

Calendar No. 652

118TH CONGRESS
2D SESSION**S. 2278****[Report No. 118–251]**

To establish Image Adjudicator and Supervisory Image Adjudicator positions
in the U.S. Customs and Border Protection Office of Field Operations.

IN THE SENATE OF THE UNITED STATES

JULY 12, 2023

Mr. LANKFORD (for himself, Mr. KELLY, Mr. OSSOFF, and Mr. CORNYN) in-
troduced the following bill; which was read twice and referred to the Com-
mittee on Homeland Security and Governmental Affairs

DECEMBER 2, 2024

Reported by Mr. PETERS, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To establish Image Adjudicator and Supervisory Image Adju-
dicator positions in the U.S. Customs and Border Protec-
tion Office of Field Operations.

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 “Border Enforcement,
5 Security, and Trade (BEST) Facilitation Act of 2023”.

1 **SEC. 2. NEW OFFICE OF FIELD OPERATIONS POSITIONS AU-**
 2 **THORIZED.**

3 Section 411(g) of the Homeland Security Act of 2002
 4 (6 U.S.C. 211(g)) is amended by adding at the end the
 5 following:

6 “(6) IMAGE ADJUDICATOR POSITIONS.—

7 “(A) IMAGE ADJUDICATOR.—There shall
 8 be in the Office of Field Operations, the posi-
 9 tion of Image Adjudicator, who shall be ap-
 10 pointed in accordance with the provisions under
 11 chapter 33 (relating to appointments in the
 12 competitive service) and chapters 51 and 53
 13 (relating to classification and rates of pay) of
 14 title 5, United States Code. Each Image Adju-
 15 dicator shall—

16 “(i) review non-intrusive inspection
 17 images of conveyances and containers en-
 18 tering or exiting the United States through
 19 a land, sea, or air port of entry or rail
 20 crossing;

21 “(ii) assess whether conveyances and
 22 containers contain contraband, illicit
 23 drugs, terrorist weapons, or persons who
 24 are seeking to unlawfully enter or exit the
 25 United States;

1 “(iii) recommend entry for all convey-
 2 ances and containers that do not contain
 3 contraband, illicit drugs, terrorist weapons,
 4 or persons seeking to unlawfully enter the
 5 United States to the U.S. Customs and
 6 Border Protection Officer responsible for
 7 inspecting such cargo or conveyance;

8 “(iv) refer any conveyances and con-
 9 tainers that the Image Adjudicator reason-
 10 ably believes contains contraband, illicit
 11 drugs, terrorist weapons, or persons seek-
 12 ing to unlawfully enter or exit the United
 13 States to the U.S. Customs and Border
 14 Protection Officer who is responsible for
 15 inspecting such cargo or conveyance for
 16 further inspection; and

17 “(v) refer to a Supervisory Image Ad-
 18 judicator any image of a vehicle or cargo
 19 that is difficult to adjudicate due to poor
 20 image quality or other factors.

21 “(B) SUPERVISORY IMAGE ADJUDI-
 22 CATOR.—There shall be in the Office of Field
 23 Operations, the position of Supervisory Image
 24 Adjudicator, who shall be appointed in accord-
 25 ance with the provisions under chapter 33 (re-

1 lating to appointments in the competitive serv-
2 ice) and chapters 51 and 53 (relating to classi-
3 fication and rates of pay) of title 5, United
4 States Code. Each Supervisory Image Adjudi-
5 cator shall—

6 “(i) carry out all of the duties de-
7 scribed in clauses (i) through (iii) of sub-
8 paragraph (A);

9 “(ii) review and make a determination
10 regarding images referred by an Image Ad-
11 judicator pursuant to subparagraph (A)(v);

12 “(iii) receive intelligence from the Na-
13 tional Targeting Center regarding tactics,
14 techniques, and procedures being used at
15 ports of entry and in the border environ-
16 ment by malign actors to facilitate the un-
17 lawful entry or exit of contraband, illicit
18 drugs, terrorist weapons, and persons who
19 are seeking to unlawfully enter or exit the
20 United States; and

21 “(iv) report new intelligence to the
22 National Targeting Center regarding tac-
23 tics, techniques, and procedures being used
24 at ports of entry and in the border envi-
25 ronment by malign actors to facilitate the

1 unlawful entry or exit of contraband, illicit
2 drugs, terrorist weapons, and persons who
3 are seeking to unlawfully enter the United
4 States.

