

117TH CONGRESS
1ST SESSION

H. R. 3028

To establish the Land Port of Entry Modernization Trust Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2021

Mr. CUELLAR introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Homeland Security, Transportation and Infrastructure, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the Land Port of Entry Modernization Trust Fund, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “LPOE Modernization
5 Trust Fund Act”.

1 **SEC. 2. LAND PORT OF ENTRY MODERNIZATION TRUST**
2 **FUND.**

3 (a) CREATION OF TRUST FUND.—There is estab-
4 lished in the Treasury of the United States a trust fund
5 to be known as the “Land Port of Entry Modernization
6 Trust Fund” (referred to in this section as the “Trust
7 Fund”), consisting of amounts transferred to the Trust
8 Fund under subsection (b) and any amounts that may be
9 credited to the Trust Fund under subsection (c).

10 (b) TRANSFERS TO TRUST FUND.—The Secretary of
11 the Treasury shall transfer to the Trust Fund, from the
12 general fund of the Treasury, for fiscal year 2021 and
13 each fiscal year thereafter, an amount equivalent to the
14 amount received into the general fund during that fiscal
15 year attributable to—

16 (1) twenty-five percent of all fees collected pur-
17 suant to section 13031(b)(9)(A)(ii)(I) of the Consoli-
18 dated Omnibus Budget Reconciliation Act of 1985
19 (19 U.S.C. 58c(b)(9)(A)(ii)(I));

20 (2) \$1,600,000,000 from the Merchandise Proc-
21 essing Fees collected pursuant to section
22 13031(a)(9)(B)(i) of the Consolidated Omnibus
23 Budget Reconciliation Act of 1985 (19 U.S.C.
24 58c(a)(9)(B)(i)); and

25 (3) twenty-five percent of all surcharges re-
26 quired under subsection (h)(3) related to—

1 (A) immigrant user fee established under
2 section 286(m) of the Immigration and Nation-
3 ality Act (8 U.S.C. 22 1356(m));

4 (B) land border inspection fees established
5 under section 286(q) of such Act (8 U.S.C.
6 1356(q)); and

7 (C) the machine-readable visa fee estab-
8 lished under section 103 of the Enhanced Bor-
9 der Security and Visa Entry Reform Act of
10 2002 (8 U.S.C. 1713).

11 (c) INVESTMENT OF AMOUNTS.—

12 (1) IN GENERAL.—The Secretary of the Treas-
13 ury shall invest such portion of the Trust Fund as
14 is not required to meet current withdrawals in inter-
15 est-bearing obligations of the United States or in ob-
16 ligations guaranteed as to both principal and inter-
17 est by the United States.

18 (2) INTEREST AND PROCEEDS.—The interest
19 on, and the proceeds from the sale or redemption of,
20 any obligations held in the Trust Fund shall be
21 credited to and form a part of the Trust Fund.

22 (d) USE OF TRUST FUND.—

23 (1) IN GENERAL.—Amounts in the Trust Fund
24 shall be available to the Secretary, without further

1 appropriation, for the purposes described in para-
2 graph 2.

3 (2) PURPOSES.—The purposes described in this
4 paragraph are the following:

5 (A) The construction of new United States
6 ports of entry.

7 (B) The expansion and improvement of ex-
8 isting United States ports of entry infrastruc-
9 ture to accommodate high volumes of commer-
10 cial, vehicle, and pedestrian traffic.

11 (C) The procurement of technology and
12 supporting infrastructure for United States
13 ports of entry, and related cargo and commer-
14 cial inspection facilities, to facilitate the inspec-
15 tion and processing of commercial, vehicle, and
16 pedestrian traffic.

17 (D) The facilitation of major repairs and
18 alterations of United States land ports of entry.

19 (E) Hiring CBP officers, CBP agricultural
20 specialists, and CBP professional staff to sup-
21 port the trade and revenue mission of CBP.

22 (3) CONSULTATION.—

23 (A) IN GENERAL.—The purposes described
24 in paragraph 2 shall be carried out by the Sec-
25 retary, in consultation with the Administrator,

1 the Chief of Engineers and Commanding Gen-
2 eral of the United States Army Corps of Engi-
3 neers, State, local, and tribal governments, or-
4 ganizations that represent the interests of com-
5 merce, and relevant Federal Advisory Com-
6 mittee Act committees.

7 (B) CONSIDERATION OF TRANSPORTATION
8 PLANS.—The Secretary, in consultation with
9 the Board established pursuant to subsection
10 (g)(1), shall consider regional bi-national trans-
11 portation master plans to carry out the pur-
12 poses described in paragraph 2.

13 (e) LIMITATIONS.—

14 (1) EXPENDING FUNDS.—The Secretary may
15 only expend funds made available from the Trust
16 Fund to carry out the purposes described in sub-
17 section (d) if—

18 (A) the Secretary submitted the annual re-
19 port to the appropriate congressional commit-
20 tees and the Board required under subsection
21 (f)(1); and

22 (B) thirty days elapse.

