

UNITED STATES CUSTOMS AND BORDER PROTECTION  
AUTHORIZATION ACT

—————  
JULY 24, 2014.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
—————

Mr. McCAUL, from the Committee on Homeland Security,  
submitted the following

R E P O R T

[To accompany H.R. 3846]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3846) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

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

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

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

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

“(a) IN GENERAL.—There is established in the Department an agency to be known as United States Customs and Border Protection.

“(b) COMMISSIONER OF UNITED STATES CUSTOMS AND BORDER PROTECTION.—There shall be at the head of United States Customs and Border Protection a Commissioner of United States Customs and Border Protection (in this section referred to as the ‘Commissioner’), who shall be appointed by the President, by and with the advice and consent of the Senate.

“(c) DUTIES.—The Commissioner shall—

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

“(2) facilitate and expedite the flow of legitimate travelers and trade;

“(3) detect, respond to, and interdict terrorists, drug smugglers and traffickers, human smugglers and traffickers, criminals, and other persons who may undermine the security of the United States;

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

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

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

“(7) enforce and administer all immigration laws, as such term is defined in paragraph (17) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), in coordination with United States Immigration and Customs Enforcement and United States Citizenship and Immigration Services;

“(8) develop and implement screening and targeting capabilities, including the screening, reviewing, identifying, and prioritizing of passengers and cargo across all international modes of transportation, both inbound and outbound;

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

“(10) in coordination with the Secretary, deploy technology to collect the data necessary for the Secretary to administer the biometric entry and exit data system pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b);

“(11) in coordination with the Under Secretary for Management of the Department, ensure United States Customs and Border Protection complies with Federal law, the Federal Acquisition Regulation, and the Department’s acquisition management directives for major acquisition programs of United States Customs and Border Protection;

“(12) enforce and administer—

“(A) the Container Security Initiative program under section 205 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 945; Public Law 109–347); and

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

“(13) establish the standard operating procedures described in subsection (k);

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

“(15) carry out the duties and powers prescribed by law or delegated by the Secretary.

“(d) DEPUTY COMMISSIONER.—There shall be in United States Customs and Border Protection a Deputy Commissioner who shall assist the Commissioner in the management of United States Customs and Border Protection.

“(e) UNITED STATES BORDER PATROL.—

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

“(2) CHIEF.—There shall be at the head of the United States Border Patrol a Chief, who shall be a uniformed law enforcement officer chosen from the ranks of the United States Border Patrol and who shall report to the Commissioner.

“(3) DUTIES.—The United States Border Patrol shall—

“(A) serve as the law enforcement office of United States Customs and Border Protection with primary responsibility for interdicting persons attempting to illegally enter or exit the United States or goods being illegally imported to or exported from the United States at a place other than a designated port of entry;

“(B) deter and prevent illegal entry of terrorists, terrorist weapons, persons, and contraband; and

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

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

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

“(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Air and Marine Operations an Assistant Commissioner, who shall report to the Commissioner.

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

“(A) serve as the law enforcement office within United States Customs and Border Protection with primary responsibility to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illicit drugs, and other contraband across the borders of the United States in the air and maritime environment;

“(B) oversee the acquisition, maintenance, and operational use of United States Customs and Border Protection integrated air and marine forces;

“(C) provide aviation and marine support for other Federal, State, and local law enforcement agency needs, as appropriate; and

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

“(g) OFFICE OF FIELD OPERATIONS.—

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

“(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Field Operations an Assistant Commissioner, who shall report to the Commissioner.

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

“(A) deter and prevent terrorists and terrorist weapons from entering the United States at such ports of entry;

“(B) conduct inspections at such ports of entry to safeguard the United States from terrorism and illegal entry of persons;

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

“(D) in coordination with the Commissioner, facilitate and expedite the flow of legitimate travelers and trade;

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

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

“(4) NATIONAL TARGETING CENTER.—

“(A) IN GENERAL.—There is established in the Office of Field Operations a National Targeting Center.

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

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

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

“(ii) identify, review, and target travelers and cargo for examination;

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

“(iv) carry out other duties and powers prescribed by the Assistant Commissioner.

“(5) ANNUAL REPORT ON STAFFING.—Not later than 30 days after the date of the enactment of this section and annually thereafter, the Assistant Commissioner shall submit to the appropriate congressional committees a report on the

staffing model for the Office of Field Operations, including information on how many supervisors, front-line United States Customs and Border Protection officers, and support personnel are assigned to each Field Office and port of entry.

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

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

“(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Intelligence and Investigative Liaison an Assistant Commissioner, who shall report to the Commissioner.

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

“(A) develop, provide, coordinate, and implement intelligence capabilities into a cohesive intelligence enterprise to support the execution of the United States Customs and Border Protection duties and responsibilities;

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

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

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

“(i) OFFICE OF INTERNATIONAL AFFAIRS.—

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

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

“(3) DUTIES.—The Office of International Affairs, in collaboration with the Office of International Affairs of the Department, shall—

“(A) coordinate and support United States Customs and Border Protection’s foreign initiatives, policies, programs, and activities;

“(B) coordinate and support United States Customs and Border Protection’s personnel stationed abroad;

“(C) maintain partnerships and information sharing agreements and arrangements with foreign governments, international organizations, and United States agencies in support of United States Customs and Border Protection duties and responsibilities;

“(D) provide necessary capacity building, training, and assistance to foreign border control agencies to strengthen global supply chain and travel security;

“(E) coordinate mission support services to sustain United States Customs and Border Protection’s global activities;

“(F) coordinate, in collaboration with the Office of Policy of the Department, as appropriate, United States Customs and Border Protection’s engagement in international negotiations; and

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

“(j) OFFICE OF INTERNAL AFFAIRS.—

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

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

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

“(A) investigate criminal and administrative matters and misconduct by officers, agents, and other employees of United States Customs and Border Protection;

“(B) perform investigations of United States Customs and Border Protection applicants and periodic reinvestigations (in accordance with section 3001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 3341; Public Law 108–458)) of officers, agents, and other employees of United States Customs and Border Protection, including investigations to determine suitability for employment and eligibility for access to classified information;

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

“(D) perform inspections of United States Customs and Border Protection programs, operations, and offices;

“(E) conduct risk-based covert testing of United States Customs and Border Protection operations, including for nuclear and radiological risks;

“(F) manage integrity of United States Customs and Border Protection counter-intelligence operations, including conduct of counter-intelligence investigations;

“(G) conduct research and analysis regarding misconduct of officers, agents, and other employees of United States Customs and Border Protection; and

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

“(k) STANDARD OPERATING PROCEDURES.—

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

“(A) standard operating procedures for searching, reviewing, retaining, and sharing information contained in communication, electronic, or digital devices encountered by United States Customs and Border Protection personnel at United States ports of entry;

“(B) standard use of force procedures officers and agents of United States Customs and Border Protection may employ in the execution of their duties, including the use of deadly force and procedures for deescalating confrontations, where possible;

“(C) a uniform, standardized, and publically-available procedure for processing and investigating complaints against officers, agents, and employees of United States Customs and Border Protection for violations of professional conduct, including the timely disposition of complaints and a written notification to the complainant of the status or outcome, as appropriate, of the related investigation, in accordance with section 552a of title 5, United States Code (commonly referred to as the ‘Privacy Act’ or the ‘Privacy Act of 1974’);

“(D) an internal, uniform reporting mechanism regarding incidents involving the use of deadly force by an officer or agent of United States Customs and Border Protection, including an evaluation of the degree to which the procedures required under subparagraph (B) were followed; and

“(E) standard operating procedures, acting through the Assistant Commissioner for Air and Marine Operations and in coordination with the Office of Civil Rights and Civil Liberties and the Office of Privacy of the Department, to provide command, control, communication, surveillance, and reconnaissance assistance through the use of unmanned aerial systems, including the establishment of—

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

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

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

“(iv) a process for establishing agreements with other Federal, State, and local law enforcement agencies regarding reimbursement for such mission costs; and

“(v) a process regarding the protection and privacy of data and images collected by United States Customs and Border Protection through the use of unmanned aerial systems.

“(2) REQUIREMENTS REGARDING CERTAIN NOTIFICATIONS.—The standard operating procedures established pursuant to subparagraph (A) of paragraph (1) shall require—

“(A) in the case of a search of information conducted on an electronic device by United States Customs and Border Protection personnel, the Commissioner to notify the individual subject to such search of the purpose and authority for such search, and how such individual may obtain information on reporting concerns about such search; and

“(B) in the case of information collected by United States Customs and Border Protection through a search of an electronic device, if such information is transmitted to another Federal agency for subject matter assistance, translation, or decryption, the Commissioner to notify the individual subject to such search of such transmission.

“(3) EXCEPTIONS.—

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

“(B) TERRORIST WATCH LISTS.—

“(i) SEARCHES.—If the individual subject to search of an electronic device pursuant to subparagraph (A) of paragraph (1) is included on a Government-operated or Government-maintained terrorist watch list, the notifications required under paragraph (2) shall not apply.

“(ii) COMPLAINTS.—If the complainant using the process established under subparagraph (C) of paragraph (1) is included on a Government-

operated or Government-maintained terrorist watch list, the notification required under such subparagraph shall not apply.

“(4) UPDATE AND REVIEW.—The Commissioner shall review and update every three years the standard operating procedures required under this subsection.

“(5) AUDITS.—The Inspector General of the Department of Homeland Security shall develop and annually administer an auditing mechanism to review whether searches of electronic devices at or between United States ports of entry are being conducted in conformity with the standard operating procedures required under subparagraph (A) of paragraph (1). Such audits shall be submitted to the appropriate congressional committees and shall include the following:

“(A) A description of the activities of officers and agents of United States Customs and Border Protection with respect to such searches.

“(B) The number of such searches.

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

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

“(E) The number of instances in which information collected from such device was subjected to such searches was transmitted to a another Federal agency, including whether such transmission resulted in a prosecution or conviction.

“(6) REQUIREMENTS REGARDING OTHER NOTIFICATIONS.—The standard operating procedures established pursuant to subparagraph (B) of paragraph (1) shall require—

“(A) in the case of an incident of the use of deadly force by United States Customs and Border Protection personnel, the Commissioner to notify the appropriate congressional committees; and

“(B) the Commissioner to provide to such committees a copy of the evaluation pursuant to subparagraph (D) of such paragraph not later than 30 days after completion of such evaluation.

“(7) REPORT ON UNMANNED AERIAL SYSTEMS.—The Commissioner shall submit to the appropriate congressional committees an annual report that reviews whether the use of unmanned aerial systems are being conducted in conformity with the standard operating procedures required under subparagraph (E) of paragraph (1). Such reports—

“(A) shall be submitted with the President’s annual budget;

“(B) may be submitted in classified form if the Commissioner determines that such is appropriate, and

“(C) shall include—

“(i) a detailed description of how, where, and for how long data and images collected through the use of unmanned aerial systems by United States Customs and Border Protection is collected and stored; and

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

“(1) TRAINING.—

“(1) IN GENERAL.—The Commissioner shall require all agents and officers of United States Customs and Border Protection to participate in a specified amount of continuing education (to be determined by the Commissioner) to maintain an understanding of Federal legal rulings, court decisions, and departmental policies, procedures, and guidelines.

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

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

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

“(C) certification of each training course by a supervising officer that the officer is able to carry out the function for which the training was provided, and if training has been postponed, the basis for postponing such training.

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

“(A) develop training requirements for United States Customs and Border Protection officers to ensure that such officers have sufficient training to

conduct primary and secondary inspections at United States ports of entry; and

“(B) measure progress toward achieving the training requirements referred to in subparagraph (A).

“(m) SHORT TERM DETENTION STANDARDS.—

“(1) ACCESS TO FOOD AND WATER.—The Commissioner shall make every effort to ensure that adequate access to food and water is provided to an individual apprehended and detained by a United States Border Patrol agent between a United States port of entry as soon as practicable following the time of such apprehension or during subsequent short term detention.

