

113TH CONGRESS
1ST SESSION

S. 1812

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 12 (legislative day, DECEMBER 11), 2013

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 emergency funding for port of entry personnel and infrastructure.

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

3 **SECTION 1. SHORT TITLE.**

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

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

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

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

4 (3) NORTHERN BORDER.—The term “Northern
 5 border” means the international border between the
 6 United States and Canada.

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

9 (5) SOUTHERN BORDER.—The term “Southern
 10 border” means the international border between the
 11 United States and Mexico.

12 **SEC. 3. U.S. CUSTOMS AND BORDER PROTECTION PER-**
 13 **SONNEL.**

14 (a) STAFF ENHANCEMENTS.—

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

22 (A) 5,000 full-time U.S. Customs and Bor-
 23 der Protection officers to serve on all inspection
 24 lanes (primary, secondary, incoming, and out-
 25 going) and enforcement teams at United States

1 land ports of entry on the Northern border and
2 the Southern border; and

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

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

10 (b) REPORTS TO CONGRESS.—

11 (1) OUTBOUND INSPECTIONS.—Not later than
12 90 days after the date of the enactment of this Act,
13 the Secretary shall submit a report containing the
14 Department of Homeland Security's plans for ensur-
15 ing the placement of sufficient U.S. Customs and
16 Border Protection officers on outbound inspections,
17 and adequate outbound infrastructure, at all South-
18 ern border land ports of entry to—

19 (A) the Committee on the Judiciary of the
20 Senate;

21 (B) the Committee on the Judiciary of the
22 House of Representatives;

23 (C) the Committee on Homeland Security
24 and Governmental Affairs of the Senate; and

1 (D) the Committee on Homeland Security
2 of the House of Representatives.

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

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

22 (A) details the Department of Homeland
23 Security’s implementation plan for the staff en-
24 hancements required under subsection
25 (a)(1)(A);

1 (B) includes the number of additional per-
2 sonnel assigned to duty at land ports of entry,
3 classified by location;

4 (C) describes the methodology used to de-
5 termine the distribution of additional personnel
6 to address northbound and southbound cross-
7 border inspections; and

8 (D) includes—

9 (i) the strategic plan required under
10 section 5(a)(1);

11 (ii) the model required under section
12 5(b), including the underlying assump-
13 tions, factors, and concerns that guide the
14 decisionmaking and allocation process; and

15 (iii) the new outcome-based perform-
16 ance measures adopted under section
17 5(c)(1).

18 (c) SECURE COMMUNICATION.—The Secretary shall
19 ensure that each U.S. Customs and Border Protection of-
20 ficer is equipped with a secure 2-way communication and
21 satellite-enabled device, supported by system interoper-
22 ability, that allows U.S. Customs and Border Protection
23 officers to communicate—

24 (1) between ports of entry and inspection sta-
25 tions; and

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

3 (d) BORDER AREA SECURITY INITIATIVE GRANT
4 PROGRAM.—The Secretary shall establish a program for
5 awarding grants for the purchase of—

6 (1) identification and detection equipment; and

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

10 (e) PORT OF ENTRY INFRASTRUCTURE IMPROVE-
11 MENTS.—The Commissioner may aid in the enforcement
12 of Federal customs, immigration, and agriculture laws
13 by—

14 (1) designing, constructing, and modifying—

15 (A) United States ports of entry;

16 (B) living quarters for officers, agents, and
17 personnel;

18 (C) technology and equipment, including
19 those deployed in support of standardized and
20 automated collection of vehicular travel time;
21 and

22 (D) other structures and facilities, includ-
23 ing those owned by municipalities, local govern-
24 ments, or private entities located at land ports
25 of entry;

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

5 (3) constructing additional ports of entry along
6 the Southern border and the Northern border.

7 (f) PRIORITIZATION.—In selecting improvements
8 under subsection (e), the Commissioner, in coordination
9 with the Administrator shall give priority consideration to
10 projects that will substantially—

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

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

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

20 (g) CONSULTATION.—

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

22 The Secretary is encouraged to consult with the Sec-
23 retary of the Interior, the Secretary of Agriculture,
24 the Secretary of State, the International Boundary
25 and Water Commission, the International Joint

1 Commission, and appropriate representatives of
2 States, Indian tribes, local governments, and prop-
3 erty owners—

4 (A) to determine locations for new ports of
5 entry; and

6 (B) to minimize adverse impacts from such
7 ports on the environment, historic and cultural
8 resources, commerce, and the quality of life of
9 the communities and residents located near
10 such ports.

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

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

15 (B) to affect the legality or validity of any
16 determination by the Secretary under this Act;
17 or

18 (C) to affect any consultation requirement
19 under any other law.

20 (h) AUTHORITY TO ACQUIRE LEASEHOLDS.—Not-
21 withstanding any other provision of law, if the Secretary
22 determines that the acquisition of a leasehold interest in
23 real property and the construction or modification of any
24 facility on the leased property are necessary to facilitate
25 the implementation of this Act, the Secretary may—

1 (1) acquire such leasehold interest; and

2 (2) construct or modify such facility.

3 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out this section,
5 for each of the fiscal years 2014 through 2019,
6 \$1,000,000,000, of which \$5,000,000 shall be used for
7 grants authorized under subsection (d).

