 1986.

(2) PENALTY.—Any entity that, after notice and demand for payment of any fee under subsection (d), fails to pay such fee in a timely manner shall be liable for a penalty or liquidated damage equal to two times the amount of such fee. Any such amount collected pursuant to this paragraph shall be deposited into the appropriate account specified under subsection (e) and shall be available as described in such subsection.

(g) ANNUAL REPORT.—The Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate

an annual report identifying the activities undertaken and the agreements entered into pursuant to this section.

SEC. 482. PORT OF ENTRY DONATION AUTHORITY.

(a) AGREEMENTS AUTHORIZED.—

(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, in collaboration with the Administrator of the General Services Administration as applicable under subsection (f), may enter into an agreement with any entity to accept a donation of real or personal property, including monetary donations, or nonpersonal services, for uses described in subsection (c) at a new or existing land, sea, or air port of entry, or any facility or other infrastructure at a location at which U.S. Customs and Border Protection performs or will be performing inspection services.

(2) GSA.—If the Administrator of the General Services Administration owns or leases a new or existing land port of entry at a location at which U.S. Customs and Border Protection performs or will be performing inspection services, the Administrator, in collaboration with the Commissioner of U.S. Customs and Border Protection, may enter into an agreement with any entity to accept a donation of real or personal property, including monetary donations, or nonpersonal services, at such location for uses described in subsection (c).

(b) LIMITATION ON MONETARY DONATIONS.—Any monetary donation accepted pursuant to subsection (a) may not be used to pay the salaries of U.S. Customs and Border Protection employees performing inspection services.

(c) USE.—Donations accepted pursuant to subsection (a) may be used for activities related to construction, alteration, operation, or maintenance of a new or existing land, sea, or air port of entry, as appropriate, or any facility or other infrastructure at a location at which U.S. Customs and Border Protection performs or will be performing inspections services, including expenses related to—

(1) land acquisition, design, construction, repair, or alteration;

(2) furniture, fixtures, equipment, or technology, including installation or the deployment thereof; and

(3) operation and maintenance of such port of entry, facility, infrastructure, equipment, or technology.

(d) TRANSFER.—Notwithstanding any other provision of law, donations accepted by the Commissioner of U.S. Customs and Border Protection or the Administrator of the General Services Administration pursuant to subsection (a) may be transferred between U.S. Customs and Border Protection and the General Services Administration.

(e) DURATION.—An agreement entered into under subsection (a) may last as long as required to meet the terms of such agreement.

(f) ROLE OF THE ADMINISTRATOR.—The role, involvement, and authority of the Administrator of the General Services Administration under this section shall be limited to donations made at new or existing land ports of entry, facilities, or other infrastructure owned or leased by the General Services Administration.

(g) COORDINATION.—In carrying out agreements entered into under subsection (a), the Commissioner of U.S. Customs and Border

Protection and the Administrator of the General Services Administration shall establish criteria that includes the following:

(1) Selection and evaluation of donors.

(2) Identification of roles and responsibilities between U.S. Customs and Border Protection, the General Services Administration, and donors.

(3) Decision-making and dispute resolution processes.

(4) Processes for U.S. Customs and Border Protection and the General Services Administration to terminate agreements if selected donors are not meeting the terms of any such agreement, including the security standards established by U.S. Customs and Border Protection.

(h) EVALUATION PROCEDURES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection, in consultation with the Administrator of the General Services Administration, as appropriate, shall—

(A) establish criteria for evaluating a proposal to enter into an agreement under subsection (a); and

(B) make such criteria publicly available.

(2) CONSIDERATIONS.—Criteria established pursuant to paragraph (1) shall consider the following:

(A) The impact of such proposal on the land, sea, or air port of entry or facility or other infrastructure at issue and other ports of entry or similar facilities or other infrastructure near the location of the proposed donation.

(B) The proposal's potential to increase trade and travel efficiency through added capacity.

(C) The proposal's potential to enhance the security of the port of entry or facility or other infrastructure at issue.

(D) The funding available to complete the intended use of a donation under this subsection, if such donation is real property.

(E) The costs of maintaining and operating such donation.

(F) Whether such donation, if real property, satisfies the requirements of such proposal, or whether additional real property would be required.

(G) The impact of such proposal on U.S. Customs and Border Protection staffing requirements.

(H) Other factors that the Commissioner or Administrator determines to be relevant.

(3) DETERMINATION AND NOTIFICATION.—Not later than 180 days after receiving a proposal to enter into an agreement under subsection (a), the Commissioner of U.S. Customs and Border Protection shall make a determination to deny or approve such proposal, and shall notify the entity that submitted such proposal of such determination.

(i) SUPPLEMENTAL FUNDING.—Donations made pursuant to subsection (a) may be used in addition to any other funding for such purpose, including appropriated funds, property, or services.

(j) RETURN OF DONATIONS.—The Commissioner of U.S. Customs and Border Protection or the Administrator of the General Services Administration, as the case may be, may return any donation made pursuant to subsection (a). No interest shall be owed to the donor

with respect to any donation provided under such subsection that is returned pursuant to this subsection.

(k) ANNUAL REPORTS.—The Commissioner of U.S. Customs and Border Protection, in collaboration with the Administrator of the General Services Administration, as appropriate, shall submit to the Committee on Homeland Security, the Committee on Transportation and Infrastructure, and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs, the Committee on Environment and Public Works, and the Committee on Appropriations of the Senate an annual report identifying the activities undertaken and agreements entered into pursuant to this section.

(l) RULE OF CONSTRUCTION.—Except as otherwise provided in this section, nothing in this section may be construed as affecting in any manner the responsibilities, duties, or authorities of U.S. Customs and Border Protection or the General Services Administration.

SEC. 483. CURRENT AND PROPOSED AGREEMENTS.

Nothing in this subtitle may be construed as affecting in any manner—

(1) any agreement entered into pursuant to section 560 of division D of the Consolidated and Further Continuing Appropriations Act, 2013 (Public Law 113–6) or section 559 of title V of division F of the Consolidated Appropriations Act, 2014 (6 U.S.C. 211 note; Public Law 113–76), as in existence on the day before the date of the enactment of this subtitle, and any such agreement shall continue to have full force and effect on and after such date; or

(2) a proposal accepted for consideration by U.S. Customs and Border Protection pursuant to such section 559, as in existence on the day before such date of enactment.

SEC. 484. DEFINITIONS.

In this subtitle:

(1) DONOR.—The term "donor" means any entity that is proposing to make a donation under this Act.

(2) ENTITY.—The term "entity" means any—

(A) person;

(B) partnership, corporation, trust, estate, cooperative, association, or any other organized group of persons;

(C) Federal, State or local government (including any subdivision, agency or instrumentality thereof); or

(D) any other private or governmental entity.

* * * * * * *

SECTION 560 OF DIVISION D OF THE CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT, 2013

[SEC. 560. (a) Notwithstanding sections 58c(e) and 1451 of title 19, United States Code, upon the request of any persons, the Commissioner of U.S. Customs and Border Protection may enter into reimbursable fee agreements for a period of up to 5 years with such persons for the provision of U.S. Customs and Border Protection services and any other costs incurred by U.S. Customs and Border

Protection relating to such services. Such requests may include additional U.S. Customs and Border Protection services at existing U.S. Customs and Border Protection-serviced facilities (including but not limited to payment for overtime), the provision of U.S. Customs and Border Protection services at new facilities, and expanded U.S. Customs and Border Protection services at land border facilities.

[(1) By December 31, 2013, the Commissioner may enter into not more than 5 agreements under this section.

[(2) The Commissioner shall not enter into such an agreement if it would unduly and permanently impact services funded in this or any other appropriations Acts, or provided from any accounts in the Treasury of the United States derived by the collection of fees.

[(b) Funds collected pursuant to any agreement entered into under this section shall be deposited in a newly established account as offsetting collections and remain available until expended, without fiscal year limitation, and shall directly reimburse each appropriation for the amount paid out of that appropriation for any expenses incurred by U.S. Customs and Border Protection in providing U.S. Customs and Border Protection services and any other costs incurred by U.S. Customs and Border Protection relating to such services.

[(c) The amount of the fee to be charged pursuant to an agreement authorized under subsection (a) of this section shall be paid by each person requesting U.S. Customs and Border Protection services and shall include, but shall not be limited to, the salaries and expenses of individuals employed by U.S. Customs and Border Protection to provide such U.S. Customs and Border Protection services and other costs incurred by U.S. Customs and Border Protection relating to those services, such as temporary placement or permanent relocation of those individuals.

