

114TH CONGRESS
2D SESSION

S. 461

AN ACT

To provide for alternative financing arrangements for the provision of certain services and the construction and maintenance of infrastructure at land border ports of entry, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Cross-Border Trade
3 Enhancement Act of 2016”.

4 **SEC. 2. PUBLIC-PRIVATE PARTNERSHIPS.**

5 (a) IN GENERAL.—Title IV of the Homeland Secu-
6 rity Act of 2002 (6 U.S.C. 202 et seq.) is amended by
7 adding at the end the following:

8 **“Subtitle G—U.S. Customs and Bor-
9 der Protection Public Private
10 Partnerships**

11 **“SEC. 481. FEE AGREEMENTS FOR CERTAIN SERVICES AT
12 PORTS OF ENTRY.**

13 “(a) IN GENERAL.—Notwithstanding section
14 13031(e) of the Consolidated Omnibus Budget Reconcili-
15 ation Act of 1985 (19 U.S.C. 58c(e)) and section 451 of
16 the Tariff Act of 1930 (19 U.S.C. 1451), the Commis-
17 sioner of U.S. Customs and Border Protection, upon the
18 request of any entity, may enter into a fee agreement with
19 such entity under which—

20 “(1) U.S. Customs and Border Protection shall
21 provide services described in subsection (b) at a
22 United States port of entry or any other facility at
23 which U.S. Customs and Border Protection provides
24 or will provide such services;

25 “(2) such entity shall remit to U.S. Customs
26 and Border Protection a fee imposed under sub-

1 section (h) in an amount equal to the full costs that
2 are incurred or will be incurred in providing such
3 services; and

4 “(3) if space is provided by such entity, each
5 facility at which U.S. Customs and Border Protec-
6 tion services are performed shall be maintained and
7 equipped by such entity, without cost to the Federal
8 Government, in accordance with U.S. Customs and
9 Border Protection specifications.

10 “(b) SERVICES DESCRIBED.—The services described
11 in this subsection are any activities of any employee or
12 Office of Field Operations contractor of U.S. Customs and
13 Border Protection (except employees of the U.S. Border
14 Patrol, as established under section 411(e)) pertaining to,
15 or in support of, customs, agricultural processing, border
16 security, or immigration inspection-related matters at a
17 port of entry or any other facility at which U.S. Customs
18 and Border Protection provides or will provide services.

19 “(c) MODIFICATION OF PRIOR AGREEMENTS.—The
20 Commissioner of U.S. Customs and Border Protection, at
21 the request of an entity who has previously entered into
22 an agreement with U.S. Customs and Border Protection
23 for the reimbursement of fees in effect on the date of en-
24 actment of this section, may modify such agreement to
25 implement any provisions of this section.

1 “(d) LIMITATIONS.—

2 “(1) IMPACTS OF SERVICES.—The Commis-
3 sioner of U.S. Customs and Border Protection—

4 “(A) may enter into fee agreements under
5 this section only for services that—

6 “(i) will increase or enhance the oper-
7 ational capacity of U.S. Customs and Bor-
8 der Protection based on available staffing
9 and workload; and

10 “(ii) will not shift the cost of services
11 funded in any appropriations Act, or pro-
12 vided from any account in the Treasury of
13 the United States derived by the collection
14 of fees, to entities under this Act; and

15 “(B) may not enter into a fee agreement
16 under this section if such agreement would un-
17 duly and permanently impact services funded in
18 any appropriations Act, or provided from any
19 account in the Treasury of the United States,
20 derived by the collection of fees.

21 “(2) NUMBER.—There shall be no limit to the
22 number of fee agreements that the Commissioner of
23 U.S. Customs and Border Protection may enter into
24 under this section.

25 “(e) AIR PORTS OF ENTRY.—

1 “(1) FEE AGREEMENT.—Except as otherwise
2 provided in this subsection, a fee agreement for U.S.
3 Customs and Border Protection services at an air
4 port of entry may only provide for the payment of
5 overtime costs of U.S. Customs and Border Protec-
6 tion officers and salaries and expenses of U.S. Cus-
7 toms and Border Protection employees to support
8 U.S. Customs and Border Protection officers in per-
9 forming law enforcement missions.