5 “(C) TRAINING REQUIREMENTS.—All
6 Image Adjudicators and Supervisory Image Ad-
7 judicators shall receive annual training and ad-
8 ditional ad hoc training, to the extent necessary
9 based on current trends, regarding—

10 “(i) privacy and civil liberties, includ-
11 ing the protections of the First and Fourth
12 Amendments to the United States Con-
13 stitution;

14 “(ii) analyzing images generated by
15 non-intrusive inspection technologies de-
16 ployed by U.S. Customs and Border Pro-
17 tection; and

18 “(iii) tactics, techniques, and proce-
19 dures being used at ports of entry and in
20 the border environment by malign actors to
21 facilitate the unlawful entry or exit of con-
22 traband, illicit drugs, terrorist weapons,
23 and persons who are seeking to unlawfully
24 enter the United States.

1 “(D) ANNUAL ASSESSMENT.—All Image
 2 Adjudicators and Supervisory Image Adjudica-
 3 tors shall receive an annual assessment with re-
 4 spect to their—

5 “(i) accuracy in image analysis;

6 “(ii) timeliness in image analysis; and

7 “(iii) ability to ascertain tactics, tech-
 8 niques, and procedures being used at ports
 9 of entry and in the border environment by
 10 malign actors to facilitate the unlawful
 11 entry or exit of contraband, illicit drugs,
 12 terrorist weapons, and persons who are
 13 seeking to unlawfully enter the United
 14 States.”.

15 **SEC. 3. WORKFORCE STAFFING MODEL.**

16 (a) DEVELOPMENT.—Not later than 1 year after the
 17 date of the enactment of this Act, the Commissioner of
 18 U.S. Customs and Border Protection shall develop a work-
 19 force staffing model for Image Adjudicators and Super-
 20 visory Image Adjudicators described in section 211(g)(6)
 21 of the Homeland Security Act of 2002, as amended by
 22 section 2, based upon—

23 (1) the deployment of non-intrusive inspection
 24 technologies at ports of entry and international rail
 25 crossings;

1 (2) border traffic patterns; and

2 (3) scanning goals at each port of entry and
3 international rail crossing.

4 (b) ~~VALIDATION.~~—Not later than 6 months after the
5 completion of the workforce staffing model described in
6 subsection (a), the Comptroller General of the United
7 States shall validate such workforce staffing model.

8 **SEC. 4. REPORTING REQUIREMENTS.**

9 Upon completion of the validation of the workforce
10 staffing model pursuant to section 3(b), and quarterly
11 thereafter, the Commissioner of U.S. Customs and Border
12 Protection, in consultation with the Executive Assistant
13 Commissioner, shall submit a report to the Committee on
14 Homeland Security and Governmental Affairs of the Sen-
15 ate and the Committee on Homeland Security of the
16 House of Representatives that identifies—

17 (1) the number of Image Adjudicators and Su-
18 pervisory Image Adjudicators hired during the re-
19 porting period;

20 (2) the number of Image Adjudicators and Su-
21 pervisory Image Adjudicators currently employed by
22 the Office of Field Operations, disaggregated by port
23 of entry;

24 (3) the average number of images scanned by
25 each Image Adjudicator;

1 (4) training methodologies utilized to train
2 Image Adjudicators and Supervisory Image Adju-
3 dicators;

4 (5) assessment passage rates of Image Adju-
5 dicators and Supervisory Image Adjudicators; and

6 (6) the impact of Image Adjudicators and Su-
7 pervisory Image Adjudicators on interdiction rates
8 at ports of entry and international rail crossings at
9 which Image Adjudicators or Supervisory Image Ad-
10 judicators are stationed, including—

11 (A) throughput increases or decreases at
12 such ports of entry and rail crossings;

13 (B) increases or decreases in waiting times
14 at such ports of entry and rail crossings; and

15 (C) increases or decreases of seizures of
16 contraband, illicit drugs, terrorist weapons, and
17 persons seeking to unlawfully enter or exit the
18 United States, broken down by type of seizure
19 and port of entry or rail crossing.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Border Enforcement,*
22 *Security, and Trade (BEST) Facilitation Act of 2023”.*

1 **SEC. 2. OFFICE OF FIELD OPERATIONS IMAGE TECHNICIAN**
 2 **PILOT PROGRAM.**

3 (a) *IN GENERAL.*—Section 411(g) of the Homeland Se-
 4 curity Act of 2002 (6 U.S.C. 211(g)) is amended by adding
 5 at the end the following:

6 “(6) *IMAGE TECHNICIAN PILOT PROGRAM.*—

7 “(A) *IMAGE TECHNICIAN 1.*—

8 “(i) *IN GENERAL.*—There shall be in
 9 the Office of Field Operations, Image Tech-
 10 nician 1 positions, which shall be filled in
 11 accordance with the provisions under chap-
 12 ter 33 (relating to appointments in the com-
 13 petitive service) and chapters 51 and 53 (re-
 14 lating to classification and rates of pay) of
 15 title 5, United States Code.