[(d) U.S. Customs and Border Protection shall terminate the provision of services pursuant to an agreement entered into under subsection (a) with a person that, after receiving notice from the Commissioner that a fee imposed under subsection (a) is due, fails to pay the fee in a timely manner. In the event of such termination, all costs incurred by U.S. Customs and Border Protection, which have not been reimbursed, will become immediately due and payable. Interest on unpaid fees will accrue based on current U.S. Treasury borrowing rates. Additionally, any person who, after notice and demand for payment of any fee charged under subsection (a) of this section, fails to pay such fee in a timely manner shall be liable for a penalty or liquidated damage equal to two times the amount of the fee. Any amount collected pursuant to any agreement entered into under this subsection shall be deposited into the account specified under subsection (b) of this section and shall be available as described therein.

[(e) Each facility at which such U.S. Customs and Border Protection services are performed shall provide, maintain, and equip, without cost to the Government, facilities in accordance with U.S. Customs and Border Protection specifications.

[(f) The authority found in this section may not be used to enter into agreements to expand or begin to provide U.S. Customs and Border Protection services outside of the United States.

[(g) The authority found in this section may not be used at existing U.S. Customs and Border Protection-serviced air facilities to enter into agreements for costs other than payment of overtime and the salaries, training and benefits of individuals employed by U.S. Customs and Border Protection to support U.S. Customs and Border Protection officers in performing law enforcement functions at ports of entry, including primary and secondary processing of passengers.

[(h) The Commissioner shall notify the appropriate Committees of Congress 15 days prior to entering into any agreement under the authority of this section and shall provide a copy of the agreement to the appropriate Committees of Congress.

[(i) For purposes of this section the terms:

[(1) U.S. Customs and Border Protection "services" means any activities of any employee or contractor of U.S. Customs and Border Protection pertaining to customs and immigration inspection-related matters.

[(2) "Person" means any natural person or any corporation, partnership, trust, association, or any other public or private entity, or any officer, employee, or agent thereof.

[(3) "Appropriate Committees of Congress" means the Committees on Appropriations; Finance; Judiciary; and Homeland Security and Governmental Affairs of the Senate and the Committees on Appropriations; Judiciary; Ways and Means; and Homeland Security of the House of Representatives.]

SECTION 559 OF DIVISION F OF THE CONSOLIDATED APPROPRIATIONS ACT, 2014

[SEC. 559. (a) IN GENERAL.—In addition to existing authorities, the Commissioner of U.S. Customs and Border Protection, in collaboration with the Administrator of General Services, is authorized to conduct a pilot program in accordance with this section to permit U.S. Customs and Border Protection to enter into partnerships with private sector and government entities at ports of entry for certain services and to accept certain donations.

[(b) RULE OF CONSTRUCTION.—Except as otherwise provided in this section, nothing in this section may be construed as affecting in any manner the responsibilities, duties, or authorities of U.S. Customs and Border Protection or the General Services Administration.

[(c) DURATION.—The pilot program described in subsection (a) shall be for five years. A partnership entered into during such pilot program may last as long as required to meet the terms of such partnership. At the end of such five year period, the Commissioner may request that such pilot program be made permanent.

[(d) COORDINATION.—

[(1) IN GENERAL.—The Commissioner, in consultation with participating private sector and government entities in a partnership under subsection (a), shall provide the Administrator with information relating to U.S. Customs and Border Protection's requirements for new facilities or upgrades to existing facilities at land ports of entry.

[(2) CRITERIA.—The Commissioner and the Administrator shall establish criteria for entering into a partnership under subsection (a) that include the following:

[(A) Selection and evaluation of potential partners.

[(B) Identification and documentation of roles and responsibilities between U.S. Customs and Border Protection, General Services Administration, and private and government partners.

[(C) Identification, allocation, and management of explicit and implicit risks of partnering between U.S. Customs and Border Protection, General Services Administration, and private and government partners.

[(D) Decision-making and dispute resolution processes in partnering arrangements.

[(E) Criteria and processes for U.S. Customs and Border Protection and General Services Administration to terminate agreements if private or government partners are not meeting the terms of such a partnership, including the security standards established by U.S. Customs and Border Protection.

[(3) EVALUATION PLAN.—The Commissioner, in collaboration with the Administrator, shall submit to the Committee on Homeland Security, the Committee on Transportation and Infrastructure, and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs, the Committee on Environment and Public Works, and the Committee on Appropriations of the Senate, an evaluation plan for the pilot program described in subsection (a) that includes the following:

[(A) Well-defined, clear, and measurable objectives.

[(B) Performance criteria or standards for determining the performance of such pilot program.

[(C) Clearly articulated evaluation methodology, including—

[(i) sound sampling methods;

[(ii) a determination of appropriate sample size for the evaluation design;

[(iii) a strategy for tracking such pilot program's performance; and

[(iv) an evaluation of the final results.

[(D) A plan detailing the type and source of data necessary to evaluate such pilot program, methods for data collection, and the timing and frequency of data collection.

[(e) AUTHORITY TO ENTER INTO AGREEMENTS FOR THE PROVISION OF CERTAIN SERVICES AT PORTS OF ENTRY.—

[(1) IN GENERAL.—Notwithstanding section 13031(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)) and section 451 of the Tariff Act of 1930 (19 U.S.C. 1451), the Commissioner may, during the pilot program described in subsection (a) and upon the request of a private sector or government entity with which U.S. Customs and Border Protection has entered into a partnership, enter into a reimbursable fee agreement with such entity under which—

[(A) U.S. Customs and Border Protection will provide services described in paragraph (2) at a port of entry;

[(B) such entity will pay a fee imposed under paragraph (4) to reimburse U.S. Customs and Border Protection for the costs incurred in providing such services; and

[(C) each facility at which U.S. Customs and Border Protection services are performed shall be provided, maintained, and equipped by such entity, without cost to the Federal Government, in accordance with U.S. Customs and Border Protection specifications.

[(2) SERVICES DESCRIBED.—Services described in this paragraph are any activities of any employee or contractor of U.S. Customs and Border Protection pertaining to customs, agricultural processing, border security, and immigration inspection-related matters at ports of entry.

[(3) LIMITATIONS.—

[(A) IMPACTS OF SERVICES.—The Commissioner may not enter into a reimbursable fee agreement under this subsection if such agreement would unduly and permanently impact services funded in this or any other appropriations Act, or provided from any account in the Treasury of the United States derived by the collection of fees.

[(B) FOR CERTAIN COSTS.—The authority found in this subsection may not be used at U.S. Customs and Border Protection-serviced air ports of entry to enter into reimbursable fee agreements for costs other than payment of overtime and the salaries, training and benefits of individuals employed by U.S. Customs and Border Protection to support U.S. Customs and Border Protection officers in performing law enforcement functions at ports of entry, including primary and secondary processing of passengers.

[(C) The authority found in this subsection may not be used to enter into new preclearance agreements or begin to provide U.S. Customs and Border Protection services outside of the United States.

[(D) The authority found in this subsection shall be limited with respect to U.S. Customs and Border Protection-serviced air ports of entry to five pilots per year.

[(4) FEE.—

[(A) IN GENERAL.—The amount of the fee to be charged pursuant to an agreement authorized under paragraph (1) shall be paid by each private sector and government entity requesting U.S. Customs and Border Protection services, and shall include the salaries and expenses of individuals employed by U.S. Customs and Border Protection to provide such services and other costs incurred by U.S. Customs and Border Protection relating to such services, such as temporary placement or permanent relocation of such individuals.

[(B) OVERSIGHT OF FEES.—The Commissioner shall develop a process to oversee the activities reimbursed by the fees charged pursuant to an agreement authorized under paragraph (1) that includes the following:

[(i) A determination and report on the full costs of providing services, including direct and indirect costs, including a process for increasing such fees as necessary.

[(ii) Establishment of a monthly remittance schedule to reimburse appropriations.

[(iii) Identification of overtime costs to be reimbursed by such fees.

[(5) DEPOSIT OF FUNDS.—Funds collected pursuant to any agreement entered into under paragraph (1) shall be deposited as offsetting collections and remain available until expended, without fiscal year limitation, and shall directly reimburse each appropriation for the amount paid out of that appropriation for any expenses incurred by U.S. Customs and Border Protection in providing U.S. Customs and Border Protection services and any other costs incurred by U.S. Customs and Border Protection relating to such services.

