

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.**

**S. 461**

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.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. CORNYN

Viz:

1       Strike all after the enacting clause and insert the fol-  
2       lowing:

3       **SECTION 1. SHORT TITLE.**

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

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

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

1 **“Subtitle G—U.S. Customs and Bor-**  
2 **der Protection Public Private**  
3 **Partnerships**

4 **“SEC. 481. FEE AGREEMENTS FOR CERTAIN SERVICES AT**  
5 **PORTS OF ENTRY.**

6 “(a) IN GENERAL.—Notwithstanding section  
7 13031(e) of the Consolidated Omnibus Budget Reconcili-  
8 ation Act of 1985 (19 U.S.C. 58c(e)) and section 451 of  
9 the Tariff Act of 1930 (19 U.S.C. 1451), the Commis-  
10 sioner of U.S. Customs and Border Protection, upon the  
11 request of any entity, may enter into a fee agreement with  
12 such entity under which—

13 “(1) U.S. Customs and Border Protection shall  
14 provide services described in subsection (b) at a  
15 United States port of entry or any other facility at  
16 which U.S. Customs and Border Protection provides  
17 or will provide such services;

18 “(2) such entity shall remit to U.S. Customs  
19 and Border Protection a fee imposed under sub-  
20 section (i) in an amount equal to the full costs that  
21 are incurred or will be incurred in providing such  
22 services; and

23 “(3) if space is provided by such entity, each  
24 facility at which U.S. Customs and Border Protec-  
25 tion services are performed shall be maintained and

1 equipped by such entity, without cost to the Federal  
2 Government, in accordance with U.S. Customs and  
3 Border Protection specifications.

4 “(b) SERVICES DESCRIBED.—The services described  
5 in this section are any activities of any employee or con-  
6 tractor of U.S. Customs and Border Protection pertaining  
7 to, or in support of, customs, agricultural processing, bor-  
8 der security, or immigration inspection-related matters at  
9 a port of entry or any other facility at which U.S. Customs  
10 and Border Protection provides or will provide services.

11 “(c) MODIFICATION OF PRIOR AGREEMENTS.—The  
12 Commissioner of U.S. Customs and Border Protection, at  
13 the request of an entity who has previously entered into  
14 an agreement with U.S. Customs and Border Protection  
15 for the reimbursement of fees in effect on the date of en-  
16 actment of this section, may modify such agreement to  
17 implement any provisions of this section.

18 “(d) LIMITATIONS.—

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

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

23 “(i) will increase or enhance the oper-  
24 ational capacity of U.S. Customs and Bor-

1           der Protection based on available staffing  
2           and workload; and

3           “(ii) will not shift the cost of services  
4           funded in any appropriations Act, or pro-  
5           vided from any account in the Treasury of  
6           the United States derived by the collection  
7           of fees, to entities under this Act; and

8           “(B) may not enter into a fee agreement  
9           under this section if such agreement would un-  
10          duly and permanently impact services funded in  
11          any appropriations Act, or provided from any  
12          account in the Treasury of the United States,  
13          derived by the collection of fees.

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

18          “(e) AIR PORTS OF ENTRY.—

19                 “(1) FEE AGREEMENT.—Except as otherwise  
20                 provided in this subsection, a fee agreement for U.S.  
21                 Customs and Border Protection services at an air  
22                 port of entry may only provide for the payment of  
23                 overtime costs of U.S. Customs and Border Protec-  
24                 tion officers and salaries and expenses of U.S. Cus-  
25                 toms and Border Protection employees to support

1 U.S. Customs and Border Protection officers in per-  
2 forming law enforcement missions.

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

9 “(3) COVERED SERVICES.—In addition to over-  
10 time costs described in paragraph (1), a fee agree-  
11 ment for U.S. Customs and Border Protection serv-  
12 ices at an air port of entry referred to in paragraph  
13 (2) may provide for the reimbursement of—

14 “(A) salaries and expenses of not more  
15 that 5 full-time equivalent U.S. Customs and  
16 Border Protection Officers beyond the number  
17 of such officers assigned to the port of entry on  
18 the date on which the fee agreement was  
19 signed;

20 “(B) salaries and expenses of employees of  
21 U.S. Customs and Border Protection, other  
22 than the officers referred to in subparagraph  
23 (A), to support U.S. Customs and Border Pro-  
24 tection officers in performing law enforcement  
25 functions; and

1           “(C) other costs incurred by U.S. Customs  
2           and Border Protection relating to services de-  
3           scribed in subparagraph (B), such as temporary  
4           placement or permanent relocation of employ-  
5           ees, including incentive pay for relocation, as  
6           appropriate.

