

114TH CONGRESS
1ST SESSION

S. 458

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2015

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, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Port of
5 Entry Personnel and Infrastructure Funding Act of
6 2015”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

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

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

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

10 (4) RELEVANT COMMITTEES OF CONGRESS.—
11 The term “relevant committees of Congress”
12 means—

13 (A) the Committee on Environment and
14 Public Works of the Senate;

15 (B) the Committee on Finance of the Sen-
16 ate;

17 (C) the Committee on Homeland Security
18 and Governmental Affairs of the Senate;

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

21 (E) the Committee on Homeland Security
22 of the House of Representatives;

23 (F) the Committee on the Judiciary of the
24 House of Representatives; and

1 (G) the Committee on Transportation and
2 Infrastructure of the House of Representatives.

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

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

8 **SEC. 3. U.S. CUSTOMS AND BORDER PROTECTION PER-**
9 **SONNEL.**

10 (a) STAFF ENHANCEMENTS.—

11 (1) AUTHORIZATION.—In addition to positions
12 authorized before the date of the enactment of this
13 Act and any existing officer vacancies within U.S.
14 Customs and Border Protection on such date, the
15 Secretary, subject to the availability of appropria-
16 tions for such purpose, shall hire, train, and assign
17 to duty, by not later than September 30, 2020—

18 (A) 5,000 full-time U.S. Customs and Bor-
19 der Protection officers to serve on all inspection
20 lanes (primary, secondary, incoming, and out-
21 going) and enforcement teams at United States
22 land ports of entry on the Northern border and
23 the Southern border; and

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

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

6 (b) REPORTS TO CONGRESS.—

7 (1) OUTBOUND INSPECTIONS.—Not later than
8 90 days after the date of the enactment of this Act,
9 the Secretary shall submit a report to the relevant
10 committees of Congress that includes a plan for en-
11 suring the placement of sufficient U.S. Customs and
12 Border Protection officers on outbound inspections,
13 and adequate outbound infrastructure, at all South-
14 ern border land ports of entry.

15 (2) SUFFICIENT AGRICULTURAL SPECIALISTS
16 AND PERSONNEL.—Not later than 90 days after the
17 date of the enactment of this Act, the Secretary, in
18 consultation with the Secretary of Agriculture and
19 the Secretary of Health and Human Services, shall
20 submit a report to the relevant committees of Con-
21 gress that contains plans for the Department of
22 Homeland Security, the Department of Agriculture,
23 and the Department of Health and Human Services,
24 respectively, for ensuring the placement of sufficient
25 U.S. Customs and Border Protection agriculture

1 specialists, Animal and Plant Health Inspection
2 Service entomologist identifier specialists, Food and
3 Drug Administration consumer safety officers, and
4 other relevant and related personnel at all Southern
5 border land ports of entry.

6 (3) ANNUAL IMPLEMENTATION REPORT.—Not
7 later than 1 year after the date of the enactment of
8 this Act, and annually thereafter, the Secretary shall
9 submit a report to the relevant committees of Con-
10 gress that—

11 (A) details the Department of Homeland
12 Security’s implementation plan for the staff en-
13 hancements required under subsection
14 (a)(1)(A);

15 (B) includes the number of additional per-
16 sonnel assigned to duty at land ports of entry,
17 classified by location;

18 (C) describes the methodology used to de-
19 termine the distribution of additional personnel
20 to address northbound and southbound cross-
21 border inspections; and

22 (D) includes—

23 (i) the strategic plan required under
24 section 5(a)(1);

- 1 (ii) the model required under section
2 5(b), including the underlying assump-
3 tions, factors, and concerns that guide the
4 decisionmaking and allocation process; and
5 (iii) the new outcome-based perform-
6 ance measures adopted under section 5(c).