[(6) TERMINATION.—The Commissioner shall terminate the provision of services pursuant to an agreement entered into under paragraph (1) with a private sector or government entity that, after receiving notice from the Commissioner that a fee imposed under paragraph (4) is due, fails to pay such fee in a timely manner. In the event of such termination, all costs incurred by U.S. Customs and Border Protection, which have not been reimbursed, will become immediately due and payable. Interest on unpaid fees will accrue based on current Treasury borrowing rates. Additionally, any private sector or government entity that, after notice and demand for payment of any fee charged under paragraph (4), fails to pay such fee in a timely manner shall be liable for a penalty or liquidated damage equal to two times the amount of such fee. Any amount collected pursuant to any agreement entered into under paragraph (1) shall be deposited into the account specified under paragraph (5) and shall be available as described therein.

[(7) NOTIFICATION.—The Commissioner shall notify the Congress 15 days prior to entering into any agreement under paragraph (1) and shall provide a copy of such agreement.

[(f) DONATIONS.—

[(1) IN GENERAL.—Subject to paragraph (2), the Commissioner and the Administrator may, during the pilot program described in subsection (a), accept a donation of real or personal property (including monetary donations) or nonpersonal services from any private sector or government entity with which U.S. Customs and Border Protection has entered into a partnership.

[(2) ALLOWABLE USES OF DONATIONS.—The Commissioner and the Administrator, with respect to any donation provided pursuant to paragraph (1), may—

[(A) use such donation for necessary activities related to the construction, alteration, operation, or maintenance of an existing port of entry facility under the jurisdiction, custody, and control of the Commissioner, including expenses related to—

[(i) land acquisition, design, construction, repair and alteration;

[(ii) furniture, fixtures, and equipment;

[(iii) the deployment of technology and equipment; and

[(iv) operations and maintenance; or

[(B) transfer such property or services to the Administrator for necessary activities described in subparagraph (A) related to a new or existing port of entry under the jurisdiction, custody, and control of the Administrator, subject to chapter 33 of title 40, United States Code. Such transfer shall not be required for personal property, including furniture, fixtures, and equipment.

[(3) CONSULTATION AND BUDGET.—

[(A) WITH THE PRIVATE SECTOR OR GOVERNMENT ENTITY.—To accept a donation described in paragraph (1), the Commissioner and the Administrator shall—

[(i) consult with the appropriate stakeholders and the private sector or government entity that is providing the donation and provide such entity with a description of the intended use of such donation; and

[(ii) submit to the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Appropriations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Environment and Public Works of the Senate a report not later than one year after the date of enactment of this Act, and annually thereafter, that describes—

[(I) the accepted donations received under this subsection;

[(II) the ports of entry that received such donations; and

[(III) how each donation helped facilitate the construction, alternation, operation, or maintenance of a new or existing land port of entry.

[(B) SAVINGS PROVISION.—Nothing in this paragraph may be construed to—

[(i) create any right or liability of the parties referred to in subparagraph (A); or

[(ii) affect any consultation requirement under any other law.

[(4) EVALUATION PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Commissioner, in consultation with the Administrator, shall establish procedures for evaluating a proposal submitted by a private sector or government entity to make a donation of real or personal property (including monetary donations) or nonpersonal services under paragraph (1) relating to a port of entry under the jurisdiction, custody and control of the Commissioner or the Administrator and make any such evaluation criteria publicly available.

[(5) CONSIDERATIONS.—In determining whether or not to approve a proposal referred to in paragraph (4), the Commissioner or the Administrator shall consider—

[(A) the impact of such proposal on the port of entry at issue and other ports of entry on the same border;

[(B) the potential of such proposal to increase trade and travel efficiency through added capacity;

[(C) the potential of such proposal to enhance the security of the port of entry at issue;

[(D) the funding available to complete the intended use of a donation under this subsection, if such donation is real property;

[(E) the costs of maintaining and operating such donation;

[(F) whether such donation, if real property, satisfies the requirements of such proposal, or whether additional real property would be required;

[(G) an explanation of how such donation, if real property, was secured, including if eminent domain was used;

[(H) the impact of such proposal on staffing requirements; and

[(I) other factors that the Commissioner or Administrator determines to be relevant.

[(6) UNCONDITIONAL MONETARY DONATIONS.—A monetary donation shall be made unconditionally, although the donor may specify—

[(A) the port of entry facility or facilities to be benefitted from such donation; and

[(B) the timeframe during which such donation shall be used.

[(7) SUPPLEMENTAL FUNDING.—Real or personal property (including monetary donations) or nonpersonal services donated pursuant to paragraph (1) may be used in addition to any other funding (including appropriated funds), property, or services made available for the same purpose.

[(8) RETURN OF DONATIONS.—If the Commissioner or the Administrator does not use the real property or monetary donation donated pursuant to paragraph (1) for the specific port of entry facility or facilities designated by the donor or within the timeframe specified by the donor, such donated real property or money may be returned to the donor. No interest shall be owed to the donor with respect to any donation of funding provided under such paragraph (1) that is returned pursuant to this paragraph.

[(9) SAVINGS PROVISION.—Nothing in this subsection may be construed to affect or alter the existing authority of the Commissioner or the Administrator to construct, alter, operate, and maintain port of entry facilities.

[(g) ANNUAL REPORTS.—The Commissioner, in collaboration with the Administrator, shall annually submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Environment and Public Works of the Senate a report on the pilot program and activities undertaken pursuant thereto in accordance with this Act.

[(h) DEFINITIONS.—In this section—

[(1) the term "private sector entity" means any corporation, partnership, trust, association, or any other private entity, or any officer, employee, or agent thereof;

[(2) the term "Commissioner" means the Commissioner of U.S. Customs and Border Protection; and

[(3) the term "Administrator" means the Administrator of General Services.

[(i) ROLE OF GENERAL SERVICES ADMINISTRATION.—Under this section, collaboration with the Administrator of General Services is required only with respect to partnerships at land ports of entry.]

SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT OF 2006

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Security and Accountability For Every Port Act of 2006" or the "SAFE Port Act".

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

* * * * * * *

TITLE I—SECURITY OF UNITED STATES SEAPORTS

Subtitle A—General Provisions

* * * * * * *

[Sec. 105. Study to identify redundant background records checks.]

* * * * * * *

Subtitle C—Port Operations

* * * * * * *

[Sec. 122. Inspection of car ferries entering from abroad.]

* * * * * * *

[Sec. 127. Report on arrival and departure manifests for certain commercial vessels in the United States Virgin Islands.]

* * * * * * *

TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

* * * * * * *

Subtitle B—Customs-Trade Partnership Against Terrorism

* * * * * * *

[Sec. 218. Third party validations.]

Sec. 218. Recognition of other countries' trusted shipper programs.

* * * * * * *

Subtitle C—Miscellaneous Provisions

* * * * * * *

[Sec. 235. Pilot program to improve the security of empty containers.]

* * * * * * *

TITLE VII—OTHER MATTERS

[Sec. 701. Security plan for essential air service and small community airports.]

* * * * * * *

[Sec. 708. Aircraft charter customer and lessee prescreening program.]

* * * * * * *

TITLE I—SECURITY OF UNITED STATES SEAPORTS

Subtitle A—General Provisions

* * * * * * *

[SEC. 105. STUDY TO IDENTIFY REDUNDANT BACKGROUND RECORDS CHECKS.

[(a) STUDY.—The Comptroller General of the United States shall conduct a study of background records checks carried out for the Department that are similar to the background records check required under section 5103a of title 49, United States Code, to identify redundancies and inefficiencies in connection with such checks.

[(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the results of the study, including—

[(1) an identification of redundancies and inefficiencies referred to in subsection (a); and

[(2) recommendations for eliminating such redundancies and inefficiencies.]

* * * * * * *

SEC. 108. ESTABLISHMENT OF INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.

(a) IN GENERAL.—[Omitted—Amendment to law]

(b) REPORT REQUIREMENT.—Nothing in this section or the amendments made by this section relieves the Commandant of the Coast Guard from complying with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004 (Public Law 108-293; 118 Stat. 1082). The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section.

[(c) BUDGET AND COST-SHARING ANALYSIS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the appropriate congressional committees a proposed budget analysis for implementing section 70107A of title 46, United States Code, as added by subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the interagency operation of the centers to be established under such section.]

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by inserting after the item relating to section 70107 the following:

"70107A. Interagency operational centers for port security".

* * * * * * *

Subtitle C—Port Operations

SEC. 121. DOMESTIC RADIATION DETECTION AND IMAGING.