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

11          “(g) DENIED APPLICATION.—If the Commissioner of  
12 U.S. Customs and Border Protection denies a proposal for  
13 a fee agreement under this section, the Commissioner shall  
14 provide the entity submitting such proposal with the rea-  
15 son for the denial unless—

16           “(1) the reason for the denial is law enforce-  
17           ment sensitive; or

18           “(2) withholding the reason for the denial is in  
19           the national security interests of the United States.

20          “(h) JUDICIAL REVIEW.—Decisions of the Commis-  
21 sioner of U.S. Customs and Border Protection under this  
22 section are in the discretion of the Commissioner and are  
23 not subject to judicial review.

24          “(i) FEE.—

1           “(1) IN GENERAL.—The amount of the fee to  
2           be charged under an agreement authorized under  
3           subsection (a) shall be paid by each entity request-  
4           ing U.S. Customs and Border Protection services,  
5           and shall be for the full cost of providing such serv-  
6           ices, including the salaries and expenses of employ-  
7           ees and contractors of U.S. Customs and Border  
8           Protection, to provide such services and other costs  
9           incurred by U.S. Customs and Border Protection re-  
10          lating to such services, such as temporary placement  
11          or permanent relocation of such employees and con-  
12          tractors.

13           “(2) TIMING.—The Commissioner of U.S. Cus-  
14          toms and Border Protection may require that the fee  
15          referred to in paragraph (1) be paid by each entity  
16          that has entered into a fee agreement under sub-  
17          section (a) with U.S. Customs and Border Protec-  
18          tion in advance of the performance of U.S. Customs  
19          and Border Protection services.

20           “(3) OVERSIGHT OF FEES.—The Commissioner  
21          of U.S. Customs and Border Protection shall develop  
22          a process to oversee the services for which fees are  
23          charged pursuant to an agreement under subsection  
24          (a), including—

1           “(A) a determination and report on the  
2 full costs of providing such services, and a pro-  
3 cess for increasing such fees, as necessary;

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

7           “(C) the identification of costs paid by  
8 such fees.

9           “(j) DEPOSIT OF FUNDS.—

10           “(1) ACCOUNT.—Funds collected pursuant to  
11 any agreement entered into pursuant to subsection  
12 (a)—

13           “(A) shall be deposited as offsetting collec-  
14 tions;

15           “(B) shall remain available until expended  
16 without fiscal year limitation; and

17           “(C) shall be credited to the applicable ap-  
18 propriation, account, or fund for the amount  
19 paid out of such appropriation, account, or fund  
20 for any expenses incurred or to be incurred by  
21 U.S. Customs and Border Protection in pro-  
22 viding U.S. Customs and Border Protection  
23 services under any such agreement and any  
24 other costs incurred or to be incurred by U.S.

1 Customs and Border Protection relating to such  
2 services.

3 “(2) RETURN OF UNUSED FUNDS.—The Com-  
4 missioner of U.S. Customs and Border Protection  
5 shall return any unused funds collected and depos-  
6 ited into the account described in paragraph (1) if  
7 a fee agreement entered into pursuant to subsection  
8 (a) is terminated for any reason or the terms of  
9 such fee agreement change by mutual agreement to  
10 cause a reduction of U.S. Customs and Border Pro-  
11 tections services. No interest shall be owed upon the  
12 return of any such unused funds.

13 “(k) TERMINATION.—

14 “(1) IN GENERAL.—The Commissioner of U.S.  
15 Customs and Border Protection shall terminate the  
16 services provided pursuant to a fee agreement en-  
17 tered into under subsection (a) with an entity that,  
18 after receiving notice from the Commissioner that a  
19 fee under subsection (i) is due, fails to pay such fee  
20 in a timely manner. If such services are terminated,  
21 all costs incurred by U.S. Customs and Border Pro-  
22 tection that have not been paid shall become imme-  
23 diately due and payable. Interest on unpaid fees  
24 shall accrue based on the rate and amount estab-

1 lished under sections 6621 and 6622 of the Internal  
2 Revenue Code of 1986.