7 (c) SECURE COMMUNICATION.—The Secretary shall
8 ensure that each U.S. Customs and Border Protection of-
9 ficer is equipped with a secure 2-way communication and
10 satellite-enabled device, supported by system interoper-
11 ability, that allows U.S. Customs and Border Protection
12 officers to communicate—

13 (1) between ports of entry and inspection sta-
14 tions; and

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

17 (d) BORDER AREA SECURITY INITIATIVE GRANT
18 PROGRAM.—The Secretary shall establish a program for
19 awarding grants for the purchase of—

20 (1) identification and detection equipment; and

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

24 (e) PORT OF ENTRY INFRASTRUCTURE IMPROVE-
25 MENTS.—

1 (1) IN GENERAL.—The Commissioner may aid
2 in the enforcement of Federal customs, immigration,
3 and agriculture laws by—

4 (A) designing, constructing, and modi-
5 fying—

6 (i) United States ports of entry;

7 (ii) living quarters for officers, agents,
8 and personnel;

9 (iii) technology and equipment, includ-
10 ing those deployed in support of standard-
11 ized and automated collection of vehicular
12 travel time; and

13 (iv) other structures and facilities, in-
14 cluding those owned by municipalities,
15 local governments, or private entities lo-
16 cated at land ports of entry;

17 (B) acquiring, by purchase, donation, ex-
18 change, or otherwise, land or any interest in
19 land determined to be necessary to carry out
20 the Commissioner's duties under this section;
21 and

22 (C) constructing additional ports of entry
23 along the Southern border and the Northern
24 border.

1 (2) PRIORITIZATION.—In selecting improve-
2 ments under this section, the Commissioner, in co-
3 ordination with the Administrator shall give priority
4 consideration to projects that will substantially—

5 (A) reduce commercial and passenger vehi-
6 cle and pedestrian crossing wait times at 1 or
7 more ports of entry on the same border;

8 (B) increase trade, travel efficiency, and
9 the projected total annual volume at 1 or more
10 ports of entry on the same border; and

11 (C) enhance safety and security at border
12 facilities at 1 or more ports of entry on the
13 same border.

14 (f) CONSULTATION.—

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

16 The Secretary shall consult with the Secretary of the
17 Interior, the Secretary of Agriculture, the Secretary
18 of State, the International Boundary and Water
19 Commission, the International Joint Commission,
20 and appropriate representatives of States, Indian
21 tribes, local governments, and property owners, as
22 appropriate—

23 (A) to determine locations for new ports of
24 entry; and

1 (B) to minimize adverse impacts from such
2 ports on the environment, historic and cultural
3 resources, commerce, and the quality of life of
4 the communities and residents located near
5 such ports.

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

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

10 (B) to affect the legality or validity of any
11 determination by the Secretary under this Act;
12 or

13 (C) to affect any consultation requirement
14 under any other law.

15 (g) AUTHORITY TO ACQUIRE LEASEHOLDS.—Not-
16 withstanding any other provision of law, if the Secretary
17 determines that the acquisition of a leasehold interest in
18 real property and the construction or modification of any
19 facility on the leased property are necessary to facilitate
20 the implementation of this Act, the Secretary may—

21 (1) acquire such leasehold interest; and

22 (2) construct or modify such facility.

23 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to be appropriated to carry out this section,
25 for each of the fiscal years 2015 through 2020,

1 \$1,000,000,000, of which \$5,000,000 shall be used for
2 grants authorized under subsection (d).

3 (i) OFFSET, RESCISSION OF UNOBLIGATED FED-
4 ERAL FUNDS.—

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

13 (2) IMPLEMENTATION.—The Director of the
14 Office of Management and Budget shall determine
15 and identify—

16 (A) the appropriation accounts from which
17 the rescission under paragraph (1) shall apply;
18 and

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

21 (3) REPORT.—Not later than 60 days after the
22 date of the enactment of this Act, the Director of
23 the Office of Management and Budget shall submit
24 a report to Congress and to the Secretary of the
25 Treasury that describes the accounts and amounts

1 determined and identified under paragraph (2) for
2 rescission under paragraph (1).

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

5 (A) the Department of Defense;

6 (B) the Department of Veterans Affairs; or

7 (C) the Department of Homeland Security.