(a) SCANNING CONTAINERS.—Subject to section 1318 of title 19, United States Code, not later than December 31, 2007, all containers entering the United States through the 22 ports through which the greatest volume of containers enter the United States by vessel shall be scanned for radiation. To the extent practicable, the Secretary shall deploy next generation radiation detection technology.

(b) STRATEGY.—The Secretary shall develop a strategy for the deployment of radiation detection capabilities that includes—

(1) a risk-based prioritization of ports of entry at which radiation detection equipment will be deployed;

(2) a proposed timeline of when radiation detection equipment will be deployed at each port of entry identified under paragraph (1);

(3) the type of equipment to be used at each port of entry identified under paragraph (1), including the joint deployment and utilization of radiation detection equipment and nonintrusive imaging equipment;

(4) standard operating procedures for examining containers with such equipment, including sensor alarming, networking, and communications and response protocols;

(5) operator training plans;

(6) an evaluation of the environmental health and safety impacts of nonintrusive imaging technology and a radiation risk reduction plan, in consultation with the Nuclear Regulatory Commission, the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health, that seeks to minimize radiation exposure of workers and the public to levels as low as reasonably achievable;

(7) the policy of the Department for using nonintrusive imaging equipment in tandem with radiation detection equipment; and

(8) a classified annex that—

(A) details plans for covert testing; and

(B) outlines the risk-based prioritization of ports of entry identified under paragraph (1).

[(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit the strategy developed under subsection (b) to the appropriate congressional committees.

[(d) UPDATE.—Not later than 180 days after the date of the submission of the report under subsection (c), the Secretary shall provide a more complete evaluation under subsection (b)(6).

[(e) OTHER WEAPONS OF MASS DESTRUCTION THREATS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the feasibility of, and a strategy for, the development of equipment to detect and prevent shielded nuclear and radiological threat material and chemical, biological, and other weapons of mass destruction from entering the United States.]

(f) STANDARDS.—The Secretary, acting through the Director for Domestic Nuclear Detection and in collaboration with the National

Institute of Standards and Technology, shall publish technical capability standards and recommended standard operating procedures for the use of nonintrusive imaging and radiation detection equipment in the United States. Such standards and procedures—

(1) should take into account relevant standards and procedures utilized by other Federal departments or agencies as well as those developed by international bodies; and

(2) shall not be designed so as to endorse specific companies or create sovereignty conflicts with participating countries.

(g) IMPLEMENTATION.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall fully implement the strategy developed under subsection (b).

(h) EXPANSION TO OTHER UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—As soon as practicable after—

(A) implementation of the program for the examination of containers for radiation at ports of entry described in subsection (a); and

(B) submission of the strategy developed under subsection (b) (and updating, if any, of that strategy under subsection (c)),

but not later than December 31, 2008, the Secretary shall expand the strategy developed under subsection (b), in a manner consistent with the requirements of subsection (b), to provide for the deployment of radiation detection capabilities at all other United States ports of entry not covered by the strategy developed under subsection (b).

(2) RISK ASSESSMENT.—In expanding the strategy under paragraph (1), the Secretary shall identify and assess the risks to those other ports of entry in order to determine what equipment and practices will best mitigate the risks.

(i) INTERMODAL RAIL RADIATION DETECTION TEST CENTER.—

(1) ESTABLISHMENT.—In accordance with subsection (b), and in order to comply with this section, the Secretary shall establish an Intermodal Rail Radiation Detection Test Center (referred to in this subsection as the "Test Center").

(2) PROJECTS.—The Secretary shall conduct multiple, concurrent projects at the Test Center to rapidly identify and test concepts specific to the challenges posed by on-dock rail.

(3) LOCATION.—The Test Center shall be located within a public port facility at which a majority of the containerized cargo is directly laden from (or unladen to) on-dock, intermodal rail.

* * * * * * *

[SEC. 122. INSPECTION OF CAR FERRIES ENTERING FROM ABROAD.

[Not later than 120 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, and in coordination with the Secretary of State and in cooperation with ferry operators and appropriate foreign government officials, shall seek to develop a plan for the inspection of passengers and vehicles before such passengers board, or such vehicles are loaded onto, a ferry bound for a United States facility required to submit a plan under section 70103(c) of title 46, United States Code.]

* * * * * * *

[SEC. 127. REPORT ON ARRIVAL AND DEPARTURE MANIFESTS FOR CERTAIN COMMERCIAL VESSELS IN THE UNITED STATES VIRGIN ISLANDS.

[Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the impact of implementing the requirements of section 231 of the Immigration and Nationality Act (8 U.S.C. 1221) (relating to providing United States border officers with arrival and departure manifests) with respect to commercial vessels that are fewer than 300 gross tons and operate exclusively between the territorial waters of the United States Virgin Islands and the territorial waters of the British Virgin Islands.]

TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

Subtitle A—General Provisions

SEC. 201. STRATEGIC PLAN TO ENHANCE THE SECURITY OF THE INTERNATIONAL SUPPLY CHAIN.

(a) STRATEGIC PLAN.—The Secretary, in consultation with appropriate Federal, State, local, and tribal government agencies and private sector stakeholders responsible for security matters that affect or relate to the movement of containers through the international supply chain, shall develop, implement, and update, as appropriate, a strategic plan to enhance the security of the international supply chain.

(b) REQUIREMENTS.—The strategic plan required under subsection (a) shall—

(1) describe the roles, responsibilities, and authorities of Federal, State, local, and tribal government agencies and private-sector stakeholders that relate to the security of the movement of containers through the international supply chain;

(2) identify and address gaps and unnecessary overlaps in the roles, responsibilities, or authorities described in paragraph (1);

(3) identify and make recommendations regarding legislative, regulatory, and organizational changes necessary to improve coordination among the entities or to enhance the security of the international supply chain;

(4) provide measurable goals, including objectives, mechanisms, and a schedule, for furthering the security of commercial operations from point of origin to point of destination;

(5) build on available resources and consider costs and benefits;

(6) provide incentives for additional voluntary measures to enhance cargo security, as recommended by the Commissioner;

(7) consider the impact of supply chain security requirements on small- and medium-sized companies;

(8) include a process for sharing intelligence and information with private-sector stakeholders to assist in their security efforts;

(9) identify a framework for prudent and measured response in the event of a transportation security incident involving the international supply chain;

(10) provide protocols for the expeditious resumption of the flow of trade in accordance with section 202;

(11) consider the linkages between supply chain security and security programs within other systems of movement, including travel security and terrorism finance programs; and

(12) expand upon and relate to existing strategies and plans, including the National Response Plan, the National Maritime Transportation Security Plan, the National Strategy for Maritime Security, and the 8 supporting plans of the Strategy, as required by Homeland Security Presidential Directive 13.

(c) CONSULTATION.—In developing protocols under subsection (b)(10), the Secretary shall consult with Federal, State, local, and private sector stakeholders, including the National Maritime Security Advisory Committee and the Commercial Operations Advisory Committee.

(d) COMMUNICATION.—To the extent practicable, the strategic plan developed under subsection (a) shall provide for coordination with, and lines of communication among, appropriate Federal, State, local, and private-sector stakeholders on law enforcement actions, intermodal rerouting plans, and other strategic infrastructure issues resulting from a transportation security incident or transportation disruption.

(e) UTILIZATION OF ADVISORY COMMITTEES.—As part of the consultations described in subsection (a), the Secretary shall, to the extent practicable, utilize the Homeland Security Advisory Committee, the National Maritime Security Advisory Committee, and the Commercial Operations Advisory Committee to review, as necessary, the draft strategic plan and any subsequent updates to the strategic plan.

(f) INTERNATIONAL STANDARDS AND PRACTICES.—In furtherance of the strategic plan required under subsection (a), the Secretary is encouraged to consider proposed or established standards and practices of foreign governments and international organizations, including the International Maritime Organization, the World Customs Organization, the International Labor Organization, and the International Organization for Standardization, as appropriate, to establish standards and best practices for the security of containers moving through the international supply chain.

(g) REPORT.—

(1) INITIAL REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report that contains the strategic plan required by subsection (a).

[(2) FINAL REPORT.—Not later than 3 years after the date on which the strategic plan is submitted under paragraph (1), the Secretary shall submit a report to the appropriate congressional committees that contains an update of the strategic plan.**]**

(2) UPDATES.—Not later than 270 days after the date of the enactment of this paragraph and every three years thereafter, the Secretary shall submit to the appropriate congressional

committees a report that contains an update of the strategic plan described in paragraph (1).