8 (j) OFFSET, RESCISSION OF UNOBLIGATED FED-
9 ERAL FUNDS.—

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

18 (2) IMPLEMENTATION.—The Director of the
19 Office of Management and Budget shall determine
20 and identify—

21 (A) the appropriation accounts from which
22 the rescission under paragraph (1) shall apply;
23 and

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

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

8 (4) EXCEPTIONS.—This subsection shall not
 9 apply to unobligated funds of—

10 (A) the Department of Defense;

11 (B) the Department of Veterans Affairs; or

12 (C) the Department of Homeland Security.

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

14 (a) AGREEMENTS AUTHORIZED.—For purposes of
 15 facilitating the construction, alteration, operation, or
 16 maintenance of a new or existing facility or other infra-
 17 structure at a port of entry, the Administrator may—

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

20 (2) accept donations of—

21 (A) real or personal property (including
 22 monetary donations); or

23 (B) nonpersonal services.

24 (b) EVALUATION PROCEDURES.—

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

6 (A) to enter into a cost-sharing or reim-
7 bursement agreement with the General Services
8 Administration to facilitate the construction, al-
9 teration, operation, or maintenance of a new or
10 existing facility or other infrastructure at a
11 land border port of entry; or

12 (B) to provide the Administration with a
13 donation of real or personal property (including
14 monetary donations) or nonpersonal services to
15 be used in the construction, alteration, oper-
16 ation, or maintenance of a facility or other in-
17 frastructure at a land border port of entry
18 under the control of the Administration.

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

21 (A) the land port of entry facility or facili-
22 ties in support of which the donation is being
23 made; and

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

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

9 (4) DETERMINATION AND NOTIFICATION.—

10 (A) IN GENERAL.—Not later than 90 days
 11 after receiving a proposal pursuant to sub-
 12 section (a) with respect to the construction or
 13 maintenance of a facility or other infrastructure
 14 at a land border port of entry, the Adminis-
 15 trator shall—

16 (i) make a determination with respect
 17 to whether or not to approve the proposal;
 18 and

19 (ii) notify the person that submitted
 20 the proposal of—

21 (I) the determination; and

22 (II) if the Administrator did not
 23 approve the proposal, the reasons for
 24 such disapproval.

1 (B) CONSIDERATIONS.—In determining
 2 whether or not to approve a proposal under this
 3 subsection, the Administrator shall consider—

4 (i) the impact of the proposal on re-
 5 ducing wait times at that port of entry and
 6 other ports of entry on the same border;

7 (ii) the potential of the proposal to in-
 8 crease trade and travel efficiency through
 9 added capacity; and

10 (iii) the potential of the proposal to
 11 enhance the security of the port of entry.

12 (c) DELEGATION.—For facilities at which the Admin-
 13 istrator has delegated or transferred to the Secretary, op-
 14 erations, ownership, or other authorities over land border
 15 ports of entry, the authorities and requirements of the Ad-
 16 ministrator under this section shall be deemed to apply
 17 to the Secretary.

18 **SEC. 5. IMPLEMENTATION OF GOVERNMENT ACCOUNT-**
 19 **ABILITY OFFICE FINDINGS.**

20 (a) BORDER WAIT TIME DATA COLLECTION.—

21 (1) STRATEGIC PLAN.—The Secretary, in con-
 22 sultation with the Commissioner, the Administrator
 23 of the Federal Highway Administration, State De-
 24 partments of Transportation, and other public and
 25 private stakeholders, shall develop a strategic plan

1 for standardized collection of vehicle wait times at
2 land ports of entry.

3 (2) ELEMENTS.—The strategic plan required
4 under paragraph (1) shall include—

5 (A) a description of how U.S. Customs and
6 Border Protection will ensure standardized
7 manual wait time collection practices at ports of
8 entry;

9 (B) a timeline for incorporating standard-
10 ized data into existing online platforms for pub-
11 lic reporting;

12 (C) the identification of a standardized
13 measurement and validation wait time data tool
14 for use at all land ports of entry; and

15 (D) an assessment of the feasibility and
16 cost for supplementing and replacing manual
17 data collection with automation, which should
18 utilize existing automation efforts and re-
19 sources.

20 (b) STAFF ALLOCATION.—The Secretary, in con-
21 sultation with the Commissioner and State, municipal, and
22 private sector stakeholders at each port of entry, shall de-
23 velop a standardized model for the allocation of U.S. Cus-
24 toms and Border Protection officers and support staff at

1 land ports of entry, including allocations specific to field
2 offices and the port level that utilizes—

- 3 (1) current and future operational priorities
4 and threats;
5 (2) historical staffing levels and patterns; and
6 (3) anticipated traffic flows.

7 (c) OUTCOME-BASED PERFORMANCE MEASURES.—

8 (1) IN GENERAL.—The Secretary, in consulta-
9 tion with the Commissioner and relevant public and
10 private sector stakeholders, shall identify and adopt
11 new outcome-based performance measures that sup-
12 port the trade facilitation goals of U.S. Customs and
13 Border Protection.

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

17 (A) the extent to which trusted traveler
18 and shipper program participants experience
19 decreased annual percentage wait time com-
20 pared to nonparticipants; and

21 (B) the extent to which trusted traveler
22 and shipper program participants experience an
23 annual reduction in percentage of referrals to
24 secondary inspection facilities compared to non-
25 participants.

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

5 (A) the new performance measures devel-
6 oped under this subsection; and

7 (B) the process for the incorporation of
8 such measures into existing performance meas-
9 ures.

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