

113TH CONGRESS
2^D SESSION

H. R. 3846

AN ACT

To provide for the authorization of border, maritime, and transportation security responsibilities and functions in the Department of Homeland Security and the establishment of United States Customs and Border Protection, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “United States Customs
3 and Border Protection Authorization Act”.

4 **SEC. 2. ESTABLISHMENT OF UNITED STATES CUSTOMS AND**
5 **BORDER PROTECTION.**

6 (a) IN GENERAL.—Section 411 of the Homeland Se-
7 curity Act of 2002 (6 U.S.C. 211) is amended to read
8 as follows:

9 **“SEC. 411. ESTABLISHMENT OF UNITED STATES CUSTOMS**
10 **AND BORDER PROTECTION; COMMISSIONER,**
11 **DEPUTY COMMISSIONER, AND OPERATIONAL**
12 **OFFICES.**

13 “(a) IN GENERAL.—There is established in the De-
14 partment an agency to be known as United States Cus-
15 toms and Border Protection.

16 “(b) COMMISSIONER OF UNITED STATES CUSTOMS
17 AND BORDER PROTECTION.—There shall be at the head
18 of United States Customs and Border Protection a Com-
19 missioner of United States Customs and Border Protec-
20 tion (in this section referred to as the ‘Commissioner’),
21 who shall be appointed by the President, by and with the
22 advice and consent of the Senate.

23 “(c) DUTIES.—The Commissioner shall—

24 “(1) ensure the interdiction of persons and
25 goods illegally entering or exiting the United States;

1 “(2) facilitate and expedite the flow of legiti-
2 mate travelers and trade;

3 “(3) detect, respond to, and interdict terrorists,
4 drug smugglers and traffickers, human smugglers
5 and traffickers, and other persons who may under-
6 mine the security of the United States, in cases in
7 which such persons are entering, or have recently
8 entered, the United States;

9 “(4) safeguard the borders of the United States
10 to protect against the entry of dangerous goods;

11 “(5) oversee the functions of the Office of
12 International Trade established under section 402 of
13 the Security and Accountability for Every Port Act
14 of 2006 (19 U.S.C. 2072; Public Law 109–347);

15 “(6) enforce and administer all customs laws of
16 the United States, including the Tariff Act of 1930;

17 “(7) enforce and administer all immigration
18 laws, as such term is defined in paragraph (17) of
19 section 101(a) of the Immigration and Nationality
20 Act (8 U.S.C. 1101(a)), as necessary for the inspec-
21 tion, processing, and admission of persons who seek
22 to enter or depart the United States, and as nec-
23 essary to ensure the detection, interdiction, removal,
24 departure from the United States, short-term deten-
25 tion, and transfer of persons unlawfully entering, or

1 who have recently unlawfully entered, the United
2 States, in coordination with United States Immigra-
3 tion and Customs Enforcement and United States
4 Citizenship and Immigration Services;

5 “(8) develop and implement screening and tar-
6 geting capabilities, including the screening, review-
7 ing, identifying, and prioritizing of passengers and
8 cargo across all international modes of transpor-
9 tation, both inbound and outbound;

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

13 “(10) in coordination with the Secretary, deploy
14 technology to collect the data necessary for the Sec-
15 retary to administer the biometric entry and exit
16 data system pursuant to section 7208 of the Intel-
17 ligence Reform and Terrorism Prevention Act of
18 2004 (8 U.S.C. 1365b);

19 “(11) In coordination with the Under Secretary
20 for Management of the Department, ensure United
21 States Customs and Border Protection complies with
22 Federal law, the Federal Acquisition Regulation, and
23 the Department’s acquisition management directives
24 for major acquisition programs of United States
25 Customs and Border Protection;

1 “(12) enforce and administer—

2 “(A) the Container Security Initiative pro-
3 gram under section 205 of the Security and Ac-
4 countability for Every Port Act of 2006 (6
5 U.S.C. 945; Public Law 109–347); and

6 “(B) the Customs-Trade Partnership
7 Against Terrorism program under sections 211
8 through 223 of such Act (6 U.S.C. 961-973);

9 “(13) establish the standard operating proce-
10 dures described in subsection (k);

11 “(14) carry out the training required under
12 subsection (l); and

13 “(15) carry out other duties and powers pre-
14 scribed by law or delegated by the Secretary.

15 “(d) DEPUTY COMMISSIONER.—There shall be in
16 United States Customs and Border Protection a Deputy
17 Commissioner who shall assist the Commissioner in the
18 management of United States Customs and Border Pro-
19 tection.

20 “(e) UNITED STATES BORDER PATROL.—

21 “(1) IN GENERAL.—There is established in
22 United States Customs and Border Protection the
23 United States Border Patrol.

24 “(2) CHIEF.—There shall be at the head of the
25 United States Border Patrol a Chief, who shall be

1 a uniformed law enforcement officer chosen from the
2 ranks of the United States Border Patrol and who
3 shall report to the Commissioner.

4 “(3) DUTIES.—The United States Border Pa-
5 trol shall—

6 “(A) serve as the law enforcement office of
7 United States Customs and Border Protection
8 with primary responsibility for interdicting per-
9 sons attempting to illegally enter or exit the
10 United States or goods being illegally imported
11 to or exported from the United States at a
12 place other than a designated port of entry;

13 “(B) deter and prevent illegal entry of ter-
14 rorists, terrorist weapons, persons, and contra-
15 band; and

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

18 “(f) OFFICE OF AIR AND MARINE OPERATIONS.—

19 “(1) IN GENERAL.—There is established in
20 United States Customs and Border Protection an
21 Office of Air and Marine Operations.

22 “(2) ASSISTANT COMMISSIONER.—There shall
23 be at the head of the Office of Air and Marine Oper-
24 ations an Assistant Commissioner, who shall report
25 to the Commissioner.