* * * * * * *

SEC. 205. CONTAINER SECURITY INITIATIVE.

(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, shall establish and implement a program (referred to in this section as the "Container Security Initiative" or "CSI") to identify and examine or search maritime containers that pose a security risk before loading such containers in a foreign port for shipment to the United States, either directly or through a foreign port.

(b) ASSESSMENT.—The Secretary, acting through the Commissioner, may designate foreign seaports to participate in the Container Security Initiative after the Secretary has assessed the costs, benefits, and other factors associated with such designation, including—

(1) the level of risk for the potential compromise of containers by terrorists, or other threats as determined by the Secretary;

(2) the volume of cargo being imported to the United States directly from, or being transshipped through, the foreign seaport;

(3) the results of the Coast Guard assessments conducted pursuant to section 70108 of title 46, United States Code;

(4) the commitment of the government of the country in which the foreign seaport is located to cooperating with the Department in sharing critical data and risk management information and to maintain programs to ensure employee integrity; and

(5) the potential for validation of security practices at the foreign seaport by the Department.

(c) NOTIFICATION.—The Secretary shall notify the appropriate congressional committees of the designation of a foreign port under the Container Security Initiative or the revocation of such a designation before notifying the public of such designation or revocation.

(d) NEGOTIATIONS.—The Secretary, in cooperation with the Secretary of State and in consultation with the United States Trade Representative, may enter into negotiations with the government of each foreign nation in which a seaport is designated under the Container Security Initiative to ensure full compliance with the requirements under the Container Security Initiative.

(e) OVERSEAS INSPECTIONS.—

(1) REQUIREMENTS AND PROCEDURES.—The Secretary shall—

(A) establish minimum technical capability criteria and standard operating procedures for the use of nonintrusive inspection and nuclear and radiological detection systems in conjunction with CSI;

(B) require each port designated under CSI to operate nonintrusive inspection and nuclear and radiological detection systems in accordance with the technical capability criteria and standard operating procedures established under subparagraph (A);

(C) continually monitor the technologies, processes, and techniques used to inspect cargo at ports designated under

CSI to ensure adherence to such criteria and the use of such procedures; and

(D) consult with the Secretary of Energy in establishing the minimum technical capability criteria and standard operating procedures established under subparagraph (A) pertaining to radiation detection technologies to promote consistency in detection systems at foreign ports designated under CSI.

(2) CONSTRAINTS.—The criteria and procedures established under paragraph (1)(A)—

(A) shall be consistent, as practicable, with relevant standards and procedures utilized by other Federal departments or agencies, or developed by international bodies if the United States consents to such standards and procedures;

(B) shall not apply to activities conducted under the Megaports Initiative of the Department of Energy; and

(C) shall not be designed to endorse the product or technology of any specific company or to conflict with the sovereignty of a country in which a foreign seaport designated under the Container Security Initiative is located.

(f) SAVINGS PROVISION.—The authority of the Secretary under this section shall not affect any authority or duplicate any efforts or responsibilities of the Federal Government with respect to the deployment of radiation detection equipment outside of the United States.

(g) COORDINATION.—The Secretary shall—

(1) coordinate with the Secretary of Energy, as necessary, to provide radiation detection equipment required to support the Container Security Initiative through the Department of Energy's Second Line of Defense Program and Megaports Initiative; or

(2) work with the private sector or host governments, when possible, to obtain radiation detection equipment that meets the Department's and the Department of Energy's technical specifications for such equipment.

(h) STAFFING.—The Secretary shall develop a human capital management plan to determine adequate staffing levels in the United States and in foreign seaports including, as appropriate, the remote location of personnel in countries in which foreign seaports are designated under the Container Security Initiative.

(i) ANNUAL DISCUSSIONS.—The Secretary, in coordination with the appropriate Federal officials, shall hold annual discussions with foreign governments of countries in which foreign seaports designated under the Container Security Initiative are located regarding best practices, technical assistance, training needs, and technological developments that will assist in ensuring the efficient and secure movement of international cargo.

(j) LESSER RISK PORT.—The Secretary, acting through the Commissioner, may treat cargo loaded in a foreign seaport designated under the Container Security Initiative as presenting a lesser risk than similar cargo loaded in a foreign seaport that is not designated under the Container Security Initiative, for the purpose of clearing such cargo into the United States.

(k) PROHIBITION.—

(1) IN GENERAL.—The Secretary shall issue a "do not load" order, using existing authorities, to prevent the onload of any cargo loaded at a port designated under CSI that has been identified as high risk, including by the Automated Targeting System, unless the cargo is determined to no longer be high risk through—

(A) a scan of the cargo with nonintrusive imaging equipment and radiation detection equipment;

(B) a search of the cargo; or

(C) additional information received by the Department.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the ability of the Secretary to deny entry of any cargo into the United States.

(l) REPORT.—

[(1) IN GENERAL.—Not later than September 30, 2007,**]** *Not later than 270 days after the date of the enactment of the Border and Maritime Security Coordination Improvement Act,* the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit a report to the appropriate congressional committees on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The report shall include—

[(A)**]** *(1)* a description of the technical assistance delivered to, as well as needed at, each designated seaport;

[(B)**]** *(2)* a description of the human capital management plan at each designated seaport;

[(C)**]** *(3)* a summary of the requests made by the United States to foreign governments to conduct physical or nonintrusive inspections of cargo at designated seaports, and whether each such request was granted or denied by the foreign government;

[(D)**]** *(4)* an assessment of the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports and the effect on the flow of commerce at such seaports, as well as any recommendations for improving the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports;

[(E)**]** *(5)* a description and assessment of the outcome of any security incident involving a foreign seaport designated under the Container Security Initiative;

[(F)**]** *(6)* the rationale for the continuance of each port designated under CSI;

[(G)**]** *(7)* a description of the potential for remote targeting to decrease the number of personnel who are deployed at foreign ports under CSI; and

[(H)**]** *(8)* a summary and assessment of the aggregate number and extent of trade compliance lapses at each seaport designated under the Container Security Initiative.

[(2) UPDATED REPORT.—Not later than September 30, 2010, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit an updated report to the appropriate congressional committees on the effectiveness of, and the need for any improvements to, the

Container Security Initiative. The updated report shall address each of the elements required to be included in the report provided for under paragraph (1).]

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Customs and Border Protection to carry out the provisions of this section—

(1) $144,000,000 for fiscal year 2008;

(2) $146,000,000 for fiscal year 2009; and

(3) $153,300,000 for fiscal year 2010.

Subtitle B—Customs-Trade Partnership Against Terrorism

* * * * * * *

SEC. 212. ELIGIBLE ENTITIES.

Importers, *exporters,* customs brokers, forwarders, air, sea, land carriers, contract logistics providers, and other entities in the international supply chain and intermodal transportation system are eligible to apply to voluntarily enter into partnerships with the Department under C-TPAT.

* * * * * * *

[SEC. 218. THIRD PARTY VALIDATIONS.

[(a) PLAN.—The Secretary, acting through the Commissioner, shall develop a plan to implement a 1-year voluntary pilot program to test and assess the feasibility, costs, and benefits of using third party entities to conduct validations of C-TPAT participants.

[(b) CONSULTATIONS.—Not later than 120 days after the date of the enactment of this Act, after consulting with private sector stakeholders, including the Commercial Operations Advisory Committee, the Secretary shall submit a report to the appropriate congressional committees on the plan described in subsection (a).

[(c) PILOT PROGRAM.—

[(1) IN GENERAL.—Not later than 1 year after the consultations described in subsection (b), the Secretary shall carry out the 1-year pilot program to conduct validations of C-TPAT participants using third party entities described in subsection (a).

[(2) AUTHORITY OF THE SECRETARY.—The decision to validate a C-TPAT participant is solely within the discretion of the Secretary, or the Secretary's designee.

[(d) CERTIFICATION OF THIRD PARTY ENTITIES.—The Secretary shall certify a third party entity to conduct validations under subsection (c) if the entity—

[(1) demonstrates to the satisfaction of the Secretary that the entity has the ability to perform validations in accordance with standard operating procedures and requirements designated by the Secretary; and

[(2) agrees—

[(A) to perform validations in accordance with such standard operating procedures and requirements (and updates to such procedures and requirements); and

[(B) to maintain liability insurance coverage at policy limits and in accordance with conditions to be established by the Secretary; and

[(3) signs an agreement to protect all proprietary information of C-TPAT participants with respect to which the entity will conduct validations.