16 “(ii) *CONDITIONS.*—Image Technician
 17 1 positions—

18 “(I) may be filled by existing U.S.
 19 Customs and Border Protection em-
 20 ployees;

21 “(II) are not law enforcement offi-
 22 cer positions; and

23 “(III) may not be filled by inde-
 24 pendent contractors.

25 “(iii) *DUTIES.*—The duties of an
 26 Image Technician 1 shall include—

1 “(I) reviewing non-intrusive in-
2 spection images of conveyances and
3 containers entering or exiting the
4 United States through a land, sea, or
5 air port of entry or international rail
6 crossing;

7 “(II) assessing whether images of
8 conveyances and containers appear to
9 contain anomalies indicating the po-
10 tential presence of contraband, persons
11 unlawfully seeking to enter or exit the
12 United States, or illicitly concealed
13 merchandise, including illicit drugs
14 and terrorist weapons;

15 “(III) recommending entry release
16 or exit release for any conveyances and
17 containers whenever the images of such
18 items do not include noticeable anoma-
19 lies indicating the potential presence of
20 contraband, persons seeking to unlaw-
21 fully enter or exit the United States, or
22 illicitly concealed merchandise, includ-
23 ing illicit drugs or terrorist weapons,
24 to the U.S. Customs and Border Pro-

1 *tection Officer responsible for inspect-*
2 *ing such conveyance or container; and*

3 *“(IV) recommending further in-*
4 *spection of any conveyances and con-*
5 *tainers whenever the Image Technician*
6 *reasonably believes that an image of*
7 *any such item contains anomalies in-*
8 *dicating the potential presence of con-*
9 *traband, persons seeking to unlawfully*
10 *enter or exit the United States, or illic-*
11 *itly concealed merchandise, such as il-*
12 *licit drugs or terrorist weapons, to the*
13 *U.S. Customs and Border Protection*
14 *officer who is responsible for inspecting*
15 *such conveyance or container.*

16 *“(B) IMAGE TECHNICIAN 2.—*

17 *“(i) IN GENERAL.—There shall be in*
18 *the Office of Field Operations, Image Tech-*
19 *nician 2 positions, which shall be filled in*
20 *accordance with the provisions under chap-*
21 *ter 33 (relating to appointments in the com-*
22 *petitive service) and chapters 51 and 53 (re-*
23 *lating to classification and rates of pay) of*
24 *title 5, United States Code.*

1 “(ii) *CONDITIONS.—Image Technician*
 2 *2 positions—*

3 “(I) *may be filled by existing U.S.*
 4 *Customs and Border Protection em-*
 5 *ployees;*

6 “(II) *are not law enforcement offi-*
 7 *cer positions; and*

8 “(III) *may not be filled by inde-*
 9 *pendent contractors.*

10 “(iii) *DUTIES.—The duties of an*
 11 *Image Technician 2 shall include—*

12 “(I) *carrying out all of the duties*
 13 *described in subclauses (I) through*
 14 *(IV) of subparagraph (A)(ii);*

15 “(II) *receiving intelligence from*
 16 *the National Targeting Center regard-*
 17 *ing tactics, techniques, and procedures*
 18 *being used at ports of entry and in the*
 19 *border environment by malign actors*
 20 *to facilitate the unlawful entry or exit*
 21 *of contraband, persons, or illicitly con-*
 22 *cealed merchandise, such as illicit*
 23 *drugs or terrorist weapons; and*

24 “(III) *reporting new information*
 25 *to the National Targeting Center re-*

1 *garding tactics, techniques, and proce-*
 2 *dures being used at ports of entry and*
 3 *in the border environment by malign*
 4 *actors to facilitate the unlawful entry*
 5 *or exit of contraband, persons, or con-*
 6 *cealed merchandise, such as illicit*
 7 *drugs or terrorist weapons.*