1 “(3) DUTIES.—The Office of Air and Marine
2 Operations shall—

3 “(A) serve as the law enforcement office
4 within United States Customs and Border Pro-
5 tection with primary responsibility to detect,
6 interdict, and prevent acts of terrorism and the
7 unlawful movement of people, illicit drugs, and
8 other contraband across the borders of the
9 United States in the air and maritime environ-
10 ment;

11 “(B) oversee the acquisition, maintenance,
12 and operational use of United States Customs
13 and Border Protection integrated air and ma-
14 rine forces;

15 “(C) provide aviation and marine support
16 for other Federal, State, and local law enforce-
17 ment agency needs, as appropriate; and

18 “(D) carry out other duties and powers
19 prescribed by the Commissioner.

20 “(g) OFFICE OF FIELD OPERATIONS.—

21 “(1) IN GENERAL.—There is established in
22 United States Customs and Border Protection an
23 Office of Field Operations.

24 “(2) ASSISTANT COMMISSIONER.—There shall
25 be at the head of the Office of Field Operations an

1 Assistant Commissioner, who shall report to the
2 Commissioner.

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

7 “(A) deter and prevent terrorists and ter-
8 rorist weapons from entering the United States
9 at such ports of entry;

10 “(B) conduct inspections at such ports of
11 entry to safeguard the United States from ter-
12 rorism and illegal entry of persons;

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

16 “(D) in coordination with the Commis-
17 sioner, facilitate and expedite the flow of legiti-
18 mate travelers and trade;

19 “(E) administer the National Targeting
20 Center established under paragraph (4); and

21 “(F) carry out other duties and powers
22 prescribed by the Commissioner.

23 “(4) NATIONAL TARGETING CENTER.—

1 “(A) IN GENERAL.—There is established in
2 the Office of Field Operations a National Tar-
3 geting Center.

4 “(B) EXECUTIVE DIRECTOR.—There shall
5 be at the head of the National Targeting Center
6 an Executive Director, who shall report to the
7 Assistant Commissioner of the Office of Field
8 Operations.

9 “(C) DUTIES.—The National Targeting
10 Center shall—

11 “(i) serve as the primary forum for
12 targeting operations within United States
13 Customs and Border Protection to collect
14 and analyze traveler and cargo information
15 in advance of arrival in the United States;

16 “(ii) identify, review, and target trav-
17 elers and cargo for examination;

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

20 “(iv) carry out other duties and pow-
21 ers prescribed by the Assistant Commis-
22 sioner.

23 “(5) ANNUAL REPORT ON STAFFING.—Not
24 later than 30 days after the date of the enactment
25 of this section and annually thereafter, the Assistant

1 Commissioner shall submit to the appropriate con-
2 gressional committees a report on the staffing model
3 for the Office of Field Operations, including infor-
4 mation on how many supervisors, front-line United
5 States Customs and Border Protection officers, and
6 support personnel are assigned to each Field Office
7 and port of entry.

8 “(h) OFFICE OF INTELLIGENCE AND INVESTIGATIVE
9 LIAISON.—

10 “(1) IN GENERAL.—There is established in
11 United States Customs and Border Protection an
12 Office of Intelligence and Investigative Liaison.

13 “(2) ASSISTANT COMMISSIONER.—There shall
14 be at the head of the Office of Intelligence and In-
15 vestigative Liaison an Assistant Commissioner, who
16 shall report to the Commissioner.

17 “(3) DUTIES.—The Office of Intelligence and
18 Investigative Liaison shall—

19 “(A) develop, provide, coordinate, and im-
20 plement intelligence capabilities into a cohesive
21 intelligence enterprise to support the execution
22 of the United States Customs and Border Pro-
23 tection duties and responsibilities;

24 “(B) collect and analyze advance traveler
25 and cargo information;

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

6 “(D) carry out other duties and powers
7 prescribed by the Commissioner.

8 “(i) OFFICE OF INTERNATIONAL AFFAIRS.—

9 “(1) IN GENERAL.—There is established in
10 United States Customs and Border Protection an
11 Office of International Affairs.

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

16 “(3) DUTIES.—The Office of International Af-
17 fairs, in collaboration with the Office of Inter-
18 national Affairs of the Department, shall—

19 “(A) coordinate and support United States
20 Customs and Border Protection’s foreign initia-
21 tives, policies, programs, and activities;

22 “(B) coordinate and support United States
23 Customs and Border Protection’s personnel sta-
24 tioned abroad;

1 “(C) maintain partnerships and informa-
2 tion sharing agreements and arrangements with
3 foreign governments, international organiza-
4 tions, and United States agencies in support of
5 United States Customs and Border Protection
6 duties and responsibilities;

7 “(D) provide necessary capacity building,
8 training, and assistance to foreign border con-
9 trol agencies to strengthen global supply chain
10 and travel security;

11 “(E) coordinate mission support services to
12 sustain United States Customs and Border Pro-
13 tection’s global activities;

14 “(F) coordinate, in collaboration with the
15 Office of Policy of the Department, as appro-
16 priate, United States Customs and Border Pro-
17 tection’s engagement in international negotia-
18 tions; and

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

21 “(j) OFFICE OF INTERNAL AFFAIRS.—

22 “(1) IN GENERAL.—There is established in
23 United States Customs and Border Protection an
24 Office of Internal Affairs.

1 “(2) ASSISTANT COMMISSIONER.—There shall
2 be at the head of the Office of Internal Affairs an
3 Assistant Commissioner, who shall report to the
4 Commissioner.

5 “(3) DUTIES.—The Office of Internal Affairs
6 shall—

7 “(A) investigate criminal and administra-
8 tive matters and misconduct by officers, agents,
9 and other employees of United States Customs
10 and Border Protection;

11 “(B) perform investigations of United
12 States Customs and Border Protection appli-
13 cants and periodic reinvestigations (in accord-
14 ance with section 3001 of the Intelligence Re-
15 form and Terrorism Prevention Act of 2004 (50
16 U.S.C. 3341; Public Law 108–458)) of officers,
17 agents, and other employees of United States
18 Custom and Border Protection, including inves-
19 tigation to determine suitability for employ-
20 ment and eligibility for access to classified in-
21 formation;

22 “(C) conduct polygraph examinations in
23 accordance with section 3(1) of the Anti-Border
24 Corruption Act of 2010 (Public Law 111–376);

1 “(D) perform inspections of United States
2 Customs and Border Protection programs, op-
3 erations, and offices;

4 “(E) conduct risk-based covert testing of
5 United States Customs and Border Protection
6 operations, including for nuclear and radio-
7 logical risks;

8 “(F) manage integrity of United States
9 Customs and Border Protection counter-intel-
10 ligence operations, including conduct of
11 counter-intelligence investigations;

12 “(G) conduct research and analysis regard-
13 ing misconduct of officers, agents, and other
14 employees of United States Customs and Bor-
15 der Protection; and

16 “(H) carry out other duties and powers
17 prescribed by the Commissioner.

