

115TH CONGRESS
1ST SESSION

H. R. 2751

To amend the Homeland Security Act of 2002 to establish U.S. Immigration and Customs and Enforcement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2017

Mr. HIGGINS of Louisiana (for himself, Mr. McCAUL, and Mr. GARRETT) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on the Judiciary, and Ways and Means, 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 amend the Homeland Security Act of 2002 to establish U.S. Immigration and Customs and Enforcement, 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 “U.S. Immigration and
5 Customs Enforcement Authorization Act”.

1 **SEC. 2. ESTABLISHMENT OF U.S. IMMIGRATION AND CUS-**
2 **TOMS ENFORCEMENT.**

3 (a) IN GENERAL.—Section 442 of the Homeland Se-
4 curity Act of 2002 (6 U.S.C. 252) is amended to read
5 as follows:

6 **“SEC. 442. ESTABLISHMENT OF U.S. IMMIGRATION AND**
7 **CUSTOMS ENFORCEMENT.**

8 “(a) ESTABLISHMENT.—There is established within
9 the Department an agency to be known as U.S. Immigra-
10 tion and Customs Enforcement.

11 “(b) DIRECTOR OF U.S. IMMIGRATION AND CUSTOMS
12 ENFORCEMENT.—There shall be at the head of U.S. Im-
13 migration and Customs Enforcement a Director of U.S.
14 Immigration and Customs Enforcement (in this section re-
15 ferred to as the ‘Director’).

16 “(c) DUTIES AND QUALIFICATIONS.—The Director
17 shall—

18 “(1) have a minimum of five years—

19 “(A) professional experience in law en-
20 forcement, which may include law enforcement
21 as it relates to the immigration laws, as defined
22 in paragraph (17) of section 101(a) of the Im-
23 migration and Nationality Act (8 U.S.C.
24 1101(a)(17)) or the customs and trade laws of
25 the United States, as defined in section 2 of the

1 Trade Facilitation and Trade Enforcement Act
2 of 2015 (19 U.S.C. 4301); and

3 “(B) management experience;

4 “(2) in coordination with U.S. Customs and
5 Border Protection and United States Citizenship
6 and Immigration Services, enforce and administer
7 immigration laws, as defined in paragraph (17) of
8 section 101(a) of the Immigration and Nationality
9 Act (8 U.S.C. 1101(a)), including the identification,
10 arrest, detention, and removal of aliens who may be
11 inadmissible to, or deportable from, the United
12 States;

13 “(3) have the power to investigate and, where
14 appropriate, refer for prosecution, any criminal or
15 civil violation of Federal law relating to or involv-
16 ing—

17 “(A) border control and security, including
18 the prevention of the entry or residence of ter-
19 rorists, criminals, and human rights violators;

20 “(B) the customs and trade laws of the
21 United States, as defined in section 2 of the
22 Trade Facilitation and Trade Enforcement Act
23 of 2015 (19 U.S.C. 4301);

24 “(C) fraud, false statements, or the import
25 or export of merchandise, including the illicit

1 possession, movement of, or trade in goods,
2 services, property, arms, instruments of ter-
3 rorism, items controlled or prohibited from ex-
4 port, child exploitation, intellectual property, or
5 currency or other monetary instruments;

6 “(D) bulk cash smuggling or other finan-
7 cial crimes with a cross-border or international
8 nexus;

9 “(E) the immigration laws, as defined in
10 paragraph (17) of section 101(a) of the Immi-
11 gration and Nationality Act (8 U.S.C. 1101(a));

12 “(F) transnational organized crime;

13 “(G) chapter 40 or 44 of title 18, United
14 States Code, or other violation relating to explo-
15 sives, firearms, other destructive devices involv-
16 ing an alien;

17 “(H) severe forms of trafficking in per-
18 sons, as defined in section 103 of the Victims
19 of Trafficking and Violence Protection Act of
20 2000 (22 U.S.C. 7102);

21 “(I) the production, procurement, counter-
22 feiting, alteration, or use of fraudulent immi-
23 gration documents or fraudulently obtaining im-
24 migration benefits;

1 “(J) unlawful use of personal information,
2 when such use relates to or affects border secu-
3 rity, terrorism, customs, immigration, natu-
4 ralization, trade, or transportation security;

5 “(K) computer crimes, pursuant to section
6 1030(d) of title 18, United States Code, in co-
7 operation, where required by law, with the
8 United States Secret Service and the Federal
9 Bureau of Investigation; and