[(e) INFORMATION FOR ESTABLISHING LIMITS OF LIABILITY INSURANCE.—A third party entity seeking a certificate under subsection (d) shall submit to the Secretary necessary information for establishing the limits of liability insurance required to be maintained by the entity under this Act.

[(f) ADDITIONAL REQUIREMENTS.—The Secretary shall ensure that—

[(1) any third party entity certified under this section does not have—

[(A) any beneficial interest in or any direct or indirect control over the C-TPAT participant for which the validation services are performed; or

[(B) any other conflict of interest with respect to the C-TPAT participant; and

[(2) the C-TPAT participant has entered into a contract with the third party entity under which the C-TPAT participant agrees to pay all costs associated with the validation.

[(g) MONITORING.—

[(1) IN GENERAL.—The Secretary shall regularly monitor and inspect the operations of a third party entity conducting validations under subsection (c) to ensure that the entity is meeting the minimum standard operating procedures and requirements for the validation of C-TPAT participants established by the Secretary and all other applicable requirements for validation services.

[(2) REVOCATION.—If the Secretary determines that a third party entity is not meeting the minimum standard operating procedures and requirements designated by the Secretary under subsection (d)(1), the Secretary shall—

[(A) revoke the entity's certificate of conformance issued under subsection (d)(1); and

[(B) review any validations conducted by the entity.

[(h) LIMITATION ON AUTHORITY.—The Secretary may only grant a C-TPAT validation by a third party entity pursuant to subsection (c) if the C-TPAT participant voluntarily submits to validation by such third party entity.

[(i) REPORT.—Not later than 30 days after the completion of the pilot program conducted pursuant to subsection (c), the Secretary shall submit a report to the appropriate congressional committees that contains—

[(1) the results of the pilot program, including the extent to which the pilot program ensured sufficient protection for proprietary commercial information;

[(2) the cost and efficiency associated with validations under the pilot program;

[(3) the impact of the pilot program on the rate of validations conducted under C-TPAT;

[(4) any impact on national security of the pilot program; and

[(5) any recommendations by the Secretary based upon the results of the pilot program.]

SEC. 218. RECOGNITION OF OTHER COUNTRIES' TRUSTED SHIPPER PROGRAMS.

Not later than 30 days before signing an arrangement between the United States and a foreign government providing for mutual recognition of supply chain security practices which might result in the utilization of benefits described in section 214, 215, or 216, the Secretary shall—

(1) notify the appropriate congressional committees of the proposed terms of such arrangement; and

(2) determine, in consultation with the Commissioner, that such foreign government's supply chain security program provides comparable security as that provided by C-TPAT.

* * * * * * *

Subtitle C—Miscellaneous Provisions

* * * * * * *

SEC. 233. INTERNATIONAL COOPERATION AND COORDINATION.

(a) INSPECTION TECHNOLOGY AND TRAINING.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of State, the Secretary of Energy, and appropriate representatives of other Federal agencies, may provide technical assistance, equipment, and training to facilitate the implementation of supply chain security measures at ports designated under the Container Security Initiative.

(2) ACQUISITION AND TRAINING.—Unless otherwise prohibited by law, the Secretary may—

(A) lease, loan, provide, or otherwise assist in the deployment of nonintrusive inspection and radiation detection equipment at foreign land and sea ports under such terms and conditions as the Secretary prescribes, including nonreimbursable loans or the transfer of ownership of equipment; and

(B) provide training and technical assistance for domestic or foreign personnel responsible for operating or maintaining such equipment.

(b) ACTIONS AND ASSISTANCE FOR FOREIGN PORTS AND UNITED STATES TERRITORIES.—[Omitted—Amends other law.]

[(c) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—

[(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the appropriate congressional committees on the security of ports in the Caribbean Basin.

[(2) CONTENTS.—The report submitted under paragraph (1)—

[(A) shall include—

[(i) an assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security;

[(ii) an estimate of the number of ports in the Caribbean Basin that will not be secured by January 1, 2007;

[(iii) an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States; and

[(iv) an assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin; and

[(B) may be submitted in both classified and redacted formats.]

(d) CLERICAL AMENDMENT.—[Omitted--Amends other law.]

* * * * * * *

[SEC. 235. PILOT PROGRAM TO IMPROVE THE SECURITY OF EMPTY CONTAINERS.

[(a) IN GENERAL.—The Secretary shall conduct a 1-year pilot program to assess the risk posed by and improve the security of empty containers at United States seaports to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers. The pilot program shall include the use of visual searches of empty containers at United States seaports.

[(b) REPORT.—Not later than 90 days after the completion of the pilot program under paragraph (1), the Secretary shall prepare and submit to the appropriate congressional committees a report that contains—

[(1) the results of the pilot program; and

[(2) the determination of the Secretary on whether to expand the pilot program.]

TITLE VII—OTHER MATTERS

* * * * * * *

[SEC. 701. SECURITY PLAN FOR ESSENTIAL AIR SERVICE AND SMALL COMMUNITY AIRPORTS.

[(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Assistant Secretary for the Transportation Security Administration shall submit to Congress a security plan for—

[(1) Essential Air Service airports in the United States; and

[(2) airports whose community or consortia of communities receive assistance under the Small Community Air Service Development Program authorized under section 41743 of title 49, United States Code, and maintain, resume, or obtain scheduled passenger air carrier service with assistance from that program in the United States.

[(b) ELEMENTS OF PLAN.—The security plans required under subsection (a) shall include the following:

[(1) Recommendations for improved security measures at such airports.

[(2) Recommendations for proper passenger and cargo security screening procedures at such airports.

[(3) A timeline for implementation of recommended security measures or procedures at such airports.

[(4) Cost analysis for implementation of recommended security measures or procedures at such airports.]

* * * * * * *

[SEC. 708. AIRCRAFT CHARTER CUSTOMER AND LESSEE PRESCREENING PROGRAM.

[(a) IMPLEMENTATION STATUS.—Not later than 270 days after the implementation of the Department's aircraft charter customer and lessee prescreening process required under section 44903(j)(2) of title 49, United States Code, the Comptroller General of the United States shall—

[(1) assess the status and implementation of the program and the use of the program by the general aviation charter and rental community; and

[(2) submit a report containing the findings, conclusions, and recommendations, if any, of such assessment to—

[(A) the Committee on Commerce, Science, and Transportation of the Senate;

[(B) the Committee on Homeland Security of the House of Representatives; and

[(C) the Committee on Transportation and Infrastructure of the House of Representatives.]

* * * * * * *

TITLE 46, UNITED STATES CODE

* * * * * * *

Subtitle VII—Security and Drug Enforcement

* * * * * * *

CHAPTER 701—PORT SECURITY

* * * * * * *

SUBCHAPTER I—GENERAL

* * * * * * *

§ 70105. Transportation security cards

(a) PROHIBITION.—(1) The Secretary shall prescribe regulations to prevent an individual from entering an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility that is approved by the Secretary under section 70103 of this title unless the individual—

(A) holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan; or

(B) is accompanied by another individual who holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan.

(2) A person shall not admit an individual into such a secure area unless the entry of the individual into the area is in compliance with paragraph (1).

(b) ISSUANCE OF CARDS.—(1) The Secretary shall issue a biometric transportation security card to an individual specified in paragraph (2), unless the Secretary determines under subsection (c) that the individual poses a security risk warranting denial of the card.

(2) This subsection applies to—

(A) an individual allowed unescorted access to a secure area designated in a vessel or facility security plan approved under section 70103 of this title;

(B) an individual issued a license, certificate of registry, or merchant mariners document under part E of subtitle II of this title allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title;

(C) a vessel pilot;

(D) an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title;

(E) an individual with access to security sensitive information as determined by the Secretary;

(F) other individuals engaged in port security activities as determined by the Secretary; and

(G) other individuals as determined appropriate by the Secretary including individuals employed at a port not otherwise covered by this subsection.

(3) The Secretary may extend for up to one year the expiration of a biometric transportation security card required by this section to align the expiration with the expiration of a license, certificate of registry, or merchant mariner document required under chapter 71 or 73.

(c) DETERMINATION OF TERRORISM SECURITY RISK.—

(1) DISQUALIFICATIONS.—

(A) PERMANENT DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is permanently disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following felonies:

(i) Espionage or conspiracy to commit espionage.

(ii) Sedition or conspiracy to commit sedition.

(iii) Treason or conspiracy to commit treason.

(iv) A Federal crime of terrorism (as defined in section 2332b(g) of title 18), a crime under a comparable State law, or conspiracy to commit such crime.

(v) A crime involving a transportation security incident.

