



# H.R. 1417 - Border Security Results Act of 2013

## Summary

H.R. 1417 directs DHS to develop a national strategy and implementation plan for achieving and maintaining situational awareness and operational control of the borders, including a plan for implementing a biometric exit system. It also requires DHS to develop metrics, and produce frequent reports that, along with the strategy and implementation plan, will be subject to review by the Government Accountability Office (GAO). H.R. 1417 successfully passed out of the House Homeland Security Committee<sup>1</sup> on a voice vote on 5/15/13.

## Key definitions

*Situational awareness* – “knowledge and an understanding of current illicit cross-border activity, including cross-border threats and trends concerning illicit trafficking and unlawful crossings along the international borders of the United States and in the maritime environment, and the ability to forecast future shifts in such threats and trends.”

*Operational control* – “a condition in which there is a not lower than 90 percent illegal border crossing effectiveness rate, informed by situational awareness, and a significant reduction in the movement of illicit drugs and other contraband through such areas is being achieved”

*High traffic areas* – “sectors along the northern and southern borders that are within the responsibility of Border Patrol that have the most illicit cross-border activity, informed through situational awareness”

*Illegal border crossing effectiveness rate* – “percentage that results from dividing the number of apprehensions and turn backs by the number of apprehensions, turn backs, and got aways.”

## Requirements - Timeframe

H.R. 1417 has a multiple verification system, with GAO review of DHS’ strategies, implementation plans, and reports.

	60 days after enactment (annually after)	90 days after enactment (and every 180 days after)	120 days after enactment	180 days after enactment	90 days after DHS submits strategy	1 year after enactment	2 years after DHS submits implem. plan (annually after)	5 years after DHS submits implem. plan (annually after)
<b>DHS</b>	Submits <b>report</b> on staffing levels, model, and available manpower	Submits <b>report on state of situational awareness and operational control.</b> Identification of <b>high traffic areas</b> and <b>illegal border crossing effectiveness rate</b>	Implements <b>metrics</b> specified in bill to measure effectiveness. Submits data and methodology to GAO	Submits <b>strategy</b> for gaining and maintaining <b>situational awareness</b> and <b>operational control of high traffic areas</b> within <b>two years</b> of submission of the plan, and <b>operational control of the southwest border</b> within <b>five years</b> .  Submits <b>plan</b> to implement <b>biometric exit system at POE</b> . If not feasible, submits a plan for an alternative program to provide same level of security.	Submits <b>implementation plan</b> to carry out strategy		Submits <b>certification</b> that situational awareness and operational control of high traffic areas have been achieved.  If not achieved, submits report explaining why it wasn’t achieved.	Submits <b>certification</b> that operational control along the southwest border has been achieved.  If not achieved, submits report explaining why it wasn’t achieved.
<b>GAO</b>		(90 days after receiving report) Verifies data and methodology of DHS report.	(270 days after receiving) Evaluates suitability & statistical validity of metrics.		(90 days after receiving plan) Submits report to Congress.	Submits to Congress report on cost-effectiveness of border security strategies.	(120 days after DHS submits certification) Submits review of certification to Congress.	(120 days after DHS submits certification) Submits review of certification to Congress.

## Funding

The bill does not appropriate money (beyond what is already available to the agency). Chairman McCaul (R-TX) and Vice Chairwoman Miller (R-MI) have stated that additional funding may be necessary, but the amount should be informed by the strategy and implementation plan that occurs after assessment of the current situations at the borders. During Committee markup, Rep. Thompson (D-MS) offered an amendment to provide initial \$3billion in funding (#1B), but it did not pass (14-15). Chairman McCaul reasoned afterwards that “it’s premature at this point in time to even know what that number is in terms of additional appropriations.” The Congressional Budget Office (CBO) estimates the bill would cost \$5 million<sup>ii</sup> from appropriated funds over the 2014-2018 period and that it would not affect direct spending or revenues.

## Notes from Markup- Potential improvements

The bill includes assessment of training programs (civil rights, use of force, vulnerable populations), but doesn’t direct that personnel receive appropriate training (as included in S.744 Sec 1112). Amendments to add a DHS Border Oversight Task Force (Sanchez #1H) and Border Community Liaison (Sanchez #1E) were withdrawn during Committee markup. Amendments to include Congressional resolution of approval (Barletta #1V) and to set a 100% effectiveness rate goal (Perry #1W) were also withdrawn.