10 “(2) SMALL AIRPORTS.—Notwithstanding para-
11 graph (1), U.S. Customs and Border Protection may
12 receive reimbursement in addition to overtime costs
13 if the fee agreement is for services at an air port of
14 entry that has fewer than 100,000 arriving inter-
15 national passengers annually.

16 “(3) COVERED SERVICES.—In addition to costs
17 described in paragraph (1), a fee agreement for U.S.
18 Customs and Border Protection services at an air
19 port of entry referred to in paragraph (2) may pro-
20 vide for the reimbursement of—

21 “(A) salaries and expenses of not more
22 that 5 full-time equivalent U.S. Customs and
23 Border Protection Officers beyond the number
24 of such officers assigned to the port of entry on

1 the date on which the fee agreement was
2 signed;

3 “(B) salaries and expenses of employees of
4 U.S. Customs and Border Protection, other
5 than the officers referred to in subparagraph
6 (A), to support U.S. Customs and Border Pro-
7 tection officers in performing law enforcement
8 functions; and

9 “(C) other costs incurred by U.S. Customs
10 and Border Protection relating to services de-
11 scribed in subparagraph (B), such as temporary
12 placement or permanent relocation of employ-
13 ees, including incentive pay for relocation, as
14 appropriate.

15 “(f) PORT OF ENTRY SIZE.—The Commissioner of
16 U.S. Customs and Border Protection shall ensure that
17 each fee agreement proposal is given equal consideration
18 regardless of the size of the port of entry.

19 “(g) DENIED APPLICATION.—

20 “(1) IN GENERAL.—If the Commissioner of
21 U.S. Customs and Border Protection denies a pro-
22 posal for a fee agreement under this section, the
23 Commissioner shall provide the entity submitting
24 such proposal with the reason for the denial un-
25 less—

1 “(A) the reason for the denial is law en-
2 forcement sensitive; or

3 “(B) withholding the reason for the denial
4 is in the national security interests of the
5 United States.

6 “(2) JUDICIAL REVIEW.—Decisions of the Com-
7 missioner of U.S. Customs and Border Protection
8 under paragraph (1) are in the discretion of the
9 Commissioner and are not subject to judicial review.

10 “(h) FEE.—

11 “(1) IN GENERAL.—The amount of the fee to
12 be charged under an agreement authorized under
13 subsection (a) shall be paid by each entity request-
14 ing U.S. Customs and Border Protection services,
15 and shall be for the full cost of providing such serv-
16 ices, including the salaries and expenses of employ-
17 ees and contractors of U.S. Customs and Border
18 Protection, to provide such services and other costs
19 incurred by U.S. Customs and Border Protection re-
20 lating to such services, such as temporary placement
21 or permanent relocation of such employees and con-
22 tractors.

23 “(2) TIMING.—The Commissioner of U.S. Cus-
24 toms and Border Protection may require that the fee
25 referred to in paragraph (1) be paid by each entity

1 that has entered into a fee agreement under sub-
2 section (a) with U.S. Customs and Border Protec-
3 tion in advance of the performance of U.S. Customs
4 and Border Protection services.

5 “(3) OVERSIGHT OF FEES.—The Commissioner
6 of U.S. Customs and Border Protection shall develop
7 a process to oversee the services for which fees are
8 charged pursuant to an agreement under subsection
9 (a), including—

10 “(A) a determination and report on the
11 full costs of providing such services, and a proc-
12 ess for increasing such fees, as necessary;

13 “(B) the establishment of a periodic remit-
14 tance schedule to replenish appropriations, ac-
15 counts, or funds, as necessary; and

16 “(C) the identification of costs paid by
17 such fees.

