

114TH CONGRESS
1ST SESSION

S. 2430

To permit the recovery of costs incurred by U.S. Customs and Border Protection for preclearance operations activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2015

Ms. CANTWELL (for herself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To permit the recovery of costs incurred by U.S. Customs and Border Protection for preclearance operations activities, 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 “Travel Facilitation and
5 Safety Act of 2015”.

6 **SEC. 2. RECOVERY OF INITIAL PRECLEARANCE OPERATION**
7 **COSTS.**

8 (a) **COST SHARING AGREEMENTS WITH RELEVANT**
9 **AIRPORT AUTHORITIES.**—The Commissioner of U.S. Cus-

1 toms and Border Protection may enter into a cost sharing
2 agreement with airport authorities in foreign countries at
3 which preclearance operations are to be established or
4 maintained if—

5 (1) an executive agreement to establish or
6 maintain such preclearance operations pursuant to
7 the authorities under section 629 of the Tariff Act
8 of 1930 (19 U.S.C. 1629) and section 103(a)(7) of
9 the Immigration and Nationality Act (8 U.S.C.
10 1103(a)(7)) has been signed, but has not yet entered
11 into force; and

12 (2) U.S. Customs and Border Protection has
13 incurred, or expects to incur, initial preclearance op-
14 erations costs in order to establish or maintain
15 preclearance operations under the agreement de-
16 scribed in paragraph (1).

17 (b) CONTENTS OF COST SHARING AGREEMENTS.—

18 (1) IN GENERAL.—Notwithstanding section
19 13031(e) of the Consolidated Omnibus Budget Rec-
20 onciliation Act of 1985 (19 U.S.C. 58c(e)) and sec-
21 tion 286(g) of the Immigration and Nationality Act
22 (8 U.S.C. 1356(g)), any cost sharing agreement au-
23 thorized under subsection (a) may provide for the
24 airport authority's payment to U.S. Customs and

1 Border Protection of its initial preclearance oper-
2 ations costs.

3 (2) TIMING OF PAYMENTS.—The airport
4 authority's payment to U.S. Customs and Border
5 Protection for its initial preclearance operations
6 costs may be made in advance of the incurrence of
7 the costs or on a reimbursable basis.

8 (c) ACCOUNT.—

9 (1) IN GENERAL.—All amounts collected pursu-
10 ant to any cost sharing agreement authorized under
11 subsection (a)—

12 (A) shall be credited as offsetting collec-
13 tions to the currently applicable appropriation,
14 account, or fund of U.S. Customs and Border
15 Protection;

16 (B) shall remain available, until expended,
17 for the purposes for which such appropriation,
18 account, or fund is authorized to be used; and

19 (C) may be collected and shall be available
20 only to the extent provided in appropriations
21 Acts.

22 (2) RETURN OF UNUSED FUNDS.—Any ad-
23 vances or reimbursements not used by U.S. Customs
24 and Border Protection may be returned to the rel-
25 evant airport authority.

1 (3) RULE OF CONSTRUCTION.—Nothing in this
2 subsection may be construed to preclude the use of
3 appropriated funds, from sources other than the
4 payments collected under this Act, to pay initial
5 preclearance operation costs.

6 (d) INITIAL PRECLEARANCE OPERATIONS COSTS DE-
7 FINED.—

8 (1) IN GENERAL.—In this section, the term
9 “initial preclearance operations costs” means the
10 costs incurred, or expected to be incurred, by U.S.
11 Customs and Border Protection to establish or
12 maintain preclearance operations at an airport in a
13 foreign country, including costs relating to—

14 (A) hiring, training, and equipping new of-
15 ficers of U.S. Customs and Border Protection
16 who will be stationed at United States domestic
17 ports of entry or other facilities of U.S. Cus-
18 toms and Border Protection to backfill such of-
19 ficers to be stationed at an airport in a foreign
20 country to conduct preclearance operations; and

21 (B) visits to the airport authority con-
22 ducted by personnel of U.S. Customs and Bor-
23 der Protection necessary to prepare for the es-
24 tablishment or maintenance of preclearance op-
25 erations at such airport, including the com-

1 pensation, travel expenses, and allowances pay-
2 able to such personnel attributable to such vis-
3 its.