3 “(2) PENALTY.—Any entity that, after notice  
4 and demand for payment of any fee under sub-  
5 section (i), fails to pay such fee in a timely manner  
6 shall be liable for a penalty or liquidated damage  
7 equal to two times the amount of such fee. Any such  
8 amount collected under this paragraph shall be de-  
9 posited into the appropriate account specified under  
10 subsection (j) and shall be available as described in  
11 such subsection.

12 “(3) TERMINATION BY THE ENTITY.—Any enti-  
13 ty who has previously entered into an agreement  
14 with U.S. Customs and Border Protection for the re-  
15 imbursement of fees in effect on the date of enact-  
16 ment of this section, or under the provisions of this  
17 section, may request that such agreement be amend-  
18 ed to provide for termination upon advance notice,  
19 length, and terms that are negotiated between such  
20 entity and U.S. Customs and Border Protection.

21 “(l) ANNUAL REPORT.—The Commissioner of U.S.  
22 Customs and Border Protection shall—

23 “(1) submit an annual report identifying the  
24 activities undertaken and the agreements entered  
25 into pursuant to this section to—

1           “(A) the Committee on Appropriations of  
2 the Senate;

3           “(B) the Committee on Finance of the  
4 Senate;

5           “(C) the Committee on Homeland Security  
6 and Governmental Affairs of the Senate;

7           “(D) the Committee on Appropriations of  
8 the House of Representatives;

9           “(E) the Committee on Homeland Security  
10 of the House of Representatives; and

11           “(F) the Committee on Ways and Means  
12 of the House of Representatives; and

13           “(2) not later than 15 days before entering into  
14 a fee agreement, notify the members of Congress  
15 that represent the State or Congressional District in  
16 which the affected port of entry or facility is located  
17 of such agreement.

18           “(m) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
19 tion may be construed as imposing on U.S. Customs and  
20 Border Protection any responsibilities, duties, or authori-  
21 ties relating to real property.

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

23           “(a) **PERSONAL PROPERTY DONATION AUTHOR-**  
24 **ITY.**—

1           “(1) IN GENERAL.—The Commissioner of U.S.  
2 Customs and Border Protection, in consultation with  
3 the Administrator of General Services, may enter  
4 into an agreement with any entity to accept a dona-  
5 tion of personal property, money, or nonpersonal  
6 services for the uses described in paragraph (3) only  
7 with respect to the following locations at which U.S.  
8 Customs and Border Protection performs or will be  
9 performing inspection services:

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

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

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

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

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

22           “(2) LIMITATION ON MONETARY DONATIONS.—  
23 Any monetary donation accepted pursuant to this  
24 subsection may not be used to pay the salaries of

1 U.S. Customs and Border Protection employees per-  
2 forming inspection services.

3 “(3) USES.—Donations accepted pursuant to  
4 this subsection may be used for activities related to  
5 a new or existing sea or air port of entry or a new  
6 or existing Federal Government-owned land port of  
7 entry described in paragraph (1), including expenses  
8 related to—

9 “(A) furniture, fixtures, equipment, or  
10 technology, including the installation or deploy-  
11 ment of such items; and

12 “(B) the operation and maintenance of  
13 such furniture, fixtures, equipment, or tech-  
14 nology.

15 “(b) REAL PROPERTY DONATION AUTHORITY.—

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

1           “(A) A new or existing sea or air port of  
2 entry.

3           “(B) An existing Federal Government-  
4 owned land port of entry.

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

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

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

13           “(2) USE.—Donations accepted pursuant to  
14 this subsection may be used for activities related to  
15 the construction, alteration, operation, or mainte-  
16 nance of a new or existing sea or air port of entry  
17 or a new or existing a Federal Government-owned  
18 land port of entry described in paragraph (1), in-  
19 cluding expenses related to—

20                   “(A) land acquisition, design, construction,  
21 repair, or alteration; and

22                   “(B) operation and maintenance of such  
23 port of entry facility.

24           “(3) LIMITATION ON REAL PROPERTY DONA-  
25 TIONS.—A donation of real property under this sub-

1 section at an existing land port of entry owned by  
2 the General Services Administration may only be ac-  
3 cepted by the Administrator of General Services.

4 “(4) SUNSET.—

5 “(A) IN GENERAL.—The authority to enter  
6 into an agreement under this subsection shall  
7 terminate on the date that is six years after the  
8 date of the enactment of this section.