“(2) ACCESS TO INFORMATION ON DETAINEE RIGHTS AT BORDER PATROL PROCESSING CENTERS.—

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

“(B) FORM.—The information referred to in subparagraph (A) may be provided either verbally or in writing, and shall be posted in the detention holding cell in which such individual is being held. The information shall be provided in a language understandable to such individual.

“(3) DAYTIME REPATRIATION.—When practicable, repatriations shall be limited to daylight hours and avoid locations that are determined to have high indices of crime and violence.

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

“(5) REPORT ON PROCUREMENT PROCESS AND STANDARDS.—Not later than 180 days after the date of the enactment of this section, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the procurement process and standards of entities with which United States Customs and Border Protection has contracts for the transportation and detention of individuals apprehended by agents or officers of United States Customs and Border Protection. Such report should also consider the operational efficiency of contracting the transportation and detention of such individuals.

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

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

“(B) make publically available information collected pursuant to such inspections, including information regarding the requirements under paragraphs (1) and (2) and, where appropriate, issue recommendations to improve the conditions of such facilities.

“(n) WAIT TIMES TRANSPARENCY.—

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

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

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

“(C) submit to the appropriate congressional committees quarterly reports that include compilations of all such wait times and a ranking of such United States airports by wait times; and

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

“(2) CALCULATION.—The wait times referred to in paragraph (1)(A) shall be determined by calculating the time elapsed between an individual’s entry into the United States Customs and Border Protection inspection area and such individual’s clearance by a United States Customs and Border Protection officer

“(o) OTHER AUTHORITIES.—

“(1) IN GENERAL.—The Secretary may establish such other offices or Assistant Commissioners (or other similar officers or officials) as the Secretary determines necessary to carry out the missions, duties, functions, and authorities of United States Customs and Border Protection.

“(2) NOTIFICATION.—If the Secretary exercises the authority provided pursuant to paragraph (1), the Secretary shall notify the appropriate congressional committees not later than 30 days before exercising such authority.

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

(b) SPECIAL RULES.—

(1) TREATMENT.—Section 411 of the Homeland Security Act of 2002, as amended by subsection (a) of this section, shall be treated as if included in such Act as of the date of the enactment of such Act, and, in addition to the functions, missions, duties, and authorities specified in such amended section 411, United States Customs and Border Protection shall continue to perform and carry out the functions, missions, duties, and authorities under section 411 of such Act as in existence on the day before such date of enactment, and section 415 of such Act.

(2) RULES OF CONSTRUCTION.—

(A) RULES AND REGULATIONS.—Notwithstanding paragraph (1), nothing in this Act may be construed as affecting in any manner any rule or regulation issued or promulgated pursuant to any provision of law, including section 411 of the Homeland Security Act of 2002 as in existence on the day before the date of the enactment of this Act, and any such rule or regulation shall continue to have full force and effect on and after such date.

(B) OTHER ACTIONS.—Notwithstanding paragraph (1), nothing in this Act may be construed as affecting in any manner any action, determination, policy, or decision pursuant to section 411 of the Homeland Security Act of 2002 as in existence on the day before the date of the enactment of this Act, and any such action, determination, policy, or decision shall continue to have full force and effect on and after such date.

(c) CONTINUATION IN OFFICE.—

(1) COMMISSIONER.—The individual serving as the Commissioner of Customs on the day before the date of the enactment of this Act may serve as the Commissioner of United States Customs and Border Protection on and after such date of enactment until a Commissioner of United States Customs and Border Protection is appointed under section 411 of the Homeland Security Act of 2002, as amended by subsection (a) of this section.

(2) OTHER POSITIONS.—The individuals serving as Assistant Commissioners and other officers and officials under section 411 of the Homeland Security Act of 2002 on the day before the date of the enactment of this Act may serve as the appropriate Assistant Commissioners and other officers and officials under such section 411 as amended by subsection (a) of this section unless the Commissioner of United States Customs and Border Protection determines that another individual should hold such position or positions.

(d) REFERENCE.—

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

(2) OTHER REFERENCES.—On and after the date of the enactment of this Act, any reference in law or regulations to the “Commissioner of Customs” or the “Commissioner of the Customs Service” shall be deemed to be a reference to the Commissioner of United States Customs and Border Protection.

(e) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by striking the item relating 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.”.

### SEC. 3. REPEALS.

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

### SEC. 4. CLERICAL AND CONFORMING AMENDMENTS.

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

(1) in title I—

(A) in section 102(f)(10) (6 U.S.C. 112(f)(10)), by striking “the Directorate of Border and Transportation Security” and inserting “Commissioner of United States Customs and Border Protection”; and

- (B) in section 103(a)(1) (6 U.S.C. 113(a)(1))—
  - (i) in subparagraph (C), by striking “An Under Secretary for Border and Transportation Security.” and inserting “A Commissioner of United States Customs and Border Protection.”; and
  - (ii) in subparagraph (G), by striking “A Director of the Office of Counternarcotics Enforcement.” and inserting “A Director for United States Immigration and Customs Enforcement.”;
- (2) in title IV—
  - (A) by striking the title heading and inserting “**BORDER, MARITIME, AND TRANSPORTATION SECURITY**”; and
  - (B) in subtitle A—
    - (i) by striking the subtitle heading and inserting “**Border, Maritime, and Transportation Security Responsibilities and Functions**”; and
    - (ii) in section 402 (6 U.S.C. 202)—
      - (I) in the section heading, by striking “**RESPONSIBILITIES**” and inserting “**BORDER, MARITIME, AND TRANSPORTATION RESPONSIBILITIES**”; and
      - (II) by striking “, acting through the Under Secretary for Border and Transportation Security.”;
  - (C) in subtitle B—
    - (i) by striking the subtitle heading and inserting “**United States Customs and Border Protection**”; and
    - (ii) in section 412(b) (6 U.S.C. 212), by striking “United States Customs Service” each place it appears and inserting “United States Customs and Border Protection”; and
    - (iii) in section 413 (6 U.S.C. 213), by striking “available to the United States Customs Service or”;
    - (iv) in section 414 (6 U.S.C. 214), by striking “United States Customs Service” and inserting “United States Customs and Border Protection”; and
    - (v) in section 415 (6 U.S.C. 215)—
      - (I) in paragraph (7), by inserting before the colon the following:
 

“, and of United States Customs and Border Protection on the day before the effective date of the United States Customs and Border Protection Authorization Act”; and
      - (II) in paragraph (8), by inserting before the colon the following:
 

“, and of United States Customs and Border Protection on the day before the effective date of the United States Customs and Border Protection Authorization Act”;
  - (D) in subtitle C—
    - (i) by striking section 424 (6 U.S.C. 234) and inserting the following new section:

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

“Notwithstanding any other provision of this Act, the Transportation Security Administration shall be maintained as a distinct entity within the Department.”; and

- (ii) in section 430 (6 U.S.C. 238)—
  - (I) by amending subsection (a) to read as follows:
 

“(a) **ESTABLISHMENT.**—There is established in the Department an Office for Domestic Preparedness.”;
  - (II) in subsection (b), by striking the second sentence; and
  - (III) in subsection (c)(7), by striking “Directorate” and inserting “Department”; and
- (E) in subtitle D—
  - (i) in section 441 (6 U.S.C. 251)—
    - (I) by striking the section heading and inserting “**TRANSFER OF FUNCTIONS**.”; and
    - (II) by striking “Under Secretary for Border and Transportation Security” and inserting “Secretary”; and
  - (ii) by amending section 444 (6 U.S.C. 254) to read as follows:

**“SEC. 444. EMPLOYEE DISCIPLINE.**

“Notwithstanding any other provision of law, the Secretary may impose disciplinary action on any employee of United States Immigration and Customs Enforcement and United States Customs and Border Protection who willfully deceives Congress or agency leadership on any matter.”.

(b) **CONFORMING AMENDMENTS.**—Section 401 of the Homeland Security Act of 2002 (6 U.S.C. 201) is repealed.

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

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

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

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

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

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

(4) by amending the item relating to section 402 to read as follows:

“Sec. 402. Border, maritime, and transportation responsibilities.”;

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

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

(6) by striking the item relating to section 441 and inserting the following:

“Sec. 441. Transfer of functions.”; and

(7) by striking the item relating to section 442 and inserting the following:

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

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

(a) REPORT ON CONTRACT MANAGEMENT ACQUISITION AND PROCUREMENT PERSONNEL.—Not later than 60 days after the date of the enactment of this Act and biennially thereafter, the Commissioner of United States Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on—

(1) the number of contract management acquisition and procurement personnel assigned to the Office of Technology Innovation and Acquisition (or successor office) of United States Customs and Border Protection, categorized by position;

(2) the average aggregate value of the contracts each contract officer, contract specialist, and contract officer representative employee is responsible for managing; and

(3) the number of additional acquisition and procurement personnel, categorized by position, and contract management specialists United States Customs and Border Protection would need to ensure compliance with Federal acquisition standards, departmental management directives, and United States Customs and Border Protection contracting needs.

(b) REPORT ON MIGRANT DEATHS.—Not later 180 days after the date of the enactment of this Act, the Commissioner of United States Customs and Border Protection shall, to the extent practicable, make publically available information that the United States Border Patrol has collected on migrant deaths occurring along the United States-Mexico border, including information on the following:

(1) The number of documented migrant deaths.

(2) The location where such migrant deaths occurred.

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

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

(5) A description of United States Customs and Border Protection programs or plans to reduce the number of migrant deaths along the border, including an assessment on the effectiveness of water supply sites and rescue beacons.

(c) REPORT ON BUSINESS TRANSFORMATION INITIATIVE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of United States Customs and Border Protection shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report on United States Customs and Border Protection’s Business Transformation Initiative, including locations where the Initiative is deployed, the types of equipment utilized, a description of protocols and procedures, information on wait times at such locations since deployment, and information regarding the schedule for deployment at new locations.

(d) REPORT ON UNACCOMPANIED ALIEN CHILDREN APPREHENDED AT THE BORDER.—Not later than 90 days after the date of the enactment of this Act and annually thereafter, the Commissioner of United States Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representa-

tives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on unaccompanied alien children apprehended at the borders of the United States. Such report shall include the following:

(1) Information on the number, nationality, age, and location of the apprehensions of such unaccompanied alien children in the current fiscal year and for each of the three prior fiscal years.

(2) The average length of time an unaccompanied alien child is in the custody of United States Customs and Border Protection before being transferred to the custody of another Federal agency in the current fiscal year and for each of three prior fiscal years.

(3) A description of current and planned activities to discourage efforts to bring unaccompanied alien children to the United States without authorization.

(4) A description of training provided to officers and agents of United States Customs and Border Protection regarding unaccompanied alien children, including the number of such officers and agents who are so trained.

(5) An assessment of the existing officers, agents, and resources of United States Customs and Border Protection being utilized to address unaccompanied alien children.

(6) An assessment of whether current facilities utilized by United States Customs and Border Protection to house unaccompanied alien children are adequate to comply with all applicable laws, regulations, and standards regarding housing, feeding, and providing medical care for such children.

(7) An identification and assessment of the factors causing unaccompanied alien children to migrate to the United States, including an assessment of how perceptions of enforcement policies and economic and social conditions, including incidents of violence, in countries of origin or last habitual residence may be attributed to a rise in attempted entries into the United States.

(8) Information on United States Border Patrol resources spent to care for unaccompanied alien children in the custody of the United States Border Patrol, including the number of United States Border Patrol agents assigned to care for unaccompanied alien children.

(9) Future estimates of Department of Homeland Security resources needed to care for expected increases in unaccompanied alien children.

(10) An identification of any operational or policy challenges impacting the Department of Homeland Security as a result of any expected increase in unaccompanied alien children.