10 “(L) drug laws, as specified in the Con-
11 trolled Substances Act and the Controlled Sub-
12 stances Import and Export Act in the context
13 of cross-border criminal activity;

14 “(4) administer the National Intellectual Prop-
15 erty Rights Coordination Center established in sec-
16 tion 305 of the Trade Facilitation and Trade En-
17 forcement Act of 2015 (Public Law 114–125; 19
18 U.S.C. 4344);

19 “(5) jointly with the Commissioner of U.S. Cus-
20 toms and Border Protection, develop and submit the
21 joint strategic plan required under section 105 of
22 the Trade Facilitation and Trade Enforcement Act
23 of 2015 (Public Law 114–125; 19 U.S.C. 4314);

24 “(6) coordinate, as otherwise permitted by law,
25 with Federal, State, local, tribal, and foreign agen-

1 cies in carrying out the duties set forth in para-
2 graphs (2) and (3);

3 “(7) in coordination with the Office of Inter-
4 national Affairs of the Department and the Depart-
5 ment of State, establish staff liaison offices and vet-
6 ted units in foreign countries to support law enforce-
7 ment activities that require international coopera-
8 tion, including investigations and repatriation ef-
9 forts;

10 “(8) assign employees of the Department to
11 diplomatic and consular posts, in coordination with
12 the Secretary, pursuant to section 428(e);

13 “(9) establish, maintain, and administer appro-
14 priate law enforcement centers, including inter-
15 agency centers, in accordance with applicable law, or
16 as prescribed by the Secretary or in furtherance of
17 the Director’s assigned duties;

18 “(10) administer the Border Enforcement Secu-
19 rity Task Force established under section 432;

20 “(11) operate the Cyber Crimes Center estab-
21 lished in section 890A;

22 “(12) in carrying out paragraph (3), administer
23 internal conspiracy investigations at United States
24 ports of entry; and

1 “(13) carry out other duties and powers pre-
2 scribed by law or delegated by the Secretary.

3 “(d) GENERAL ENFORCEMENT POWERS.—The Di-
4 rector may authorize agents and officers of U.S. Immigra-
5 tion and Customs Enforcement to—

6 “(1) carry out the duties and responsibilities
7 authorized under section 287 of the Immigration
8 and Nationality Act (8 U.S.C. 1357) and section
9 589 of the Tariff Act of 1930 (19 U.S.C. 1589a);

10 “(2) seize any property, whether real or per-
11 sonal, that is involved in any violation or attempted
12 violation, or which constitutes proceeds traceable to
13 a violation, of those provisions of law which U.S. Im-
14 migration and Customs Enforcement is authorized
15 to enforce;

16 “(3) offer and pay rewards for services and in-
17 formation regarding the apprehension of persons in-
18 volved in, or the seizure and forfeiture of property
19 associated with, the violation or attempted violation
20 of those provisions of law which U.S. Immigration
21 and Customs Enforcement is authorized to enforce;

22 “(4) issue detainers for purposes of immigra-
23 tion enforcement pursuant to sections 236, 241, and
24 287 of the Immigration and Nationality Act (8
25 U.S.C. 1226, 1231, and 1357); and

1 “(5) conduct undercover investigative oper-
2 ations pursuant to section 294 of the Immigration
3 and Nationality Act (8 U.S.C. 1363a), and section
4 3131 of the Customs Enforcement Act of 1986 (19
5 U.S.C. 2081; enacted as part of the Anti-Drug
6 Abuse Act of 1986).

7 “(e) DEPUTY DIRECTOR.—There shall be in U.S. Im-
8 migration and Customs Enforcement a Deputy Director
9 who shall assist the Director in the management of U.S.
10 Immigration and Customs Enforcement.

11 “(f) OFFICE OF HOMELAND SECURITY INVESTIGA-
12 TIONS.—

13 “(1) IN GENERAL.—There is established in
14 U.S. Immigration and Customs Enforcement the Of-
15 fice of Homeland Security Investigations.

16 “(2) EXECUTIVE ASSOCIATE DIRECTOR.—There
17 shall be at the head of the Office of Homeland Secu-
18 rity Investigations an Executive Associate Director,
19 who shall report to the Director.

