

110TH CONGRESS
1ST SESSION

S. 2474

To provide additional resources and funding to address inspection delays at United States ports of entry on the Southern border, open additional inspection lanes, hire more inspectors, and provide recruitment and retention incentives for United States Customs and Border Protection officers who serve on the Northern and Southern borders.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2007

Mr. CORNYN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide additional resources and funding to address inspection delays at United States ports of entry on the Southern border, open additional inspection lanes, hire more inspectors, and provide recruitment and retention incentives for United States Customs and Border Protection officers who serve on the Northern and Southern borders.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Emergency Port of
3 Entry Personnel and Infrastructure Funding Act of
4 2007”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

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

10 (2) **PORT OF ENTRY.**—The term “port of
11 entry” includes land, air, and sea ports of entry into
12 the United States.

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

16 **SEC. 3. CUSTOMS AND BORDER PROTECTION PERSONNEL.**

17 (a) **STAFF ENHANCEMENTS FOR CUSTOMS OFFI-**
18 **CERS.**—In addition to positions authorized as of the date
19 of the enactment of this Act, United States Customs and
20 Border Protection shall hire, train, and assign to duty
21 during fiscal years 2009 through 2012—

22 (1) 2,000 full-time officers to serve on primary
23 inspection lanes at land ports of entry on the North-
24 ern border and the Southern border;

1 (2) 1,000 full-time officers to serve on primary
2 inspection lanes at air and sea ports of entry on the
3 Northern border and the Southern border;

4 (3) 600 supervisory full-time officers to serve
5 on the Northern border and the Southern border;
6 and

7 (4) 200 support staff for ports of entry along
8 the Northern border and the Southern border.

9 (b) STAFF ENHANCEMENTS FOR CUSTOMS OFFICERS
10 IN TEXAS.—In addition to positions authorized on the
11 date of the enactment of this Act, United States Customs
12 and Border Protection shall hire, train, and assign to duty
13 during fiscal years 2009 through 2012—

14 (1) 750 full-time officers to serve on primary
15 inspection lines at land ports of entry in Texas; and

16 (2) 500 full-time officers to serve on primary
17 inspection lines at air and sea ports of entry in
18 Texas.

19 (c) WAIVER OF FTE LIMITATION.—The Secretary of
20 Homeland Security may waive any limitation on the num-
21 ber of full-time equivalent personnel assigned to the De-
22 partment of Homeland Security in order to fulfill the re-
23 quirements under subsections (a) and (b).

24 (d) SECURE COMMUNICATION AND EQUIPMENT.—
25 The Secretary of Homeland Security shall, subject to the

1 availability of appropriations for such purpose, ensure that
2 all United States Customs and Border Protection agents
3 and officers are equipped with secure 2-way communica-
4 tion and satellite-enabled devices to ensure communication
5 between agents and ports of entry, patrol, and inspection
6 stations, and other Federal, State, local and tribal law en-
7 forcement agencies.

8 (e) RETENTION INCENTIVES, TRAINING, AND SALA-
9 RIES.—

10 (1) IN GENERAL.—The Secretary of Homeland
11 Security shall, subject to the availability of appro-
12 priations for such purpose, ensure that the require-
13 ments under this subsection are met.

14 (2) TRAINING.—

15 (A) NEW HIRES.—All new United States
16 Customs and Border Protection officers (includ-
17 ing new supervisory officers) shall receive initial
18 law enforcement training at the Federal Law
19 Enforcement Center. Such training shall in-
20 clude—

21 (i) at least 30 hours of training on
22 immigration and nationality law;

23 (ii) language training to ensure pro-
24 ficiency in Spanish and in any other lan-
25 guage frequently used by aliens on the

1 Southern border, unless such officers have
2 already demonstrated proficiency in such
3 languages;

4 (iii) training on the law and standards
5 governing the use of force in apprehension
6 and detention of aliens; and

7 (iv) training on ethics and substance
8 abuse.

9 (B) EXISTING CBP OFFICERS.—All existing
10 United States Customs and Border Protection
11 officers shall receive annual law enforcement
12 training in a manner, and at such locations, as
13 prescribed by the Commissioner of United
14 States Customs and Border Protection. Such
15 refresher training shall include—

16 (i) at least 10 hours on immigration
17 and nationality law, including recent
18 changes through legislative action, litiga-
19 tion, administrative regulations, and policy
20 interpretations of the Department of
21 Homeland Security;

22 (ii) refresher training on the law and
23 standards governing the use of force in ap-
24 prehension and detention of aliens; and

1 (iii) training on ethics and substance
2 abuse.

3 (3) RECRUITMENT AND RETENTION BO-
4 NUSES.—To the extent necessary to retain qualified
5 United States Customs and Border Protection port
6 of entry officers and border patrol agents, the Sec-
7 retary may pay recruitment incentives that are not
8 less than \$5,000 and not more than \$10,000.

