

ASIA-PACIFIC ECONOMIC COOPERATION BUSINESS  
TRAVEL CARDS ACT OF 2017

AUGUST 8, 2017.—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. 2805]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 2805) to permanently authorize the Asia-Pacific Economic Cooperation Business Travel Card Program, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary .....	3
Background and Need for Legislation .....	3
Hearings .....	4
Committee Consideration .....	4
Committee Votes .....	4
Committee Oversight Findings .....	4
New Budget Authority, Entitlement Authority, and Tax Expenditures .....	4
Congressional Budget Office Estimate .....	5
Statement of General Performance Goals and Objectives .....	6
Duplicative Federal Programs .....	6
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	6
Federal Mandates Statement .....	6
Preemption Clarification .....	6
Disclosure of Directed Rule Makings .....	6
Advisory Committee Statement .....	6
Applicability to Legislative Branch .....	7
Section-by-Section Analysis of the Legislation .....	7
Changes in Existing Law Made by the Bill, as Reported .....	8

The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Asia-Pacific Economic Cooperation Business Travel Cards Act of 2017”.

**SEC. 2. ASIA-PACIFIC ECONOMIC COOPERATION BUSINESS TRAVEL CARDS.**

(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 inserting after section 417 the following new section:

**“SEC. 418. ASIA-PACIFIC ECONOMIC COOPERATION BUSINESS TRAVEL CARDS.**

“(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection is authorized to issue Asia-Pacific Economic Cooperation Business Travel Cards (referred to in this section as an ‘ABT Card’) to an individual described in subsection (b).

“(b) CARD ISSUANCE.—An individual described in this subsection is an individual—

“(1) who—

“(A) is a citizen of the United States; and

“(B) has been approved and is in good standing in an existing international trusted traveler program of the Department; and

“(2) who—

“(A) is engaged in business in the Asia-Pacific region, as determined by the Commissioner of U.S. Customs and Border Protection; or

“(B) is a United States Government official actively engaged in Asia-Pacific Economic Cooperation business, as determined by the Commissioner of U.S. Customs and Border Protection.

“(c) INTEGRATION WITH EXISTING TRAVEL PROGRAMS.—The Commissioner of U.S. Customs and Border Protection shall integrate application procedures for, and issuance, renewal, and revocation of, ABT Cards with existing international trusted traveler programs of the Department.

“(d) COOPERATION WITH PRIVATE ENTITIES AND NONGOVERNMENTAL ORGANIZATIONS.—In carrying out this section, the Commissioner of U.S. Customs and Border Protection may consult with appropriate private sector entities and nongovernmental organizations, including academic institutions.

“(e) FEE.—

“(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall—

“(A) prescribe and collect a fee for the issuance and renewal of ABT Cards; and

“(B) adjust such fee to the extent the Commissioner determines necessary to comply with paragraph (2).

“(2) LIMITATION.—The Commissioner of U.S. Customs and Border Protection shall ensure that the total amount of the fees collected under paragraph (1) during any fiscal year is sufficient to offset the direct and indirect costs associated with carrying out this section during such fiscal year, including the costs associated with operating and maintaining the ABT Card issuance and renewal processes.

“(3) ACCOUNT FOR COLLECTIONS.—There is established in the Treasury of the United States an ‘Asia-Pacific Economic Cooperation Business Travel Card Account’ into which the fees collected under paragraph (1) shall be deposited as offsetting receipts.

“(4) USE OF FUNDS.—Amounts deposited into the Asia Pacific Economic Cooperation Business Travel Card Account described in paragraph (3) shall—

“(A) be credited to the appropriate account of the U.S. Customs and Border Protection for expenses incurred in carrying out this section; and

“(B) remain available until expended.

“(f) NOTIFICATION.—The Commissioner of U.S. Customs and Border Protection shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate within 60 days of any expenses incurred to operate and provide ABT Card services beyond the amounts collected pursuant subsection (e).

“(g) TRUSTED TRAVELER PROGRAM DEFINED.—In this section, the term ‘trusted traveler program’ means a voluntary program of the Department that allows U.S. Customs and Border Protection to expedite clearance of pre-approved, low-risk travelers arriving in the United States.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 417 the following new item:

“Sec. 418. Asia-Pacific Economic Cooperation Business Travel Cards.”.

**SEC. 3. ACCOUNT.**

(a) **IN GENERAL.**—Notwithstanding the repeal of the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011 (Public Law 112–54; 8 U.S.C. 1185 note) pursuant to section 4(b) of this Act, amounts deposited into the APEC Business Travel Card Account established pursuant to such Act as of the date of the enactment of this Act are hereby transferred to the Asia-Pacific Economic Cooperation Business Travel Card Account established pursuant to subsection (e) of section 418 of the Homeland Security Act of 2002 (as added by section 2 of this Act), and shall be available without regard to whether such amounts are expended in connection with expenses incurred with respect to an ABT Card issued at any time before or after such date of enactment.