18 “(k) STANDARD OPERATING PROCEDURES.—

19 “(1) IN GENERAL.—The Commissioner shall es-
20 tablish—

21 “(A) standard operating procedures for
22 searching, reviewing, retaining, and sharing in-
23 formation contained in communication, elec-
24 tronic, or digital devices encountered by United

1 States Customs and Border Protection per-
2 sonnel at United States ports of entry;

3 “(B) standard use of force procedures offi-
4 cers and agents of United States Customs and
5 Border Protection may employ in the execution
6 of their duties, including the use of deadly force
7 and procedures for deescalating confrontations,
8 where possible;

9 “(C) a uniform, standardized, and pub-
10 lically-available procedure for processing and in-
11 vestigating complaints against officers, agents,
12 and employees of United States Customs and
13 Border Protection for violations of professional
14 conduct, including the timely disposition of
15 complaints and a written notification to the
16 complainant of the status or outcome, as appro-
17 priate, of the related investigation, in accord-
18 ance with section 552a of title 5, United States
19 Code (commonly referred to as the ‘Privacy
20 Act’ or the ‘Privacy Act of 1974’);

21 “(D) an internal, uniform reporting mech-
22 anism regarding incidents involving the use of
23 deadly force by an officer or agent of United
24 States Customs and Border Protection, includ-
25 ing an evaluation of the degree to which the

1 procedures required under subparagraph (B)
2 were followed; and

3 “(E) standard operating procedures, acting
4 through the Assistant Commissioner for Air
5 and Marine Operations and in coordination
6 with the Office of Civil Rights and Civil Lib-
7 erties and the Office of Privacy of the Depart-
8 ment, to provide command, control, communica-
9 tion, surveillance, and reconnaissance assistance
10 through the use of unmanned aerial systems,
11 including the establishment of—

12 “(i) a process for other Federal,
13 State, and local law enforcement agencies
14 to submit mission requests;

15 “(ii) a formal procedure to determine
16 whether to approve or deny such a mission
17 request;

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

21 “(iv) a process for establishing agree-
22 ments with other Federal, State, and local
23 law enforcement agencies regarding reim-
24 bursement for such mission costs; and

1 “(v) a process regarding the protec-
2 tion and privacy of data and images col-
3 lected by United States Customs and Bor-
4 der Protection through the use of un-
5 manned aerial systems.

6 “(2) REQUIREMENTS REGARDING CERTAIN NO-
7 TIFICATIONS.—The standard operating procedures
8 established pursuant to subparagraph (A) of para-
9 graph (1) shall require—

10 “(A) in the case of a search of information
11 conducted on an electronic device by United
12 States Customs and Border Protection per-
13 sonnel, the Commissioner to notify the indi-
14 vidual subject to such search of the purpose
15 and authority for such search, and how such in-
16 dividual may obtain information on reporting
17 concerns about such search; and

18 “(B) in the case of information collected
19 by United States Customs and Border Protec-
20 tion through a search of an electronic device, if
21 such information is transmitted to another Fed-
22 eral agency for subject matter assistance, trans-
23 lation, or decryption, the Commissioner to no-
24 tify the individual subject to such search of
25 such transmission.

1 “(3) EXCEPTIONS.—

2 “(A) IN GENERAL.—The Commissioner
3 may withhold the notifications required under
4 paragraphs (1)(C) and (2) if the Commissioner
5 determines that such notifications would impair
6 national security, law enforcement, or other
7 operational interests.

8 “(B) TERRORIST WATCH LISTS.—

9 “(i) SEARCHES.—If the individual
10 subject to search of an electronic device
11 pursuant to subparagraph (A) of para-
12 graph (1) is included on a Government-op-
13 erated or Government-maintained terrorist
14 watch list, the notifications required under
15 paragraph (2) shall not apply.

16 “(ii) COMPLAINTS.—If the complain-
17 ant using the process established under
18 subparagraph (C) of paragraph (1) is in-
19 cluded on a Government-operated or Gov-
20 ernment-maintained terrorist watch list,
21 the notification required under such sub-
22 paragraph shall not apply.

23 “(4) UPDATE AND REVIEW.—The Commis-
24 sioner shall review and update every three years the

1 standard operating procedures required under this
2 subsection.

3 “(5) AUDITS.—The Inspector General of the
4 Department of Homeland Security shall develop and
5 annually administer an auditing mechanism to re-
6 view whether searches of electronic devices at or be-
7 tween United States ports of entry are being con-
8 ducted in conformity with the standard operating
9 procedures required under subparagraph (A) of
10 paragraph (1). Such audits shall be submitted to the
11 appropriate congressional committees and shall in-
12 clude the following:

13 “(A) A description of the activities of offi-
14 cers and agents of United States Customs and
15 Border Protection with respect to such
16 searches.

17 “(B) The number of such searches.

18 “(C) The number of instances in which in-
19 formation contained in such devices that were
20 subjected to such searches was retained, copied,
21 shared, or entered in an electronic database.

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

24 “(E) The number of instances in which in-
25 formation collected from such device was sub-

1 jected to such searches was transmitted to a
2 another Federal agency, including whether such
3 transmission resulted in a prosecution or con-
4 viction.

5 “(6) REQUIREMENTS REGARDING OTHER NOTI-
6 FICATIONS.—The standard operating procedures es-
7 tablished pursuant to subparagraph (B) of para-
8 graph (1) shall require—

9 “(A) in the case of an incident of the use
10 of deadly force by United States Customs and
11 Border Protection personnel, the Commissioner
12 to notify the appropriate congressional commit-
13 tees; and

14 “(B) the Commissioner to provide to such
15 committees a copy of the evaluation pursuant to
16 subparagraph (D) of such paragraph not later
17 than 30 days after completion of such evalua-
18 tion.