9 (4) SPECIAL RULES FOR INCENTIVE PAY-
10 MENTS.—

11 (A) IN GENERAL.—Any recruitment incen-
12 tive payment shall be paid to each new em-
13 ployee, in a lump sum, after the employee has
14 entered on duty and completed 6 months of
15 service.

16 (B) RETENTION INCENTIVES.—A retention
17 incentive payment shall—

18 (i) be paid to an employee, in a lump
19 sum, at the end of the fiscal year in which
20 the qualified employee is selected by the
21 Secretary, or a delegate of the Secretary,
22 for receipt of such payment;

23 (ii) not be limited solely to work per-
24 formance, but may be based on criteria
25 such as—

1 (I) longevity of service and expe-
2 rience;

3 (II) comparative salaries for law
4 enforcement officers in other Federal
5 agencies; and

6 (III) costs for replacement and
7 training of a new employee;

8 (iii) be contingent upon the selected
9 employee signing an agreement, under pen-
10 alty of perjury, to remain in Federal serv-
11 ice at his or her current location for at
12 least 3 years;

13 (iv) be subject to reimbursement if the
14 employee fails to complete the required 3
15 years of Federal service due to voluntary
16 or involuntary separation from service.

17 (f) SALARIES.—Section 101(b) of the Enhanced Bor-
18 der Security and Visa Entry Reform Act of 2002 (8
19 U.S.C. 1711(b)) is amended to read as follows:

20 “(b) AUTHORIZATION OF APPROPRIATIONS FOR CBP
21 EMPLOYEES.—There are authorized to be appropriated to
22 United States Customs and Border Protection such sums
23 as may be necessary to increase, beginning January 1,
24 2008, the annual rate of basic pay for United States Cus-

1 toms and Border Protection employees who have com-
2 pleted at least 1 year of service—

3 “(1) to the annual rate of basic pay payable for
4 positions at GS–12 of the General Schedule under
5 subchapter III of chapter 53 of title 5, United
6 States Code, for officers and agents who have been
7 paid at the annual rate of basic pay payable for a
8 position at GS–5, GS–6, GS–7, GS–8, or GS–9 of
9 the General Schedule;

10 “(2) to the annual rate of basic pay payable for
11 positions at GS–12, step 10, GS–13, or GS–14, step
12 1, respectively, of the General Schedule, for super-
13 visory officers and supervisory border patrol agents
14 who have been paid at an annual rate of pay payable
15 for positions at GS–10, GS–11, or GS–12 of the
16 General Schedule; and

17 “(3) to the annual rate of basic pay payable for
18 positions at GS–8, GS–9, or GS–10, respectively, of
19 the General Schedule, for assistants who have been
20 paid at an annual rate of pay payable for positions
21 at GS–5, GS–6, or GS–7 of the General Schedule.”.

22 **SEC. 4. PORTS OF ENTRY INFRASTRUCTURE.**

23 (a) IN GENERAL.—The Secretary of Homeland Secu-
24 rity may—

1 (1) construct additional ports of entry along the
2 Northern border and the Southern border; and

3 (2) determine the location for new ports of
4 entry, except as provided under subsection (c).

5 (b) CONSULTATION.—The Secretary of Homeland
6 Security may designate locations for new ports of entry
7 after consultation with the Secretary of Interior, the Sec-
8 retary of Agriculture, appropriate representatives of
9 States, local governments, and Indian tribes, and property
10 owners in the United States. Such consultations shall be
11 designed to minimize the impact of the new ports of entry
12 on the environment, culture, commerce, and quality of life
13 for the communities and residents located near the pro-
14 posed sites at which the such ports of entry will be con-
15 structed.

16 (c) EXPANSION OF TEXAS PORTS OF ENTRY.—

17 (1) EAGLE PASS.—The Secretary shall expand
18 the vehicle, cargo, and pedestrian inspection lanes at
19 the Eagle Pass, Texas port of entry by 6 additional
20 primary and secondary inspection lanes by the end
21 of fiscal year 2012.

22 (2) LAREDO.—The Secretary shall expand the
23 vehicle, cargo, and pedestrian inspection lanes at the
24 Laredo, Texas port of entry by 6 additional primary

1 and secondary inspection lanes by the end of fiscal
2 year 2012.

3 **SEC. 5. EXEMPTION FROM THE ADMINISTRATIVE PROCE-**
4 **DURES ACT AND THE PAPERWORK REDUC-**
5 **TION ACT.**

6 (a) ADMINISTRATIVE PROCEDURES ACT.—Chapter 5
7 of title 5, United States Code (commonly known as the
8 “Administrative Procedure Act”), and any other law relat-
9 ing to rulemaking, information collection, or publication
10 in the Federal Register, shall not apply to any action to
11 implement this Act, and the amendments made by this
12 Act, to the extent the Secretary of Homeland Security,
13 the Secretary of State, the Attorney General, or the Sec-
14 retary of Labor determines that compliance with any such
15 requirement would impede the expeditious implementation
16 of this Act or the amendments made by this Act.