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

9 (a) AGREEMENTS AUTHORIZED.—Consistent with
10 section 559 of the Department of Homeland Security Ap-
11 propriations Act, 2014 (6 U.S.C. 211 note), during the
12 10-year period beginning on the date of the enactment of
13 this Act, the Commissioner and the Administrator, for
14 purposes of facilitating the construction, alteration, oper-
15 ation, or maintenance of a new or existing facility or other
16 infrastructure at a port of entry under the jurisdiction,
17 custody, and control of the Commissioner or the Adminis-
18 trator, may—

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

21 (2) accept donations of—

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

24 (B) nonpersonal services.

1 (b) ALLOWABLE USES OF AGREEMENTS.—The Com-
2 missioner and the Administrator may—

3 (1) use agreements authorized under subsection
4 (a) for activities related to an existing or new port
5 of entry, including expenses relating to—

6 (A) land acquisition, design, construction,
7 repair, or alternation;

8 (B) furniture, fixtures, or equipment;

9 (C) the deployment of technology or equip-
10 ment; and

11 (D) operations and maintenance; or

12 (2) transfer such property or services between
13 the Commissioner and the Administrator for activi-
14 ties described in paragraph (1) relating to a new or
15 existing port of entry under the jurisdiction, custody,
16 and control of the relevant agency, subject to chap-
17 ter 33 of title 40, United States Code.

18 (c) SAVINGS PROVISION.—Nothing in this section
19 may be construed to alter or change agreements or au-
20 thorities authorized under section 559 of the Department
21 of Homeland Security Appropriations Act, 2014 (division
22 F of Public Law 113–76; 6 U.S.C. 211 note) and in place
23 as of the date of enactment of this Act

24 (d) EVALUATION PROCEDURES.—

25 (1) IN GENERAL.—

1 (A) REQUIREMENT FOR PROCEDURES.—

2 The Commissioner, in consultation with the Ad-
3 ministrator and consistent with section 559 of
4 the Department of Homeland Security Appro-
5 priations Act, 2014 (6 U.S.C. 211 note), shall
6 issue procedures for evaluating a proposal sub-
7 mitted by a person for an agreement authorized
8 under subsection (a).

9 (B) AVAILABILITY.—The procedures re-
10 quired under subparagraph (A) shall be made
11 available to the public through a website of the
12 Department of Homeland Security.

13 (2) SPECIFICATION.—Proposals for agreements
14 or donations referred to in subsection (a) may speci-
15 fy—

16 (A) the land port of entry facility or facili-
17 ties in support of which the agreement is en-
18 tered into; and

19 (B) the time frame in which the contrib-
20 uted property or nonpersonal services shall be
21 used.

22 (3) SUPPLEMENTAL FUNDING.—Any property
23 (including monetary donations) or nonpersonal serv-
24 ices donated pursuant to subsection (a)(2) may be
25 used in addition to any other funds, including appro-

1 priated funds, property, or services made available
 2 for the same purpose.

3 (4) RETURN OF DONATION.—

4 (A) REQUIREMENT FOR RETURN.—If the
 5 Commissioner or the Administrator does not
 6 use the property or services donated pursuant
 7 to subsection (a)(2) for the specific facility or
 8 facilities designated by the person or within the
 9 time frame specified by the person, such do-
 10 nated property or services shall be returned to
 11 the person that made the donation.

12 (B) PROHIBITION ON INTEREST.—No in-
 13 terest may be owed on any donation returned to
 14 a person under subparagraph (A).

15 (5) DETERMINATION AND NOTIFICATION.—

16 (A) IN GENERAL.—Not later than 90 days
 17 after receiving a proposal pursuant to sub-
 18 section (a) with respect to the construction or
 19 maintenance of a facility or other infrastructure
 20 at a land border port of entry, the Commis-
 21 sioner or the Administrator shall—

22 (i) make a determination with respect
 23 to whether or not to approve the proposal;
 24 and

1 (ii) notify the person that submitted
2 the proposal of—

3 (I) the determination; and

4 (II) if the Administrator did not
5 approve the proposal, the reasons for
6 such disapproval.