(b) **AVAILABILITY.**—Amounts deposited in the Asia-Pacific Economic Cooperation Business Travel Card Account established pursuant to subsection (e) of section 418 of the Homeland Security Act of 2002 shall, in addition to the purposes for which such amounts are available pursuant to such subsection, also be available for expenditure in connection with expenses incurred with respect to ABT Cards issued at any time before the date of the enactment of such section.

(c) **TERMINATION.**—After the transfer described in subsection (a) has been carried out, the Asia-Pacific Economic Cooperation Business Travel Card Account established pursuant to the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011 is closed.

**SEC. 4. CONFORMING AMENDMENTS AND REPEAL.**

(a) **CONFORMING AMENDMENTS.**—Subsection (c) of section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211) is amended—

(1) in paragraph (17), by striking “and” after the semicolon at the end;

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

“(18) carry out section 418, relating to the issuance of Asia-Pacific Economic Cooperation Business Travel Cards; and”.

(b) **REPEAL.**—

(1) **IN GENERAL.**—The Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011 (Public Law 112–54; 8 U.S.C. 1185 note) is repealed.

(2) **SAVING CLAUSE.**—Notwithstanding the repeal under paragraph (1), an ABT Card issued pursuant to the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011 before the date of the enactment of this Act that, as of such date, is still valid, shall continue to remain valid on and after such date until such time as such Card would otherwise expire.

**PURPOSE AND SUMMARY**

H.R. 2805, the “Asia-Pacific Economic Cooperation Business Travel Cards Act of 2017” permanently authorizes the U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card Program which is a voluntary program to facilitate travel for U.S. citizens engaged in business in the APEC region and U.S. Government officials engaged in APEC business.

The APEC Business Travel Card Program is set to expire in September 2018, and this legislation would permanently authorize the framework for a trusted traveler program that allows APEC business travelers’ pre-cleared, facilitated short-term entry to participating member economies. H.R. 2805 integrated this program with existing trusted traveler programs, and codifies the program under the authority of the Commissioner of U.S. Customs and Border Protection (CBP).

**BACKGROUND AND NEED FOR LEGISLATION**

The Asia-Pacific Economic Cooperation Business Travel (ABT) Cards Act (Pub.L. 112–54) was passed in November 2011 to authorize a pilot program intended to expedite travel in the Asia-Pacific region for qualified American travelers.

The United States is one of 21 APEC member economies, which include: Australia, Brunei Darussalam, Canada, Chile, China,

Hong Kong China, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Chinese Taipei, Thailand and Vietnam.

Under the bill, U.S. Customs and Border Protection (CBP) is authorized to issue the ABT Card to U.S. citizens who are also members in good standing of existing trusted traveler programs, such as Global Entry, SENTRI, and NEXUS. Card holders will receive expedited scheduling of visa interviews and access to fast-track immigration lanes at airports in APEC's 21 economies.

The ABT Card allows business travelers pre-cleared, facilitated short-term entry to participating member economies. The ABT Card removes the need to individually apply for visas or entry permits, saving valuable time, and allows multiple entries into participating economies during the 5-years the card is valid. Card holders also benefit from faster immigration processing on arrival via access to fast-track entry and exit through special APEC lanes at major airports in participating economies.

The ABT Card also helps to enhance border integrity and security in participating economies by providing benefits to border agencies as it increases the number of low-risk travelers since each applicant is an existing member in good standing in any trusted traveler programs administered by CBP (SENTRI, NEXUS, or Global Entry). Additionally, ABT Card holders are screened against 'watch lists' of other participating economies.

#### HEARINGS

No hearings were held on H.R. 2805 in the 115th Congress.

#### COMMITTEE CONSIDERATION

The Committee met on July 26, 2017, to consider H.R. 2805, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote.

The following amendment was offered:

An Amendment in the Nature of a Substitute offered by MISS RICE of New York (#1); was AGREED TO by voice vote.

#### 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 Committee consideration of H.R. 2805.

#### 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. 2805, the Asia-Pacific Economic Cooperation Business Travel Cards Act of

2017, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 4, 2017.*

Hon. MICHAEL MCCAUL,  
*Chairman, Committee on Homeland Security,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2805, the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 2805—Asia-Pacific Economic Cooperation Business Travel Cards Act of 2017*

The Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011 (Public Law 112–54) authorized the Department of Homeland Security (DHS) to issue special cards to eligible U.S. citizens to facilitate international travel to participating countries (mostly in Asia). Under the act, DHS may not issue the cards after September 30, 2018. H.R. 2805 would make several technical changes to the program and would extend it permanently.