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

(e) PORT OF ENTRY INFRASTRUCTURE NEEDS ASSESSMENTS.—Not later 180 days after the date of the enactment of this Act, the Commissioner of United States Customs and Border Protection shall assess the physical infrastructure and technology needs at the 20 busiest land ports of entry (as measured by United States Customs and Border Protection) with a particular attention to identify ways to—

(1) improve travel and trade facilitation;

(2) reduce wait times;

(3) improve physical infrastructure and conditions for individuals accessing pedestrian ports of entry;

(4) enter into long-term leases with nongovernmental and private sector entities;

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

(6) achieve cost savings through leases described in paragraphs (4) and (5).

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

(1) The mission and goals of such program.

(2) The expected level of unmanned aerial systems operations.

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

(g) REPORT ON BIOMETRIC EXIT DATA CAPABILITY AT AIRPORTS.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of United States Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the efforts of United States Customs and Border Protection, in conjunction with the Directorate Science and Tech-

nology of the Department of Homeland Security, to evaluate technologies to provide a biometric exit capability at airports. Such report shall include the technologies tested, the results of such tests to date, plans for any future testing, and a schedule of anticipated deployment of those or other technologies.

(h) **CBP OFFICER TRAINING.**—Not later than 90 days after the date of the enactment of this Act, the Commissioner of United States Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the current capacity of United States Customs and Border Protection to hire, train, and deploy additional United States Customs and Border Protection officers, including an assessment of any additional resources necessary to hire, train, and deploy United States Customs and Border Protection officers to meet staffing needs, as identified by the United States Customs and Border Protection staffing model.

(i) **REPORT ON THE SECURITY OF UNITED STATES INTERNATIONAL BORDERS.**—Not later than 180 days after the date of the enactment of this Act, the Commissioner of United States Customs and Border Protection shall develop and implement specific metrics for measuring the status of security of United States international borders at and between ports of entry, including measuring the effectiveness of current border security resource allocations uniformly across all United States Customs and Border Protection sectors, informed by input from individuals and relevant stakeholders who live and work near such borders, and submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on such metrics and such status.

(j) **PERSONAL SEARCHES.**—Not later than 90 days after the date of the enactment of this Act, the Commissioner of United States Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on supervisor-approved personal searches conducted in the previous year by United States Customs and Border Protection personnel. Such report shall include the number of personal searches conducted in each sector and field office, the number of invasive personal searches conducted in each sector and field office, whether personal searches were conducted by Office of Field Operations or United States Border Patrol personnel, and how many personal searches resulted in the discovery of contraband.

#### **SEC. 6. INTERNATIONAL INITIATIVES.**

(a) **NORTH AND CENTRAL AMERICAN BORDER SECURITY COOPERATION INITIATIVE.**—The Secretary of Homeland Security, in coordination with the Secretary of State, shall engage with the appropriate officials of the Government of Canada and the Government of Mexico to assess the specific needs of the countries of Central America to maintain the security of the international borders of such countries and determine the support needed by such countries from the United States, Canada, and Mexico, to meet such needs.

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

(c) **MEXICO'S SOUTHERN BORDER SECURITY INITIATIVE.**—The Secretary of Homeland Security, in coordination with the Secretary of State, shall engage with appropriate officials of the Government of Mexico to assess the specific needs to help secure Mexico's southern border from undocumented aliens, drugs, weapons and other contraband.

(d) **REPORTING.**—The Secretary of Homeland Security shall submit to the Committee on Homeland Security and the Committee on Foreign Affairs of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Foreign Relations of the Senate a report on the assessment of needs carried out under this section.

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

The Commissioner of United States Customs and Border Protection shall give priority consideration to an application for port of entry status submitted by any commercial airport if such airport served at least 100,000 deplaned international passengers in the previous calendar year.

#### **SEC. 8. TRUSTED TRAVELER PROGRAMS.**

The Secretary of Homeland Security may not enter into or renew an agreement with the government of a foreign country for a trusted traveler program adminis-

tered by United States Customs and Border Protection unless the Secretary certifies in writing that such government—

(1) routinely submits to INTERPOL for inclusion in INTERPOL's Stolen and Lost Travel Documents database information about lost and stolen passports and travel documents of the citizens and nationals of such country; or

(2) makes available to the United States Government the information described in paragraph (1) through another means of reporting.

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

(a) FINDINGS.—Congress finds the following:

(1) Congress established the Foreign Language Award Program (FLAP) to incentivize employees at United States ports of entry to utilize their foreign language skills on the job by providing a financial incentive for the use of the foreign language for at least ten percent of their duties after passage of competency tests. FLAP incentivizes the use of more than two dozen languages and has been instrumental in identifying and utilizing United States Customs and Border Protection officers and agents who are proficient in a foreign language.

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

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

(b) SENSE OF CONGRESS.—It is the sense of Congress that FLAP incentivizes United States Customs and Border Protection officers and agents to attain and maintain competency in a foreign language, thereby improving the efficiency of operations for the functioning of United States Customs and Border Protection's security mission, making the United States a more welcoming place when foreign travelers find officers can communicate in their language, and helping to expedite traveler processing to reduce wait times.

#### PURPOSE AND SUMMARY

The purpose of H.R. 3846 is 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.

#### BACKGROUND AND NEED FOR LEGISLATION

Congress has never authorized United States Customs and Border Protection (CBP) to perform the missions it carries out today. As a result, CBP operates on devolved authority granted to the Secretary of Homeland Security and on guidance provided by Congress through annual appropriations bills, rather than from specific authority accorded to the component by its authorizing committee. H.R. 3846, the "United States Customs and Border Protection Authorization Act," is the first attempt by the Congress, since the passage of the Homeland Security Act of 2002 (Pub. L. 107-296) (HSA), to clearly delineate the current authorities and responsibilities of the largest Federal law enforcement entity in the Nation.

The HSA consolidated most Federal agencies with a nexus to border security into the newly-formed Department of Homeland Security. Most of these agencies were located in the Directorate of Border and Transportation Security (BTS), which was established under Title IV of the HSA. The BTS was charged with securing the borders, territorial waters, terminals, waterways, and air, land, and sea transportation systems of the United States, in addition to managing the Nation's ports of entry.

On March 2, 2005, Secretary of Homeland Security, Michael Chertoff, announced that he was "initiating a comprehensive re-

view of the Department's organization, operations and policies." This effort was known as the Second Stage Review (2SR) and was made public in July 2005.

One of the main 2SR recommendations carried out by Secretary Chertoff was the elimination of the BTS Directorate, pursuant to section 872 of the HSA, which gave the Secretary authority to reorganize functions and organizational units within DHS. With the elimination of BTS and its Under Secretary position, seven primary operational components within DHS, including CBP, gained a direct line to the Secretary and Deputy Secretary. Since that time, Congress has not formally amended the HSA to vest CBP with the duties and responsibilities it currently performs.

The Committee believes that Congress has a responsibility to give the Department of Homeland Security—and its components—the necessary direction through the regular authorization process. To that end, H.R. 3846 is an important step.

#### HEARINGS

The Committee did not hold any legislative hearings on H.R. 3846, however, the Committee held oversight hearings detailed below:

On April 4, 2014, the Subcommittee on Border and Maritime Security held a hearing entitled "Passport Fraud: An International Vulnerability." The Subcommittee received testimony from Hon. Alan D. Bersin, Assistant Secretary of International Affairs and Chief Diplomatic Officer, U.S. Department of Homeland Security; Mr. John Wagner, Acting Deputy Assistant Commissioner, Office of Field Operations, Customs and Border Protection, U.S. Department of Homeland Security; Ms. Brenda S. Sprague, Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, U.S. Department of State; and Hon. Shawn A. Bray, Director, INTERPOL Washington, U.S. National Central Bureau, U.S. Department of Justice.

On April 8, 2014, the Subcommittee on Border and Maritime Security held a hearing entitled "Authorizing Customs and Border Protection and Immigration and Customs Enforcement." The Subcommittee received testimony from Mr. Kevin K. McAleenan, Acting Deputy Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security; and Mr. Daniel H. Ragsdale, Acting Director, Immigrations and Customs Enforcement, U.S. Department of Homeland Security.

#### COMMITTEE CONSIDERATION

The Committee met on June 11, 2014, to consider H.R. 3846, and ordered the measure to be reported to the House with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MRS. MILLER of Michigan (#1); was AGREED TO by voice vote.

An amendment by MR. DUNCAN to the Amendment in the Nature of a Substitute to H.R. 3846 (#1A); was AGREED TO by voice vote.

In subparagraph (E) of the proposed section 411(j)(3), insert "risk-based" before "covert testing".

In subparagraph (E) of the proposed section 411(j)(3), insert before the semicolon at the end the following: “, including for nuclear and radiological risks”

An en bloc amendment by MS. LORETTA SANCHEZ of California to the Amendment in the Nature of a Substitute to H.R. 3846 (#1B); was AGREED TO by voice vote. Consisting of the following amendments:

An amendment:

In the proposed section 5, add at the end a new subsection entitled “(f) Report on Biometric Exit Data Capability.”

An amendment:

Redesignate section 7 as section 8.

Insert after section 6 a new section 7 entitled “Sec. 7. Treatment of Certain Application for Port of Entry Status.”

An amendment by MR. THOMPSON OF MISSISSIPPI:

In section 5, add at the end a new subsection entitled “(f) Unmanned aerial Systems Strategy.”

An amendment by MS. LORETTA SANCHEZ of California to the Amendment in the Nature of a Substitute to H.R. 3846 (#1C); was NOT AGREED TO by voice vote.

In section 5, add at the end a new subparagraph entitled “(f) International Border Technology Plan.”

An amendment by MS. LORETTA SANCHEZ of California to the Amendment in the Nature of a Substitute to H.R. 3846 (#1D); was WITHDRAWN by unanimous consent.

In the proposed section 411, add at the end a new subsection entitled “Checkpoints and Roving Patrol Stops Data Collection Requirement.”

An amendment by MR. MARINO to the Amendment in the Nature of a Substitute to H.R. 3846 (#1E); was AGREED TO by voice vote.

In subsection (c) of the proposed section 411, redesignate paragraphs (11) through (14) as paragraphs (12) through (15), respectively.

In subsection (c) of the proposed section 411, insert after paragraph (10) the following:

“(11) In coordination with the Under Secretary for Management of the Department, ensure United States Customs and Border Protection complies with Federal law, the Federal Acquisition Regulation, and the Department’s acquisition management directives for major acquisition programs of United States Customs and Border Protection.”.

An en bloc amendment by MS. JACKSON LEE to the Amendment in the Nature of a Substitute to H.R. 3846 (#1F); was AGREED TO by voice vote. Consisting of the following amendments:

An amendment:

In section 5, add at the end a new subsection entitled “(f) CBP Officer Training.”

An amendment:

In section 5(d), redesignate paragraph (6) as paragraph (7).

In section 5(d), insert after paragraph (5) the following:

(6) An assessment of whether current facilities utilized by United States Customs and Border Protection to house unaccompanied alien children are adequate to comply with all applicable laws, regulations, and standards regarding housing, feeding, and providing medical care for such children

An amendment by MR. CHAFFETZ to the Amendment in the Nature of a Substitute to H.R. 3846 (#1G); was AGREED TO by voice vote.

In subsection (d) of section 5, add at the end the following: “(7) An identification and assessment of the factors causing unaccompanied alien children to migrate to the United States, including an assessment of how perceptions of enforcement policies and economic and social conditions, including incidents of violence, in countries of origin or last habitual residence may be attributed to a rise in attempted entries into the United States.

An amendment by MR. BARBER to the Amendment in the Nature of a Substitute to H.R. 3846 (#1H); was AGREED TO by voice vote.

In section 5, add at the end a new subsection entitled “(f) Report on the Security of United States International Borders

**An amendment by MR. BARLETTA to the Amendment in the Nature of a Substitute to H.R. 3846 (#1I); was AGREED TO by voice vote.**

In section 5(d), in the matter preceding paragraph (1), insert “and annually thereafter” after “this Act”

In subsection (d) of section 5, add at the end the following

(7) information on United States Border Patrol resources spent to care for unaccompanied alien children in the custody of the U.S. Border Patrol, including the number of Border Patrol Agents assigned to care for Unaccompanied Alien Children.