18 “(i) DEPOSIT OF FUNDS.—

19 “(1) ACCOUNT.—Funds collected pursuant to
20 any agreement entered into pursuant to subsection
21 (a)—

22 “(A) shall be deposited as offsetting collec-
23 tions;

24 “(B) shall remain available until expended
25 without fiscal year limitation; and

“(C) shall be credited to the applicable appropriation, account, or fund for the amount paid out of such appropriation, account, or fund for any expenses incurred or to be incurred by U.S. Customs and Border Protection in providing U.S. Customs and Border Protection services under any such agreement and any other costs incurred or to be incurred by U.S. Customs and Border Protection relating to such services.

“(2) RETURN OF UNUSED FUNDS.—The Commissioner of U.S. Customs and Border Protection shall return any unused funds collected and deposited into the account described in paragraph (1) if a fee agreement entered into pursuant to subsection (a) is terminated for any reason or the terms of such fee agreement change by mutual agreement to cause a reduction of U.S. Customs and Border Protections services. No interest shall be owed upon the return of any such unused funds.

“(j) TERMINATION.—

“(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall terminate the services provided pursuant to a fee agreement entered into under subsection (a) with an entity that,

1 after receiving notice from the Commissioner that a
2 fee under subsection (h) is due, fails to pay such fee
3 in a timely manner. If such services are terminated,
4 all costs incurred by U.S. Customs and Border Pro-
5 tection that have not been paid shall become imme-
6 diately due and payable. Interest on unpaid fees
7 shall accrue based on the rate and amount estab-
8 lished under sections 6621 and 6622 of the Internal
9 Revenue Code of 1986.

10 “(2) PENALTY.—Any entity that, after notice
11 and demand for payment of any fee under sub-
12 section (h), fails to pay such fee in a timely manner
13 shall be liable for a penalty or liquidated damage
14 equal to two times the amount of such fee. Any such
15 amount collected under this paragraph shall be de-
16 posited into the appropriate account specified under
17 subsection (i) and shall be available as described in
18 such subsection.

19 “(3) TERMINATION BY THE ENTITY.—Any enti-
20 ty who has previously entered into an agreement
21 with U.S. Customs and Border Protection for the re-
22 imbursement of fees in effect on the date of enact-
23 ment of this section, or under the provisions of this
24 section, may request that such agreement be amend-
25 ed to provide for termination upon advance notice,

1 length, and terms that are negotiated between such
2 entity and U.S. Customs and Border Protection.

3 “(k) ANNUAL REPORT.—The Commissioner of U.S.
4 Customs and Border Protection shall—

5 “(1) submit an annual report identifying the
6 activities undertaken and the agreements entered
7 into pursuant to this section to—

8 “(A) the Committee on Appropriations of
9 the Senate;

10 “(B) the Committee on Finance of the
11 Senate;

12 “(C) the Committee on Homeland Security
13 and Governmental Affairs of the Senate;

14 “(D) the Committee on the Judiciary of
15 the Senate;

16 “(E) the Committee on Appropriations of
17 the House of Representatives;

18 “(F) the Committee on Homeland Security
19 of the House of Representatives;

20 “(G) the Committee on the Judiciary of
21 the House of Representatives; and

22 “(H) the Committee on Ways and Means
23 of the House of Representatives; and

24 “(2) not later than 15 days before entering into
25 a fee agreement, notify the members of Congress

1 that represent the State or Congressional District in
2 which the affected port of entry or facility is located
3 of such agreement.

4 “(l) RULE OF CONSTRUCTION.—Nothing in this sec-
5 tion may be construed as imposing on U.S. Customs and
6 Border Protection any responsibilities, duties, or authori-
7 ties relating to real property.

8 **“SEC. 482. PORT OF ENTRY DONATION AUTHORITY.**

9 “(a) PERSONAL PROPERTY DONATION AUTHOR-
10 ITY.—

11 “(1) IN GENERAL.—The Commissioner of U.S.
12 Customs and Border Protection, in consultation with
13 the Administrator of General Services, may enter
14 into an agreement with any entity to accept a dona-
15 tion of personal property, money, or nonpersonal
16 services for the uses described in paragraph (3) only
17 with respect to the following locations at which U.S.
18 Customs and Border Protection performs or will be
19 performing inspection services:

20 “(A) A new or existing sea or air port of
21 entry.