DHS collects a fee of \$70 from applicants for the special card. Those fees are classified in the budget as offsetting receipts (a reduction in direct spending) and are available to DHS to spend without further appropriation. In fiscal year 2016 DHS collected a total of about \$1 million in fees. CBO estimates that enacting H.R. 2805 would have no significant net effect on DHS spending because we expect the department would collect and spend roughly the same amounts in future years.

Because enacting the bill would affect direct spending, pay-as-you-go procedures apply; however, we estimate that the net effect would be negligible in every year. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 2805 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2805 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On June 14, 2017, CBO transmitted a cost estimate for S. 504, the APEC Business Travel Cards Reauthorization Act of 2017, as ordered reported by the Senate Committee on Homeland Security

and Governmental Affairs on May 17, 2017. The two bills are similar and CBO's estimates of the budgetary effects are identical.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### 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. 2805 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The general performance goal or objective of this bill is to facilitate ease of travel for U.S. citizens engaged in business in the APEC region and U.S. Government officials engaged in APEC business.

#### DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 21626 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 earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### 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. 2805 does not preempt any State, local, or Tribal law.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 2805 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.*

This section provides that this bill may be cited as the “Asia-Pacific Economic Cooperation Business Travel Cards Act of 2017”.

*Sec. 2. Asia-Pacific Economic Cooperation Business Travel Cards.*

This section permanently authorizes the Asia-Pacific Economic Cooperation Business Travel Card (APEC or ABT) Card program as an additional trusted traveler program to be operated and maintained by U.S. Customs and Border Protection (CBP). This section also outlines eligibility requirements for card issuance, integration with existing travel programs, and the fee structure of the ABT Card.

The Committee believes that the ABT Card is a highly effective program that allows prescreened frequent travelers access to streamlined entry to participating economies. The Committee believes that it is in the best interest of our partnership with the Asia-Pacific Economic Cooperation, or APEC region, to permanently establish the ABT Card program. The Committee believes that the ABT Card also helps to enhance border integrity and security in participating economies by providing benefits to border agencies as it increases the number of low risk travelers who have been prescreened and vetted against ‘watch list’ data bases.

*Sec. 3. Account.*

This section outlines the account structure of this fee-based program, and the framework needed to cover the costs of such program. Since this program is completely fee funded, the Committee believes that the ABT Card should not incur any additional costs to Customs and Border Protection and continue to be funded entirely through the fees associated with obtaining an ABT Card. This section also requires that any additional account balance from the current account be transferred to the account established by this bill.

*Sec. 4. Conforming Amendments and Repeal.*

This section provides technical corrections and repeals the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011. However, this section also provides a savings clause that allows for all ABT Cards issued prior to the date of enactment of this Act will be valid, and remain valid until such card expires.

The Committee included the savings clause to ensure that there will be no disruption for current cardholders upon enactment. With the addition of the savings clause, ABT Card participants will be able to continue using their valid cards for the remaining time until expired.

## 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 italics, 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:

*	*	*	*	*	*	*
<b>TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY</b>						
*	*	*	*	*	*	*
Subtitle B—U.S. Customs and Border Protection						
*	*	*	*	*	*	*
<i>Sec. 418. Asia-Pacific Economic Cooperation Business Travel Cards.</i>						
*	*	*	*	*	*	*

**TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY**

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**Subtitle B—U.S. Customs and Border Protection****SEC. 411. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER PROTECTION; COMMISSIONER, DEPUTY COMMISSIONER, AND OPERATIONAL OFFICES.**

(a) **IN GENERAL.**—There is established in the Department an agency to be known as U.S. Customs and Border Protection.

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

(1) **IN GENERAL.**—There shall be at the head of U.S. Customs and Border Protection a Commissioner of U.S. Customs and Border Protection (in this section referred to as the “Commissioner”).

(2) **COMMITTEE REFERRAL.**—As an exercise of the rulemaking power of the Senate, any nomination for the Commissioner submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance.