20 “(3) DUTIES.—The Office of Homeland Secu-
21 rity Investigations shall—

22 “(A) serve as the law enforcement office of
23 U.S. Immigration and Customs Enforcement
24 with primary responsibility to conduct investiga-
25 tions of terrorist organizations and other crimi-

1 nal organizations that threaten the homeland or
2 border security;

3 “(B) serve as the law enforcement office of
4 U.S. Immigration and Customs Enforcement
5 with primary responsibility to conduct investiga-
6 tions of, and, where appropriate, refer for pros-
7 ecution, any criminal or civil violations of Fed-
8 eral law, including—

9 “(i) financial crimes;

10 “(ii) money laundering and bulk cash
11 smuggling;

12 “(iii) commercial fraud and intellec-
13 tual property theft;

14 “(iv) cybercrimes;

15 “(v) human smuggling, human traf-
16 ficking, and human rights violations;

17 “(vi) narcotics and weapons smug-
18 gling and trafficking;

19 “(vii) transnational gang activity;

20 “(viii) export violations;

21 “(ix) international art and antiquity
22 theft;

23 “(x) identity and benefit fraud;

24 “(xi) unlawful employment of unau-
25 thorized aliens; and

1 “(xii) any other criminal or civil viola-
2 tion prescribed by law or delegated by the
3 Director;

4 “(C) administer the program to collect in-
5 formation relating to nonimmigrant foreign stu-
6 dents and exchange visitor program partici-
7 pants described in section 641 of the Illegal Im-
8 migration Reform and Immigrant Responsibility
9 Act of 1996 (8 U.S.C. 1372), including the
10 Student and Exchange Visitor Information Sys-
11 tem established under such section, and use
12 such information to carry out the enforcement
13 functions of U.S. Immigration and Customs
14 Enforcement; and

15 “(D) carry out other duties and powers
16 prescribed by the Director.

17 “(g) OFFICE OF ENFORCEMENT AND REMOVAL OP-
18 ERATIONS.—

19 “(1) IN GENERAL.—There is established in
20 U.S. Immigration and Customs Enforcement the Of-
21 fice of Enforcement and Removal Operations.

22 “(2) EXECUTIVE ASSOCIATE DIRECTOR.—There
23 shall be at the head of the Office of Enforcement
24 and Removal Operations an Executive Associate Di-
25 rector, who shall report to the Director.

1 “(3) DUTIES.—The Office of Enforcement and
2 Removal Operations shall—

3 “(A) serve as the law enforcement office of
4 U.S. Immigration and Customs Enforcement
5 with primary responsibility to enforce the civil
6 immigration and nationality laws of the United
7 States, except to the extent that any other
8 agency of the Federal Government has the re-
9 sponsibility or authority for so doing;

10 “(B) identify, locate, detain, and arrest
11 aliens in custodial settings or at-large who may
12 be subject to removal from the United States;

13 “(C) have custody (and the authority to re-
14 lease) over aliens detained for potential exclu-
15 sion, deportation, or removal from the United
16 States, manage the administrative immigration
17 detention operations of U.S. Immigration and
18 Customs Enforcement, and provide necessary
19 and appropriate medical care and dental and
20 mental health services to detained aliens in the
21 custody of the agency;

22 “(D) plan, coordinate, and manage the
23 execution of exclusion, deportation, and removal
24 orders issued to aliens;

1 “(E) investigate and refer for prosecution
2 any civil or criminal violation of the immigra-
3 tion laws or any offense described in section
4 287(a)(5) of the Immigration and Nationality
5 Act (8 U.S.C. 1357(a)(5)); and

6 “(F) carry out other duties and powers
7 prescribed by the Director.

8 “(h) OFFICE OF THE PRINCIPAL LEGAL ADVISOR.—

9 “(1) IN GENERAL.—There is established in
10 U.S. Immigration and Customs Enforcement the Of-
11 fice of the Principal Legal Advisor.

12 “(2) PRINCIPAL LEGAL ADVISOR.—There shall
13 be at the head of the Office the Principal Legal Ad-
14 visor a Principal Legal Advisor.

15 “(3) DUTIES.—The Office of the Principal
16 Legal Advisor shall—

17 “(A) represent U.S. Immigration and Cus-
18 toms Enforcement in venues and fora as au-
19 thorized by the Director or otherwise permitted
20 by law; and

21 “(B) carry out other duties and powers
22 prescribed by the Director.

23 “(i) OFFICE OF PROFESSIONAL RESPONSIBILITY.—

1 “(1) IN GENERAL.—There is established in
2 U.S. Immigration and Customs Enforcement the Of-
3 fice of Professional Responsibility.

4 “(2) ASSOCIATE DIRECTOR.—There shall be at
5 the head of the Office of Professional Responsibility
6 an Associate Director, who shall report to the Direc-
7 tor.

