

118TH CONGRESS  
1ST SESSION

# S. 2278

To establish Image Adjudicator and Supervisory Image Adjudicator positions in the U.S. Customs and Border Protection Office of Field Operations.

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IN THE SENATE OF THE UNITED STATES

JULY 12, 2023

Mr. LANKFORD (for himself and Mr. KELLY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To establish Image Adjudicator and Supervisory Image Adjudicator positions in the U.S. Customs and Border Protection Office of Field Operations.

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 “Border Enforcement,  
5 Security, and Trade (BEST) Facilitation Act of 2023”.

1 **SEC. 2. NEW OFFICE OF FIELD OPERATIONS POSITIONS AU-**  
2 **THORIZED.**

3 Section 411(g) of the Homeland Security Act of 2002  
4 (6 U.S.C. 211(g)) is amended by adding at the end the  
5 following:

6 “(6) IMAGE ADJUDICATOR POSITIONS.—

7 “(A) IMAGE ADJUDICATOR.—There shall  
8 be in the Office of Field Operations, the posi-  
9 tion of Image Adjudicator, who shall be ap-  
10 pointed in accordance with the provisions under  
11 chapter 33 (relating to appointments in the  
12 competitive service) and chapters 51 and 53  
13 (relating to classification and rates of pay) of  
14 title 5, United States Code. Each Image Adju-  
15 dicator shall—

16 “(i) review non-intrusive inspection  
17 images of conveyances and containers en-  
18 tering or exiting the United States through  
19 a land, sea, or air port of entry or rail  
20 crossing;

21 “(ii) assess whether conveyances and  
22 containers contain contraband, illicit  
23 drugs, terrorist weapons, or persons who  
24 are seeking to unlawfully enter or exit the  
25 United States;

1           “(iii) recommend entry for all convey-  
2           ances and containers that do not contain  
3           contraband, illicit drugs, terrorist weapons,  
4           or persons seeking to unlawfully enter the  
5           United States to the U.S. Customs and  
6           Border Protection Officer responsible for  
7           inspecting such cargo or conveyance;

8           “(iv) refer any conveyances and con-  
9           tainers that the Image Adjudicator reason-  
10          ably believes contains contraband, illicit  
11          drugs, terrorist weapons, or persons seek-  
12          ing to unlawfully enter or exit the United  
13          States to the U.S. Customs and Border  
14          Protection Officer who is responsible for  
15          inspecting such cargo or conveyance for  
16          further inspection; and

17          “(v) refer to a Supervisory Image Ad-  
18          judicator any image of a vehicle or cargo  
19          that is difficult to adjudicate due to poor  
20          image quality or other factors.

21          “(B) SUPERVISORY IMAGE ADJUDI-  
22          CATOR.—There shall be in the Office of Field  
23          Operations, the position of Supervisory Image  
24          Adjudicator, who shall be appointed in accord-  
25          ance with the provisions under chapter 33 (re-

1 relating to appointments in the competitive serv-  
2 ice) and chapters 51 and 53 (relating to classi-  
3 fication and rates of pay) of title 5, United  
4 States Code. Each Supervisory Image Adjudi-  
5 cator shall—

6 “(i) carry out all of the duties de-  
7 scribed in clauses (i) through (iii) of sub-  
8 paragraph (A);

9 “(ii) review and make a determination  
10 regarding images referred by an Image Ad-  
11 judicator pursuant to subparagraph (A)(v);

12 “(iii) receive intelligence from the Na-  
13 tional Targeting Center regarding tactics,  
14 techniques, and procedures being used at  
15 ports of entry and in the border environ-  
16 ment by malign actors to facilitate the un-  
17 lawful entry or exit of contraband, illicit  
18 drugs, terrorist weapons, and persons who  
19 are seeking to unlawfully enter or exit the  
20 United States; and

21 “(iv) report new intelligence to the  
22 National Targeting Center regarding tac-  
23 tics, techniques, and procedures being used  
24 at ports of entry and in the border envi-  
25 ronment by malign actors to facilitate the

1 unlawful entry or exit of contraband, illicit  
2 drugs, terrorist weapons, and persons who  
3 are seeking to unlawfully enter the United  
4 States.