(c) **DUTIES.**—The Commissioner shall—

(1) coordinate and integrate the security, trade facilitation, and trade enforcement functions of U.S. Customs and Border Protection;

(2) ensure the interdiction of persons and goods illegally entering or exiting the United States;



(3) facilitate and expedite the flow of legitimate travelers and trade;

(4) direct and administer the commercial operations of U.S. Customs and Border Protection, and the enforcement of the customs and trade laws of the United States;

(5) detect, respond to, and interdict terrorists, drug smugglers and traffickers, human smugglers and traffickers, and other persons who may undermine the security of the United States, in cases in which such persons are entering, or have recently entered, the United States;

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

(7) ensure the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland;

(8) in coordination with U.S. Immigration and Customs Enforcement and United States Citizenship and Immigration Services, enforce and administer all immigration laws, as such term is defined in paragraph (17) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), including—

(A) the inspection, processing, and admission of persons who seek to enter or depart the United States; and

(B) the detection, interdiction, removal, departure from the United States, short-term detention, and transfer of persons unlawfully entering, or who have recently unlawfully entered, the United States;

(9) develop and implement screening and targeting capabilities, including the screening, reviewing, identifying, and prioritizing of passengers and cargo across all international modes of transportation, both inbound and outbound;

(10) in coordination with the Secretary, deploy technology to collect the data necessary for the Secretary to administer the biometric entry and exit data system pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b);

(11) enforce and administer the laws relating to agricultural import and entry inspection referred to in section 421;

(12) in coordination with the Under Secretary for Management of the Department, ensure U.S. Customs and Border Protection complies with Federal law, the Federal Acquisition Regulation, and the Department's acquisition management directives for major acquisition programs of U.S. Customs and Border Protection;

(13) ensure that the policies and regulations of U.S. Customs and Border Protection are consistent with the obligations of the United States pursuant to international agreements;

(14) enforce and administer—

(A) the Container Security Initiative program under section 205 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 945); and

(B) the Customs–Trade Partnership Against Terrorism program under subtitle B of title II of such Act (6 U.S.C. 961 et seq.);

(15) conduct polygraph examinations in accordance with section 3(1) of the Anti-Border Corruption Act of 2010 (Public Law 111-376; 124 Stat. 4105);

(16) establish the standard operating procedures described in subsection (k);

(17) carry out the training required under subsection (l);  
**and**

*(18) carry out section 418, relating to the issuance of Asia-Pacific Economic Cooperation Business Travel Cards; and*

**[(18)]** (19) carry out other duties and powers prescribed by law or delegated by the Secretary.

(d) DEPUTY COMMISSIONER.—There shall be in U.S. Customs and Border Protection a Deputy Commissioner who shall assist the Commissioner in the management of U.S. Customs and Border Protection.

(e) U.S. BORDER PATROL.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection the U.S. Border Patrol.

(2) CHIEF.—There shall be at the head of the U.S. Border Patrol a Chief, who shall—

(A) be at the level of Executive Assistant Commissioner within U.S. Customs and Border Protection; and

(B) report to the Commissioner.

(3) DUTIES.—The U.S. Border Patrol shall—

(A) serve as the law enforcement office of U.S. Customs and Border Protection with primary responsibility for interdicting persons attempting to illegally enter or exit the United States or goods being illegally imported into or exported from the United States at a place other than a designated port of entry;

(B) deter and prevent the illegal entry of terrorists, terrorist weapons, persons, and contraband; and

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

(f) AIR AND MARINE OPERATIONS.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an office known as Air and Marine Operations.

(2) EXECUTIVE ASSISTANT COMMISSIONER.—There shall be at the head of Air and Marine Operations an Executive Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—Air and Marine Operations shall—

(A) serve as the law enforcement office within U.S. Customs and Border Protection with primary responsibility to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illicit drugs, and other contraband across the borders of the United States in the air and maritime environment;

(B) conduct joint aviation and marine operations with U.S. Immigration and Customs Enforcement;

(C) conduct aviation and marine operations with international, Federal, State, and local law enforcement agencies, as appropriate;

(D) administer the Air and Marine Operations Center established under paragraph (4); and

(E) carry out other duties and powers prescribed by the Commissioner.

(4) AIR AND MARINE OPERATIONS CENTER.—

(A) IN GENERAL.—There is established in Air and Marine Operations an Air and Marine Operations Center.

(B) EXECUTIVE DIRECTOR.—There shall be at the head of the Air and Marine Operations Center an Executive Director, who shall report to the Executive Assistant Commissioner of Air and Marine Operations.

(C) DUTIES.—The Air and Marine Operations Center shall—

(i) manage the air and maritime domain awareness of the Department, as directed by the Secretary;

(ii) monitor and coordinate the airspace for unmanned aerial systems operations of Air and Marine Operations in U.S. Customs and Border Protection;

(iii) detect, identify, and coordinate a response to threats to national security in the air domain, in coordination with other appropriate agencies, as determined by the Executive Assistant Commissioner;

(iv) provide aviation and marine support to other Federal, State, tribal, and local agencies; and

(v) carry out other duties and powers prescribed by the Executive Assistant Commissioner.

(g) OFFICE OF FIELD OPERATIONS.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Field Operations.

(2) EXECUTIVE ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Field Operations an Executive Assistant Commissioner, who shall report to the Commissioner.