23 (2) NO OFFSET AMOUNT.—The Secretary, in
24 coordination with the Secretary of the Treasury and
25 the Secretary of State, shall not seek to increase fees

1 as a measure to offset amounts deposited into the
2 Trust Fund.

3 (f) REPORTS.—

4 (1) REPORT TO CONGRESS.—Not later than
5 March 10 of each year, the Secretary, in coordina-
6 tion with the Administrator, shall submit to the ap-
7 propriate congressional committees and the Board a
8 report on the status of the implementation of this
9 section that includes a description of—

10 (A) how, and to which recipients, amounts
11 have been expended from the Trust Fund in the
12 immediate previous fiscal year;

13 (B) how, and to which recipients, amounts
14 are planned to be expended from the Trust
15 Fund in the upcoming fiscal year;

16 (C) the amount remaining in the Trust
17 Fund; and

18 (D) the expected dates of completion for
19 purposes described in subsection (d).

20 (2) SUPPLEMENTAL REPORT TO CONGRESS.—

21 The Secretary may expend funds made available by
22 the Trust Fund to carry out the purposes described
23 in subsection (d) not listed in the report required
24 under paragraph (1) if—

1 (A) the Secretary submits to the appro-
2 priate congressional committees and the Board
3 a supplemental report that includes information
4 relating to such expenditure; and

5 (B) such report is submitted to the appro-
6 priate congressional committees and the Board
7 60 days prior to such expenditure of funds.

8 (g) BORDER PORT OF ENTRY MODERNIZATION
9 OVERSIGHT BOARD.—

10 (1) ESTABLISHMENT.—The Secretary shall es-
11 tablish an oversight board to be known as the “Bor-
12 der Port of Entry Modernization Oversight Board”
13 (referred to in this section as the “Board”).

14 (2) DUTIES OF BOARD.—The Board shall—

15 (A) advise the Secretary with respect to
16 the prioritization of purposes described in sub-
17 section (d); and

18 (B) review the expenditure of funds from
19 the Trust Fund.

20 (3) MEMBERSHIP.—

21 (A) IN GENERAL.—The Board shall be
22 composed of 9 members, as follows:

23 (i) The Secretary of Homeland Secu-
24 rity or the Secretary’s designee.

1 (ii) The Administrator of General
2 Services or the Secretary's designee.

3 (iii) The Secretary of Commerce or
4 the Secretary's designee.

5 (iv) The Secretary of State or the
6 Secretary's designee.

7 (v) The Secretary of Transportation
8 or the Secretary's designee.

9 (vi) A representative of the United
10 States trucking industry, appointed by the
11 Secretary of Homeland Security.

12 (vii) A representative of the United
13 States land ports of entry or rail sectors
14 located on the southwest land border, ap-
15 pointed by the Secretary of Homeland Se-
16 curity.

17 (viii) A representative of the United
18 States land ports of entry or rail sectors
19 located on the northern land border, ap-
20 pointed by the Secretary of Homeland Se-
21 curity.

22 (ix) A representative of a State or
23 local transportation authority, appointed
24 by the Secretary of Homeland Security.

1 (B) TIMING OF APPOINTMENTS.—Each
2 member appointed under clauses (vi) and (vii)
3 of subparagraph (A) shall be made not later
4 than 3 months after the date of the enactment
5 of this Act.

6 (C) TERMS.—

7 (i) IN GENERAL.—Each member ap-
8 pointed under clauses (vi), (vii), and (viii)
9 of subparagraph (A) shall serve for a term
10 of 2 years.

11 (ii) VACANCIES.—Each member ap-
12 pointed to fill a vacancy of a member ap-
13 pointed under clauses (vi), (vii), and (viii)
14 of subparagraph (A), occurring before the
15 expiration of the term for which the mem-
16 ber's predecessor was appointed, shall be
17 appointed only for the remainder of that
18 term. A member may serve after the expi-
19 ration of that term until a successor has
20 been appointed.

21 (D) CHAIRPERSON.—The Chairperson of
22 the Board shall be the Secretary of Homeland
23 Security.

24 (4) MEETING.—

1 (A) INITIAL MEETING.—The Board shall
2 hold its initial meeting not later than 30 days
3 after the final appointment of members under
4 clauses (vi), (vii), and (viii) of subparagraph
5 (A).

6 (B) MEETING.—The Board shall meet not
7 fewer than 1 time each year at the call of the
8 Chairperson.

9 (5) QUORUM.—Four members of the Board
10 shall constitute a quorum.

11 (6) COMPENSATION.—

12 (A) PROHIBITION OF COMPENSATION.—
13 Except as provided in paragraph (2), members
14 of the Board may not receive additional pay, al-
15 lowances, or benefits by reason of their service
16 on the Board.

17 (B) TRAVEL EXPENSES.—Each member
18 shall receive travel expenses, including per diem
19 in lieu of subsistence, in accordance with appli-
20 cable provisions under subchapter I of chapter
21 57 of title 5, United States Code.