## Details of Strategy, Implementation plan, and Metrics

Comprehensive Strategy should include:	
<ul style="list-style-type: none"> <li>Assessment of principal border security threats</li> <li>Efforts to disseminate border threat information with components and other agencies</li> <li>Efforts to increase situational awareness in accordance with privacy, civil liberties/rights protections</li> <li>Efforts to detect and prevent terrorists</li> <li>Efforts to ensure new border security technology be integrated with existing technologies</li> <li>Assessment of existing efforts and technology and effect on civil, property, and privacy rights and civil liberties</li> <li>Technology required to enhance security and facilitate trade at POEs</li> <li>Operational coordination of DHS border security components</li> <li>Lessons learned from Operation Jumpstart and Operation Phalanx</li> <li>Cooperative agreements and information sharing with state, local, tribal, territorial, and other agencies that have jurisdiction on borders</li> </ul>	<ul style="list-style-type: none"> <li>Border security information received from consultation with state, local, tribal, and federal LEAs and from border community stakeholders</li> <li>Agreements with foreign governments that support border security efforts</li> <li>Staffing requirements for all border security functions</li> <li>Prioritized list of research and development objectives</li> <li>Assessment of training programs (identifying fraudulent documents; protecting civil, constitutional, human, and privacy rights; understanding scope of enforcement authorities and use of force policies; screening vulnerable populations; social and cultural sensitivity toward border communities)</li> <li>Local crime indices along the Southern border</li> <li>Assessment of how border security operations affect crossing times</li> <li>Metrics listed in the bill</li> </ul>

Implementation plan should include:	
<ul style="list-style-type: none"> <li>Protections to ensure staffing and resources are not diverted to the detriment of POE operations in favor of between ports of entry</li> <li>Master schedule/cost estimate for activities in plan</li> </ul>	<ul style="list-style-type: none"> <li>Border security technology plan to improve surveillance capabilities: documented justification for technology, deployment locations, fixed mobile assets, timetable for procurement/deployment, estimates of costs, identification of impediments, cost-effectiveness of personnel, technology, and construction of new physical/virtual barriers</li> </ul>

**Metrics** – The bill directs DHS to consult a national laboratory, a border security university-based center, the governors of Border States, and representatives of CBP to ensure suitability and statistical validity of each metric listed in the bill (below) and additional unlisted metrics.

Between Ports	At Ports of Entry	Maritime Borders
<ul style="list-style-type: none"> <li>Illegal border crossing effectiveness rate</li> <li>Illicit drugs seizure rate</li> <li>Cocaine seizure effectiveness rate</li> <li>Estimates of inadmissible border crossers attempting to enter</li> <li>Rate of apprehension</li> <li>Total deaths/injuries resulting from crossings</li> <li>Inflow of crossers who evade apprehension</li> <li>Impact of CDS on recidivism</li> </ul>	<ul style="list-style-type: none"> <li>Inadmissible border crossing rate</li> <li>Illicit drugs seizure rate</li> <li>Cocaine seizure effectiveness rate</li> <li>Estimates of total attempted inadmissible border crossers</li> <li>Rate of apprehension</li> <li>Inflow of inadmissible border crossers who evade apprehension</li> <li>Number of personnel and cargo infractions by major violators who are apprehended</li> <li>Estimated number of infractions by major violators not apprehended by CBP</li> <li>Impact of border security operations on crossing times</li> </ul>	<ul style="list-style-type: none"> <li>Estimate of total number of undocumented migrants DHS maritime security failed to interdict</li> <li>Undocumented migrant interdiction rate</li> <li>Illicit drugs removal rate inside and outside a transit zone</li> <li>Cocaine removal effectiveness rate inside and outside a transit zone</li> <li>Response rate to measuring ability to respond to known maritime threats</li> </ul>

<sup>i</sup> <http://docs.house.gov/meetings/HM/HM00/20130515/100855/HMKP-113-HM00-20130515-SD001.pdf>

<sup>ii</sup> <http://www.cbo.gov/sites/default/files/cbofiles/attachments/hr1417.pdf>