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

(A) deter and prevent terrorists and terrorist weapons from entering the United States at such ports of entry;

(B) conduct inspections at such ports of entry to safeguard the United States from terrorism and illegal entry of persons;

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

(D) in coordination with the Commissioner, facilitate and expedite the flow of legitimate travelers and trade;

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

(F) coordinate with the Executive Assistant Commissioner for the Office of Trade with respect to the trade facilitation and trade enforcement activities of U.S. Customs and Border Protection; and

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

(4) NATIONAL TARGETING CENTER.—

(A) IN GENERAL.—There is established in the Office of Field Operations a National Targeting Center.

(B) EXECUTIVE DIRECTOR.—There shall be at the head of the National Targeting Center an Executive Director, who

shall report to the Executive Assistant Commissioner of the Office of Field Operations.

(C) DUTIES.—The National Targeting Center shall—

(i) serve as the primary forum for targeting operations within U.S. Customs and Border Protection to collect and analyze traveler and cargo information in advance of arrival in the United States to identify and address security risks and strengthen trade enforcement;

(ii) identify, review, and target travelers and cargo for examination;

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

(iv) develop and conduct commercial risk assessment targeting with respect to cargo destined for the United States;

(v) coordinate with the Transportation Security Administration, as appropriate;

(vi) issue Trade Alerts pursuant to section 111(b) of the Trade Facilitation and Trade Enforcement Act of 2015; and

(vii) carry out other duties and powers prescribed by the Executive Assistant Commissioner.

(5) ANNUAL REPORT ON STAFFING.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, and annually thereafter, the Executive Assistant Commissioner shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report on the staffing model for the Office of Field Operations, including information on how many supervisors, front-line U.S. Customs and Border Protection officers, and support personnel are assigned to each Field Office and port of entry.

(B) FORM.—The report required under subparagraph (A) shall, to the greatest extent practicable, be submitted in unclassified form, but may be submitted in classified form, if the Executive Assistant Commissioner determines that such is appropriate and informs the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate of the reasoning for such.

(h) OFFICE OF INTELLIGENCE.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Intelligence.

(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Intelligence an Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—The Office of Intelligence shall—

(A) develop, provide, coordinate, and implement intelligence capabilities into a cohesive intelligence enterprise to support the execution of the duties and responsibilities of U.S. Customs and Border Protection;

(B) manage the counterintelligence operations of U.S. Customs and Border Protection;

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

(D) conduct risk-based covert testing of U.S. Customs and Border Protection operations, including for nuclear and radiological risks; and

(E) carry out other duties and powers prescribed by the Commissioner.

(i) OFFICE OF INTERNATIONAL AFFAIRS.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of International Affairs.

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

(3) DUTIES.—The Office of International Affairs, in collaboration with the Office of Policy of the Department, shall—

(A) coordinate and support U.S. Customs and Border Protection's foreign initiatives, policies, programs, and activities;

(B) coordinate and support U.S. Customs and Border Protection's personnel stationed abroad;

(C) maintain partnerships and information-sharing agreements and arrangements with foreign governments, international organizations, and United States agencies in support of U.S. Customs and Border Protection's duties and responsibilities;

(D) provide necessary capacity building, training, and assistance to foreign customs and border control agencies to strengthen border, global supply chain, and travel security, as appropriate;

(E) coordinate mission support services to sustain U.S. Customs and Border Protection's global activities;

(F) coordinate with customs authorities of foreign countries with respect to trade facilitation and trade enforcement;

(G) coordinate U.S. Customs and Border Protection's engagement in international negotiations;

(H) advise the Commissioner with respect to matters arising in the World Customs Organization and other international organizations as such matters relate to the policies and procedures of U.S. Customs and Border Protection;

(I) advise the Commissioner regarding international agreements to which the United States is a party as such agreements relate to the policies and regulations of U.S. Customs and Border Protection; and

(J) carry out other duties and powers prescribed by the Commissioner.