(8) future estimates of Department of Homeland Security resources needed to care for expected increases in Unaccompanied Alien Children;

(9) an identification of any operational or policy challenges impacting the Department of Homeland Security as a result of the any expected increase in Unaccompanied Alien Children

**An en bloc amendment by MR. O’ROURKE to the Amendment in the Nature of a Substitute to H.R. 3846 (#1J); was AGREED TO by voice vote. Consisting of the following amendments:**

**An amendment:**

In section 5, add at the end a new subsection entitled “(f) Personal Searches.”

**An amendment:**

In subsection (k) of the proposes section 411, add at the end a new paragraph entitled “(6) Requirements regarding other notifications.”

**An amendment:**

In subsection (m) of the proposes section 411, add at the end a new paragraph entitled “(6) Report on inspections of short-term custody facilities.”

**An amendment:**

In paragraph (2) of section 5(e), strike “and” at the end.

In paragraph (3) of section 5(e), strike the period at the end and insert a semicolon.

In section 5(e), add at the end the following:

(4) enter into long-term leases with nongovernmental and private sector entities;

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

(6) achieve cost savings through leases described in paragraphs (4) and (5).

**An amendment by MR. PERRY to the Amendment in the Nature of a Substitute to H.R. 3846 (#1K); was AGREED TO by voice vote.**

In subparagraph (C), in proposed section 411(k)(1), strike “and” at the end.

In subparagraph (D), in the proposed section 411(k)(1), strike the period at the end and insert “; and”;

In the proposed section 411(K)(1), add at the end a new subparagraph (E).

In the proposed section 411(K), add at the end a new paragraph entitled “(6) Report on Unmanned Aerial Systems.”

**An amendment on the roster by MR. SWALWELL to the Amendment in the Nature of a Substitute to H.R. 3846 (#1L); was ADOPTED by unanimous consent.**

Redesignate section 7 as section 9.

Insert after section 6 the following new section: “Sec. 7. Trusted Traveler Programs.”

The Subcommittee on Border and Maritime Security met on May 20, 2014, to consider H.R. 3846, and ordered the measure to be forwarded to the Full Committee with a favorable recommendation, amended, by voice vote. The Subcommittee took the following actions:

The following amendments were offered:

**An Amendment in the Nature of a Substitute offered by MRS. MILLER of Michigan (#1); was AGREED TO by voice vote.**

**An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 3846 offered by MS. LORETTA SANCHEZ of California**

(#1A); was **AGREED TO** by voice vote. Consisting of the following amendments:

An amendment:

In the proposed section 411(k), add at the end a new paragraph entitled “(5) Audits.”

An amendment:

In the proposed section 411, add at the end a new subsection entitled “(o) Short Term Detention Standards.”

An amendment:

In the proposed section 411, add at the end a new subsection entitled “(o) Wait Times Transparency.”

An amendment:

In the proposed section 411, amend subsection (l) with a new subsection (l) Training.

An amendment:

In the proposed section 411(c), redesignate paragraph (10) through (12) as paragraphs (11) through (13), respectively.

In proposed section 411(c), insert after paragraph (9) the following:

“(10) administer a biometric entry and exit data system pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b);”

An amendment:

Add at the end a new section entitled “Sec. 5. International Initiatives.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 3846 offered by Ms. LORETTA SANCHEZ of California (#1B); was **NOT AGREED TO** by voice vote.

In the proposed section 411, add at the end a new subsection entitled “(o) Department of Homeland Security Border Oversight Task Force.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 3846 offered by Ms. LORETTA SANCHEZ of California (#1C); was **NOT AGREED TO** by voice vote.

In the proposed Section 411, add at the ends a new subsection entitled “(o) Enhanced Customer Service Standards and Professionalism Training Plan.”

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 3846 offered by Ms. JACKSON LEE (#1D); was **AGREED TO** by voice vote. Consisting of the following amendments:

An amendment:

In the proposed section 411(c)(11), strike “and” at the end.

Redesignate the proposed section 411(c)(12) as section 411(c)(13).

In the proposed section 411(c), insert after paragraph (11) the following: “(12) submit the report required under subsection (o); and”.

In proposed section 411, add at the end a new clause entitled “(o) Report on Contract Management Acquisition and Procurement Personnel.”

An amendment:

In the proposed section 411(g), add at the end a new section paragraph entitled “(5) Annual report on staffing.”

An amendment:

Add at the ends a new section entitled “Sec. 5. Sense of Congress Regarding the Foreign Language Award Program.”

An amendment:

Add at the end a new section entitled “Sec. 5. Report on Business Transformation Initiative.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 3846 offered by Ms. JACKSON LEE (#1E); was **AGREED TO** by voice vote.

Add at the ends a new section entitled “Sec. 5. Report on Unaccompanied Alien Children Apprehended at the Border.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 3846 offered by MS. JACKSON LEE (#1F); was WITHDRAWN by unanimous consent.

Add at the end a new section entitled "Sec. 5. Increase in United States Customs and Border Protection Officers."

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 3846 offered by MR. O'ROURKE (#1G); was AGREED TO by voice vote. Consisting of the following amendments:

An amendment:

In the proposed section 411(c)(11), strike "and" at the end.

In the proposed section 411(c), redesignate paragraph (12) as paragraph (13).

In the proposed section 411(c), insert after paragraph (11) the following:

"(12) submit the report required under subsection (o); and"

In the proposed section 411, add at the end a new subsection entitled "(o) Port of Entry Infrastructure Needs Assessments"

An amendment:

In the proposed section 411(k)(1)(B), insert before the semicolon at the end the following: ", including procedures for deescalating confrontations, where possible".

In the proposed section 411(k)(1)(B), strike "and" at the end.

In the proposed section 411(k)(1)(C), strike the period at the end and insert "; and"

In the proposed section 411(k)(1), add at the end the following: "(D) uniform reporting of incidents involving the use of deadly force by an officer or agent of United States Customs and Border Protection, including an evaluation of the degree to which the procedures required under subparagraph (B) were followed."

An amendment:

In the proposed section 411(c)(11), strike "and" at the end.

In the proposed section 411(c), redesignate paragraph (12) as paragraph (13).

In the proposed section 411(c), insert after paragraph (11) the following:

"(12) submit the report required under subsection (o); and"

In the proposed section 411, add at the end a new subsection entitled "(o) Report on Migrant Deaths."

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 3846.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3846, the United States Customs and Border Protection Authorization Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 18, 2014.*

Hon. MICHAEL MCCAUL,  
*Chairman, Committee on Homeland Security,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3846, the United States Customs and Border Protection Authorization Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 3846—United States Customs and Border Protection Authorization Act*

H.R. 3846 would direct Customs and Border Protection (CBP) in the Department of Homeland Security to establish standard procedures for addressing complaints made against CBP employees and to enhance training for CBP officers and agents. The bill also would require the agency to prepare several minor reports for the Congress on a variety of issues, including the characteristics of CBP procurement personnel, infrastructure needs at ports of entry, and the problem of unaccompanied children apprehended at U.S. borders.

Based on the cost of similar activities, CBO estimates that implementing H.R. 3846 would cost about \$1 million in fiscal year 2015 and less than \$500,000 annually thereafter, from appropriated funds, mostly for the required reports. According to CBP, much of the information needed for those reports has already been compiled. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3846 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3846 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The general performance goals and objectives of H.R. 3846 is to vest United States Customs and Border Protection (CBP) with the statutory authorities and responsibilities to protect the international border of the United States while facilitating the flow of legitimate trade and travel. The Committee believes that granting such authority to CBP formally in statute will strengthen Homeland Security and the ability of CBP to carry out its mission.

#### DUPLICATIVE FEDERAL PROGRAMS

The Committee finds that H.R. 3846 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 3846 does not preempt any State, local, or Tribal law.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 3846 would require no directed rule makings.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short Title.*

This section provides that this bill may be cited as the “United States Customs and Border Protection Authorization Act”.

##### *Sec. 2. Establishment of United States Customs and Border Protection.*

##### *Subsection (a)—In General.*

This section amends section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211) to formally authorize United States Customs

and Border Protection (CBP) within the Department of Homeland Security (DHS).

*Sec. 411. Establishment of United States Customs and Border Protection; Commissioner, Deputy Commissioner, and Operational Offices.*

*Subsection (a) of Sec. 411—In General.*

This subsection formally authorizes CBP as a component of the Department of Homeland Security. The Committee believes formally establishing CBP within the Homeland Security Act for the first time since the creation of the Department will improve oversight and better ensure that CBP follows Congressional intent and guidance in the execution of its vital mission to secure the border and facilitate trade and travel.

*Subsection (b) of Sec. 411—Commissioner of United States Customs and Border Protection.*

This subsection establishes a Commissioner to lead CBP. The Commissioner shall be appointed by the President and confirmed by the Senate.

The Committee recognizes that the Commissioner's position is one of the most important within the DHS, overseeing one of the world's largest law enforcement organizations.

*Subsection (c) of Sec. 411—Duties*

The subsection authorizes a litany of general duties for the Commissioner to carry out, including:

- Interdiction of persons and goods illegally entering the United States;
- Facilitate and expedite flow of legitimate travelers and trade;
- Detect, respond to, and interdict terrorists, drug smugglers and traffickers, human smugglers and traffickers, criminals, and other persons who may undermine the security of the United States;
- Safeguard the borders of the United States to protect against the entry of dangerous goods;
- Oversee the functions of the Office of International Trade;
- Enforce and administer all customs laws of the United States;
- Enforce and administer the immigration laws of the United States, in coordination with United States Immigration and Customs Enforcement (ICE) and United States Citizenship and Immigration Services (USCIS);
- Develop and implement screening and targeting capabilities, prioritizing passengers and cargo across all international modes of transportation;
- Enforce and administer the laws related to agricultural import and entry inspection;
- In coordination with the Secretary, deploy technology to collect the data necessary for the Secretary to administer the biometric entry and exit data system;
- In coordination with the Secretary, ensure CBP complies with Federal law, Federal Acquisition Regulation, and the Department's acquisition management directives;

- Enforce and administer the Container Security Initiative and the Customs-Trade Partnership Against Terrorism;
- Establish Standard Operating Procedures described in section (k); and
- Carry out the duties and powers prescribed by law or delegated by the Secretary.

This authorization is intended to provide the Commissioner authorities in line with the current duties for the position. The Committee supports the mission of the National Targeting Center; risk-based screening programs like the Container Security Initiative and Customs-Trade Partnership against Terrorism, which identify and prioritize threats to the United States; and trusted traveler programs, such as Global Entry, which facilitate prescreened travelers. The Committee encourages the Department to further adopt risk-based processes to facilitate trade and travel for the low risk people and cargo entering the United States.

*Subsection (d) of Sec. 411—Deputy Commissioner.*

H.R. 3846 establishes a Deputy Commissioner to assist the Commissioner in the management of CBP. The Committee intends the Deputy Commissioner to assist the Commissioner in overseeing the daily operations of CBP's 60,000-plus employee workforce and managing an operating budget of over \$11 billion.

*Subsection (e) of Sec. 411—United States Border Patrol.*

This subsection formally establishes the United States Border Patrol, headed by a Chief, to serve as the office within CBP with the primary responsibility of preventing persons and goods from unlawfully entering the country between ports of entry.

Founded in 1924, the United States Border Patrol has a long and proud history as our Nation's first line of defense against illegal crossings. Today, the United State's Border Patrol's primary mission is to detect and prevent the entry of terrorists, weapons of mass destruction, and unlawful entry of persons into the country, and to interdict drug smugglers and other criminals along the border.

The Committee supports the vital role the United States Border Patrol plays in protecting the Nation and strongly supports the United States Border Patrol in its efforts to secure our Nation's borders.

*Subsection (f) of 411—Office of Air and Marine Operations.*

This subsection formally establishes the Office of Air and Marine Operations (OAM), headed by an Assistant Commissioner, to serve as the office within CBP with the primary responsibility of preventing the unlawful entry of people, drugs, and other contraband in the air and maritime environment. The Assistant Commissioner is also charged with overseeing the acquisition, maintenance and operational use of CBP's integrated air and marine forces, and provide aviation and maritime support to other Federal, State, and local law enforcement agencies, as appropriate.