22 “(B) An existing Federal Government-
23 owned land port of entry.

24 “(C) A new Federal Government-owned
25 land port of entry if—

1 “(i) the fair market value of the dona-
2 tion is \$50,000,000 or less; and

3 “(ii) the fair market value, including
4 any personal and real property donations
5 in total, of such port of entry when com-
6 pleted, is \$50,000,000 or less.

7 “(2) LIMITATION ON MONETARY DONATIONS.—
8 Any monetary donation accepted pursuant to this
9 subsection may not be used to pay the salaries of
10 U.S. Customs and Border Protection employees per-
11 forming inspection services.

12 “(3) USES.—Donations accepted pursuant to
13 this subsection may be used for activities of the Of-
14 fice of Field Operations set forth in subparagraphs
15 (A) through (F) of section 411(g)(3), which are re-
16 lated to a new or existing sea or air port of entry
17 or a new or existing Federal Government-owned land
18 port of entry described in paragraph (1), including
19 expenses related to—

20 “(A) furniture, fixtures, equipment, or
21 technology, including the installation or deploy-
22 ment of such items; and

23 “(B) the operation and maintenance of
24 such furniture, fixtures, equipment, or tech-
25 nology.

1 “(b) REAL PROPERTY DONATION AUTHORITY.—

2 “(1) IN GENERAL.—Subject to paragraph (3),
3 the Commissioner of U.S. Customs and Border Pro-
4 tection, and the Administrator of the General Serv-
5 ices Administration, as applicable, may enter into an
6 agreement with any entity to accept a donation of
7 real property or money for uses described in para-
8 graph (2) only with respect to the following locations
9 at which U.S. Customs and Border Protection per-
10 forms or will be performing inspection services:

11 “(A) A new or existing sea or air port of
12 entry.

13 “(B) An existing Federal Government-
14 owned land port of entry.

15 “(C) A new Federal Government-owned
16 land port of entry if—

17 “(i) the fair market value of the dona-
18 tion is \$50,000,000 or less; and

19 “(ii) the fair market value, including
20 any personal and real property donations
21 in total, of such port of entry when com-
22 pleted, is \$50,000,000 or less.

23 “(2) USE.—Donations accepted pursuant to
24 this subsection may be used for activities of the Of-
25 fice of Field Operations set forth in section 411(g),

1 which are related to the construction, alteration, op-
 2 eration, or maintenance of a new or existing sea or
 3 air port of entry or a new or existing a Federal Gov-
 4 ernment-owned land port of entry described in para-
 5 graph (1), including expenses related to—

6 “(A) land acquisition, design, construction,
 7 repair, or alteration; and

8 “(B) operation and maintenance of such
 9 port of entry facility.

10 “(3) LIMITATION ON REAL PROPERTY DONA-
 11 TIONS.—A donation of real property under this sub-
 12 section at an existing land port of entry owned by
 13 the General Services Administration may only be ac-
 14 cepted by the Administrator of General Services.

15 “(4) SUNSET.—

16 “(A) IN GENERAL.—The authority to enter
 17 into an agreement under this subsection shall
 18 terminate on the date that is four years after
 19 the date of the enactment of this section.

20 “(B) RULE OF CONSTRUCTION.—The ter-
 21 mination date referred to in subparagraph (A)
 22 shall not apply to carrying out the terms of an
 23 agreement under this subsection if such agree-
 24 ment is entered into before such termination
 25 date.

1 “(c) GENERAL PROVISIONS.—

2 “(1) DURATION.—An agreement entered into
3 under subsection (a) or (b) (and, in the case of such
4 subsection (b), in accordance with paragraph (4) of
5 such subsection) may last as long as required to
6 meet the terms of such agreement.