19 “(6) REPORT ON UNMANNED AERIAL SYS-
20 TEMS.—The Commissioner shall submit to the ap-
21 propriate congressional committees an annual report
22 that reviews whether the use of unmanned aerial
23 systems are being conducted in conformity with the
24 standard operating procedures required under sub-
25 paragraph (E) of paragraph (1). Such reports—

1 “(A) shall be submitted with the Presi-
2 dent’s annual budget;

3 “(B) may be submitted in classified form
4 if the Commissioner determines that such is ap-
5 propriate, and

6 “(C) shall include—

7 “(i) a detailed description of how,
8 where, and for how long data and images
9 collected through the use of unmanned aer-
10 ial systems by United States Customs and
11 Border Protection is collected and stored;
12 and

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

17 “(1) TRAINING.—

18 “(1) IN GENERAL.—The Commissioner shall re-
19 quire all agents and officers of United States Cus-
20 toms and Border Protection to participate in a spec-
21 ified amount of continuing education (to be deter-
22 mined by the Commissioner) to maintain an under-
23 standing of Federal legal rulings, court decisions,
24 and departmental policies, procedures, and guide-
25 lines.

1 “(2) ENSURING TRAINING.—Not later than 90
2 days after the date of the enactment of this section,
3 the Commissioner shall develop a database system
4 that identifies for each United States Customs and
5 Border Protection officer or agent, by port of entry
6 or station—

7 “(A) for each training course, the average
8 time allocated during on-duty hours within
9 which training must be completed;

10 “(B) for each training course offered, the
11 duration of training and the average amount of
12 time an officer must be absent from work to
13 complete such training course; and

14 “(C) certification of each training course
15 by a supervising officer that the officer is able
16 to carry out the function for which the training
17 was provided, and if training has been post-
18 poned, the basis for postponing such training.

19 “(3) USE OF DATA.—The Commissioner shall
20 use the information developed under paragraph (2)
21 to—

22 “(A) develop training requirements for
23 United States Customs and Border Protection
24 officers to ensure that such officers have suffi-
25 cient training to conduct primary and sec-

1 ondary inspections at United States ports of
2 entry; and

3 “(B) measure progress toward achieving
4 the training requirements referred to in sub-
5 paragraph (A).

6 “(m) SHORT TERM DETENTION STANDARDS.—

7 “(1) ACCESS TO FOOD AND WATER.—The Com-
8 missioner shall make every effort to ensure that ade-
9 quate access to food and water is provided to an in-
10 dividual apprehended and detained by a United
11 States Border Patrol agent between a United States
12 port of entry as soon as practicable following the
13 time of such apprehension or during subsequent
14 short term detention.

15 “(2) ACCESS TO INFORMATION ON DETAINEE
16 RIGHTS AT BORDER PATROL PROCESSING CEN-
17 TERS.—

18 “(A) IN GENERAL.—The Commissioner
19 shall ensure that an individual apprehended by
20 a United States Border Patrol agent is provided
21 with information concerning such individual’s
22 rights, including the right to contact a rep-
23 resentative of such individual’s government for
24 purposes of United States treaty obligations.

1 “(B) FORM.—The information referred to
2 in subparagraph (A) may be provided either
3 verbally or in writing, and shall be posted in the
4 detention holding cell in which such individual
5 is being held. The information shall be provided
6 in a language understandable to such indi-
7 vidual.

8 “(3) DAYTIME REPATRIATION.—When prac-
9 ticable, repatriations shall be limited to daylight
10 hours and avoid locations that are determined to
11 have high indices of crime and violence.

12 “(4) SHORT TERM DETENTION DEFINED.—In
13 this subsection, the term ‘short term detention’
14 means detention in a United States Border Patrol
15 processing center for 72 hours or less, before repa-
16 triation to a country of nationality or last habitual
17 residence.

18 “(5) REPORT ON PROCUREMENT PROCESS AND
19 STANDARDS.—Not later than 180 days after the
20 date of the enactment of this section, the Comp-
21 troller General of the United States shall submit to
22 the appropriate congressional committees a report
23 on the procurement process and standards of enti-
24 ties with which United States Customs and Border
25 Protection has contracts for the transportation and

1 detention of individuals apprehended by agents or
2 officers of United States Customs and Border Pro-
3 tection. Such report should also consider the oper-
4 ational efficiency of contracting the transportation
5 and detention of such individuals.

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

8 “(A) annually inspect all facilities utilized
9 for short term detention; and

10 “(B) make publically available information
11 collected pursuant to such inspections, including
12 information regarding the requirements under
13 paragraphs (1) and (2) and, where appropriate,
14 issue recommendations to improve the condi-
15 tions of such facilities.

16 “(n) WAIT TIMES TRANSPARENCY.—

17 “(1) IN GENERAL.—The Commissioner shall—

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

22 “(B) make information about such wait
23 times available to the public in real time
24 through the United States Customs and Border
25 Protection Web site;

1 “(C) submit to the appropriate congres-
2 sional committees quarterly reports that include
3 compilations of all such wait times and a rank-
4 ing of such United States airports by wait
5 times; and

6 “(D) provide adequate staffing at the
7 United States Customs and Border Protection
8 information center to ensure timely access for
9 travelers attempting to submit comments or
10 speak with a representative about their entry
11 experiences.

12 “(2) CALCULATION.—The wait times referred
13 to in paragraph (1)(A) shall be determined by calcu-
14 lating the time elapsed between an individual’s entry
15 into the United States Customs and Border Protec-
16 tion inspection area and such individual’s clearance
17 by a United States Customs and Border Protection
18 officer.

19 “(o) OTHER AUTHORITIES.—

20 “(1) IN GENERAL.—The Secretary may estab-
21 lish such other offices or Assistant Commissioners
22 (or other similar officers or officials) as the Sec-
23 retary determines necessary to carry out the mis-
24 sions, duties, functions, and authorities of United
25 States Customs and Border Protection.