OAM is the world's largest aviation and maritime law enforcement organization—employing its fleet to detect, intercept and apprehend criminals in diverse environments of the U.S. borders. The Committee understands that air and marine law enforcement capa-

bilities are a critical component of CBP's layered enforcement strategy for border security and, as such, the Committee recognizes OAM's operational value.

OAM's specialized law enforcement capabilities allow it to make significant contributions to Departmental border security efforts, as well as assist Federal, State, local and Tribal agencies.

*Subsection (g) of Sec. 411—Office of Field Operations.*

This subsection formally establishes the Office of Field Operations (OFO), headed by an Assistant Commissioner, to serve as the office within CBP with the responsibility of preventing the unlawful entry of persons and goods into the country at all air-, land-, and sea-ports of entry.

The Committee appreciates the dual missions and vast responsibilities of the OFO. As the largest component within CBP, OFO's essential responsibilities range from securing the border to simultaneously facilitating the lawful trade and travel at U.S. ports of entry that is critical to our Nation's economy.

To execute this vital mission, the Committee supports the use of risk-based targeting to identify and screen the highest threat cargo and people entering the United States. The Committee believes the work done by the National Targeting Center is vital to carry out CBP and OFO's important mission.

In order to improve Congressional oversight, the Committee requires CBP to report to the appropriate Congressional committees on the OFO staffing model and staffing levels that are assigned to each port of entry. The Committee believes this information is vital for oversight purposes to hold CBP accountable for minimizing wait times at our Nation's ports of entry, and to properly inform the Congress regarding OFO staffing needs.

The Committee understands that it takes CBP approximately 18 months to recruit, hire and train new Officers. Ports of entry, and particularly airports, are dynamic environments, with some airports expecting rapid growth and other airports experiencing a decline in international passenger traffic.

The Committee believes that future staffing decisions should be based on more than a snapshot in time; rather staffing decisions should also take into account a robust analysis of projected changes in passenger and cargo flow at ports of entry. Therefore, in complying with this section, the Committee directs the Office of Field Operations to consider projected changes at existing, expanding and new CBP facilities beyond an 18-month window when determining future staffing needs. In order to determine future needs, the Office of Field Operations shall actively consult with key stakeholders at airports, sea ports and land ports of entry, especially those with major expansion plans underway.

*Subsection (h) of Sec. 411—Office of Intelligence and Investigative Liaison.*

This subsection formally establishes the Office of Intelligence and Investigative Liaison (OIIL), headed by an Assistant Commissioner, to serve as the office within CBP responsible for developing an intelligence enterprise to support CBP in carrying out its responsibilities.

OIIL supports CBP's mission through a multi-layered approach that includes collecting and analyzing advance traveler and cargo information, using enhanced law enforcement technical collection capabilities, providing analysis of intelligence and information, and establishing intelligence-sharing relationships with Federal, State, and local agencies.

The Committee recognizes the diverse intelligence capabilities of CBP and that a unified intelligence enterprise is essential. As such, the Committee supports CBP in being a coordinating facilitator to integrate these programs. The Committee also recognizes the important role DHS Intelligence and Analysis (DHS I&A) provides in assisting components in intelligence analysis across the Department. The Committee believes CBP, OIIL and DHS I&A should continue to work collaboratively to avoid unnecessary duplication of effort and ensure unity across the intelligence enterprise within DHS.

*Subsection (i) of Sec. 411—Office of International Affairs.*

This subsection formally establishes the Office of International Affairs, headed by an Assistant Commissioner, to serve as the office within CBP with the responsibility to coordinate and support the foreign policy initiatives and international programs of CBP.

The Committee supports CBP's Office of International Affairs mission to coordinate and support foreign initiatives, programs and activities with our external partners worldwide. The Committee believes the international engagement and capacity-building abroad contribute to the security of our Nation. These programs, which promote anti-terrorism, border security, non-proliferation, export control, and customs control, are essential to preventing terrorists and illicit or dangerous cargo from entering the United States.

The Committee believes continued efforts to strengthen international relationships and achieve a secure international environment to facilitate and secure legitimate trade and travel should be a priority of the Department.

*Subsection (j) of Sec. 411—Office of Internal Affairs.*

This subsection formally establishes the Office of Internal Affairs, headed by an Assistant Commissioner, to serve as the office within CBP with the responsibility to investigate criminal and administrative matters of misconduct involving personnel, conduct risk-based covert testing, and administer other integrity-related programs.

The Committee believes it is imperative that an agency with the size and importance of CBP have a robust Office of Internal Affairs to ensure compliance with all laws and policies relating to corruption, misconduct, and mismanagement. Further, the Committee believes CBP should ensure the independence of its officers conducting covert testing to help maintain objectivity and ensure non-biased results.

*Subsection (k) of Sec. 411—Standard Operating Procedures.*

This subsection establishes standard operating procedures and processes. These include:

- A standard operating procedure for searching, reviewing, retaining, and sharing information contained in electronic, com-

munication, or digital device encountered by CBP at ports of entry and requires certain notifications when such devices are searched. The Committee recognizes the broad authority vested in CBP to conduct searches at the border. This authority includes the authority to search persons, vehicles and possessions, including electronic devices, without reasonable suspicion. Nonetheless, the Committee believes that establishing clear guidelines and providing information to Congress is a manageable requirement for CBP. This subsection in no way limits CBP's authority to conduct searches at our Nation's ports of entry.

- A standard operating procedure regarding the use of force that CBP officers and agents may employ in the execution of their duties.
- A standard operating procedure regarding the use of UAS, including a process for other Federal, State, and local law enforcement agencies to submit mission requests. The Committee believes standard operating procedures will improve transparency and accountability of CBP's UAS program. The Committee expects a more transparent and standardized process to be developed. The Committee also requires the Commissioner to provide an annual report on the extent to which UAS are flown in accordance to such policies required by this bill. This will ensure greater consistency and standardization of the process that will be developed.
- A standardized, uniform, and publicly available complaint process for violations of professional misconduct and would establish a uniform reporting mechanism regarding incidents involving the use of deadly force.

The standard operating procedures in this section are intended to codify existing CBP policies and provide additional Congressional oversight through rigorous reporting to ensure these policies are carried out properly.

The Committee believes that uniform procedures and reporting will provide greater transparency and improve CBP accountability into these sensitive searches at the border. Additionally, any deviations involving the use of force or professional misconduct can be identified and resolved in a more effective and prompt manner.

While the Committee believes it is important for CBP to be more transparent, it recognizes the sensitive nature of these policies. These standardized procedures are not intended to limit national security or officer safety, but rather ensure that policies are appropriately followed.

*Subsection (l) of Sec. 411—Training.*

This subsection requires recurring education and training for CBP officers and agents, particularly related to changes in regulations, policies or guidelines.

The Committee believes that all training and workforce development efforts should support CBP's mission and strategic goals, meet the needs of a diverse and dispersed workforce, and contribute to measurable outcomes and results.

*Subsection (m) of Sec. 411—Short Term Detention Standards.*

This subsection requires CBP to establish short-term detention standards, including a detainee's access to food and water, and certain information. This subsection also establishes a database containing information concerning repatriated individuals, and to the extent practicable, authorizes daytime repatriation. This subsection also requires the Government Accountability Office to submit a report to Congress on CBP's procurement of contracts for transportation and detention of individuals apprehended by CBP.

The Committee believes that standards for short-term detention and humane repatriation should be established and consistently followed. The Committee expects detention facilities to be physically inspected and any deficiencies addressed in a prompt and thorough manner.

*Subsection (n) of Sec. 411—Wait Times Transparency.*

This section requires the Commissioner of CBP to publish live wait times at the 20 busiest airports and make such information available to the public.

The Committee believes that utilizing technology to assist CBP in measuring wait times will help CBP minimize wait times, to the extent possible. Making such information publicly available benefits travelers entering the United States.

At land ports of entry where live wait time information is available—including as part of the Department of Homeland Security's Beyond the Border Initiative—helps redirect traffic to a nearby port of entry that may be underutilized, which in turn reduces wait times at other ports of entry.

*Subsection (o) of Sec. 411—Other Authorities.*

This subsection authorizes the Secretary of Homeland Security to establish other offices or Assistant Commissioners, as necessary, to carry out the missions, duties, functions, and other authorities necessary.

The Committee does not intend to limit the Secretary's ability to properly staff CBP in order to carry out its important mission, but believes appropriate notification of major organizational changes is warranted.

*Subsection (p) of Sec. 411—Other Federal Agencies.*

This subsection clarifies that nothing in this section shall affect the authorities of any other Federal agencies.

Establishing other offices or Assistant Commissioners, as the Secretary of Homeland Security deems necessary to carry out the mission, duties, functions and authorities of CBP, will have no effect on the existing authorities of any other Federal agency.

*Subsection (b)—Special Rules.*

This subsection affirms that CBP shall continue to carry out the functions, missions, duties, and authorities that were vested in them prior to the passage of this act. Further, this subsection makes clear that rules, regulations, and policies issued by CBP pursuant to section 411 of the Homeland Security Act prior to the passage of this act shall remain in place.

*Subsection (c)—Continuation In Office.*

This subsection clarifies that the Commissioner of CBP as well as Assistant Commissioners and other CBP officials may continue to serve in their roles after passage of this act.

*Subsection (d)—Reference.*

This subsection amends 5 U.S.C. § 5314 to include the Commissioner of CBP in place of the outdated “Commissioner of Customs” position in the Level III Executive Pay Schedule.

*Subsection (e)—Clerical Amendment.*

This subsection simply amends the table of contents in the Homeland Security Act of 2002 to reflect the changes made by this act.

*Sec. 3. Repeals.*

This section repeals provisions in the HSA that are no longer necessary or have already been fulfilled. These include: Sec. 416, which mandated a Government Accountability Office report that was completed in 2003; Section 418, which required a report from the Secretary of the Treasury that was completed in 2003; and Sec. 443, which established professional responsibility authorities with the former Under Secretary for Border and Transportation Security.

Section 443 is unnecessary given that H.R. 3846 now codifies those authorities within the Office of Internal Affairs at CBP.

*Sec. 4. Clerical and Conforming Amendments.*

This section amends sections of the HSA to accurately reflect current titles and functions.

In addition, this section amends section 424 of the HSA to maintain the Transportation Security Administration as a distinct entity within the Department of Homeland Security.

Finally, this section amends section 444 of the HSA to grant the Secretary of Homeland Security the authority to discipline any employee of CBP or ICE who willfully deceives Congress or DHS leadership.

*Sec. 5. Reports and Assessments.**Subsection (a)—Report on Contract Management Acquisition and Procurement Personnel.*

This subsection requires a report related to contract management acquisition and procurement personnel under CBP’s Office of Technology Innovation and Acquisition. The report on contract management personnel will be useful to identify CBP’s contract management and acquisition personnel needs.

*Subsection (b)—Report on Migrant Deaths.*

This subsection requires the CBP Commissioner to provide a report to Congress on migrant deaths occurring along the US-Mexico border. The Committee supports CBP’s efforts to mitigate migrant deaths through use of rescue operations conducted by Border Patrol Search, Trauma and Rescue (BORSTAR) teams, and recognizes

that security infrastructure has made illicit transit of the border more difficult.

*Subsection (c)—Report on Business Transformation Initiative.*

The Committee expects the report on CBP's Business Transformation Initiative required under this act will help the Committee understand how technology and changes to processes are improving CBP's capacity to facilitate trade and travel, while mitigating wait times at the border. The Committee recognizes that the expansion of business transformation processes like Global Entry and Automated Passport Control kiosks have allowed CBP to reduce wait times, allowing officers to focus more on the security functions of their jobs, and less on the administrative functions, ultimately resulting in a more secure and efficient border. This information is essential for Congress to understand CBP's staffing and technological needs to meet increases in trade and travel volume, which are expected to continue over the next few years.