7 “(2) CRITERIA.—In carrying out an agreement
8 entered into under subsection (a) or (b), the Com-
9 missioner of U.S. Customs and Border Protection,
10 in consultation with the Administrator of General
11 Services, shall establish criteria regarding—

12 “(A) the selection and evaluation of do-
13 nors;

14 “(B) the identification of roles and respon-
15 sibilities between U.S. Customs and Border
16 Protection, the General Services Administra-
17 tion, and donors;

18 “(C) the identification, allocation, and
19 management of explicit and implicit risks of
20 partnering between the Federal Government
21 and donors;

22 “(D) decision-making and dispute resolu-
23 tion processes; and

24 “(E) processes for U.S. Customs and Bor-
25 der Protection, and the General Services Ad-

1 ministration, as applicable, to terminate agree-
2 ments if selected donors are not meeting the
3 terms of any such agreement, including the se-
4 curity standards established by U.S. Customs
5 and Border Protection.

6 “(3) EVALUATION PROCEDURES.—

7 “(A) IN GENERAL.—The Commissioner of
8 U.S. Customs and Border Protection, in con-
9 sultation with the Administrator of General
10 Services, as applicable, shall—

11 “(i) establish criteria for evaluating a
12 proposal to enter into an agreement under
13 subsection (a) or (b); and

14 “(ii) make such criteria publicly avail-
15 able.

16 “(B) CONSIDERATIONS.—Criteria estab-
17 lished pursuant to subparagraph (A) shall con-
18 sider—

19 “(i) the impact of a proposal referred
20 to in such subparagraph on the land, sea,
21 or air port of entry at issue and other
22 ports of entry or similar facilities or other
23 infrastructure near the location of the pro-
24 posed donation;

1 “(ii) such proposal’s potential to in-
2 crease trade and travel efficiency through
3 added capacity;

4 “(iii) such proposal’s potential to en-
5 hance the security of the port of entry at
6 issue;

7 “(iv) the impact of the proposal on re-
8 ducing wait times at that port of entry or
9 facility and other ports of entry on the
10 same border;

11 “(v) for a donation under subsection
12 (b)—

13 “(I) whether such donation satis-
14 fies the requirements of such pro-
15 posal, or whether additional real prop-
16 erty would be required; and

17 “(II) how such donation was ac-
18 quired, including if eminent domain
19 was used;

20 “(vi) the funding available to complete
21 the intended use of such donation;

22 “(vii) the costs of maintaining and op-
23 erating such donation;

1 “(viii) the impact of such proposal on
2 U.S. Customs and Border Protection staff-
3 ing requirements; and

4 “(ix) other factors that the Commis-
5 sioner or Administrator determines to be
6 relevant.

7 “(C) DETERMINATION AND NOTIFICA-
8 TION.—

9 “(i) INCOMPLETE PROPOSALS.—

10 “(I) IN GENERAL.—Not later
11 than 60 days after receiving the pro-
12 posals for a donation agreement from
13 an entity, the Commissioner of U.S.
14 Customs and Border Protection shall
15 notify such entity as to whether such
16 proposal is complete or incomplete.

17 “(II) RESUBMISSION.—If the
18 Commissioner of U.S. Customs and
19 Border Protection determines that a
20 proposal is incomplete, the Commis-
21 sioner shall—

22 “(aa) notify the appropriate
23 entity and provide such entity
24 with a description of all informa-
25 tion or material that is needed to

1 complete review of the proposal;
2 and

3 “(bb) allow the entity to re-
4 submit the proposal with addi-
5 tional information and material
6 described in item (aa) to com-
7 plete the proposal.

8 “(ii) COMPLETE PROPOSALS.—Not
9 later than 180 days after receiving a com-
10 pleted proposal to enter into an agreement
11 under subsection (a) or (b), the Commis-
12 sioner of U.S. Customs and Border Protec-
13 tion, with the concurrence of the Adminis-
14 trator of General Services, as applicable,
15 shall—

16 “(I) determine whether to ap-
17 prove or deny such proposal; and

18 “(II) notify the entity that sub-
19 mitted such proposal of such deter-
20 mination.

21 “(4) SUPPLEMENTAL FUNDING.—Except as re-
22 quired under section 3307 of title 40, United States
23 Code, real property donations to the Administrator
24 of General Services made pursuant to subsection (a)
25 and (b) at a GSA-owned land port of entry may be

1 used in addition to any other funding for such pur-
2 pose, including appropriated funds, property, or
3 services.