1 “(2) NOTIFICATION.—If the Secretary exercises
2 the authority provided pursuant to paragraph (1),
3 the Secretary shall notify the appropriate congress-
4 sional committees not later than 30 days before ex-
5 ercising such authority.

6 “(p) OTHER FEDERAL AGENCIES.—Nothing in this
7 section may be construed as affecting in any manner the
8 existing authority of any other Federal agency, including
9 the Transportation Security Administration with respect
10 to the duties of United States Customs and Border Pro-
11 tection described in subsection (c).”.

12 (b) SPECIAL RULES.—

13 (1) TREATMENT.—Section 411 of the Home-
14 land Security Act of 2002, as amended by subsection
15 (a) of this section, shall be treated as if included in
16 such Act as of the date of the enactment of such
17 Act, and, in addition to the functions, missions, du-
18 ties, and authorities specified in such amended sec-
19 tion 411, United States Customs and Border Protec-
20 tion shall continue to perform and carry out the
21 functions, missions, duties, and authorities under
22 section 411 of such Act as in existence on the day
23 before such date of enactment, and section 415 of
24 such Act.

25 (2) RULES OF CONSTRUCTION.—

1 (A) RULES AND REGULATIONS.—Notwith-
2 standing paragraph (1), nothing in this Act
3 may be construed as affecting in any manner
4 any rule or regulation issued or promulgated
5 pursuant to any provision of law, including sec-
6 tion 411 of the Homeland Security Act of 2002
7 as in existence on the day before the date of the
8 enactment of this Act, and any such rule or
9 regulation shall continue to have full force and
10 effect on and after such date.

11 (B) OTHER ACTIONS.—Notwithstanding
12 paragraph (1), nothing in this Act may be con-
13 strued as affecting in any manner any action,
14 determination, policy, or decision pursuant to
15 section 411 of the Homeland Security Act of
16 2002 as in existence on the day before the date
17 of the enactment of this Act, and any such ac-
18 tion, determination, policy, or decision shall
19 continue to have full force and effect on and
20 after such date.

21 (c) CONTINUATION IN OFFICE.—

22 (1) COMMISSIONER.—The individual serving as
23 the Commissioner of Customs on the day before the
24 date of the enactment of this Act may serve as the
25 Commissioner of United States Customs and Border

1 Protection on and after such date of enactment until
2 a Commissioner of United States Customs and Bor-
3 der Protection is appointed under section 411 of the
4 Homeland Security Act of 2002, as amended by sub-
5 section (a) of this section.

6 (2) OTHER POSITIONS.—The individuals serv-
7 ing as Assistant Commissioners and other officers
8 and officials under section 411 of the Homeland Se-
9 curity Act of 2002 on the day before the date of the
10 enactment of this Act may serve as the appropriate
11 Assistant Commissioners and other officers and offi-
12 cials under such section 411 as amended by sub-
13 section (a) of this section unless the Commissioner
14 of United States Customs and Border Protection de-
15 termines that another individual should hold such
16 position or positions.

17 (d) REFERENCE.—

18 (1) TITLE 5.—Section 5314 of title 5, United
19 States Code, is amended by striking “Commissioner
20 of Customs, Department of Homeland Security” and
21 inserting “Commissioner of United States Customs
22 and Border Protection, Department of Homeland
23 Security”.

24 (2) OTHER REFERENCES.—On and after the
25 date of the enactment of this Act, any reference in

1 law or regulations to the “Commissioner of Cus-
2 toms” or the “Commissioner of the Customs Serv-
3 ice” shall be deemed to be a reference to the Com-
4 missioner of United States Customs and Border
5 Protection.

6 (e) CLERICAL AMENDMENT.—The table of contents
7 in section 1(b) of the Homeland Security Act of 2002 (6
8 U.S.C. 101 et seq.) is amended by striking the item relat-
9 ing to section 411 and inserting the following new item:

“Sec. 411. Establishment of United States Customs and Border Protection;
Commissioner, Deputy Commissioner, and operational offices.”.

10 **SEC. 3. REPEALS.**

11 Sections 416, 418, and 443 of the Homeland Security
12 Act of 2002 (6 U.S.C. 216, 218, and 253), and the items
13 relating to such sections in the table of contents in section
14 1(b) of such Act, are repealed.

15 **SEC. 4. CLERICAL AND CONFORMING AMENDMENTS.**

16 (a) IN GENERAL.—The Homeland Security Act of
17 2002 (6 U.S.C. 101 et seq.) is amended—

18 (1) in title I—

19 (A) in section 102(f)(10) (6 U.S.C.
20 112(f)(10)), by striking “the Directorate of
21 Border and Transportation Security” and in-
22 serting “Commissioner of United States Cus-
23 toms and Border Protection”; and

1 (B) in section 103(a)(1) (6 U.S.C.
2 113(a)(1))—

3 (i) in subparagraph (C), by striking
4 “An Under Secretary for Border and
5 Transportation Security.” and inserting
6 “A Commissioner of United States Cus-
7 toms and Border Protection.”; and

8 (ii) in subparagraph (G), by striking
9 “A Director of the Office of Counter-
10 narcotics Enforcement.” and inserting “A
11 Director for United States Immigration
12 and Customs Enforcement.”; and

13 (2) in title IV—

14 (A) by striking the title heading and in-
15 serting “**BORDER, MARITIME, AND**
16 **TRANSPORTATION SECURITY**”;

17 (B) in subtitle A—

18 (i) by striking the subtitle heading
19 and inserting “**Border, Maritime, and**
20 **Transportation Security Respon-**
21 **sibilities and Functions**”; and

22 (ii) in section 402 (6 U.S.C. 202)—

23 (I) in the section heading, by
24 striking “**RESPONSIBILITIES**” and
25 inserting “**BORDER, MARITIME,**

1 **AND TRANSPORTATION RESPON-**
2 **SIBILITIES**”; and

3 (II) by striking “, acting through
4 the Under Secretary for Border and
5 Transportation Security,”;

6 (C) in subtitle B—

7 (i) by striking the subtitle heading
8 and inserting “**United States Cus-**
9 **toms and Border Protection**”;