*Subsection (d)—Report on Unaccompanied Alien Children Apprehended at the Border.*

The Committee has significant concerns about the recent surge of Unaccompanied Alien Children (UAC) at the border, primarily apprehended in the Rio Grande Valley, and whether that surge impacts CBP's operational posture. The influx has overwhelmed short-term detention capacity and processing capabilities in the area. The information requested in this report will help the Committee identify the root causes of the surge and to ensure CBP has the resources it needs to respond.

*Subsection (e)—Port of Entry Infrastructure Needs Assessments.*

The Committee recognizes the importance of port of entry infrastructure to facilitating legitimate trade and travel and that improving and expanding port of entry infrastructure remains one of the most significant challenges toward a smart, efficient and secure border. The Commissioner of CBP is required to conduct an assessment identifying infrastructure needs at the 20 busiest land ports of entry. The Committee believes that the identification of such infrastructure needs is essential to identifying those ports of entry most in need of infrastructure upgrade or expansion. The Committee believes identifying infrastructure needs will assist CBP in planning joint infrastructure projects with both Canadian and Mexican border agencies to ensure priorities are aligned.

*Subsection (f)—Unmanned Aerial Systems Strategy.*

The Committee believes CBP should update its Unmanned Aerial Systems Strategy to identify mission and goals of the program, the expected level of operations, and the funding and anticipated stakeholder needs and resource requirements of such program. The Committee believes that an updated strategy is essential to improve the utilization of the program and ensure the program meets CBP's security needs. The Committee recognizes that significant investments have been made into the UAS program, and that an updated strategy should be provided in order to maximize return on what has already been a substantial investment.

*Subsection (g)—Report on Biometric Exit Data Capability at Airports.*

This subsection requires the Commissioner to report on the collaborative effort undertaken by CBP and the Science and Technology Directorate (S&T) at DHS as part of the joint Air Entry/Exit Re-engineering (AEER) Apex project to determine how to deploy a biometric air exit capability at airports. The Committee recognizes the purpose of the AEER Project is to analyze, develop, test, pilot, and evaluate integrated approaches to biometrically confirm the departure of non-U.S. citizens at U.S. airports, as well as to introduce more efficient traveler facilitation processes and effective biometric technologies to screen travelers entering the U.S. The Committee supports this collaboration as part of the Apex project, and believes this is an appropriate use of S&T's limited resources to apply technical and scientific expertise to solve an important problem for the Department.

*Subsection (h)—CBP Officer Training.*

This subsection requires the Commissioner to submit to Congress a report on the current capacity of CBP to recruit, hire, and train additional CBP Officers to meet staffing needs, as identified by CBP's Workforce Staffing Model. The Committee recognizes that despite funding 2,000 additional CBP Officers in the Consolidated Appropriations Act, 2014 (Pub. L. 113-76), it will take significant time for CBP to recruit, hire, and train these additional officers. The Committee expects this report to describe CBP needs to fully support the number of officers indicated by the model and provide Congress with the information it needs to ultimately determine the appropriate staffing levels necessary for CBP to secure our borders and facilitate the flow of legitimate trade and travel.

*Subsection (i)—Report on the Security of United States International Borders.*

This subsection requires the Commissioner to develop specific metrics for measuring the status of security of the border, including measuring effectiveness of current resource allocations, informed by input from stakeholders on the border. The Committee believes developing such outcome-based metrics, which identify effectiveness, not just activity, is long overdue, and continues to encourage CBP to identify such metrics. The Committee believes such metrics are necessary to provide Congress an understanding of how effective resources applied to the border are in enhancing security. The Committee must once again note that without a Department-wide strategy, CBP cannot effectively secure the border and will only push illicit activity to other areas.

*Subsection (j)—Personal Searches.*

This subsection requires the Commissioner to report to Congress on supervisor-approved personal searches conducted by CBP in the previous year. The report will include the number of searches, the location of such searches, the subcomponent responsible, and the result of such searches. The Committee recognizes that Officers and Agents conduct numerous searches throughout the course of their duties for purposes of officer safety. This report should only

address those searches which require supervisor approval, which CBP has told the Committee occur much more infrequently.

*Sec. 6. International Initiatives.*

This section requires the Secretary of Homeland Security, in coordination with the Secretary of State, to engage appropriate international officials to assess specific needs to improve border and maritime security. This section specially authorizes initiatives with:

- Central American nations to maintain security of the international borders;
- The Government of Mexico to assess specific needs related to Mexico's southern border; and
- The appropriate governments of Caribbean nations to assess maritime and border security challenges in that region.

The Committee believes that coordinating with other Western Hemisphere nations to better establish border and maritime security is a smart practice. Working with our allies in the Western Hemisphere not only increases the security of our borders, but also provides an opportunity to make their countries—and the region—safer.

Additionally, the Committee recognizes the surge in recent years of “Other than Mexicans” (OTM) attempting to cross illegally along the Southwest Border of the United States. The Committee believes that coordinated efforts with the Government of Mexico and Central American countries could help reduce the flow of individuals seeking to enter the U.S. unlawfully prior to their arrival at our border.

Furthermore, the Committee is aware that there are significant challenges in the Caribbean as the Department's drug interdiction rate is well below 20 percent. The Committee believes that coordinating with Caribbean partners and understanding the specific needs of these nations may improve our interruption of those individuals and networks trying to smuggle illicit drugs and migrants into the United States.

*Sec. 7. Treatment of Certain Applications for Port of Entry Status.*

This section requires the Department to give airports that have had more than 100,000 international passengers in a previous calendar year priority consideration for port of entry status.

*Sec. 8. Trusted Traveler Programs.*

This section prohibits the Secretary of Homeland Security from entering into or renewing an agreement with a foreign government for a Trusted Traveler Program administered by CBP unless the Secretary certifies that such government routinely submits information to INTERPOL's Stolen and Lost Travel Document (SLTD) database or otherwise makes such information available to the United States.

In April 2014, the Subcommittee on Border and Maritime Security held a hearing on the issue of passport fraud and received testimony that, with only a few exceptions, only those nations that are members of the Visa Waiver Program regularly submit timely data to the SLTD. The Committee believes population of INTERPOL's SLTD database provides significant aviation and homeland security

benefits to the United States, and therefore should be a requirement for any country wishing to enter into Trusted Traveler Program agreement with the United States.

*Sec. 9. Sense of Congress Regarding the Foreign Language Award Program.*

This section provides a sense of Congress supporting CBP's Foreign Language Award Program (FLAP).

The Committee supports the FLAP program and believes that CBP personnel benefit from foreign language skills which enhance the ability of CBP to perform its vital mission.

The Committee expects CBP to continually analyze their foreign language needs, requirements and capabilities to assess their workforce. FLAP not only helps CBP attract and retain the most qualified employees, but it also enhances their ability to better meet the needs of the diverse public they serve and protect. Furthermore, FLAP helps to improve operational efficiency, expediting traveler processing and make the United States a more welcoming destination.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**HOMELAND SECURITY ACT OF 2002**

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) \* \* \*

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

|  |
|--|
| * * * * *  |
| <p><b>【TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY</b><br/> <b>【Subtitle A—Under Secretary for Border and Transportation Security】</b><br/> <i>TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY</i><br/> <i>Subtitle A—Border, Maritime, and Transportation Security Responsibilities and Functions</i></p> |
| <p><b>【Sec. 401. Under Secretary for Border and Transportation Security.</b><br/> <b>【Sec. 402. Responsibilities.】</b><br/> <i>Sec. 402. Border, maritime, and transportation responsibilities.</i></p>  |
| * * * * *  |
| <p><b>【Subtitle B—United States Customs Service】</b><br/> <i>Subtitle B—United States Customs and Border Protection</i></p>  |
| <p><b>【Sec. 411. Establishment; Commissioner of Customs.】</b><br/> <i>Sec. 411. Establishment of United States Customs and Border Protection; Commissioner, Deputy Commissioner, and operational offices.</i></p>  |
| * * * * *  |
| <p><b>【Sec. 416. GAO report to Congress.】</b></p>  |
| * * * * *  |
| <p><b>【Sec. 418. Reports to Congress.】</b></p>   |
| * * * * *  |

Subtitle D—Immigration Enforcement Functions

- 【Sec. 441. Transfer of functions to Under Secretary for Border and Transportation Security.
- 【Sec. 442. Establishment of Bureau of Border Security.
- 【Sec. 443. Professional responsibility and quality review.】
- Sec. 441. Transfer of functions.*
- Sec. 442. United States Immigration and Customs Enforcement.*

\* \* \* \* \*

## TITLE I—DEPARTMENT OF HOMELAND SECURITY

\* \* \* \* \*

### SEC. 102. SECRETARY; FUNCTIONS.

(a) \* \* \*

\* \* \* \* \*

(f) SPECIAL ASSISTANT TO THE SECRETARY.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) \* \* \*

\* \* \* \* \*

(10) coordinating with 【the Directorate of Border and Transportation Security】 *Commissioner of United States Customs and Border Protection* and the Assistant Secretary for Trade Development of the Department of Commerce on issues related to the travel and tourism industries; and

\* \* \* \* \*

### SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—(1) IN GENERAL.—Except as provided under paragraph (2), there are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(A) \* \* \*

\* \* \* \* \*

(C) 【An Under Secretary for Border and Transportation Security.】 *A Commissioner of United States Customs and Border Protection.*

\* \* \* \* \*

(G) 【A Director of the Office of Counternarcotics Enforcement.】 *A Director for United States Immigration and Customs Enforcement.*

\* \* \* \* \*

**TITLE IV—[DIRECTORATE OF BORDER  
AND TRANSPORTATION SECURITY]  
*BORDER, MARITIME, AND TRANSPORTATION SECURITY***

**Subtitle A—[Under Secretary for Border  
and Transportation Security] *Border,  
Maritime, and Transportation Security  
Responsibilities and Functions***

**[SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.]**

【There shall be in the Department a Directorate of Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.】

**SEC. 402. [RESPONSIBILITIES] *BORDER, MARITIME, AND TRANSPORTATION RESPONSIBILITIES.***

The Secretary【, acting through the Under Secretary for Border and Transportation Security,】 shall be responsible for the following:

(1) \* \* \*

\* \* \* \* \*

**Subtitle B—[United States Customs Service] *United States Customs and Border Protection***

**[SEC. 411. ESTABLISHMENT; COMMISSIONER OF CUSTOMS.]**

【(a) ESTABLISHMENT.—There is established in the Department the United States Customs Service, under the authority of the Under Secretary for Border and Transportation Security, which shall be vested with those functions including, but not limited to those set forth in section 415(7), and the personnel, assets, and liabilities attributable to those functions.

【(b) COMMISSIONER OF CUSTOMS.—

【(1) IN GENERAL.—There shall be at the head of the Customs Service a Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate.

【(2) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by striking “Commissioner of Customs, Department of the Treasury” and inserting “Commissioner of Customs, Department of Homeland Security”.