4 “(5) RETURN OF DONATIONS.—The Commis-
5 sioner of U.S. Customs and Border Protection, or
6 the Administrator of General Services, as applicable,
7 may return any donation made pursuant to sub-
8 section (a) or (b). No interest shall be owed to the
9 donor with respect to any donation provided under
10 such subsections that is returned pursuant to this
11 subsection.

12 “(6) PROHIBITION ON CERTAIN FUNDING.—

13 “(A) IN GENERAL.—Except as provided in
14 subsections (a) and (b) regarding the accept-
15 ance of donations, the Commissioner of U.S.
16 Customs and Border Protection and the Admin-
17 istrator of General Services, as applicable, may
18 not, with respect to an agreement entered into
19 under either of such subsections, obligate or ex-
20 pend amounts in excess of amounts that have
21 been appropriated pursuant to any appropria-
22 tions Act for purposes specified in either of
23 such subsections or otherwise made available
24 for any of such purposes.

1 “(B) CERTIFICATION REQUIREMENT.—Be-
2 fore accepting any donations pursuant to an
3 agreement under subsection (a) or (b), the
4 Commissioner of U.S. Customs and Border
5 Protection shall certify to the congressional
6 committees set forth in paragraph (7) that the
7 donation will not be used for the construction
8 of a detention facility or a border fence or wall.

9 “(7) ANNUAL REPORTS.—The Commissioner of
10 U.S. Customs and Border Protection, in collabora-
11 tion with the Administrator of General Services, as
12 applicable, shall submit an annual report identifying
13 the activities undertaken and agreements entered
14 into pursuant to subsections (a) and (b) to—

15 “(A) the Committee on Appropriations of
16 the Senate;

17 “(B) the Committee on Environment and
18 Public Works of the Senate;

19 “(C) the Committee on Finance of the
20 Senate;

21 “(D) the Committee on Homeland Security
22 and Governmental Affairs of the Senate;

23 “(E) the Committee on the Judiciary of
24 the Senate;

1 “(F) the Committee on Appropriations of
2 the House of Representatives;

3 “(G) the Committee on Homeland Security
4 of the House of Representatives;

5 “(H) the Committee on the Judiciary of
6 the House of Representatives;

7 “(I) the Committee on Transportation and
8 Infrastructure of the House of Representatives;
9 and

10 “(J) the Committee on Ways and Means of
11 the House of Representatives.

12 “(d) GAO REPORT.—The Comptroller General of the
13 United States shall submit an annual report to the con-
14 gressional committees referred to in subsection (c)(7) that
15 evaluates—

16 “(1) fee agreements entered into pursuant to
17 section 481;

18 “(2) donation agreements entered into pursuant
19 to subsections (a) and (b); and

20 “(3) the fees and donations received by U.S.
21 Customs and Border Protection pursuant to such
22 agreements.

23 “(e) JUDICIAL REVIEW.—Decisions of the Commis-
24 sioner of U.S. Customs and Border Protection and the Ad-
25 ministrator of the General Services Administration under

1 this section regarding the acceptance of real or personal
 2 property are in the discretion of the Commissioner and
 3 the Administrator and are not subject to judicial review.

4 “(f) RULE OF CONSTRUCTION.—Except as otherwise
 5 provided in this section, nothing in this section may be
 6 construed as affecting in any manner the responsibilities,
 7 duties, or authorities of U.S. Customs and Border Protec-
 8 tion or the General Services Administration.

9 **“SEC. 483. CURRENT AND PROPOSED AGREEMENTS.**

10 “Nothing in this subtitle or in section 4 of the Cross-
 11 Border Trade Enhancement Act of 2016 may be con-
 12 strued as affecting—

13 “(1) any agreement entered into pursuant to
 14 section 560 of division D of the Consolidated and
 15 Further Continuing Appropriations Act, 2013 (Pub-
 16 lic Law 113–6) or section 559 of title V of division
 17 F of the Consolidated Appropriations Act, 2014 (6
 18 U.S.C. 211 note; Public Law 113–76), as in exist-
 19 ence on the day before the date of the enactment of
 20 this subtitle, and any such agreement shall continue
 21 to have full force and effect on and after such date;
 22 or

23 “(2) a proposal accepted for consideration by
 24 U.S. Customs and Border Protection pursuant to

1 such section 559, as in existence on the day before
2 such date of enactment.