- (j) OFFICE OF PROFESSIONAL RESPONSIBILITY.—
- (1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Professional Responsibility.
- (2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Professional Responsibility an Assistant Commissioner, who shall report to the Commissioner.
- (3) DUTIES.—The Office of Professional Responsibility shall—
- (A) investigate criminal and administrative matters and misconduct by officers, agents, and other employees of U.S. Customs and Border Protection;
- (B) manage integrity-related programs and policies of U.S. Customs and Border Protection;
- (C) conduct research and analysis regarding misconduct of officers, agents, and other employees of U.S. Customs and Border Protection; and
- (D) carry out other duties and powers prescribed by the Commissioner.
- (k) STANDARD OPERATING PROCEDURES.—
- (1) IN GENERAL.—The Commissioner shall establish—
- (A) standard operating procedures for searching, reviewing, retaining, and sharing information contained in communication, electronic, or digital devices encountered by U.S. Customs and Border Protection personnel at United States ports of entry;
- (B) standard use of force procedures that officers and agents of U.S. Customs and Border Protection may employ in the execution of their duties, including the use of deadly force;
- (C) uniform, standardized, and publicly-available procedures for processing and investigating complaints against officers, agents, and employees of U.S. Customs and Border Protection for violations of professional conduct, including the timely disposition of complaints and a written notification to the complainant of the status or outcome, as appropriate, of the related investigation, in accordance with section 552a of title 5, United States Code (commonly referred to as the “Privacy Act” or the “Privacy Act of 1974”);
- (D) an internal, uniform reporting mechanism regarding incidents involving the use of deadly force by an officer or agent of U.S. Customs and Border Protection, including an evaluation of the degree to which the procedures required under subparagraph (B) were followed; and
- (E) standard operating procedures, acting through the Executive Assistant Commissioner for Air and Marine Operations and in coordination with the Office for Civil Rights and Civil Liberties and the Office of Privacy of the Department, to provide command, control, communication, surveillance, and reconnaissance assistance through the use of unmanned aerial systems, including the establishment of—
- (i) a process for other Federal, State, and local law enforcement agencies to submit mission requests;
- (ii) a formal procedure to determine whether to approve or deny such a mission request;

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

(iv) a process regarding the protection and privacy of data and images collected by U.S. Customs and Border Protection through the use of unmanned aerial systems.

(2) REQUIREMENTS REGARDING CERTAIN NOTIFICATIONS.—The standard operating procedures established pursuant to subparagraph (A) of paragraph (1) shall require—

(A) in the case of a search of information conducted on an electronic device by U.S. Customs and Border Protection personnel, the Commissioner to notify the individual subject to such search of the purpose and authority for such search, and how such individual may obtain information on reporting concerns about such search; and

(B) in the case of information collected by U.S. Customs and Border Protection through a search of an electronic device, if such information is transmitted to another Federal agency for subject matter assistance, translation, or decryption, the Commissioner to notify the individual subject to such search of such transmission.

(3) EXCEPTIONS.—The Commissioner may withhold the notifications required under paragraphs (1)(C) and (2) if the Commissioner determines, in the sole and unreviewable discretion of the Commissioner, that such notifications would impair national security, law enforcement, or other operational interests.

(4) UPDATE AND REVIEW.—The Commissioner shall review and update every three years the standard operating procedures required under this subsection.

(5) AUDITS.—The Inspector General of the Department of Homeland Security shall develop and annually administer, during each of the three calendar years beginning in the calendar year that begins after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, an auditing mechanism to review whether searches of electronic devices at or between United States ports of entry are being conducted in conformity with the standard operating procedures required under subparagraph (A) of paragraph (1). Such audits shall be submitted to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate and shall include the following:

(A) A description of the activities of officers and agents of U.S. Customs and Border Protection with respect to such searches.

(B) The number of such searches.

(C) The number of instances in which information contained in such devices that were subjected to such searches was retained, copied, shared, or entered in an electronic database.

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

(E) The number of instances in which information collected from such devices was subjected to such searches and was transmitted to another Federal agency, including

whether such transmissions resulted in a prosecution or conviction.

(6) REQUIREMENTS REGARDING OTHER NOTIFICATIONS.—The standard use of force procedures established pursuant to subparagraph (B) of paragraph (1) shall require—

(A) in the case of an incident of the use of deadly force by U.S. Customs and Border Protection personnel, the Commissioner to notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Commissioner to provide to such committees a copy of the evaluation pursuant to subparagraph (D) of such paragraph not later than 30 days after completion of such evaluation.

(7) REPORT ON UNMANNED AERIAL SYSTEMS.—The Commissioner 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 annual report, for each of the three calendar years beginning in the calendar year that begins after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, that reviews whether the use of unmanned aerial systems is being conducted in conformity with the standard operating procedures required under subparagraph (E) of paragraph (1). Such reports—

(A) shall be submitted with the annual budget of the United States Government submitted by the President under section 1105 of title 31, United States Code;

(B) may be submitted in classified form if the Commissioner determines that such is appropriate; and

(C) shall include—

(i) a detailed description of how, where, and for how long data and images collected through the use of unmanned aerial systems by U.S. Customs and Border Protection are collected and stored; and

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

(l) TRAINING.—The Commissioner shall require all officers and agents of U.S. Customs and Border Protection to participate in a specified amount of continuing education (to be determined by the Commissioner) to maintain an understanding of Federal legal rulings, court decisions, and departmental policies, procedures, and guidelines.