4 (2) EXCEPTION.—The costs described in para-
5 graph (1)(A) shall not include the salaries and bene-
6 fits of new officers of U.S. Customs and Border Pro-
7 tection once such officers are permanently stationed
8 at a domestic United States port of entry or other
9 domestic facility of U.S. Customs and Border Pro-
10 tection after being hired, trained, and equipped.

11 **SEC. 3. COLLECTION AND DISPOSITION OF FUNDS COL-**
12 **LECTED FOR IMMIGRATION INSPECTION**
13 **SERVICES AND PRECLEARANCE ACTIVITIES.**

14 (a) IMMIGRATION AND NATIONALITY ACT.—Section
15 286(i) of the Immigration and Nationality Act (8 U.S.C.
16 1356(i)) is amended by striking the last sentence and in-
17 serting “Reimbursements under this subsection may be
18 collected in advance of the provision of such immigration
19 inspection services. Notwithstanding subsection (h)(1)(B),
20 and only to the extent provided in appropriations Acts,
21 any amounts collected under this subsection shall be cred-
22 ited as offsetting collections to the currently applicable ap-
23 propriation, account, or fund of U.S. Customs and Border
24 Protection, remain available until expended, and be avail-

1 able for the purposes for which such appropriation, ac-
 2 count, or fund is authorized to be used.”.

3 (b) FARM SECURITY AND RURAL INVESTMENT ACT
 4 OF 2002.—Section 10412(b) of the Farm Security and
 5 Rural Investment Act of 2002 (7 U.S.C. 8311(b)) is
 6 amended to read as follows:

7 “(b) FUNDS COLLECTED FOR PRECLEARANCE.—
 8 Funds collected for preclearance activities—

9 “(1) may be collected in advance of the provi-
 10 sion of such activities;

11 “(2) shall be credited as offsetting collections to
 12 the currently applicable appropriation, account, or
 13 fund of U.S. Customs and Border Protection;

14 “(3) shall remain available until expended;

15 “(4) shall be available for the purposes for
 16 which such appropriation, account, or fund is au-
 17 thorized to be used; and

18 “(5) may be collected and shall be available
 19 only to the extent provided in appropriations Acts.”.

20 **SEC. 4. EXPANSION OF PRECLEARANCE AT FOREIGN AIR-**
 21 **PORTS.**

22 (a) FINDINGS.—Congress makes the following find-
 23 ings:

24 (1) Preclearance operations provide the ulti-
 25 mate ability for the United States to address poten-

1 tial threats at the earliest possible moment and prior
2 to departure, through the forward deployment of of-
3 ficers of U.S. Customs and Border Protection to last
4 points of departure in a foreign country.

5 (2) With inspections and examination oper-
6 ations of U.S. Customs and Border Protection lo-
7 cated in a foreign country, preclearance provides the
8 capability to interdict, address, and work with host-
9 country law enforcement in furtherance of both avia-
10 tion security and border security in the United
11 States.

12 (3) Under current preclearance operations, offi-
13 cers of the U.S. Customs and Border Protection col-
14 lect biometrics in the same way that is currently
15 done upon arrival in the United States, in accord-
16 ance with current regulation, and as part of the rou-
17 tine entry process from certain aliens who are not
18 citizens of the United States prior to boarding
19 flights destined to the United States.

20 (4) Preclearance operations provide the best
21 means for existing and future biometric security ca-
22 pabilities beyond the United States. Support for
23 preclearance expansion will greatly increase border
24 and aviation security in the United States and for-
25 eign countries.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that each country designated as a visa waiver pro-
3 gram country under section 217 of the Immigration and
4 Nationality Act (8 U.S.C. 1187) should seek to participate
5 in the preclearance program with the United States, to
6 jointly address security concerns through additional ex-
7 change of information and to improve joint ability to se-
8 cure the that visa waiver program while maintaining the
9 original intent of the program.