3 **“SEC. 484. DEFINITIONS.**

4 “In this subtitle:

5 “(1) DONOR.—The term ‘donor’ means any en-
6 tity that is proposing to make a donation under this
7 Act.

8 “(2) ENTITY.—The term ‘entity’ means any—

9 “(A) person;

10 “(B) partnership, corporation, trust, es-
11 tate, cooperative, association, or any other orga-
12 nized group of persons;

13 “(C) Federal, State or local government
14 (including any subdivision, agency or instru-
15 mentality thereof); or

16 “(D) any other private or governmental en-
17 tity.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 in section 1(b) of the Homeland Security Act of 2002 is
20 amended by adding at the end of the list of items relating
21 to title IV the following:

“Subtitle G—U.S. Customs and Border Protection Public Private
Partnerships

“Sec. 481. Fee agreements for certain services at ports of entry.

“Sec. 482. Port of entry donation authority.

“Sec. 483. Current and proposed agreements.

“Sec. 484. Definitions.”.

1 **SEC. 3. MODIFICATION OF EXISTING REPORTS TO CON-**
 2 **GRESS.**

3 Section 907(b) of the Trade Facilitation and Trade
 4 Enforcement Act of 2015 (Public Law 114–125) is
 5 amended—

6 (1) in paragraph (3), by striking “or” at the
 7 end;

8 (2) in paragraph (4), by striking the period at
 9 the end and inserting “; or”; and

10 (3) by adding at the end the following:

11 “(5) the program for entering into reimbursable
 12 fee agreements with U.S. Customs and Border Pro-
 13 tection established under section 481 of the Home-
 14 land Security Act of 2002.”.

15 **SEC. 4. REPEALS.**

16 (a) **CONTRACT AUTHORITY.**—Section 560 of division
 17 D of the Consolidated and Further Continuing Appropria-
 18 tions Act, 2013 (Public Law 113–6) is repealed.

19 (b) **PARTNERSHIP PILOT PROGRAM.**—Section 559 of
 20 division F of the Consolidated Appropriations Act, 2014
 21 (6 U.S.C. 211 note; Public Law 113–76) is repealed.

22 **SEC. 5. WAIVER OF POLYGRAPH EXAMINATION REQUIRE-**
 23 **MENT FOR CERTAIN LAW ENFORCEMENT AP-**
 24 **PLICANTS.**

25 Section 3 of the Anti-Border Corruption Act of 2010
 26 (Public Law 111–376; 6 U.S.C. 221) is amended—

1 (1) in the matter preceding paragraph (1), by
2 striking “The Secretary” and inserting the fol-
3 lowing:

4 “(a) IN GENERAL.—The Secretary”;

5 (2) in subsection (a)(1), as redesignated, by in-
6 serting “(except as provided in subsection (b))” after
7 “Border Protection”; and

8 (3) by adding at the end the following:

9 “(b) WAIVER.—The Commissioner of U.S. Customs
10 and Border Protection may waive the polygraph examina-
11 tion requirement under subsection (a)(1) for any applicant
12 who—

13 “(1) is deemed suitable for employment;

14 “(2) holds a current, active Top Secret/Sen-
15 sitive Compartmented Information Clearance;

16 “(3) has a current Single Scope Background
17 Investigation;

18 “(4) was not granted any waivers to obtain his
19 or her clearance; and

1 “(5) is a veteran (as defined in section 2108 of
2 title 5, United States Code).”.

Passed the Senate November 29, 2016.

Attest:

Secretary.

114TH CONGRESS
2^D SESSION

S. 461

AN ACT

To provide for alternative financing arrangements for the provision of certain services and the construction and maintenance of infrastructure at land border ports of entry, and for other purposes.