

118TH CONGRESS  
1ST SESSION

# H. R. 3135

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2023

Mr. CUELLAR (for himself, Mr. TONY GONZALES of Texas, Ms. ESCOBAR, Mr. VASQUEZ, and Mr. VICENTE GONZALEZ of Texas) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Homeland Security, Agriculture, and the Judiciary, 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

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## 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) DEPOSITS INTO TRUST FUND.—There shall be  
11 deposited into the Trust Fund as discretionary offsetting  
12 collections, for fiscal year 2024 and each fiscal year there-  
13 after—

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

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

23 (3) twenty-five percent of all surcharges col-  
24 lected under subsection (h)(3) of this Act related  
25 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 obligations 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 the Trust Fund as discretionary offset-  
22 ting collections, and shall form a part of the Trust  
23 Fund.

24 (d) USE OF TRUST FUND.—

1           (1) IN GENERAL.—Amounts in the Trust Fund,  
2 including amounts described in subsection (c)(2),  
3 shall be made available to the Secretary for the pur-  
4 poses described in paragraph (2) only to the extent  
5 and in the amounts provided in advance in appro-  
6 priations Acts.

7           (2) PURPOSES.—Subject to paragraph (1),  
8 amounts in the Trust Fund shall be made available  
9 for the following purposes:

10           (A) The construction of new United States  
11 ports of entry.

12           (B) The expansion and improvement of ex-  
13 isting United States ports of entry infrastruc-  
14 ture to accommodate high volumes of commer-  
15 cial, vehicle, and pedestrian traffic.

16           (C) The procurement of technology and  
17 supporting infrastructure for United States  
18 ports of entry, and related cargo and commer-  
19 cial inspection facilities, to facilitate the inspec-  
20 tion and processing of commercial, vehicle, and  
21 pedestrian traffic.

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

24           (E) Hiring U.S. Customs and Border Pro-  
25 tection officers, agricultural specialists, and

1 professional staff to support the trade and rev-  
2 enue mission of such agency.

3 (3) CONSULTATION.—

4 (A) IN GENERAL.—The purposes described  
5 in paragraph (2) shall be carried out by the  
6 Secretary, in consultation with the Adminis-  
7 trator of General Services, the Chief of Engi-  
8 neers and Commanding General of the United  
9 States Army Corps of Engineers, State, local,  
10 and Tribal governments, organizations that rep-  
11 resent the interests of commerce, and relevant  
12 advisory committees under chapter 10 of title 5,  
13 United States Code.

14 (B) CONSIDERATION OF TRANSPORTATION  
15 PLANS.—The Secretary, in consultation with  
16 the Board established pursuant to subsection  
17 (g)(1), shall consider regional bi-national trans-  
18 portation master plans to carry out the pur-  
19 poses described in paragraph (2).

20 (e) LIMITATIONS.—The Secretary, in coordination  
21 with the Secretary of the Treasury and the Secretary of  
22 State, shall not seek to increase fees as a measure to offset  
23 amounts deposited into the Trust Fund.

24 (f) REPORTS.—Not later than March 10 of each year,  
25 the Secretary, in coordination with the Administrator of

1 General Services, shall submit to the Committees on Ap-  
2 propriations of the House of Representatives and the Sen-  
3 ate and the Board a report on the status of the implemen-  
4 tation of this section that includes a description of—

5 (1) how, and to which recipients, amounts have  
6 been obligated and expended from the Trust Fund  
7 in the immediate previous fiscal year;

8 (2) how, and to which recipients, amounts are  
9 planned to be obligated or expended from the Trust  
10 Fund in the upcoming fiscal year;

11 (3) the amount remaining in the Trust Fund;  
12 and

13 (4) the expected dates of completion for pur-  
14 poses described in subsection (d).

15 (g) LAND PORT OF ENTRY MODERNIZATION OVER-  
16 SIGHT BOARD.—

17 (1) ESTABLISHMENT.—The Secretary shall es-  
18 tablish an oversight board to be known as the “Land  
19 Port of Entry Modernization Oversight Board” (re-  
20 ferred to in this section as the “Board”).

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

22 (A) advise the Secretary with respect to  
23 the prioritization of purposes described in sub-  
24 section (d); and

1 (B) review the expenditure of funds from  
2 the Trust Fund.

3 (3) MEMBERSHIP.—

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

6 (i) The Secretary of Homeland Secu-  
7 rity or the Secretary's designee.

8 (ii) The Administrator of General  
9 Services or the Secretary's designee.

10 (iii) The Secretary of Commerce or  
11 the Secretary's designee.

12 (iv) The Secretary of State or the  
13 Secretary's designee.

14 (v) The Secretary of Transportation  
15 or the Secretary's designee.

16 (vi) A representative of the United  
17 States trucking industry, appointed by the  
18 Secretary of Homeland Security.

19 (vii) A representative of the United  
20 States land ports of entry or rail sectors  
21 located on the southwest land border, ap-  
22 pointed by the Secretary of Homeland Se-  
23 curity.

24 (viii) A representative of the United  
25 States land ports of entry or rail sectors

1 located on the northern land border, ap-  
2 pointed by the Secretary of Homeland Se-  
3 curity.

4 (ix) A representative of a State or  
5 local transportation authority, appointed  
6 by the Secretary of Homeland Security.

7 (B) TIMING OF APPOINTMENTS.—Each  
8 member appointed under clauses (vi) and (vii)  
9 of subparagraph (A) shall be made not later  
10 than 3 months after the date of the enactment  
11 of this Act.

12 (C) TERMS.—

13 (i) IN GENERAL.—Each member ap-  
14 pointed under clauses (vi), (vii), and (viii)  
15 of subparagraph (A) shall serve for a term  
16 of 2 years.