5 “(C) TRAINING REQUIREMENTS.—All  
6 Image Adjudicators and Supervisory Image Ad-  
7 judicators shall receive annual training and ad-  
8 ditional ad hoc training, to the extent necessary  
9 based on current trends, regarding—

10 “(i) privacy and civil liberties, includ-  
11 ing the protections of the First and Fourth  
12 Amendments to the United States Con-  
13 stitution;

14 “(ii) analyzing images generated by  
15 non-intrusive inspection technologies de-  
16 ployed by U.S. Customs and Border Pro-  
17 tection; and

18 “(iii) tactics, techniques, and proce-  
19 dures being used at ports of entry and in  
20 the border environment by malign actors to  
21 facilitate the unlawful entry or exit of con-  
22 traband, illicit drugs, terrorist weapons,  
23 and persons who are seeking to unlawfully  
24 enter the United States.

1           “(D) ANNUAL ASSESSMENT.—All Image  
2           Adjudicators and Supervisory Image Adjudica-  
3           tors shall receive an annual assessment with re-  
4           spect to their—

5                   “(i) accuracy in image analysis;  
6                   “(ii) timeliness in image analysis; and  
7                   “(iii) ability to ascertain tactics, tech-  
8                   niques, and procedures being used at ports  
9                   of entry and in the border environment by  
10                  malign actors to facilitate the unlawful  
11                  entry or exit of contraband, illicit drugs,  
12                  terrorist weapons, and persons who are  
13                  seeking to unlawfully enter the United  
14                  States.”.

15 **SEC. 3. WORKFORCE STAFFING MODEL.**

16           (a) DEVELOPMENT.—Not later than 1 year after the  
17           date of the enactment of this Act, the Commissioner of  
18           U.S. Customs and Border Protection shall develop a work-  
19           force staffing model for Image Adjudicators and Super-  
20           visory Image Adjudicators described in section 211(g)(6)  
21           of the Homeland Security Act of 2002, as amended by  
22           section 2, based upon—

23                   (1) the deployment of non-intrusive inspection  
24                   technologies at ports of entry and international rail  
25                   crossings;

1 (2) border traffic patterns; and

2 (3) scanning goals at each port of entry and  
3 international rail crossing.

4 (b) VALIDATION.—Not later than 6 months after the  
5 completion of the workforce staffing model described in  
6 subsection (a), the Comptroller General of the United  
7 States shall validate such workforce staffing model.

8 **SEC. 4. REPORTING REQUIREMENTS.**

9 Upon completion of the validation of the workforce  
10 staffing model pursuant to section 3(b), and quarterly  
11 thereafter, the Commissioner of U.S. Customs and Border  
12 Protection, in consultation with the Executive Assistant  
13 Commissioner, shall submit a report to the Committee on  
14 Homeland Security and Governmental Affairs of the Sen-  
15 ate and the Committee on Homeland Security of the  
16 House of Representatives that identifies—

17 (1) the number of Image Adjudicators and Su-  
18 pervisory Image Adjudicators hired during the re-  
19 porting period;

20 (2) the number of Image Adjudicators and Su-  
21 pervisory Image Adjudicators currently employed by  
22 the Office of Field Operations, disaggregated by port  
23 of entry;

24 (3) the average number of images scanned by  
25 each Image Adjudicator;

1           (4) training methodologies utilized to train  
2 Image Adjudicators and Supervisory Image Adju-  
3 dicators;

4           (5) assessment passage rates of Image Adju-  
5 dicators and Supervisory Image Adjudicators; and

6           (6) the impact of Image Adjudicators and Su-  
7 pervisory Image Adjudicators on interdiction rates  
8 at ports of entry and international rail crossings at  
9 which Image Adjudicators or Supervisory Image Ad-  
10 judicators are stationed, including—

11           (A) throughput increases or decreases at  
12 such ports of entry and rail crossings;

13           (B) increases or decreases in waiting times  
14 at such ports of entry and rail crossings; and

15           (C) increases or decreases of seizures of  
16 contraband, illicit drugs, terrorist weapons, and  
17 persons seeking to unlawfully enter or exit the  
18 United States, broken down by type of seizure  
19 and port of entry or rail crossing.

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