10 **SEC. 5. BIOMETRIC DEMONSTRATION PROGRAMS AT**
11 **PRECLEARANCE LOCATIONS.**

12 (a) AUTHORITY.—The Secretary of Homeland Secu-
13 rity is authorized to select preclearance locations, includ-
14 ing preclearance expansion locations, and enter into an
15 agreement with a foreign government or airport to conduct
16 a collaborative biometric demonstration program at such
17 a location to test emerging biometric technologies. The
18 scope of the demonstration program may encompass trav-
19 elers other than those utilizing preclearance at such a loca-
20 tion, provided that such program includes means for infor-
21 mation sharing with U.S. Customs and Border Protection
22 operations.

23 (b) INTERNATIONAL COOPERATION AND COORDINA-
24 TION.—Section 233(a) of the Security and Accountability

1 For Every Port Act of 2006 (6 U.S.C. 983(a)) is amend-
2 ed—

3 (1) in paragraph (1), by striking the period at
4 the end and inserting “, and to establish and main-
5 tain, in partnership with foreign governments, dem-
6 onstration programs to test emerging biometric tech-
7 nologies at foreign airports at which the Secretary
8 has established preclearance operations.”; and

9 (2) in paragraph (2)—

10 (A) in subparagraph (A), by striking
11 “and” at the end;

12 (B) in subparagraph (B), by striking the
13 period at the end and inserting a semicolon and
14 “and”; and

15 (C) by adding the following:

16 “(C) lease, loan, provide, or otherwise as-
17 sist in the deployment of biometric technologies
18 at foreign airports at which the Secretary has
19 established preclearance operations under such
20 terms and conditions as the Secretary pre-
21 scribes, including nonreimbursable loans or the
22 transfer of ownership of such technologies, and
23 provide the necessary training and technical as-
24 sistance related to the biometric demonstration
25 programs referred to in paragraph (1).”.

1 **SEC. 6. VISA WAIVER PROGRAM REQUIREMENTS.**

2 (a) INFORMATION SHARING PROCESS.—The Director
3 of National Intelligence shall—

4 (1) develop a process to share information de-
5 rived from the Terrorist Identities Datamart Envi-
6 ronment (TIDE) database and the Terrorist Screen-
7 ing Database (TSDB), including biometric and bio-
8 graphic information, with countries participating in
9 the visa waiver program established under section
10 217(a) of the Immigration and Nationality Act (8
11 U.S.C. 1187(a)); and

12 (2) not later than 1 year after the date of the
13 enactment of this Act, certify to Congress that such
14 process may be utilized by such countries.

15 (b) CONTINUING QUALIFICATION AND DESIGNATION
16 TERMINATIONS.—Subsection (c) of section 217 of the Im-
17 migration and Nationality Act (8 U.S.C. 1187) is amend-
18 ed—

19 (1) in paragraph (1), by striking “Attorney
20 General,” and inserting “Secretary of Homeland Se-
21 curity,”; and

22 (2) in paragraph (2)—

23 (A) in subparagraph (C)(iii)—

24 (i) by striking “and the Committee on
25 International Relations” and inserting “,

1 the Committee on Foreign Affairs, and the
2 Committee on Homeland Security”; and

3 (ii) by striking “and the Committee
4 on Foreign Relations” and inserting “, the
5 Committee on Foreign Relations, and the
6 Committee on Homeland Security and
7 Governmental Affairs”; and

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

9 “(G) BORDER SECURITY.—The govern-
10 ment of the country utilizes the process devel-
11 oped by the Director of National Intelligence
12 under section 6(a) of the Travel Facilitation
13 and Safety Act of 2015 to utilize information
14 derived from the Terrorist Identities Datamart
15 Environment (TIDE) database and the Ter-
16 rorist Screening Database (TSDB) for border
17 security and immigration purposes, including
18 the screening of aliens seeking asylum or ref-
19 ugee status in that country.”.

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