9 “(B) RULE OF CONSTRUCTION.—The ter-  
10 mination date referred to in subparagraph (A)  
11 shall not apply to carrying out the terms of an  
12 agreement under this subsection if such agree-  
13 ment is entered into before such termination  
14 date.

15 “(c) GENERAL PROVISIONS.—

16 “(1) DURATION.—An agreement entered into  
17 under subsection (a) or (b) (and, in the case of such  
18 subsection (b), in accordance with paragraph (4) of  
19 such subsection) may last as long as required to  
20 meet the terms of such agreement.

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

1           “(A) the selection and evaluation of do-  
2           nors;

3           “(B) the identification of roles and respon-  
4           sibilities between U.S. Customs and Border  
5           Protection, the General Services Administra-  
6           tion, and donors;

7           “(C) the identification, allocation, and  
8           management of explicit and implicit risks of  
9           partnering between the Federal Government  
10          and donors;

11          “(D) decision-making and dispute resolu-  
12          tion processes; and

13          “(E) processes for U.S. Customs and Bor-  
14          der Protection, and the General Services Ad-  
15          ministration, as applicable, to terminate agree-  
16          ments if selected donors are not meeting the  
17          terms of any such agreement, including the se-  
18          curity standards established by U.S. Customs  
19          and Border Protection.

20          “(3) EVALUATION PROCEDURES.—

21                 “(A) IN GENERAL.—The Commissioner of  
22                 U.S. Customs and Border Protection, in con-  
23                 sultation with the Administrator of General  
24                 Services, as applicable, shall—

1 “(i) establish criteria for evaluating a  
2 proposal to enter into an agreement under  
3 subsection (a) or (b); and

4 “(ii) make such criteria publicly avail-  
5 able.

6 “(B) CONSIDERATIONS.—Criteria estab-  
7 lished pursuant to subparagraph (A) shall con-  
8 sider—

9 “(i) the impact of a proposal referred  
10 to in such subparagraph on the land, sea,  
11 or air port of entry at issue and other  
12 ports of entry or similar facilities or other  
13 infrastructure near the location of the pro-  
14 posed donation;

15 “(ii) such proposal’s potential to in-  
16 crease trade and travel efficiency through  
17 added capacity;

18 “(iii) such proposal’s potential to en-  
19 hance the security of the port of entry at  
20 issue;

21 “(iv) the impact of the proposal on re-  
22 ducing wait times at that port of entry or  
23 facility and other ports of entry on the  
24 same border;

1 “(v) for a donation under subsection

2 (b)—

3 “(I) whether such donation satis-  
4 fies the requirements of such pro-  
5 posal, or whether additional real prop-  
6 erty would be required; and

7 “(II) how such donation was ac-  
8 quired, including if eminent domain  
9 was used;

10 “(vi) the funding available to complete  
11 the intended use of such donation;

12 “(vii) the costs of maintaining and op-  
13 erating such donation;

14 “(viii) the impact of such proposal on  
15 U.S. Customs and Border Protection staff-  
16 ing requirements; and

17 “(ix) other factors that the Commis-  
18 sioner or Administrator determines to be  
19 relevant.

20 “(C) DETERMINATION AND NOTIFICA-  
21 TION.—

22 “(i) INCOMPLETE PROPOSALS.—

23 “(I) IN GENERAL.—Not later  
24 than 60 days after receiving the pro-  
25 posals for a donation agreement from

1 an entity, the Commissioner of U.S.  
2 Customs and Border Protection shall  
3 notify such entity as to whether such  
4 proposal is complete or incomplete.

5 “(II) RESUBMISSION.—If the  
6 Commissioner of U.S. Customs and  
7 Border Protection determines that a  
8 proposal is incomplete, the Commis-  
9 sioner shall—

10 “(aa) notify the appropriate  
11 entity and provide such entity  
12 with a description of all informa-  
13 tion or material that is needed to  
14 complete review of the proposal;  
15 and

16 “(bb) allow the entity to re-  
17 submit the proposal with addi-  
18 tional information and material  
19 described in item (aa) to com-  
20 plete the proposal.