10 (ii) in section 412(b) (6 U.S.C. 212),
11 by striking “United States Customs Serv-
12 ice” each place it appears and inserting
13 “United States Customs and Border Pro-
14 tection”;

15 (iii) in section 413 (6 U.S.C. 213), by
16 striking “available to the United States
17 Customs Service or”;

18 (iv) in section 414 (6 U.S.C. 214), by
19 striking “United States Customs Service”
20 and inserting “United States Customs and
21 Border Protection”; and

22 (v) in section 415 (6 U.S.C. 215)—

23 (I) in paragraph (7), by inserting
24 before the colon the following: “, and
25 of United States Customs and Border

1 Protection on the day before the effective
2 date of the United States Customs and Border Protection Author-
3 zation Act”; and

4
5 (II) in paragraph (8), by inserting
6 before the colon the following: “,
7 and of United States Customs and
8 Border Protection on the day before
9 the effective date of the United States
10 Customs and Border Protection Au-
11 thorization Act”;

12 (D) in subtitle C—

13 (i) by striking section 424 (6 U.S.C.
14 234) and inserting the following new sec-
15 tion:

16 **“SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY**
17 **ADMINISTRATION AS A DISTINCT ENTITY.**

18 “Notwithstanding any other provision of this Act, the
19 Transportation Security Administration shall be main-
20 tained as a distinct entity within the Department.”; and

21 (ii) in section 430 (6 U.S.C. 238)—

22 (I) by amending subsection (a) to
23 read as follows:

24 “(a) ESTABLISHMENT.—There is established in the
25 Department an Office for Domestic Preparedness.”;

1 (II) in subsection (b), by striking
2 the second sentence; and

3 (III) in subsection (c)(7), by
4 striking “Directorate” and inserting
5 “Department”; and

6 (E) in subtitle D—

7 (i) in section 441 (6 U.S.C. 251)—

8 (I) by striking the section head-
9 ing and inserting “**TRANSFER OF**
10 **FUNCTIONS**”; and

11 (II) by striking “Under Secretary
12 for Border and Transportation Secu-
13 rity” and inserting “Secretary”; and

14 (ii) by amending section 444 (6
15 U.S.C. 254) to read as follows:

16 **“SEC. 444. EMPLOYEE DISCIPLINE.**

17 “Notwithstanding any other provision of law, the Sec-
18 retary may impose disciplinary action on any employee of
19 United States Immigration and Customs Enforcement and
20 United States Customs and Border Protection who will-
21 fully deceives Congress or agency leadership on any mat-
22 ter.”.

23 (b) CONFORMING AMENDMENTS.—Section 401 of the
24 Homeland Security Act of 2002 (6 U.S.C. 201) is re-
25 pealed.

1 (c) CLERICAL AMENDMENTS.—The table of contents
2 in section 1(b) of the Homeland Security Act of 2002 is
3 amended—

4 (1) by striking the item relating to title IV and
5 inserting the following:

“TITLE IV—BORDER, MARITIME, AND TRANSPORTATION
SECURITY”;

6 (2) by striking the item relating to subtitle A
7 of title IV and inserting the following:

“Subtitle A—Border, Maritime, and Transportation Security Responsibilities
and Functions”;

8 (3) by striking the item relating to section 401;

9 (4) by striking the item relating to subtitle B
10 of title IV and inserting the following:

“Subtitle B—United States Customs and Border Protection”;

11 (5) by striking the item relating to section 441
12 and inserting the following:

“Sec. 441. Transfer of functions.”;

13 and

14 (6) by striking the item relating to section 442
15 and inserting the following:

“Sec. 442. United States Immigration and Customs Enforcement.”.

16 **SEC. 5. REPORTS AND ASSESSMENTS.**

17 (a) REPORT ON CONTRACT MANAGEMENT ACQUISI-
18 TION AND PROCUREMENT PERSONNEL.—Not later than
19 60 days after the date of the enactment of this Act and
20 biennially thereafter, the Commissioner of United States

1 Customs and Border Protection shall submit to the Com-
2 mittee on Homeland Security of the House of Representa-
3 tives and the Committee on Homeland Security and Gov-
4 ernmental Affairs of the Senate a report on—

5 (1) the number of contract management acqui-
6 sition and procurement personnel assigned to the
7 Office of Technology Innovation and Acquisition (or
8 successor office) of United States Customs and Bor-
9 der Protection, categorized by position;

10 (2) the average aggregate value of the contracts
11 each contract officer, contract specialist, and con-
12 tract officer representative employee is responsible
13 for managing; and

14 (3) the number of additional acquisition and
15 procurement personnel, categorized by position, and
16 contract management specialists United States Cus-
17 toms and Border Protection would need to ensure
18 compliance with Federal acquisition standards, de-
19 partmental management directives, and United
20 States Customs and Border Protection contracting
21 needs.

22 (b) REPORT ON MIGRANT DEATHS.—Not later 180
23 days after the date of the enactment of this Act, the Com-
24 missioner of United States Customs and Border Protec-
25 tion shall, to the extent practicable, make publically avail-

1 able information that the United States Border Patrol has
2 collected on migrant deaths occurring along the United
3 States-Mexico border, including information on the fol-
4 lowing:

5 (1) The number of documented migrant deaths.

6 (2) The location where such migrant deaths oc-
7 curred.

8 (3) To the extent possible, the cause of death
9 for each migrant.

10 (4) The extent to which border technology,
11 physical barriers, and enforcement programs have
12 contributed to such migrant deaths.

13 (5) A description of United States Customs and
14 Border Protection programs or plans to reduce the
15 number of migrant deaths along the border, includ-
16 ing an assessment on the effectiveness of water sup-
17 ply sites and rescue beacons.

18 (c) REPORT ON BUSINESS TRANSFORMATION INITIA-
19 TIVE.—Not later than 90 days after the date of the enact-
20 ment of this Act, the Commissioner of United States Cus-
21 toms and Border Protection shall submit to the Committee
22 on Homeland Security and the Committee on Ways and
23 Means of the House of Representatives and the Committee
24 on Homeland Security and Governmental Affairs and the
25 Committee on Finance of the Senate a report on United

1 States Customs and Border Protection’s Business Trans-
2 formation Initiative, including locations where the Initia-
3 tive is deployed, the types of equipment utilized, a descrip-
4 tion of protocols and procedures, information on wait
5 times at such locations since deployment, and information
6 regarding the schedule for deployment at new locations.