【(3) CONTINUATION IN OFFICE.—The individual serving as the Commissioner of Customs on the day before the effective date of this Act may serve as the Commissioner of Customs on and after such effective date until a Commissioner of Customs is appointed under paragraph (1).】

**SEC. 411. ESTABLISHMENT OF UNITED STATES CUSTOMS AND BORDER PROTECTION; COMMISSIONER, DEPUTY COMMISSIONER, AND OPERATIONAL OFFICES.**

(a) *IN GENERAL.*—*There is established in the Department an agency to be known as United States Customs and Border Protection.*

(b) *COMMISSIONER OF UNITED STATES CUSTOMS AND BORDER PROTECTION.*—*There shall be at the head of United States Customs and Border Protection a Commissioner of United States Customs and Border Protection (in this section referred to as the “Commissioner”), who shall be appointed by the President, by and with the advice and consent of the Senate.*

(c) *DUTIES.*—*The Commissioner shall—*

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

(2) *facilitate and expedite the flow of legitimate travelers and trade;*

(3) *detect, respond to, and interdict terrorists, drug smugglers and traffickers, human smugglers and traffickers, criminals, and other persons who may undermine the security of the United States;*

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

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

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

(7) *enforce and administer all immigration laws, as such term is defined in paragraph (17) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), in coordination with United States Immigration and Customs Enforcement and United States Citizenship and Immigration Services;*

(8) *develop and implement screening and targeting capabilities, including the screening, reviewing, identifying, and prioritizing of passengers and cargo across all international modes of transportation, both inbound and outbound;*

(9) *enforce and administer the laws relating to agricultural import and entry inspection referred to in section 421;*

(10) *in coordination with the Secretary, deploy technology to collect the data necessary for the Secretary to administer the biometric entry and exit data system pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b);*

(11) *in coordination with the Under Secretary for Management of the Department, ensure United States Customs and Border Protection complies with Federal law, the Federal Acquisition Regulation, and the Department’s acquisition management directives for major acquisition programs of United States Customs and Border Protection;*

(12) *enforce and administer—*

(A) *the Container Security Initiative program under section 205 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 945; Public Law 109–347); and*

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

(13) establish the standard operating procedures described in subsection (k);

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

(15) carry out the duties and powers prescribed by law or delegated by the Secretary.

(d) *DEPUTY COMMISSIONER.*—There shall be in United States Customs and Border Protection a Deputy Commissioner who shall assist the Commissioner in the management of United States Customs and Border Protection.

(e) *UNITED STATES BORDER PATROL.*—

(1) *IN GENERAL.*—There is established in United States Customs and Border Protection the United States Border Patrol.

(2) *CHIEF.*—There shall be at the head of the United States Border Patrol a Chief, who shall be a uniformed law enforcement officer chosen from the ranks of the United States Border Patrol and who shall report to the Commissioner.

(3) *DUTIES.*—The United States Border Patrol shall—

(A) serve as the law enforcement office of United States Customs and Border Protection with primary responsibility for interdicting persons attempting to illegally enter or exit the United States or goods being illegally imported to or exported from the United States at a place other than a designated port of entry;

(B) deter and prevent illegal entry of terrorists, terrorist weapons, persons, and contraband; and

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

(f) *OFFICE OF AIR AND MARINE OPERATIONS.*—

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

(2) *ASSISTANT COMMISSIONER.*—There shall be at the head of the Office of Air and Marine Operations an Assistant Commissioner, who shall report to the Commissioner.

(3) *DUTIES.*—The Office of Air and Marine Operations shall—

(A) serve as the law enforcement office within United States Customs and Border Protection with primary responsibility to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illicit drugs, and other contraband across the borders of the United States in the air and maritime environment;

(B) oversee the acquisition, maintenance, and operational use of United States Customs and Border Protection integrated air and marine forces;

(C) provide aviation and marine support for other Federal, State, and local law enforcement agency needs, as appropriate; and

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

(g) *OFFICE OF FIELD OPERATIONS.*—

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

(2) *ASSISTANT COMMISSIONER.*—*There shall be at the head of the Office of Field Operations an Assistant Commissioner, who shall report to the Commissioner.*

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

(A) *deter and prevent terrorists and terrorist weapons from entering the United States at such ports of entry;*

(B) *conduct inspections at such ports of entry to safeguard the United States from terrorism and illegal entry of persons;*

(C) *prevent illicit drugs, agricultural pests, and contraband from entering the United States;*

(D) *in coordination with the Commissioner, facilitate and expedite the flow of legitimate travelers and trade;*

(E) *administer the National Targeting Center established under paragraph (4); and*

(F) *carry out other duties and powers prescribed by the Commissioner.*

(4) *NATIONAL TARGETING CENTER.*—

(A) *IN GENERAL.*—*There is established in the Office of Field Operations a National Targeting Center.*

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

(C) *DUTIES.*—*The National Targeting Center shall—*

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

(ii) *identify, review, and target travelers and cargo for examination;*

(iii) *coordinate the examination of entry and exit of travelers and cargo; and*

(iv) *carry out other duties and powers prescribed by the Assistant Commissioner.*

(5) *ANNUAL REPORT ON STAFFING.*—*Not later than 30 days after the date of the enactment of this section and annually thereafter, the Assistant Commissioner shall submit to the appropriate congressional committees a report on the staffing model for the Office of Field Operations, including information on how many supervisors, front-line United States Customs and Border Protection officers, and support personnel are assigned to each Field Office and port of entry.*

(h) *OFFICE OF INTELLIGENCE AND INVESTIGATIVE LIAISON.*—

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

(2) *ASSISTANT COMMISSIONER.*—*There shall be at the head of the Office of Intelligence and Investigative Liaison an Assistant Commissioner, who shall report to the Commissioner.*

(3) *DUTIES.*—*The Office of Intelligence and Investigative Liaison shall—*

(A) develop, provide, coordinate, and implement intelligence capabilities into a cohesive intelligence enterprise to support the execution of the United States Customs and Border Protection duties and responsibilities;

(B) collect and analyze advance traveler and cargo information;

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

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

(i) OFFICE OF INTERNATIONAL AFFAIRS.—

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

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

(3) DUTIES.—The Office of International Affairs, in collaboration with the Office of International Affairs of the Department, shall—

(A) coordinate and support United States Customs and Border Protection's foreign initiatives, policies, programs, and activities;

(B) coordinate and support United States Customs and Border Protection's personnel stationed abroad;

(C) maintain partnerships and information sharing agreements and arrangements with foreign governments, international organizations, and United States agencies in support of United States Customs and Border Protection duties and responsibilities;

(D) provide necessary capacity building, training, and assistance to foreign border control agencies to strengthen global supply chain and travel security;

(E) coordinate mission support services to sustain United States Customs and Border Protection's global activities;

(F) coordinate, in collaboration with the Office of Policy of the Department, as appropriate, United States Customs and Border Protection's engagement in international negotiations; and

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

(j) OFFICE OF INTERNAL AFFAIRS.—

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

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

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

(A) investigate criminal and administrative matters and misconduct by officers, agents, and other employees of United States Customs and Border Protection;

(B) perform investigations of United States Customs and Border Protection applicants and periodic reinvestigations (in accordance with section 3001 of the Intelligence Reform

and Terrorism Prevention Act of 2004 (50 U.S.C. 3341; Public Law 108–458)) of officers, agents, and other employees of United States Customs and Border Protection, including investigations to determine suitability for employment and eligibility for access to classified information;

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

(D) perform inspections of United States Customs and Border Protection programs, operations, and offices;

(E) conduct risk-based covert testing of United States Customs and Border Protection operations, including for nuclear and radiological risks;

(F) manage integrity of United States Customs and Border Protection counter-intelligence operations, including conduct of counter-intelligence investigations;

(G) conduct research and analysis regarding misconduct of officers, agents, and other employees of United States Customs and Border Protection; and

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

(k) STANDARD OPERATING PROCEDURES.—

(1) IN GENERAL.—The Commissioner shall establish—

(A) standard operating procedures for searching, reviewing, retaining, and sharing information contained in communication, electronic, or digital devices encountered by United States Customs and Border Protection personnel at United States ports of entry;

(B) standard use of force procedures officers and agents of United States Customs and Border Protection may employ in the execution of their duties, including the use of deadly force and procedures for deescalating confrontations, where possible;

(C) a uniform, standardized, and publically-available procedure for processing and investigating complaints against officers, agents, and employees of United States Customs and Border Protection for violations of professional conduct, including the timely disposition of complaints and a written notification to the complainant of the status or outcome, as appropriate, of the related investigation, in accordance with section 552a of title 5, United States Code (commonly referred to as the “Privacy Act” or the “Privacy Act of 1974”);

(D) an internal, uniform reporting mechanism regarding incidents involving the use of deadly force by an officer or agent of United States Customs and Border Protection, including an evaluation of the degree to which the procedures required under subparagraph (B) were followed; and

(E) standard operating procedures, acting through the Assistant Commissioner for Air and Marine Operations and in coordination with the Office of Civil Rights and Civil Liberties and the Office of Privacy of the Department, to provide command, control, communication, surveillance, and reconnaissance assistance through the use of unmanned aerial systems, including the establishment of—

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

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

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

(iv) a process for establishing agreements with other Federal, State, and local law enforcement agencies regarding reimbursement for such mission costs; and

(v) a process regarding the protection and privacy of data and images collected by United States Customs and Border Protection through the use of unmanned aerial systems.

(2) *REQUIREMENTS REGARDING CERTAIN NOTIFICATIONS.*—The standard operating procedures established pursuant to subparagraph (A) of paragraph (1) shall require—

(A) in the case of a search of information conducted on an electronic device by United States Customs and Border Protection personnel, the Commissioner to notify the individual subject to such search of the purpose and authority for such search, and how such individual may obtain information on reporting concerns about such search; and

(B) in the case of information collected by United States Customs and Border Protection through a search of an electronic device, if such information is transmitted to another Federal agency for subject matter assistance, translation, or decryption, the Commissioner to notify the individual subject to such search of such transmission.

(3) *EXCEPTIONS.*—

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

(B) *TERRORIST WATCH LISTS.*—

(i) *SEARCHES.*—If the individual subject to search of an electronic device pursuant to subparagraph (A) of paragraph (1) is included on a Government-operated or Government-maintained terrorist watch list, the notifications required under paragraph (2) shall not apply.

(ii) *COMPLAINTS.*—If the complainant using the process established under subparagraph (C) of paragraph (1) is included on a Government-operated or Government-maintained terrorist watch list, the notification required under such subparagraph shall not apply.

(4) *UPDATE AND REVIEW.*—The Commissioner shall review and update every three years the standard operating procedures required under this subsection.

(5) *AUDITS.*—The Inspector General of the Department of Homeland Security shall develop and annually administer an auditing mechanism to review whether searches of electronic devices at or between United States ports of entry are being conducted in conformity with the standard operating procedures required under subparagraph (A) of paragraph (1). Such audits

shall be submitted to the appropriate congressional committees and shall include the following:

(A) A description of the activities of officers and agents of United States Customs and Border Protection with respect to such searches.

(B) The number of such searches.

(C) The number of instances in which information contained in such devices that were subjected to such searches was retained, copied, shared, or entered in an electronic database.

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

(E) The number of instances in which information collected from such device was subjected to such searches was transmitted to a another Federal agency, including whether such transmission resulted in a prosecution or conviction.

(6) **REQUIREMENTS REGARDING OTHER NOTIFICATIONS.**—The standard operating procedures established pursuant to subparagraph (B) of paragraph (1) shall require—

(A) in the case of an incident of the use of deadly force by United States Customs and Border Protection personnel, the Commissioner to notify the appropriate congressional committees; and

(B) the Commissioner to provide to such committees a copy of the evaluation pursuant to subparagraph (D) of such paragraph not later than 30 days after completion of such evaluation.

(7) **REPORT ON UNMANNED AERIAL SYSTEMS.**—The Commissioner shall submit to the appropriate congressional committees an annual report that reviews whether the use of unmanned aerial systems are being conducted in conformity with the standard operating procedures required under subparagraph (E) of paragraph (1). Such reports—

(A) shall be submitted with the President's annual budget;

(B) may be submitted in classified form if the Commissioner determines that such is appropriate, and

(C) shall include—

(i) a detailed description of how, where, and for how long data and images collected through the use of unmanned aerial systems by United States Customs and Border Protection is collected and stored; and

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

(l) **TRAINING.**—

(1) **IN GENERAL.**—The Commissioner shall require all agents and officers of United States Customs and Border Protection to participate in a specified amount of continuing education (to be determined by the Commissioner) to maintain an understanding of Federal legal rulings, court decisions, and departmental policies, procedures, and guidelines.