17 (b) PAPERWORK REDUCTION ACT.—Chapter 35 of
18 title 44, United States Code (commonly known as the “Pa-
19 perwork Reduction Act”), shall not apply to any action
20 to implement this Act or the amendments made by this
21 Act to the extent the Secretary of Homeland Security, the
22 Secretary of State, the Attorney General, or the Secretary
23 of Labor determines that compliance with any such re-
24 quirement would impede the expeditious implementation
25 of such Act or the amendments made by this Act.

1 **SEC. 6. EXEMPTION FROM GOVERNMENT CONTRACTING**
2 **AND HIRING RULES.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
4 sion of law, in implementing this Act—

5 (1) the competition requirements under section
6 303 of the Federal Property and Administrative
7 Services Act of 1949 (41 U.S.C. 253) shall not
8 apply;

9 (2) any executive agency entering into a con-
10 tract to implement this Act may use noncompetitive
11 procedures in accordance with section 303(c) of such
12 Act;

13 (3) the Secretary of Homeland Security may
14 enter into contracts to implement the programs de-
15 scribed in this Act in advance of the receipt of any
16 fees imposed on any beneficiary or petitioner for
17 benefits under this Act;

18 (4) the Secretary may not collect fees in excess
19 of the amount necessary to defray the costs of the
20 programs described in this Act;

21 (5) the Secretary may appoint employees on a
22 term, temporary limited, or part-time basis without
23 regard to—

24 (A) the number of such employees;

1 (B) the ratio between the number of such
2 employees and the number of permanent full-
3 time employees; and

4 (C) the duration of such employees' em-
5 ployment; and

6 (6) nothing in chapter 71 of title 5, United
7 States Code, shall affect the authority of any De-
8 partment of Homeland Security management official
9 to hire employees under this subsection on a tem-
10 porary limited or part-time basis.

11 (b) LIMITATIONS ON JUDICIAL REVIEW.—The deter-
12 mination of an executive agency under section 303 of the
13 Federal Property and Administrative Services Act (41
14 U.S.C. 253(c)) shall not be subject to challenge by protest
15 to—

16 (1) the Government Accountability Office under
17 subchapter V of chapter 35 of title 31, United
18 States Code; or

19 (2) the Court of Federal Claims under section
20 1491 of title 28, United States Code.

21 (c) REPORTS.—Any executive agency exercising the
22 authority granted under subsections (a) and (b) shall—

23 (1) immediately submit written notification to
24 the Committee on the Judiciary of the Senate and

1 the Committee on the Judiciary of the House of
2 Representatives; and

3 (2) submit a quarterly report on the estimated
4 obligations incurred pursuant to the authority grant-
5 ed under subsection (b).

6 **SEC. 7. AUTHORITY TO ACQUIRE LEASEHOLDS.**

7 Notwithstanding any other provision of law, the Sec-
8 retary of Homeland Security may acquire a leasehold in-
9 terest in real property, and may provide in a lease entered
10 into under this section for the construction or modification
11 of any facility on the leased property, if the Secretary de-
12 termines that the acquisition of such interest, and such
13 construction or modification, are necessary to facilitate the
14 implementation of this Act.

15 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) IN GENERAL.—In addition to any funds other-
17 wise available, there are authorized to be appropriated—

18 (1) such sums as may be necessary for each of
19 the fiscal years 2009 through 2012 to carry out sub-
20 sections (a) and (b) of section 3;

21 (2) \$10,000,000 for each of the fiscal years
22 2009 through 2012 to carry out section 3(d);

23 (3) \$30,000,000 for each of the fiscal years
24 2009 through 2012 to carry out section 3(e)(1);

1 (4) \$10,000,000 for each of the fiscal years
2 2009 through 2012 to carry out section 3(e)(3);

3 (5) such sums as may be necessary to carry out
4 section 3(f) for fiscal year 2008 and for each suc-
5 ceeding fiscal year; and

6 (6) \$400,000,000 for each of the fiscal years
7 2008 through 2010 to carry out section 4.

8 (b) INTERNATIONAL AGREEMENTS.—In addition to
9 any funds otherwise made available, there are authorized
10 to be appropriated \$100,000,000 for each of the fiscal
11 years 2009 through 2012 for continued implementation
12 of—

13 (1) the Secure Border Initiative, the Western
14 Hemisphere Travel Initiative, and the US-VISIT
15 program on the Northern border and the Southern
16 border; and

17 (2) the Customs-Trade Partnership Against
18 Terrorism.

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