8 *“(C) SUPERVISORY U.S. CUSTOMS AND BOR-*
 9 *DER PROTECTION OFFICERS.—*

10 *“(i) SUPERVISION.—All image techni-*
 11 *cians shall be supervised by a Supervisory*
 12 *U.S. Customs and Border Protection Offi-*
 13 *cer.*

14 *“(ii) DISCRETION AND DECISION-MAK-*
 15 *ING AUTHORITY.—The appropriate Super-*
 16 *visory U.S. Customs and Border Protection*
 17 *Officer, while working with image techni-*
 18 *cians, shall retain the discretion and final*
 19 *decision-making authority—*

20 *“(I) to release conveyances or*
 21 *cargo for entry; or*

22 *“(II) to refer such conveyance or*
 23 *cargo for further inspection.*

24 *“(iii) TRAINING.—A Supervisory U.S.*
 25 *Customs and Border Protection Officer who*

1 *supervises image technicians shall receive*
2 *additional training in accordance with sub-*
3 *paragraph (D).*

4 “(D) *TRAINING REQUIREMENTS.*—*All image*
5 *technicians shall receive annual training and*
6 *additional ad hoc training, to the extent nec-*
7 *essary based on current trends, regarding—*

8 “(i) *respecting privacy, civil rights,*
9 *and civil liberties, including the protections*
10 *against unreasonable searches and seizures*
11 *afforded by the First and Fourth Amend-*
12 *ments to the Constitution of the United*
13 *States;*

14 “(ii) *analyzing images generated by*
15 *non-intrusive inspection technologies or any*
16 *successor technologies deployed by U.S. Cus-*
17 *toms and Border Protection;*

18 “(iii) *identifying commodities and*
19 *merchandise in images generated by non-in-*
20 *trusive inspection technologies or any suc-*
21 *cessor technologies deployed by U.S. Cus-*
22 *toms and Border Protection;*

23 “(iv) *identifying contraband, persons*
24 *who are seeking to unlawfully enter or exit*
25 *the United States, or illicitly concealed mer-*

1 *chandise, such as illicit drugs or terrorist*
 2 *weapons, in images generated by non-intru-*
 3 *sive technologies or any successor tech-*
 4 *nologies deployed by U.S. Customs and Bor-*
 5 *der Protection;*

6 “(v) *tactics, techniques, and procedures*
 7 *being used at ports of entry and in the bor-*
 8 *der environment by malign actors to facili-*
 9 *tate the unlawful entry or exit of contra-*
 10 *band, persons, or illicitly concealed mer-*
 11 *chandise, such as illicit drugs or terrorist*
 12 *weapons; and*

13 “(vi) *any other training that the Com-*
 14 *missioner of U.S. Customs and Border Pro-*
 15 *tection determines to be relevant to the du-*
 16 *ties described in subparagraphs (A)(iii) or*
 17 *(B)(iii).*

18 “(E) *ANNUAL ASSESSMENT.—All image*
 19 *technicians shall receive annual testing with re-*
 20 *spect to their—*

21 “(i) *accuracy in image analysis;*

22 “(ii) *timeliness in image analysis; and*

23 “(iii) *ability to ascertain tactics, tech-*
 24 *niques, and procedures being used at ports*
 25 *of entry and in the border environment by*

1 *malign actors to facilitate the unlawful*
 2 *entry or exit of contraband, persons, or il-*
 3 *licitly concealed merchandise, such as illicit*
 4 *drugs or terrorist weapons.*

5 “(F) *COMMAND CENTERS.*—*As part of the*
 6 *pilot program established under this paragraph,*
 7 *the Executive Assistant Commissioner of the Of-*
 8 *fice of Field Operations shall establish 12 re-*
 9 *gional command centers at land, rail, air, and*
 10 *sea ports in which image technicians shall re-*
 11 *view non-intrusive inspection images.*

12 “(G) *RULE OF CONSTRUCTION.*—*Nothing in*
 13 *this paragraph may be construed to affect the*
 14 *discretion and final decision-making authority*
 15 *given to U.S. Customs and Border Protection Of-*
 16 *ficers to release conveyances or cargo for entry or*
 17 *exit or to refer such conveyances or cargo for fur-*
 18 *ther inspection.”.*

19 (b) *EFFECTIVE DATE.*—

20 (1) *SUNSET.*—*The amendment made by sub-*
 21 *section (a) shall cease to have effect on the date that*
 22 *is 5 years after the date of the enactment of this Act.*