17 (ii) VACANCIES.—Each member ap-  
18 pointed to fill a vacancy of a member ap-  
19 pointed under clauses (vi), (vii), and (viii)  
20 of subparagraph (A), occurring before the  
21 expiration of the term for which the mem-  
22 ber's predecessor was appointed, shall be  
23 appointed only for the remainder of that  
24 term. A member may serve after the expi-



1           ration of that term until a successor has  
2           been appointed.

3           (D) CHAIRPERSON.—The Chairperson of  
4           the Board shall be the Secretary of Homeland  
5           Security.

6           (4) MEETING.—

7           (A) INITIAL MEETING.—The Board shall  
8           hold its initial meeting not later than 30 days  
9           after the final appointment of members under  
10          clauses (vi), (vii), and (viii) of paragraph  
11          (3)(A).

12          (B) MEETING.—The Board shall meet not  
13          fewer than 1 time each year at the call of the  
14          Chairperson.

15          (5) QUORUM.—Four members of the Board  
16          shall constitute a quorum.

17          (6) COMPENSATION.—

18          (A) PROHIBITION OF COMPENSATION.—  
19          Except as provided in paragraph (2), members  
20          of the Board may not receive additional pay, al-  
21          lowances, or benefits by reason of their service  
22          on the Board.

23          (B) TRAVEL EXPENSES.—Each member  
24          shall receive travel expenses, including per diem  
25          in lieu of subsistence, in accordance with appli-

1 cable provisions under subchapter I of chapter  
2 57 of title 5, United States Code.

3 (7) REPORT.—Not later January 31, 2024, and  
4 annually thereafter, the Board shall submit to the  
5 Secretary a report containing a detailed statement  
6 relating to—

7 (A) the prioritization of activities described  
8 in subsection (d); and

9 (B) recommendations with respect to the  
10 expenditure of funds from the Trust Fund.

11 (8) NONAPPLICABILITY OF CERTAIN ADVISORY  
12 COMMITTEE RULES.—Notwithstanding section 1013  
13 of title 5, United States Code, the Board is author-  
14 ized for a period commensurate with the LPOE  
15 Modernization Trust Fund authorization.

16 (h) CUSTOMS FEES.—

17 (1) LAND PORT OF ENTRY MAINTENANCE FEES  
18 TRANSFER.—Not later than 60 days after the date  
19 of enactment of this Act, up to \$1,600,000,000 of  
20 the amount in the Customs User Fee Account estab-  
21 lished pursuant to paragraph (1) of section 13031(f)  
22 of the Consolidated Omnibus Budget Reconciliation  
23 Act of 1985 (19 U.S.C. 58c(f)(1)) and not otherwise  
24 appropriated shall be transferred to the Trust Fund,  
25 subject to paragraph (3) of such section 13031(f).

1 Notwithstanding paragraph (2) of such section  
2 13031(f), amounts transferred from the Customs  
3 User Fee Account to the Trust Fund pursuant to  
4 the preceding sentence shall be available only to the  
5 extent and in the amounts provided in advance in  
6 appropriations Acts to carry out the purposes speci-  
7 fied in subsection (d)(2).

8 (2) FEES COLLECTED FOR EXPRESS CONSIGN-  
9 MENT OPERATIONS.—Section 13031(b)(9) of the  
10 Consolidated Omnibus Budget Reconciliation Act of  
11 1985 (19 U.S.C. 58c(b)(9)) is amended—

12 (A) in subparagraph (B)(iii)(III), to read  
13 as follows:

14 “(III) The remaining 25 percent of the  
15 amount of payments received under subpara-  
16 graph (A)(ii) and clause (ii) of this subpara-  
17 graph shall be deposited into the Land Port of  
18 Entry Modernization Trust Fund and shall be  
19 available only to the extent and in the amounts  
20 provided in advance in appropriations Acts to  
21 carry out the purposes specified in section  
22 2(d)(2) of the LPOE Modernization Trust  
23 Fund Act;” and

24 (B) in subparagraph (C), by adding at the  
25 end the following:

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

5           “(I) having its own unique bill number,  
6 unique tracking number, or other unique identi-  
7 fier;

8           “(II) assigned to a single ultimate con-  
9 signee; and

10           “(III) with respect to which no lower  
11 tracking unit exists.”.

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

14           (A) the Secretary shall charge a surcharge  
15 of—

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

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

23           (B) the Secretary of State shall charge a  
24 surcharge of \$20 on the machine-readable visa  
25 fee established under section 103 of the En-

1           hanced Border Security and Visa Entry Reform  
2           Act of 2002 (8 U.S.C. 1713).

3           (i) DEFINITIONS.—In this section:

4           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
5           TEES.—The term “appropriate congressional com-  
6           mittees” means—

7                   (A) the Committee on Homeland Security,  
8                   the Committee on Appropriations, the Com-  
9                   mittee on Transportation and Infrastructure,  
10                   and the Committee on Ways and Means of the  
11                   House of Representatives; and

12                   (B) the Committee on Homeland Security  
13                   and Governmental Affairs, the Committee on  
14                   Appropriations, the Committee on Commerce,  
15                   Science, and Transportation, and the Com-  
16                   mittee on Finance of the Senate.

17           (2) INDIAN TRIBE.—The term “Indian tribe”  
18           has the meaning given such term in section 4(e) of  
19           the Indian Self-Determination Act (25 U.S.C.  
20           5304(e)).

21           (3) SECRETARY.—Except as otherwise specified  
22           in this section, the term “Secretary” means the Sec-  
23           retary of Homeland Security.

1           (4) TRIBAL GOVERNMENT.—The term “Tribal  
2           government” means the government of an Indian  
3           tribe.

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