8 “(3) DUTIES.—The Office of Professional Re-
9 sponsibility shall—

10 “(A) investigate allegations of criminal,
11 civil, or administrative misconduct involving any
12 employee, officer, or contractor of U.S. Immi-
13 gration and Customs Enforcement;

14 “(B) inspect and review U.S. Immigration
15 and Customs Enforcement’s offices, operations,
16 and processes, including detention facilities op-
17 erated or used by U.S. Immigration and Cus-
18 toms Enforcement, and provide an independent
19 review of U.S. Immigration and Custom En-
20 forcement’s organizational health, effectiveness,
21 and efficiency of mission;

22 “(C) provide and manage the security pro-
23 grams and operations for U.S. Immigration and
24 Customs Enforcement; and

1 “(D) carry out other duties and powers
2 prescribed by the Director.

3 “(j) OTHER AUTHORITIES.—

4 “(1) IN GENERAL.—The Secretary may estab-
5 lish such other Executive Associate Directors, As-
6 sistant Directors, or other similar officers or offi-
7 cials, or other offices or positions as the Secretary
8 determines necessary to carry out the missions, du-
9 ties, functions, and authorities of U.S. Immigration
10 and Customs Enforcement.

11 “(2) NOTIFICATION.—If the Secretary exercises
12 the authority provided pursuant to paragraph (1),
13 the Secretary shall notify the Committee on Home-
14 land Security and the Committee on the Judiciary of
15 the House of Representatives and the Committee on
16 Homeland Security and Governmental Affairs and
17 the Committee on the Judiciary of the Senate not
18 later than 30 days before exercising such authority.

19 “(k) OTHER FEDERAL AGENCIES.—Nothing in this
20 section may be construed as affecting or limiting in any
21 manner the authority, as in existence on the day before
22 the date of the enactment of this section, of any other
23 Federal agency or other component of the Department.”.

24 (b) SPECIAL RULES.—

1 (1) TREATMENT.—Section 442 of the Home-
2 land Security Act of 2002, as amended by subsection
3 (a) of this section, shall be treated as if included in
4 such Act as of the date of the enactment of such
5 Act. In addition to the functions, missions, duties,
6 and authorities specified in such amended section
7 442, U.S. Immigration and Customs Enforcement
8 shall continue to perform and carry out the func-
9 tions, missions, duties, and authorities under section
10 442 of such Act as in existence on the day before
11 such date of enactment (notwithstanding the treat-
12 ment described in this paragraph).

13 (2) RULES OF CONSTRUCTION.—

14 (A) RULES AND REGULATIONS.—Notwith-
15 standing the treatment described in paragraph
16 (1), nothing in this Act may be construed as af-
17 fecting in any manner any rule or regulation
18 issued or promulgated pursuant to any provi-
19 sion of law, including section 442 of the Home-
20 land Security Act of 2002, as in existence on
21 the day before the date of the enactment of this
22 Act, and any such rule or regulation shall con-
23 tinue to have full force and effect on and after
24 such date.

1 (B) OTHER ACTIONS.—Notwithstanding
2 the treatment described in paragraph (1), noth-
3 ing in this Act may be construed as affecting in
4 any manner any action, determination, policy,
5 or decision pursuant to section 442 of the
6 Homeland Security Act of 2002 as in existence
7 on the day before the date of the enactment of
8 this Act, and any such action, determination,
9 policy, or decision shall continue to have full
10 force and effect on and after such date.

11 (c) CONTINUATION IN OFFICE.—

12 (1) DIRECTOR.—The individual serving as the
13 Director of U.S. Immigration and Customs Enforce-
14 ment on the day before the date of the enactment
15 of this Act (notwithstanding the treatment described
16 in subsection (b)(1)) may serve as the Director of
17 U.S. Immigration and Customs Enforcement in ac-
18 cordance with section 442 of the Homeland Security
19 Act of 2002, as amended by subsection (a), until the
20 earlier of—

21 (A) the date on which such individual is no
22 longer eligible to serve as Director; or

23 (B) the date on which a person nominated
24 by the President to be the Director is confirmed

1 by the Senate in accordance with such section
2 441.

3 (2) OTHER POSITIONS.—The individuals serv-
4 ing as the Deputy Director, Executive Associate Di-
5 rectors, Deputy Executive Associate Directors, or
6 similar officers or officials of U.S. Immigration and
7 Customs Enforcement under section 442 of the
8 Homeland Security Act of 2002 on the day before
9 the date of the enactment of this Act (notwith-
10 standing the treatment described in subsection
11 (b)(1)) may serve as the appropriate Deputy Direc-
12 tor, Executive Associate Directors, Deputy Executive
13 Associate Directors, Associate Directors, Deputy As-
14 sociate Directors, Assistant Directors, and other of-
15 ficers and officials under section 442 of such Act, as
16 amended by subsection (a), unless the Director of
17 U.S. Immigration and Customs Enforcement deter-
18 mines that another individual should hold such posi-
19 tion.