(vi) Improper transportation of a hazardous material in violation of section 5104(b) of title 49, or a comparable State law.

(vii) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipment, transportation, delivery, import, export, or storage of,

or dealing in, an explosive or explosive device. In this clause, an explosive or explosive device includes—

(I) an explosive (as defined in sections 232(5) and 844(j) of title 18);

(II) explosive materials (as defined in subsections (c) through (f) of section 841 of title 18); and

(III) a destructive device (as defined in 921(a)(4) of title 18 or section 5845(f) of the Internal Revenue Code of 1986).

(viii) Murder.

(ix) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a State or other government facility, a public transportation system, or an infrastructure facility.

(x) A violation of chapter 96 of title 18, popularly known as the Racketeer Influenced and Corrupt Organizations Act, or a comparable State law, if one of the predicate acts found by a jury or admitted by the defendant consists of one of the crimes listed in this subparagraph.

(xi) Attempt to commit any of the crimes listed in clauses (i) through (iv).

(xii) Conspiracy or attempt to commit any of the crimes described in clauses (v) through (x).

(B) INTERIM DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, during the 7-year period ending on the date on which the individual applies for such card, or was released from incarceration during the 5-year period ending on the date on which the individual applies for such card, of any of the following felonies:

(i) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, a firearm or other weapon. In this clause, a firearm or other weapon includes—

(I) firearms (as defined in section 921(a)(3) of title 18 or section 5845(a) of the Internal Revenue Code of 1986); and

(II) items contained on the U.S. Munitions Import List under section 447.21 of title 27, Code of Federal Regulations.

(ii) Extortion.

(iii) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering if the money laundering is related to a crime described in this subparagraph or subparagraph (A). In this clause, welfare

fraud and passing bad checks do not constitute dishonesty, fraud, or misrepresentation.

(iv) Bribery.

(v) Smuggling.

(vi) Immigration violations.

(vii) Distribution of, possession with intent to distribute, or importation of a controlled substance.

(viii) Arson.

(ix) Kidnaping or hostage taking.

(x) Rape or aggravated sexual abuse.

(xi) Assault with intent to kill.

(xii) Robbery.

(xiii) Conspiracy or attempt to commit any of the crimes listed in this subparagraph.

(xiv) Fraudulent entry into a seaport in violation of section 1036 of title 18, or a comparable State law.

(xv) A violation of the chapter 96 of title 18, popularly known as the Racketeer Influenced and Corrupt Organizations Act or a comparable State law, other than any of the violations listed in subparagraph (A)(x).

(C) UNDER WANT, WARRANT, OR INDICTMENT.—An applicant who is wanted, or under indictment, in any civilian or military jurisdiction for a felony listed in paragraph (1)(A), is disqualified from being issued a biometric transportation security card under subsection (b) until the want or warrant is released or the indictment is dismissed.

(D) OTHER POTENTIAL DISQUALIFICATIONS.—Except as provided under subparagraphs (A) through (C), an individual may not be denied a transportation security card under subsection (b) unless the Secretary determines that individual—

(i) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

(I) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

(II) for causing a severe transportation security incident;

(ii) has been released from incarceration within the preceding 5-year period for committing a felony described in clause (i);

(iii) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(iv) otherwise poses a terrorism security risk to the United States.

(E) MODIFICATION OF LISTED OFFENSES.—The Secretary may, by rulemaking, add to or modify the list of disqualifying crimes described in paragraph (1)(B).

(2) The Secretary shall prescribe regulations that establish a waiver process for issuing a transportation security card to an individual found to be otherwise ineligible for such a card under sub-

paragraph (A), (B), or (D) paragraph (1). In deciding to issue a card to such an individual, the Secretary shall—

(A) give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a terrorism risk warranting denial of the card; and

(B) issue a waiver to an individual without regard to whether that individual would otherwise be disqualified if the individual's employer establishes alternate security arrangements acceptable to the Secretary.

(3) DENIAL OF WAIVER REVIEW.—

(A) IN GENERAL.—The Secretary shall establish a review process before an administrative law judge for individuals denied a waiver under paragraph (2).

(B) SCOPE OF REVIEW.—In conducting a review under the process established pursuant to subparagraph (A), the administrative law judge shall be governed by the standards of section 706 of title 5. The substantial evidence standard in section 706(2)(E) of title 5 shall apply whether or not there has been an agency hearing. The judge shall review all facts on the record of the agency.

(C) CLASSIFIED EVIDENCE.—The Secretary, in consultation with the Director of National Intelligence, shall issue regulations to establish procedures by which the Secretary, as part of a review conducted under this paragraph, may provide to the individual adversely affected by the determination an unclassified summary of classified evidence upon which the denial of a waiver by the Secretary was based.

(D) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

(i) REVIEW.—As part of a review conducted under this section, if the decision of the Secretary was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)), such information may be submitted by the Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge ex parte and in camera.

(ii) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Secretary, in coordination (as necessary) with the heads of other affected departments or agencies, shall ensure that administrative law judges reviewing negative waiver decisions of the Secretary under this paragraph possess security clearances appropriate for such review.

(iii) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a review conducted under this paragraph and upon the request of the individual adversely affected by the decision of the Secretary not to grant a waiver, the Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under clause

(i), an unclassified summary of any classified information upon which the decision of the Secretary was based.

(E) NEW EVIDENCE.—The Secretary shall establish a process under which an individual may submit a new request for a waiver, notwithstanding confirmation by the administrative law judge of the Secretary's initial denial of the waiver, if the request is supported by substantial evidence that was not available to the Secretary at the time the initial waiver request was denied.

(4) The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a transportation security card that includes notice and an opportunity for a hearing.

(5) Upon application, the Secretary may issue a transportation security card to an individual if the Secretary has previously determined, under section 5103a of title 49, that the individual does not pose a security risk.

(d) BACKGROUND RECORDS CHECK.—(1) On request of the Secretary, the Attorney General shall—

(A) conduct a background records check regarding the individual; and

(B) upon completing the background records check, notify the Secretary of the completion and results of the background records check.

(2) A background records check regarding an individual under this subsection shall consist of the following:

(A) A check of the relevant criminal history databases.

(B) In the case of an alien, a check of the relevant databases to determine the status of the alien under the immigration laws of the United States.

(C) As appropriate, a check of the relevant international databases or other appropriate means.

(D) Review of any other national security-related information or database identified by the Attorney General for purposes of such a background records check.

(e) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—(1) Information obtained by the Attorney General or the Secretary under this section may not be made available to the public, including the individual's employer.

(2) Any information constituting grounds for denial of a transportation security card under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section. The Secretary may share any such information with other Federal law enforcement agencies. An individual's employer may only be informed of whether or not the individual has been issued the card under this section.

(f) DEFINITION.—In this section, the term "alien" has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(g) APPLICATIONS FOR MERCHANT MARINERS' DOCUMENTS.—The Assistant Secretary of Homeland Security for the Transportation Security Administration and the Commandant of the Coast Guard shall concurrently process an application from an individual for merchant mariner's documents under chapter 73 of title 46, United

States Code, and an application from that individual for a transportation security card under this section.

(h) FEES.—The Secretary shall ensure that the fees charged each individual applying for a transportation security card under this section who has passed a background check under section 5103a(d) of title 49, United States Code, and who has a current hazardous materials endorsement in accordance with section 1572 of title 49, Code of Federal Regulations, and each individual with a current merchant mariners' document who has passed a criminal background check under section 7302(d)—

(1) are for costs associated with the issuance, production, and management of the transportation security card, as determined by the Secretary; and

(2) do not include costs associated with performing a background check for that individual, except for any incremental costs in the event that the scope of such background checks diverge.

(i) IMPLEMENTATION SCHEDULE.—In implementing the transportation security card program under this section, the Secretary shall—

(1) establish a priority for each United States port based on risk, including vulnerabilities assessed under section 70102; and

(2) implement the program, based upon such risk and other factors as determined by the Secretary, at all facilities regulated under this chapter at—

(A) the 10 United States ports that the Secretary designates top priority not later than July 1, 2007;

(B) the 40 United States ports that are next in order of priority to the ports described in subparagraph (A) not later than January 1, 2008; and

(C) all other United States ports not later than January 1, 2009.

(j) TRANSPORTATION SECURITY CARD PROCESSING DEADLINE.—Not later than January 1, 2009, the Secretary shall process and issue or deny each application for a transportation security card under this section for individuals with current and valid merchant mariners' documents on the date of the enactment of the SAFE Port Act.