7 (d) REPORT ON UNACCOMPANIED ALIEN CHILDREN
8 APPREHENDED AT THE BORDER.—Not later than 90 days
9 after the date of the enactment of this Act and annually
10 thereafter, the Commissioner of United States Customs
11 and Border Protection shall submit to the Committee on
12 Homeland Security of the House of Representatives and
13 the Committee on Homeland Security and Governmental
14 Affairs of the Senate a report on unaccompanied alien
15 children apprehended at the borders of the United States.
16 Such report shall include the following:

17 (1) Information on the number, nationality,
18 age, and location of the apprehensions of such unac-
19 companied alien children in the current fiscal year
20 and for each of the three prior fiscal years.

21 (2) The average length of time an unaccom-
22 panied alien child is in the custody of United States
23 Customs and Border Protection before being trans-
24 ferred to the custody of another Federal agency in

1 the current fiscal year and for each of three prior
2 fiscal years.

3 (3) A description of current and planned activi-
4 ties to discourage efforts to bring unaccompanied
5 alien children to the United States without author-
6 ization.

7 (4) A description of training provided to offi-
8 cers and agents of United States Customs and Bor-
9 der Protection regarding unaccompanied alien chil-
10 dren, including the number of such officers and
11 agents who are so trained.

12 (5) An assessment of the existing officers,
13 agents, and resources of United States Customs and
14 Border Protection being utilized to address unac-
15 companied alien children.

16 (6) An assessment of whether current facilities
17 utilized by United States Customs and Border Pro-
18 tection to house unaccompanied alien children are
19 adequate to comply with all applicable laws, regula-
20 tions, and standards regarding housing, feeding, and
21 providing medical care for such children.

22 (7) An identification and assessment of the fac-
23 tors causing unaccompanied alien children to mi-
24 grate to the United States, including an assessment
25 of how perceptions of enforcement policies and eco-

1 nomic and social conditions, including incidents of
2 violence, in countries of origin or last habitual resi-
3 dence may be attributed to a rise in attempted en-
4 tries into the United States.

5 (8) Information on United States Border Patrol
6 resources spent to care for unaccompanied alien chil-
7 dren in the custody of the United States Border Pa-
8 trol, including the number of United States Border
9 Patrol agents assigned to care for unaccompanied
10 alien children.

11 (9) Future estimates of Department of Home-
12 land Security resources needed to care for expected
13 increases in unaccompanied alien children.

14 (10) An identification of any operational or pol-
15 icy challenges impacting the Department of Home-
16 land Security as a result of any expected increase in
17 unaccompanied alien children.

18 (11) Information on any additional resources
19 necessary to carry out United States Customs and
20 Border Protection's responsibilities with respect to
21 unaccompanied alien children.

22 (e) PORT OF ENTRY INFRASTRUCTURE NEEDS AS-
23 SESSMENTS.—Not later 180 days after the date of the en-
24 actment of this Act, the Commissioner of United States
25 Customs and Border Protection shall assess the physical

1 infrastructure and technology needs at the 20 busiest land
2 ports of entry (as measured by United States Customs and
3 Border Protection) with a particular attention to identify
4 ways to—

5 (1) improve travel and trade facilitation;

6 (2) reduce wait times;

7 (3) improve physical infrastructure and condi-
8 tions for individuals accessing pedestrian ports of
9 entry;

10 (4) enter into long-term leases with nongovern-
11 mental and private sector entities;

12 (5) enter into lease-purchase agreements with
13 nongovernmental and private sector entities; and

14 (6) achieve cost savings through leases de-
15 scribed in paragraphs (4) and (5).

16 (f) UNMANNED AERIAL SYSTEMS STRATEGY.—Not
17 later than 180 days after the date of the enactment of
18 this Act, the Commissioner of United States Customs and
19 Border Protection shall submit to the Committee on
20 Homeland Security of the House of Representatives and
21 the Committee on Homeland Security and Governmental
22 Affairs of the Senate a strategy for its Unmanned Aerial
23 Systems program. Such strategy shall include, at a min-
24 imum, the following:

25 (1) The mission and goals of such program.

1 (2) The expected level of unmanned aerial sys-
2 tems operations.

3 (3) The funding and anticipated stakeholder
4 needs and resource requirements of such program.

5 (g) REPORT ON BIOMETRIC EXIT DATA CAPABILITY
6 AT AIRPORTS.—Not later than 90 days after the date of
7 the enactment of this Act, the Commissioner of United
8 States Customs and Border Protection shall submit to the
9 Committee on Homeland Security of the House of Rep-
10 resentatives and the Committee on Homeland Security
11 and Governmental Affairs of the Senate a report on the
12 efforts of United States Customs and Border Protection,
13 in conjunction with the Directorate Science and Tech-
14 nology of the Department of Homeland Security, to evalu-
15 ate technologies to provide a biometric exit capability at
16 airports. Such report shall include the technologies tested,
17 the results of such tests to date, plans for any future test-
18 ing, and a schedule of anticipated deployment of those or
19 other technologies.

20 (h) CBP OFFICER TRAINING.—Not later than 90
21 days after the date of the enactment of this Act, the Com-
22 missioner of United States Customs and Border Protec-
23 tion shall submit to the Committee on Homeland Security
24 of the House of Representatives and the Committee on
25 Homeland Security and Governmental Affairs of the Sen-

1 ate a report on the current capacity of United States Cus-
2 toms and Border Protection to hire, train, and deploy ad-
3 ditional United States Customs and Border Protection of-
4 ficers, including an assessment of any additional resources
5 necessary to hire, train, and deploy United States Cus-
6 toms and Border Protection officers to meet staffing
7 needs, as identified by the United States Customs and
8 Border Protection staffing model.