20 (d) TRANSPORTATION.—Paragraph (6) of section
21 1344(b) of title 31, United States Code, is amended by
22 inserting “, the Director of U.S. Immigration and Cus-
23 toms Enforcement, the Commissioner of Customs and
24 Border Protection,” before “the Administrator of the
25 Drug Enforcement Administration,”.

1 (e) CONFORMING AMENDMENTS.—

2 (1) TITLE 5.—Section 5314 of title 5, United
3 States Code, is amended by inserting after “Director
4 of the Bureau of Citizenship and Immigration Serv-
5 ices.” the following new item: “Director of U.S. Im-
6 migration and Customs Enforcement.”.

7 (2) TITLE 18.—Subsection (d) of section 1030
8 of title 18, United States Code, is amended—

9 (A) in paragraph (1), by inserting “and
10 U.S. Immigration and Customs Enforcement”
11 after “United States Secret Service”;

12 (B) in paragraph (2), by inserting, “, in
13 collaboration with U.S. Immigration and Cus-
14 toms Enforcement” after “Federal Bureau of
15 Investigation”; and

16 (C) in paragraph (3), by striking “Sec-
17 retary of the Treasury” and inserting “Sec-
18 retary of Homeland Security”.

19 (3) TRADE FACILITATION AND TRADE EN-
20 FORCEMENT ACT OF 2015.—Paragraph (2) of section
21 802(d) of the Trade Facilitation and Trade Enforce-
22 ment Act of 2015 (Public Law 114–125) is amended
23 by inserting before the period at the end the fol-
24 lowing: “or the Director of U.S. Immigration and

1 Customs Enforcement, as determined by the Sec-
 2 retary of Homeland Security”.

3 (4) HOMELAND SECURITY ACT OF 2002.—Title
 4 IV of the Homeland Security Act of 2002 is amend-
 5 ed—

6 (A) in subtitle C—

7 (i) in subsection (e) of section 428 (6
 8 U.S.C. 236), by adding at the end the fol-
 9 lowing new paragraph:

10 “(9) DELEGATED AUTHORITY.—For purposes
 11 of this subsection, the Secretary shall act through
 12 the Director of U.S. Immigration and Customs En-
 13 forcement.”; and

14 (ii) in section 432 (6 U.S.C. 240)—

15 (I) by redesignating subsection
 16 (e) as subsection (f); and

17 (II) by inserting after subsection
 18 (d) the following new subsection:

19 “(e) ADMINISTRATION.—The Director of U.S. Immi-
 20 gration and Customs Enforcement shall administer BEST
 21 units established under this section.”;

22 (B) in subtitle D—

23 (i) by amending the subtitle heading
 24 to read as follows: “**U.S. Immigration**
 25 **and Customs Enforcement**”; and

1 (ii) by repealing sections 445 and 446
2 (6 U.S.C. 255 and 256);

3 (C) in subtitle E—

4 (i) in subsection (a)(2)(C) of section
5 451 (6 U.S.C. 271), by striking “at the
6 same level as the Assistant Secretary of
7 the Bureau of Border Security” and in-
8 serting “in accordance with section 5314
9 of title 5, United States Code”;

10 (ii) in subsection (c) of section 459 (6
11 U.S.C. 276), by striking “Assistant Sec-
12 retary of the Bureau of Border Security”
13 and inserting “Director of U.S. Immigra-
14 tion and Customs Enforcement”; and

15 (iii) in subsection (b)(2)(A) of section
16 462 (6 U.S.C. 279), in the matter pre-
17 ceding clause (i), by striking “Assistant
18 Secretary of the Bureau of Border Secu-
19 rity” and inserting “Director of U.S. Im-
20 migration and Customs Enforcement”; and

21 (D) in subtitle F, in subsection (a)(2)(B)
22 of section 472 (6 U.S.C. 292), by striking “Bu-
23 reau of Border Security” and inserting “U.S.
24 Immigration and Customs Enforcement”.

1 (f) CLERICAL AMENDMENTS.—The table of contents
2 in section 1(b) of such Act is amended—

3 (1) by striking the item relating to subtitle D
4 of title IV and inserting the following new item:

“Subtitle D—U.S. Immigration and Customs Enforcement”.

5 (2) by striking the items relating sections 445
6 and 446.