(k) DEPLOYMENT OF TRANSPORTATION SECURITY CARD READERS.—

(1) PILOT PROGRAM.—

(A) IN GENERAL.—The Secretary shall conduct a pilot program to test the business processes, technology, and operational impacts required to deploy transportation security card readers at secure areas of the marine transportation system.

(B) GEOGRAPHIC LOCATIONS.—The pilot program shall take place at not fewer than 5 distinct geographic locations, to include vessels and facilities in a variety of environmental settings.

(C) COMMENCEMENT.—The pilot program shall commence not later than 180 days after the date of the enactment of the SAFE Port Act.

(2) CORRELATION WITH TRANSPORTATION SECURITY CARDS.—

(A) IN GENERAL.—The pilot program described in paragraph (1) shall be conducted concurrently with the issuance of the transportation security cards described in subsection (b) to ensure card and card reader interoperability.

(B) FEE.—An individual charged a fee for a transportation security card issued under this section may not be charged an additional fee if the Secretary determines different transportation security cards are needed based on the results of the pilot program described in paragraph (1) or for other reasons related to the technology requirements for the transportation security card program.

(3) REGULATIONS.—Not later than 2 years after the commencement of the pilot program under paragraph (1)(C), the Secretary, after a notice and comment period that includes at least 1 public hearing, shall promulgate final regulations that require the deployment of transportation security card readers that are consistent with the findings of the pilot program and build upon the regulations prescribed under subsection (a).

(4) REPORT.—Not later than 120 days before the promulgation of regulations under paragraph (3), the Secretary shall submit a comprehensive report to the appropriate congressional committees (as defined in section 2(1) of SAFE Port Act) that includes—

(A) the findings of the pilot program with respect to technical and operational impacts of implementing a transportation security card reader system;

(B) any actions that may be necessary to ensure that all vessels and facilities to which this section applies are able to comply with such regulations; and

(C) an analysis of the viability of equipment under the extreme weather conditions of the marine environment.

(l) PROGRESS REPORTS.—Not later than 6 months after the date of the enactment of the SAFE Port Act, and every 6 months thereafter until the requirements under this section are fully implemented, the Secretary shall submit a report on progress being made in implementing such requirements to the appropriate congressional committees (as defined in section 2(1) of the SAFE Port Act).

(m) LIMITATION.—The Secretary may not require the placement of an electronic reader for transportation security cards on a vessel unless—

(1) the vessel has more individuals on the crew that are required to have a transportation security card than the number the Secretary determines, by regulation issued under subsection (k)(3), warrants such a reader; or

(2) the Secretary determines that the vessel is at risk of a severe transportation security incident.

(n) The Secretary may use a secondary authentication system to verify the identification of individuals using transportation security cards when the individual's fingerprints are not able to be taken or read.

(o) ESCORTING.—The Secretary shall coordinate with owners and operators subject to this section to allow any individual who has a pending application for a transportation security card under this

section or is waiting for reissuance of such card, including any individual whose card has been lost or stolen, and who needs to perform work in a secure or restricted area to have access to such area for that purpose through escorting of such individual in accordance with subsection (a)(1)(B) by another individual who holds a transportation security card. Nothing in this subsection shall be construed as requiring or compelling an owner or operator to provide escorted access.

(p) PROCESSING TIME.—The Secretary shall review an initial transportation security card application and respond to the applicant, as appropriate, including the mailing of an Initial Determination of Threat Assessment letter, within 30 days after receipt of the initial application. The Secretary shall, to the greatest extent practicable, review appeal and waiver requests submitted by a transportation security card applicant, and send a written decision or request for additional information required for the appeal or waiver determination, within 30 days after receipt of the applicant's appeal or waiver written request. For an applicant that is required to submit additional information for an appeal or waiver determination, the Secretary shall send a written decision, to the greatest extent practicable, within 30 days after receipt of all requested information.

(q) RECEIPT AND ACTIVATION OF TRANSPORTATION SECURITY CARD.—

(1) IN GENERAL.—Not later than one year after the date of publication of final regulations required by subsection (k)(3) of this section the Secretary shall develop a plan to permit the receipt and activation of transportation security cards at any vessel or facility described in subsection (a) of this section that desires to implement this capability. This plan shall comply, to the extent possible, with all appropriate requirements of Federal standards for personal identity verification and credential.

(2) LIMITATION.—The Secretary may not require any such vessel or facility to provide on-site activation capability.

(r) SECURING THE TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL AGAINST USE BY UNAUTHORIZED ALIENS.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Transportation Security Administration, shall seek to strengthen the integrity of transportation security cards issued under this section against improper access by an individual who is not lawfully present in the United States.

(2) COMPONENTS.—In carrying out subsection (a), the Administrator of the Transportation Security Administration shall—

(A) publish a list of documents that will identify non-United States citizen transportation security card applicants and verify the immigration statuses of such applicants by requiring each such applicant to produce a document or documents that demonstrate—

(i) identity; and

(ii) proof of lawful presence in the United States; and

(B) enhance training requirements to ensure that trusted agents at transportation security card enrollment centers receive training to identify fraudulent documents.

(3) EXPIRATION.—A transportation security card issued under this section expires on the date of its expiration or on the date

on which the individual to whom such card is issued is no longer lawfully entitled to be present in the United States, whichever is earlier.

* * * * * * *

COMMITTE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, February 25, 2016.

Hon. MICHAEL MCCAUL,
Chairman, Committee on Homeland Security,
Washington, DC.

DEAR CHAIRMAN MCCAUL: I write concerning H.R. 3586, the Border and Maritime Coordination Improvement Act. This legislation includes matters that fall within the Rule X jurisdiction of the Committee on Transportation and Infrastructure.

In order to expedite Floor consideration of H.R. 3586, the Committee on Transportation and Infrastructure will forgo action on this bill. However, this is conditional on our mutual understanding that forgoing consideration of the bill does not prejudice the Committee with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation that fall within the Committee's Rule X jurisdiction. I request you urge the Speaker to name members of the Committee to any conference committee named to consider such provisions.

Please place a copy of this letter and your response acknowledging our jurisdictional interest in the Committee report for H.R. 3586, as well as in the Congressional Record during House Floor consideration of the bill. I look forward to working with the Committee on Homeland Security as the bill moves through the legislative process.

Sincerely,

BILL SHUSTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, February 26, 2016.

Hon. BILL SHUSTER,
Chairman, Committee on Transportation and Infrastructure,
Washington, DC.

DEAR CHAIRMAN SHUSTER: Thank you for your letter regarding H.R. 3586, the "Border and Maritime Coordination Improvement Act." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Transportation and Infrastructure will forego further action on the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing further action on this bill at this time, the Committee on Transportation and Infrastructure does not waive any jurisdiction over the subject matter contained in this bill

or similar legislation in the future. In addition, should a conference on this bill be necessary, I would support your request to have the Committee on Transportation and Infrastructure represented on the conference committee.

I will insert copies of this exchange in the report on the bill and in the Congressional Record during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. MCCAUL,
Chairman,
Committee on Homeland Security.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, October 1, 2015.

Hon. MICHAEL T. MCCAUL,
Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing with respect to H.R. 3586, the "Border and Maritime Coordination Improvement Act," which was reported by the Committee on Homeland Security.

H.R. 3586 involves issues that fall within Rule X jurisdiction of the Committee on Ways and Means. As a result of your having consulted with the Committee and in order to expedite the House's consideration of H.R. 3586, the Committee on Ways and Means will not assert its jurisdictional claim over this bill by seeking a sequential referral. However, this is conditional on our mutual understanding and agreement that doing so will in no way diminish or alter the jurisdiction of the Committee with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation.

I would appreciate a response to this letter confirming this understanding with respect to H.R. 3586, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during Floor consideration of H.R. 3586.

Sincerely,

PAUL D. RYAN,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, October 5, 2015.

Hon. PAUL RYAN,
Chairman, Committee on Ways and Means,
Washington, DC.

DEAR CHAIRMAN RYAN: Thank you for your letter regarding H.R. 3586, the "Border and Maritime Coordination Improvement Act." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Ways and Means will not seek a sequential referral on the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing a sequential referral of this bill at this time, the Committee on Ways and Means does not waive any jurisdiction over the subject matter contained in this bill or similar legislation in the future. In addition, should a conference on this bill be necessary, I would support your request to have the Committee on Ways and Means represented on the conference committee.

I will insert copies of this exchange in the report on the bill and in the Congressional Record during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. MCCAUL,
Chairman,
Committee on Homeland Security.

○