9 (i) REPORT ON THE SECURITY OF UNITED STATES
10 INTERNATIONAL BORDERS.—Not later than 180 days
11 after the date of the enactment of this Act, the Commis-
12 sioner of United States Customs and Border Protection
13 shall develop and implement specific metrics for meas-
14 uring the status of security of United States international
15 borders at and between ports of entry, including meas-
16 uring the effectiveness of current border security resource
17 allocations uniformly across all United States Customs
18 and Border Protection sectors, informed by input from in-
19 dividuals and relevant stakeholders who live and work near
20 such borders, and submit to the Committee on Homeland
21 Security of the House of Representatives and the Com-
22 mittee on Homeland Security and Governmental Affairs
23 of the Senate a report on such metrics and such status.

24 (j) PERSONAL SEARCHES.—Not later than 90 days
25 after the date of the enactment of this Act, the Commis-

1 sioner of United States Customs and Border Protection
2 shall submit to the Committee on Homeland Security of
3 the House of Representatives and the Committee on
4 Homeland Security and Governmental Affairs of the Sen-
5 ate a report on supervisor-approved personal searches con-
6 ducted in the previous year by United States Customs and
7 Border Protection personnel. Such report shall include the
8 number of personal searches conducted in each sector and
9 field office, the number of invasive personal searches con-
10 ducted in each sector and field office, whether personal
11 searches were conducted by Office of Field Operations or
12 United States Border Patrol personnel, and how many
13 personal searches resulted in the discovery of contraband.

14 **SEC. 6. INTERNATIONAL INITIATIVES.**

15 (a) NORTH AND CENTRAL AMERICAN BORDER SECUR-
16 RITY COOPERATION INITIATIVE.—The Secretary of
17 Homeland Security, in coordination with the Secretary of
18 State, shall engage with the appropriate officials of the
19 Government of Canada and the Government of Mexico to
20 assess the specific needs of the countries of Central Amer-
21 ica to maintain the security of the international borders
22 of such countries and determine the support needed by
23 such countries from the United States, Canada, and Mex-
24 ico, to meet such needs.

1 (b) CARIBBEAN COOPERATION INITIATIVE.—The
2 Secretary of Homeland Security, in coordination with the
3 Secretary of State, shall engage with appropriate officials
4 of the governments of the countries of the Caribbean to
5 establish a program to assess the specific needs of such
6 countries to address the unique challenges of maritime
7 border security.

8 (c) MEXICO’S SOUTHERN BORDER SECURITY INITIA-
9 TIVE.—The Secretary of Homeland Security, in coordina-
10 tion with the Secretary of State, shall engage with appro-
11 priate officials of the Government of Mexico to assess the
12 specific needs to help secure Mexico’s southern border
13 from undocumented aliens, drugs, weapons and other con-
14 traband.

15 (d) REPORTING.—The Secretary of Homeland Secu-
16 rity shall submit to the Committee on Homeland Security
17 and the Committee on Foreign Affairs of the House of
18 Representatives and the Committee on Homeland Security
19 and Governmental Affairs and the Committee on Foreign
20 Relations of the Senate a report on the assessment of
21 needs carried out under this section.

22 **SEC. 7. TREATMENT OF CERTAIN APPLICATIONS FOR PORT**
23 **OF ENTRY STATUS.**

24 The Commissioner of United States Customs and
25 Border Protection shall give priority consideration to an

1 application for port of entry status submitted by any com-
2 mercial airport if such airport served at least 100,000
3 deplaned international passengers in the previous calendar
4 year.

5 **SEC. 8. TRUSTED TRAVELER PROGRAMS.**

6 The Secretary of Homeland Security may not enter
7 into or renew an agreement with the government of a for-
8 eign country for a trusted traveler program administered
9 by United States Customs and Border Protection unless
10 the Secretary certifies in writing that such government—

11 (1) routinely submits to INTEPOL for inclu-
12 sion in INTERPOL's Stolen and Lost Travel Docu-
13 ments database information about lost and stolen
14 passports and travel documents of the citizens and
15 nationals of such country; or

16 (2) makes available to the United States Gov-
17 ernment the information described in paragraph (1)
18 through another means of reporting.

19 **SEC. 9. SENSE OF CONGRESS REGARDING THE FOREIGN**
20 **LANGUAGE AWARD PROGRAM.**

21 (a) FINDINGS.—Congress finds the following:

22 (1) Congress established the Foreign Language
23 Award Program (FLAP) to incentivize employees at
24 United States ports of entry to utilize their foreign
25 language skills on the job by providing a financial

1 incentive for the use of the foreign language for at
2 least ten percent of their duties after passage of
3 competency tests. FLAP incentivizes the use of more
4 than two dozen languages and has been instrumental
5 in identifying and utilizing United States Customs
6 and Border Protection officers and agents who are
7 proficient in a foreign language.

8 (2) In 1993, Congress provided for dedicated
9 funding for this program by stipulating that certain
10 fees collected by United States Customs and Border
11 Protection to fund FLAP.

12 (3) Through FLAP, foreign travelers are aided
13 by having an officer at a port of entry who speaks
14 their language, and United States Customs and Bor-
15 der Protection benefits by being able to focus its
16 border security efforts in a more effective manner.

17 (b) SENSE OF CONGRESS.—It is the sense of Con-
18 gress that FLAP incentivizes United States Customs and
19 Border Protection officers and agents to attain and main-
20 tain competency in a foreign language, thereby improving
21 the efficiency of operations for the functioning of United
22 States Customs and Border Protection’s security mission,
23 making the United States a more welcoming place when
24 foreign travelers find officers can communicate in their

1 language, and helping to expedite traveler processing to
2 reduce wait times.

3 **SEC. 10. PROHIBITION ON NEW APPROPRIATIONS.**

4 No additional funds are authorized to be appro-
5 priated to carry out this Act and the amendments made
6 by this Act, and this Act and such amendments shall be
7 carried out using amounts otherwise made available for
8 such purposes.

Passed the House of Representatives July 28, 2014.

Attest:

Clerk.

113TH CONGRESS
2^D SESSION

H. R. 3846

AN ACT

To provide for the authorization of border, maritime, and transportation security responsibilities and functions in the Department of Homeland Security and the establishment of United States Customs and Border Protection, and for other purposes.