(m) SHORT-TERM DETENTION STANDARDS.—

(1) ACCESS TO FOOD AND WATER.—The Commissioner shall make every effort to ensure that adequate access to food and water is provided to an individual apprehended and detained at a United States port of entry or between ports of entry as soon as practicable following the time of such apprehension or during subsequent short-term detention.

(2) ACCESS TO INFORMATION ON DETAINEE RIGHTS AT BORDER PATROL PROCESSING CENTERS.—



(A) IN GENERAL.—The Commissioner shall ensure that an individual apprehended by a U.S. Border Patrol agent or an Office of Field Operations officer is provided with information concerning such individual's rights, including the right to contact a representative of such individual's government for purposes of United States treaty obligations.

(B) FORM.—The information referred to in subparagraph (A) may be provided either verbally or in writing, and shall be posted in the detention holding cell in which such individual is being held. The information shall be provided in a language understandable to such individual.

(3) SHORT-TERM DETENTION DEFINED.—In this subsection, the term “short-term detention” means detention in a U.S. Customs and Border Protection processing center for 72 hours or less, before repatriation to a country of nationality or last habitual residence.

(4) DAYTIME REPATRIATION.—When practicable, repatriations shall be limited to daylight hours and avoid locations that are determined to have high indices of crime and violence.

(5) REPORT ON PROCUREMENT PROCESS AND STANDARDS.—Not later than 180 days after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, the Comptroller General of the United States 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 procurement process and standards of entities with which U.S. Customs and Border Protection has contracts for the transportation and detention of individuals apprehended by agents or officers of U.S. Customs and Border Protection. Such report should also consider the operational efficiency of contracting the transportation and detention of such individuals.

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

(A) annually inspect all facilities utilized for short-term detention; and

(B) make publicly available information collected pursuant to such inspections, including information regarding the requirements under paragraphs (1) and (2) and, where appropriate, issue recommendations to improve the conditions of such facilities.

(n) WAIT TIMES TRANSPARENCY.—

(1) IN GENERAL.—The Commissioner shall—

(A) publish live wait times for travelers entering the United States at the 20 United States airports that support the highest volume of international travel (as determined by available Federal flight data);

(B) make information about such wait times available to the public in real time through the U.S. Customs and Border Protection website;

(C) submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance

of the Senate, for each of the five calendar years beginning in the calendar year that begins after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, a report that includes compilations of all such wait times and a ranking of such United States airports by wait times; and

(D) provide adequate staffing at the U.S. Customs and Border Protection information center to ensure timely access for travelers attempting to submit comments or speak with a representative about their entry experiences.

(2) CALCULATION.—The wait times referred to in paragraph (1)(A) shall be determined by calculating the time elapsed between an individual’s entry into the U.S. Customs and Border Protection inspection area and such individual’s clearance by a U.S. Customs and Border Protection officer.

(o) OTHER AUTHORITIES.—

(1) IN GENERAL.—The Secretary may establish such other offices or positions of Assistant Commissioners (or other similar officers or officials) as the Secretary determines necessary to carry out the missions, duties, functions, and authorities of U.S. Customs and Border Protection.

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

(p) REPORTS TO CONGRESS.—The Commissioner shall, on and after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, continue to submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate any report required, on the day before such date of enactment, to be submitted under any provision of law.

(q) OTHER FEDERAL AGENCIES.—Nothing in this section may be construed as affecting in any manner the authority, existing on the day before the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, of any other Federal agency or component of the Department.

(r) DEFINITIONS.—In this section, the terms “commercial operations”, “customs and trade laws of the United States”, “trade enforcement”, and “trade facilitation” have the meanings given such terms in section 2 of the Trade Facilitation and Trade Enforcement Act of 2015.

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**SEC. 418. ASIA-PACIFIC ECONOMIC COOPERATION BUSINESS TRAVEL CARDS.**

(a) *IN GENERAL.*—The Commissioner of U.S. Customs and Border Protection is authorized to issue Asia-Pacific Economic Cooperation Business Travel Cards (referred to in this section as an “ABT Card”) to an individual described in subsection (b).

(b) *CARD ISSUANCE.*—An individual described in this subsection is an individual—

(1) *who—*

(A) *is a citizen of the United States; and*

(B) *has been approved and is in good standing in an existing international trusted traveler program of the Department; and*

(2) *who—*

(A) *is engaged in business in the Asia-Pacific region, as determined by the Commissioner of U.S. Customs and Border Protection; or*

(B) *is a United States Government official actively engaged in Asia-Pacific Economic Cooperation business, as determined by the Commissioner of U.S. Customs and Border Protection.*

(c) *INTEGRATION WITH EXISTING TRAVEL PROGRAMS.*—The Commissioner of U.S. Customs and Border Protection shall integrate application procedures for, and issuance, renewal, and revocation of, ABT Cards with existing international trusted traveler programs of the Department.