21 “(ii) COMPLETE PROPOSALS.—Not  
22 later than 180 days after receiving a com-  
23 pleted proposal to enter into an agreement  
24 under subsection (a) or (b), the Commis-  
25 sioner of U.S. Customs and Border Protec-

1                   tion, with the concurrence of the Adminis-  
2                   trator of General Services, as applicable,  
3                   shall—

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

6                               “(II) notify the entity that sub-  
7                               mitted such proposal of such deter-  
8                               mination.

9                   “(4) SUPPLEMENTAL FUNDING.—Except as re-  
10                   quired under section 3307 of title 40, United States  
11                   Code, real property donations to the Administrator  
12                   of General Services made pursuant to subsection (a)  
13                   and (b) at a GSA-owned land port of entry may be  
14                   used in addition to any other funding for such pur-  
15                   pose, including appropriated funds, property, or  
16                   services.

17                   “(5) RETURN OF DONATIONS.—The Commis-  
18                   sioner of U.S. Customs and Border Protection, or  
19                   the Administrator of General Services, as applicable,  
20                   may return any donation made pursuant to sub-  
21                   section (a) or (b). No interest shall be owed to the  
22                   donor with respect to any donation provided under  
23                   such subsections that is returned pursuant to this  
24                   subsection.

1           “(6) PROHIBITION ON CERTAIN FUNDING.—EX-  
2           cept as provided in subsections (a) and (b) regarding  
3           the acceptance of donations, the Commissioner of  
4           U.S. Customs and Border Protection and the Ad-  
5           ministrator of General Services, as applicable, may  
6           not, with respect to an agreement entered into under  
7           either of such subsections, obligate or expend  
8           amounts in excess of amounts that have been appro-  
9           priated pursuant to any appropriations Act for pur-  
10          poses specified in either of such subsections or oth-  
11          erwise made available for any of such purposes.

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

18                 “(A) the Committee on Appropriations of  
19                 the Senate;

20                 “(B) the Committee on Environment and  
21                 Public Works of the Senate;

22                 “(C) the Committee on Finance of the  
23                 Senate;

24                 “(D) the Committee on Homeland Security  
25                 and Governmental Affairs of the Senate;

1           “(E) the Committee on the Judiciary of  
2           the Senate;

3           “(F) the Committee on Appropriations of  
4           the House of Representatives;

5           “(G) the Committee on Homeland Security  
6           of the House of Representatives;

7           “(H) the Committee on the Judiciary of  
8           the House of Representatives;

9           “(I) the Committee on Transportation and  
10          Infrastructure of the House of Representatives;  
11          and

12          “(J) the Committee on Ways and Means of  
13          the House of Representatives.

14          “(d) JUDICIAL REVIEW.—Decisions of the Commis-  
15          sioner of U.S. Customs and Border Protection and the Ad-  
16          ministrators of the General Services Administration under  
17          this section regarding the acceptance of real or personal  
18          property are in the discretion of the Commissioner and  
19          the Administrator and are not subject to judicial review.

20          “(e) RULE OF CONSTRUCTION.—Except as otherwise  
21          provided in this section, nothing in this section may be  
22          construed as affecting in any manner the responsibilities,  
23          duties, or authorities of U.S. Customs and Border Protec-  
24          tion or the General Services Administration.

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

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

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

15 “(2) a proposal accepted for consideration by  
16 U.S. Customs and Border Protection pursuant to  
17 such section 559, as in existence on the day before  
18 such date of enactment.

19 **“SEC. 484. DEFINITIONS.**

20 “In this subtitle:

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

24 “(2) ENTITY.—The term ‘entity’ means any—  
25 “(A) person;

1           “(B) partnership, corporation, trust, es-  
 2           tate, cooperative, association, or any other orga-  
 3           nized group of persons;

4           “(C) Federal, State or local government  
 5           (including any subdivision, agency or instru-  
 6           mentality thereof); or

7           “(D) any other private or governmental en-  
 8           tity.”.

9           (b) CLERICAL AMENDMENT.—The table of contents  
 10 in section 1(b) of the Homeland Security Act of 2002 is  
 11 amended by adding at the end of the list of items relating  
 12 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.”.

13 **SEC. 3. MODIFICATION OF EXISTING REPORTS TO CON-**  
 14 **GRESS.**

15           Section 907(b) of the Trade Facilitation and Trade  
 16 Enforcement Act of 2015 (Public Law 114–125) is  
 17 amended—

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

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

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



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

5                   “(1) is deemed suitable for employment;

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

8                   “(3) has a current Single Scope Background  
9 Investigation;

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

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