(2) **ENSURING TRAINING.**—Not later than 90 days after the date of the enactment of this section, the Commissioner shall develop a database system that identifies for each United States

*Customs and Border Protection officer or agent, by port of entry or station—*

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

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

*(C) certification of each training course by a supervising officer that the officer is able to carry out the function for which the training was provided, and if training has been postponed, the basis for postponing such training.*

*(3) USE OF DATA.—The Commissioner shall use the information developed under paragraph (2) to—*

*(A) develop training requirements for United States Customs and Border Protection officers to ensure that such officers have sufficient training to conduct primary and secondary inspections at United States ports of entry; and*

*(B) measure progress toward achieving the training requirements referred to in subparagraph (A).*

*(m) SHORT TERM DETENTION STANDARDS.—*

*(1) ACCESS TO FOOD AND WATER.—The Commissioner shall make every effort to ensure that adequate access to food and water is provided to an individual apprehended and detained by a United States Border Patrol agent between a United States port of entry as soon as practicable following the time of such apprehension or during subsequent short term detention.*

*(2) ACCESS TO INFORMATION ON DETAINEE RIGHTS AT BORDER PATROL PROCESSING CENTERS.—*

*(A) IN GENERAL.—The Commissioner shall ensure that an individual apprehended by a United States Border Patrol agent is provided with information concerning such individual's rights, including the right to contact a representative of such individual's government for purposes of United States treaty obligations.*

*(B) FORM.—The information referred to in subparagraph (A) may be provided either verbally or in writing, and shall be posted in the detention holding cell in which such individual is being held. The information shall be provided in a language understandable to such individual.*

*(3) DAYTIME REPATRIATION.—When practicable, repatriations shall be limited to daylight hours and avoid locations that are determined to have high indices of crime and violence.*

*(4) SHORT TERM DETENTION DEFINED.—In this subsection, the term "short term detention" means detention in a United States Border Patrol processing center for 72 hours or less, before repatriation to a country of nationality or last habitual residence.*

*(5) REPORT ON PROCUREMENT PROCESS AND STANDARDS.—Not later than 180 days after the date of the enactment of this section, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the procurement process and standards of entities with which United States Customs and Border Protection has contracts for the transportation and detention of individuals apprehended by agents or officers of United States Customs and Border Protec-*

tion. Such report should also consider the operational efficiency of contracting the transportation and detention of such individuals.

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

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

(B) make publically available information collected pursuant to such inspections, including information regarding the requirements under paragraphs (1) and (2) and, where appropriate, issue recommendations to improve the conditions of such facilities.

(n) **WAIT TIMES TRANSPARENCY.**—

(1) **IN GENERAL.**—The Commissioner shall—

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

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

(C) submit to the appropriate congressional committees quarterly reports that include compilations of all such wait times and a ranking of such United States airports by wait times; and

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

(2) **CALCULATION.**—The wait times referred to in paragraph (1)(A) shall be determined by calculating the time elapsed between an individual's entry into the United States Customs and Border Protection inspection area and such individual's clearance by a United States Customs and Border Protection officer

(o) **OTHER AUTHORITIES.**—

(1) **IN GENERAL.**—The Secretary may establish such other offices or Assistant Commissioners (or other similar officers or officials) as the Secretary determines necessary to carry out the missions, duties, functions, and authorities of United States Customs and Border Protection.

(2) **NOTIFICATION.**—If the Secretary exercises the authority provided pursuant to paragraph (1), the Secretary shall notify the appropriate congressional committees not later than 30 days before exercising such authority.

(p) **OTHER FEDERAL AGENCIES.**—Nothing in this section may be construed as affecting in any manner the existing authority of any other Federal agency, including the Transportation Security Administration with respect to the duties of United States Customs and Border Protection described in subsection (c).

**SEC. 412. RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.**

(a) \* \* \*

(b) **MAINTENANCE OF CUSTOMS REVENUE FUNCTIONS.**—

(1) **MAINTENANCE OF FUNCTIONS.**—Notwithstanding any other provision of this Act, the Secretary may not consolidate, discontinue, or diminish those functions described in para-

graph (2) performed by the [United States Customs Service] *United States Customs and Border Protection* (as established under section 411) on or after the effective date of this Act, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) FUNCTIONS.—The functions referred to in paragraph (1) are those functions performed by the following personnel, and associated support staff, of the [United States Customs Service] *United States Customs and Border Protection* on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

\* \* \* \* \*

**SEC. 413. PRESERVATION OF CUSTOMS FUNDS.**

Notwithstanding any other provision of this Act, no funds [available to the United States Customs Service or] collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 may be transferred for use by any other agency or office in the Department.

**SEC. 414. SEPARATE BUDGET REQUEST FOR CUSTOMS.**

The President shall include in each budget transmitted to Congress under section 1105 of title 31, United States Code, a separate budget request for the [United States Customs Service] *United States Customs and Border Protection*.

**SEC. 415. DEFINITION.**

In this subtitle, the term “customs revenue function” means the following:

(1) \* \* \*

\* \* \* \* \*

(7) Functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act, *and of United States Customs and Border Protection on the day before the effective date of the United States Customs and Border Protection Authorization Act*: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(8) Functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the United States Customs Service on the day before the effective date of this Act, *and of United States Customs and Border Protection on the day before the effective date of the United States Customs and Border Protection Authorization Act*: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of

International Affairs, and the Office of Training and Development.

**[SEC. 416. GAO REPORT TO CONGRESS.**

**[Not later than 3 months after the effective date of this Act, the Comptroller General of the United States shall submit to Congress a report that sets forth all trade functions performed by the executive branch, specifying each agency that performs each such function.]**

\* \* \* \* \*

**[SEC. 418. REPORTS TO CONGRESS.**

**[(a) CONTINUING REPORTS.—**The United States Customs Service shall, on and after the effective date of this Act, continue to submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate any report required, on the day before such the effective date of this Act, to be so submitted under any provision of law.

**[(b) REPORT ON CONFORMING AMENDMENTS.—**Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under section 412(a)(2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.]

**Subtitle C—Miscellaneous Provisions**

\* \* \* \* \*

**[SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY ADMINISTRATION AS A DISTINCT ENTITY.**

**[(a) IN GENERAL.—**Notwithstanding any other provision of this Act, and subject to subsection (b), the Transportation Security Administration shall be maintained as a distinct entity within the Department under the Under Secretary for Border Transportation and Security.

**[(b) SUNSET.—**Subsection (a) shall cease to apply 2 years after the date of enactment of this Act.]

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

*Notwithstanding any other provision of this Act, the Transportation Security Administration shall be maintained as a distinct entity within the Department.*

\* \* \* \* \*

**SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS.**

**[(a) IN GENERAL.—**The Office for Domestic Preparedness shall be within the Directorate of Border and Transportation Security.]

*(a) ESTABLISHMENT.—There is established in the Department an Office for Domestic Preparedness.*

(b) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President. [The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security.]

(c) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) \* \* \*

\* \* \* \* \*

(7) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments consistent with the mission and functions of the [Directorate] Department;

\* \* \* \* \*

### Subtitle D—Immigration Enforcement Functions

#### SEC. 441. [TRANSFER OF FUNCTIONS TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.] TRANSFER OF FUNCTIONS.

In accordance with title XV (relating to transition provisions), there shall be transferred from the Commissioner of Immigration and Naturalization to the [Under Secretary for Border and Transportation Security] Secretary all functions performed under the following programs, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

(1) \* \* \*

\* \* \* \* \*

#### [SEC. 444. EMPLOYEE DISCIPLINE.

[The Under Secretary for Border and Transportation Security may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Border Security who willfully deceives the Congress or agency leadership on any matter.]

#### SEC. 444. EMPLOYEE DISCIPLINE.

Notwithstanding any other provision of law, the Secretary may impose disciplinary action on any employee of United States Immigration and Customs Enforcement and United States Customs and Border Protection who willfully deceives Congress or agency leadership on any matter.

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## TITLE 5, UNITED STATES CODE

\* \* \* \* \*

## PART III—EMPLOYEES

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## SUBPART D—PAY AND ALLOWANCES

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## CHAPTER 53—PAY RATES AND SYSTEMS

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## SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

\* \* \* \* \*

## § 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

\* \* \* \* \*

**【Commissioner of Customs, Department of Homeland Security】** *Commissioner of United States Customs and Border Protection, Department of Homeland Security.*

\* \* \* \* \*

## COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
*Washington, DC, June 30, 2014.*

Hon. DAVE CAMP,  
*Chairman, Committee on Ways and Means,*  
*Washington, DC.*

DEAR CHAIRMAN CAMP: Thank you for your letter regarding H.R. 3846, the “United States Customs and Border Protection Authorization Act of 2014.” I acknowledge that by forgoing action on this legislation, your Committee is not diminishing or altering its jurisdiction.

I also concur with you that forgoing action on this bill does not in any way prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this bill or similar legislation in the future. I would support your effort to seek appointment of an appropriate number of conferees to any House-Senate conference involving this legislation.

I will include our letters in the report accompanying H.R. 3846 and in the *Congressional Record* during consideration of this meas-

ure on the floor. I appreciate your cooperation regarding this legislation, and I look forward to working with the Committee on Ways and Means as the bill moves through the legislative process.

Sincerely,

MICHAEL T. MCCAUL,  
*Chairman.*

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CONGRESS OF THE UNITED STATES, HOUSE OF REPRESENTATIVES, COMMITTEE ON WAYS AND MEANS,  
*Washington, DC, June 26, 2014.*

Hon. MICHAEL MCCAUL,  
*Chairman, Committee on Homeland Security,*  
*Washington, DC.*

DEAR CHAIRMAN MCCAUL: I am writing concerning H.R. 3846, the "United States Customs and Border Protection Authorization Act of 2014," which was favorably reported out of your Committee on June 11, 2014.

Given that numerous provisions in the bill are within the jurisdiction of the Committee on Ways and Means, I appreciate that you have addressed these provisions in response to the Committee's concerns. As a result, in order to expedite floor consideration of the bill, the Committee on Ways and Means will forego action on H.R. 3846. This is also being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 3846, and would ask that a copy of our exchange of letters on this matter be included in the *Congressional Record* during Floor consideration.

Sincerely,

DAVE CAMP,  
*Chairman.*

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CONGRESS OF THE UNITED STATES, HOUSE OF REPRESENTATIVES, COMMITTEE ON THE JUDICIARY,  
*Washington, DC, July 24, 2014.*

Hon. MICHAEL MCCAUL,  
*Chairman, Committee on Homeland Security,*  
*Washington, DC.*

DEAR CHAIRMAN MCCAUL, I am writing concerning H.R. 3846, the "United States Customs and Border Protection Authorization Act," which your Committee ordered reported on June 11, 2014.

As a result of your having consulted with the Committee on the provisions in our jurisdiction and in order to expedite the House's consideration of H.R. 3846, the Committee on the Judiciary will not assert a jurisdictional claim over this bill by seeking a sequential referral. However, this is conditional on our mutual understanding and agreement that doing so will in no way diminish or alter the jurisdiction of the Committee on the Judiciary with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation.

I would appreciate your response to this letter confirming this understanding, and would request that you include a copy of this

letter and your response in the Committee Report and in the *Congressional Record* during the floor consideration of this bill.

Sincerely,

BOB GOODLATTE,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
*Washington, DC, July 24, 2014.*

Hon. BOB GOODLATTE,  
*Chairman, Committee on the Judiciary,*  
*Washington, DC.*

DEAR CHAIRMAN GOODLATTE: Thank you for your letter regarding the Committee on the Judiciary's jurisdictional interest in H.R. 3846, the "United States Customs and Border Protection Authorization Act." I acknowledge that by foregoing sequential referral on this legislation, your Committee is not diminishing or altering its jurisdiction.

I also concur with you that forgoing action on this bill does not in any way prejudice the Committee on the Judiciary with respect to its jurisdictional prerogatives on this bill or similar legislation in the future, and I would support your effort to seek an appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation.

Finally, I will include your letter and this response in the *Congressional Record* during consideration of this bill on the House floor. I appreciate your cooperation regarding this legislation, and I look forward to working with the Committee on the Judiciary as H.R. 3846 moves through the legislative process.

Sincerely,

MICHAEL T. MCCAUL,  
*Chairman.*