23 (2) *TRANSFERS AUTHORIZED.*—*Upon the termi-*
 24 *nation of the pilot program established by section*
 25 *411(g)(6) of the Homeland Security Act of 2002, as*

1 *added by subsection (a), individuals occupying Image*
 2 *Technician 1 or Image Technician 2 positions in the*
 3 *Office of Field Operations may transfer to comparable*
 4 *positions within U.S. Customs and Border Protection*
 5 *or the Department of Homeland Security.*

6 **SEC. 3. REPORTING REQUIREMENTS.**

7 *(a) SEMIANNUAL REPORTS.—Not later than 180 days*
 8 *after the hiring of the first positions described in section*
 9 *411(g)(6) of the Homeland Security Act of 2002, as added*
 10 *by section 2, and every 180 days thereafter, the Commis-*
 11 *sioner of U.S. Customs and Border Protection, in consulta-*
 12 *tion with the Executive Assistant Commissioner of the Of-*
 13 *fice of Field Operations, shall submit a report to the Com-*
 14 *mittee on Homeland Security and Governmental Affairs of*
 15 *the Senate and the Committee on Homeland Security of the*
 16 *House of Representatives that identifies—*

17 *(1) the number of Image Technician 1 and*
 18 *Image Technician 2 positions filled during the report-*
 19 *ing period;*

20 *(2) the number of Image Technician 1 and*
 21 *Image Technician 2 positions currently employed by*
 22 *the Office of Field Operations, disaggregated by—*

23 *(A) port of entry or field office;*

24 *(B) image technician position; and*

25 *(C) command center, as applicable;*

1 (3) *the daily average number of images scanned*
2 *by each Image Technician 1 and each Image Techni-*
3 *cian 2;*

4 (4) *training methodologies utilized to train*
5 *image technicians;*

6 (5) *assessment passage rates of image techni-*
7 *cians;*

8 (6) *the impact of image technicians on interdic-*
9 *tion rates at ports of entry and international rail*
10 *crossings at which image technicians are stationed or*
11 *from which image technicians review images, includ-*
12 *ing—*

13 (A) *throughput increases or decreases at*
14 *such ports of entry and international rail cross-*
15 *ings;*

16 (B) *increases or decreases in waiting times*
17 *at such ports of entry and international rail*
18 *crossings;*

19 (C) *average wait times at such ports of*
20 *entry and international rail crossings; and*

21 (D) *increases or decreases of seizures of con-*
22 *traband, persons seeking to unlawfully enter or*
23 *exit the United States, or illicitly concealed mer-*
24 *chandise, such as illicit drugs or terrorist weap-*

1 *ons, broken down by type of seizure and port of*
 2 *entry or international rail crossing;*

3 *(7) the impact of image technicians on U.S. Cus-*
 4 *toms and Border Protection's capability to review*
 5 *non-intrusive inspection images of conveyances and*
 6 *containers entering or exiting the United States*
 7 *through a land, sea, or air port of entry or inter-*
 8 *national rail crossing;*

9 *(8) an assessment of the effectiveness with which*
 10 *image technicians carry out the duties described in*
 11 *subparagraphs (A)(iii) and (B)(iii) of section*
 12 *411(g)(6) of the Homeland Security Act of 2002, as*
 13 *added by section 2(a), compared to any U.S. Customs*
 14 *and Border Protection officers who are assigned such*
 15 *duties.*

16 *(9) the progress made in establishing command*
 17 *centers under the pilot program established by such*
 18 *section;*

19 *(10) any infrastructure or resource needs re-*
 20 *quired to establish such command centers; and*

21 *(11) the ports of entry and international rail*
 22 *crossing, as applicable, that are supported by such a*
 23 *command center.*

24 *(b) BIENNIAL BRIEFINGS.—The Executive Assistant*
 25 *Commissioner of the Office of Field Operations shall pro-*

1 *vide biannual briefings to the Committee on Homeland Se-*
2 *curity and Governmental Affairs of the Senate and the*
3 *Committee on Homeland Security of the House of Rep-*
4 *resentatives regarding the information described in the lat-*
5 *est report submitted pursuant to subsection (a).*

Amend the title so as to read: “A bill to pilot the use of image technician positions in the U.S. Customs and Border Protection Office of Field Operations.”.

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2D Session

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[Report No. 118-251]

A BILL

To establish Image Adjudicator and Supervisory Image Adjudicator positions in the U.S. Customs and Border Protection Office of Field Operations.

DECEMBER 2, 2024

Reported with an amendment and an amendment to the title