22 (7) REPORT.—Not later January 31, 2022, and
23 annually thereafter, the Board shall submit to the
24 Secretary a report containing a detailed statement
25 relating to—

1 (A) the prioritization of activities described
2 in subsection (d); and

3 (B) recommendations with respect to the
4 expenditure of funds from the Trust Fund.

5 (8) NONAPPLICABILITY OF FACAs.—Notwith-
6 standing section 14 of the Federal Advisory Com-
7 mittee Act (5 U.S.C. App.), the Board is authorized
8 for a period commensurate with the LPOE Mod-
9 ernization Trust Fund authorization.

10 (h) CUSTOMS FEES.—

11 (1) BORDER PORT OF ENTRY MAINTENANCE
12 FEES.—Section 13031(f)(1) of the Consolidated Om-
13 nibus Budget Reconciliation Act of 1985 (19 U.S.C.
14 58c(f)(1)) is amended—

15 (A) in subparagraph (A), by striking “,
16 and” and inserting a semicolon;

17 (B) in subparagraph (B), by striking the
18 period at the end and inserting “; and”; and

19 (C) by adding at the end the following new
20 subparagraph:

21 “(C) \$1,600,000,000 of such fees collected shall
22 be transferred to the Border Port of Entry Mod-
23 ernization Trust Fund established pursuant to the
24 LPOE Modernization Trust Fund Act.”.

1 (2) FEES COLLECTED FOR EXPRESS CONSIGN-
2 MENT OPERATIONS.—Section 13031(b)(9) of the
3 Consolidated Omnibus Budget Reconciliation Act of
4 1985 (19 U.S.C. 58c(b)(9)) is amended—

5 (A) in subparagraph (B)(iii)(III), to read
6 as follows:

7 “(III) The remaining 25 percent of the
8 amount of payments received under subpara-
9 graph (A)(ii) and clause (ii) of this subpara-
10 graph shall be transferred into the Border Port
11 of Entry Modernization Trust Fund and made
12 available for the purposes of that account with-
13 out fiscal year limitation;”;

14 (B) in subparagraph (C), by adding at the
15 end the following:

16 “(iii) The terms ‘individual air waybill’ and ‘bill
17 of lading’ mean a document or other tracking mech-
18 anism representing an individual shipment, that is
19 not a consolidated or master document—

20 “(I) having its own unique bill number,
21 unique tracking number, or other unique identi-
22 fier;

23 “(II) assigned to a single ultimate con-
24 signee; and

1 “(III) with respect to which no lower
2 tracking unit exists.”.

3 (3) SURCHARGE OF FEES COLLECTED.—Not-
4 withstanding any other provision of law—

5 (A) the Secretary shall charge a surcharge
6 of—

7 (i) \$40 on the immigrant user fee es-
8 tablished under section 286(m) of the Im-
9 migration and Naturalization Act (8
10 U.S.C. 1356(m)); and

11 (ii) \$6 on the land border inspection
12 fee established under section 286(q) of
13 such Act (8 U.S.C. 1356(q)); and

14 (B) the Secretary of State shall charge a
15 surcharge of \$20 on the machine-readable visa
16 fee established under section 103 of the En-
17 hanced Border Security and Visa Entry Reform
18 Act of 2002 (8 U.S.C. 1713).

19 (4) INCREASES TO CERTAIN FEES TO ACCOUNT
20 FOR INFLATION.—Section 32201(b) of the FAST
21 Act (19 U.S.C. 58c note) is amended by inserting “,
22 except for fees collected pursuant to section
23 13031(b)(9)(A)(ii)(I) of the Consolidated Omnibus
24 Budget Reconciliation Act of 1985” after “appro-
25 priations Acts”.

1 (i) DONATION ACCEPTANCE PROGRAM.—Section
2 482(b)(4)(A) of the Homeland Security Act of 2002 (6
3 U.S.C. 301(b)(4)(A)) is amended by striking “4 years”
4 and all that follows through “section.” and inserting “5
5 years after December 16, 2021.”.

6 (j) DEFINITIONS.—In this section:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of General Serv-
9 ices.

10 (2) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES.—The term “appropriate congressional com-
12 mittees” means—

13 (A) the Committee on Homeland Security,
14 the Committee on Appropriations, the Com-
15 mittee on Transportation and Infrastructure,
16 and the Committee on Ways and Means of the
17 House of Representatives; and

18 (B) the Committee on Homeland Security
19 and Governmental Affairs, the Committee on
20 Appropriations, the Committee on Commerce,
21 Science, and Transportation, and the Com-
22 mittee on Finance of the Senate.

23 (3) CBP.—The term “CBP” means U.S. Cus-
24 toms and Border Protection.

1 (4) INDIAN TRIBE.—The term “Indian tribe”
2 has the meaning given such term in section 4(e) of
3 the Indian Self-Determination Act (25 U.S.C.
4 5304(e)).

5 (5) SECRETARY.—Except as otherwise specified
6 in this section, the term “Secretary” means the Sec-
7 retary of Homeland Security.

8 (6) TRIBAL GOVERNMENT.—The term “tribal
9 government” means the government of an Indian
10 tribe.

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