(d) *COOPERATION WITH PRIVATE ENTITIES AND NONGOVERNMENTAL ORGANIZATIONS.*—In carrying out this section, the Commissioner of U.S. Customs and Border Protection may consult with appropriate private sector entities and nongovernmental organizations, including academic institutions.

(e) *FEE.*—

(1) *IN GENERAL.*—The Commissioner of U.S. Customs and Border Protection shall—

(A) *prescribe and collect a fee for the issuance and renewal of ABT Cards; and*

(B) *adjust such fee to the extent the Commissioner determines necessary to comply with paragraph (2).*

(2) *LIMITATION.*—The Commissioner of U.S. Customs and Border Protection shall ensure that the total amount of the fees collected under paragraph (1) during any fiscal year is sufficient to offset the direct and indirect costs associated with carrying out this section during such fiscal year, including the costs associated with operating and maintaining the ABT Card issuance and renewal processes.

(3) *ACCOUNT FOR COLLECTIONS.*—There is established in the Treasury of the United States an “Asia-Pacific Economic Cooperation Business Travel Card Account” into which the fees collected under paragraph (1) shall be deposited as offsetting receipts.

(4) *USE OF FUNDS.*—Amounts deposited into the Asia Pacific Economic Cooperation Business Travel Card Account described in paragraph (3) shall—

(A) *be credited to the appropriate account of the U.S. Customs and Border Protection for expenses incurred in carrying out this section; and*

(B) *remain available until expended.*

(f) *NOTIFICATION.*—The Commissioner of U.S. Customs and Border Protection shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate within 60 days of any

*expenses incurred to operate and provide ABT Card services beyond the amounts collected pursuant subsection (e).*

*(g) TRUSTED TRAVELER PROGRAM DEFINED.—In this section, the term “trusted traveler program” means a voluntary program of the Department that allows U.S. Customs and Border Protection to expedite clearance of pre-approved, low-risk travelers arriving in the United States.*

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## ASIA-PACIFIC ECONOMIC COOPERATION BUSINESS TRAVEL CARDS ACT OF 2011

### SECTION 1. SHORT TITLE.

[(This Act may be cited as the “Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011”).]

### SEC. 2. ASIA-PACIFIC ECONOMIC COOPERATION BUSINESS TRAVEL CARDS.

[(a) IN GENERAL.—During the 7-year period ending on September 30, 2018, the Secretary of Homeland Security, in coordination with the Secretary of State, is authorized to issue Asia-Pacific Economic Cooperation Business Travel Cards (referred to in this section as “ABT Cards”) to any eligible person, including business leaders and United States Government officials who are actively engaged in Asia-Pacific Economic Cooperation business. An individual may not receive an ABT Card under this section unless the individual has been approved and is in good standing in an international trusted traveler program of the Department of Homeland Security.

[(b) INTEGRATION WITH EXISTING TRAVEL PROGRAMS.—The Secretary of Homeland Security may integrate application procedures for, and issuance, suspension, and revocation of, ABT Cards with other appropriate international trusted traveler programs of the Department of Homeland Security.

[(c) COOPERATION WITH PRIVATE ENTITIES.—In carrying out this section, the Secretary of Homeland Security may consult with appropriate private sector entities.

[(d) RULEMAKING.—The Secretary of Homeland Security, in coordination with the Secretary of State, may prescribe such regulations as may be necessary to carry out this section, including regulations regarding conditions of or limitations on eligibility for an ABT Card.

[(e) FEE.—

[(1) IN GENERAL.—The Secretary of Homeland Security may—

[(A) prescribe and collect a fee for the issuance of ABT Cards; and

[(B) adjust such fee to the extent the Secretary determines to be necessary to comply with paragraph (2).

[(2) LIMITATION.—The Secretary of Homeland Security shall ensure that the total amount of the fees collected under paragraph (1) during any fiscal year is sufficient to offset the direct and indirect costs associated with carrying out this section during such fiscal year, including the costs associated with establishing the program.

【(3) ACCOUNT FOR COLLECTIONS.—There is established in the Treasury of the United States an “APEC Business Travel Card Account” into which the fees collected under paragraph (1) shall be deposited as offsetting receipts.

【(4) USE OF FUNDS.—Amounts deposited into the APEC Business Travel Card Account—

【(A) shall be credited to the appropriate account of the Department of Homeland Security for expenses incurred in carrying out this section; and

【(B) shall remain available until expended.

【(f) TERMINATION OF PROGRAM.—The Secretary of Homeland Security, in coordination with the Secretary of State, may terminate activities under this section if the Secretary of Homeland Security determines such action to be in the interest of the United States.】