7 (B) CONSIDERATIONS.—In determining
8 whether or not to approve a proposal under this
9 subsection, the Administrator shall consider—

10 (i) the impact of the proposal on re-
11 ducing wait times at that port of entry and
12 other ports of entry on the same border;

13 (ii) the potential of the proposal to in-
14 crease trade and travel efficiency through
15 added capacity; and

16 (iii) the potential of the proposal to
17 enhance the security of the port of entry.

18 (e) ANNUAL REPORT AND NOTICE TO CONGRESS.—
19 The Commissioner, in collaboration with the Adminis-
20 trator, shall—

21 (1) submit an annual report to the relevant
22 committees of Congress describing agreements en-
23 tered into pursuant to subsection (a); and

24 (2) not later than 3 days before entering into
25 an agreement under subsection (a) with a person,

1 notify the members of Congress that represent the
2 State and district in which the facility is located.

3 **SEC. 5. IMPLEMENTATION OF GOVERNMENT ACCOUNT-**
4 **ABILITY OFFICE FINDINGS.**

5 (a) BORDER WAIT TIME DATA COLLECTION.—

6 (1) STRATEGIC PLAN.—The Secretary, in con-
7 sultation with the Commissioner, the Administrator
8 of the Federal Highway Administration, State De-
9 partments of Transportation, and other public and
10 private stakeholders, shall develop a strategic plan
11 for standardized collection of vehicle wait times at
12 land ports of entry.

13 (2) ELEMENTS.—The strategic plan required
14 under paragraph (1) shall include—

15 (A) a description of how U.S. Customs and
16 Border Protection will ensure standardized
17 manual wait time collection practices at ports of
18 entry;

19 (B) current wait time collection practices
20 at each land port of entry, which shall also be
21 made available through existing online plat-
22 forms for public reporting;

23 (C) the identification of a standardized
24 measurement and validation wait time data tool
25 for use at all land ports of entry; and

1 (D) an assessment of the feasibility and
2 cost for supplementing and replacing manual
3 data collection with automation, which should
4 utilize existing automation efforts and re-
5 sources.

6 (3) UPDATES FOR COLLECTION METHODS.—

7 The Secretary shall update the strategic plan re-
8 quired under paragraph (1) to reflect new practices,
9 timelines, tools, and assessments, as appropriate.

10 (b) STAFF ALLOCATION.—The Secretary, in con-
11 sultation with the Commissioner and State, municipal, and
12 private sector stakeholders at each port of entry, shall de-
13 velop a standardized model for the allocation of U.S. Cus-
14 toms and Border Protection officers and support staff at
15 land ports of entry, including allocations specific to field
16 offices and the port level that utilizes—

17 (1) current and future operational priorities
18 and threats;

19 (2) historical staffing levels and patterns; and

20 (3) anticipated traffic flows.

21 (c) OUTCOME-BASED PERFORMANCE MEASURES.—

22 (1) IN GENERAL.—The Secretary, in consulta-
23 tion with the Commissioner and relevant public and
24 private sector stakeholders, shall identify and adopt
25 not fewer than 2 new, outcome-based performance

1 measures that support the trade facilitation goals of
2 U.S. Customs and Border Protection.

3 (2) EFFECT OF TRUSTED TRAVELER AND SHIP-
4 PER PROGRAMS.—Outcome-based performance meas-
5 ures identified under this subsection should in-
6 clude—

7 (A) the extent to which trusted traveler
8 and shipper program participants experience
9 decreased annual percentage wait time com-
10 pared to nonparticipants; and

11 (B) the extent to which trusted traveler
12 and shipper program participants experience an
13 annual reduction in percentage of referrals to
14 secondary inspection facilities compared to non-
15 participants.

16 (3) AGENCY EFFICIENCIES.—The Secretary
17 shall not adopt performance measures that—

18 (A) solely address U.S. Customs and Bor-
19 der Protection resource efficiency; or

20 (B) fail to adequately—

21 (i) gauge the impact of programs or
22 initiatives on trade facilitation goals; or

23 (ii) measure benefits to stakeholders.

24 (4) REPORT.—Not later than 90 days after the
25 date of the enactment of this Act, the Secretary

1 shall submit a report to the relevant committees of
2 Congress that identifies—

3 (A) the new performance measures devel-
4 oped under this subsection; and

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

○