H. R. 399

To require the Secretary of Homeland Security to gain and maintain operational control of the international borders of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 2015

Mr. McCaul (for himself, Mrs. Miller of Michigan, Mr. Sessions, Mr. Poe of Texas, Mr. Williams, Mr. Flores, Mr. Olson, Mr. Bishop of Utah, Ms. McSally, Mr. Hurd of Texas, Mr. Culberson, Mr. Bucshon, Mr. Ratcliffe, Mr. Carter of Texas, and Mr. Bucshon) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Armed Services, Natural Resources, and Agriculture, 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 require the Secretary of Homeland Security to gain and maintain operational control of the international borders of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Secure Our Borders First Act of 2015”.

1

2

3

4

5
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Reports on current border security status.
Sec. 3. Operational control of the border.
Sec. 4. Establishment of Border Security Verification Commission.
Sec. 5. Required consequence.
Sec. 6. Tactical flexibility.
Sec. 7. Deployment of certain aviation assets to the southern land border.
Sec. 8. U.S. Customs and Border Protection officer and agent authorization.
Sec. 9. Office of Air and Marine flight hours.
Sec. 10. Air and Marine prioritization.
Sec. 11. Border Patrol flexibility.
Sec. 12. Prohibition on actions that impede border security on certain Federal land.
Sec. 13. Biometric exit data system.
Sec. 15. Operation Stonegarden program.
Sec. 16. Sale or donation of excess personal property for border security activities.
Sec. 17. Reimbursement of States for deployment of National Guard to the southern border.
Sec. 18. Definitions.
Sec. 19. Authorization of appropriations.

SEC. 2. REPORTS ON CURRENT BORDER SECURITY STATUS.

(a) IN GENERAL.—

(1) REPORTS.—The Secretary of Homeland Security shall submit to the appropriate congressional committees, the Border Security Verification Commission (BSVC), and the Government Accountability Office reports that assess and describe the state of situational awareness and operational control along the northern and southern borders of the United States. Such reports shall include an identification of the high traffic areas and the unlawful border crossing effectiveness rate for each sector along the northern and southern borders of the United States.
that are within the responsibility of the Border Patrol.

(2) **DEADLINES.**—The reports required under paragraph (1) shall be submitted as follows:

(A) The first such report shall be submitted by not later than 30 days after the date of the enactment of this Act.

(B) During the two-year period beginning on the date of the submission of such first report, such reports shall be submitted every 180 days.

(C) During the period beginning on the date that is 180 days after the date of the submission of last report under subparagraph (B), such reports shall be submitted every 360 days.

(b) **GAO REPORT.**—Not later than 90 days after receiving the initial report required under subsection (a), the Comptroller General of the United States shall report to the appropriate congressional committees and the BSVC regarding the verification of the data and methodology used to determine high traffic areas and the unlawful border crossing effectiveness rate.

**SEC. 3. OPERATIONAL CONTROL OF THE BORDER.**

(a) **SECURING THE BORDER.**—The Secretary of Homeland Security shall gain and maintain situational
awareness, and operational control of high traffic areas, by the date that is not later than two years after the date of the enactment of this Act, and operational control and situational awareness along the southern land border of the United States by the date that is not later than five years after such date of enactment.

(b) REQUIRED CAPABILITY DEPLOYMENT.—The Secretary of Homeland Security, acting through the appropriate component of the Department of Homeland Security, shall, at a minimum, deploy to each sector or region, as the case may be, of the southern border, in a prioritized, risk-based manner to achieve situational awareness and operational control of the border the following additional capabilities:

(1) SAN DIEGO SECTOR.—For the San Diego sector, the following:

(A) Subterranean surveillance and detection technologies.

(B) To increase coastal maritime domain awareness, the following:

(i) Deployable, lighter than air surface surveillance equipment.

(ii) Unmanned aerial vehicles with maritime surveillance capability.

(iii) Maritime patrol aircraft.
(iv) Coastal radar surveillance systems.

(v) Maritime signals intelligence capabilities.

(C) Ultralight aircraft detection capabilities.

(D) Advanced unattended surveillance sensors.

(2) El Centro Sector.—For the El Centro sector, the following:

(A) Tower-based surveillance technology.

(B) Deployable, lighter than air ground surveillance equipment.

(C) Man-portable unmanned aerial vehicles.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

(3) Yuma Sector.—For the Yuma sector, the following:

(A) Tower-based surveillance technology.

(B) Mobile vehicle-mounted and man-portable surveillance systems.
(C) Deployable, lighter-than-air ground surveillance equipment.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

(4) TUCSON SECTOR.—For the Tucson sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Man-portable unmanned aerial vehicles.

(C) Tower-based surveillance technology.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

(F) Deployable, lighter than air ground surveillance equipment.

(5) EL PASO SECTOR.—For the El Paso sector, the following:

(A) Tower-based surveillance technology.

(B) Ultralight aircraft detection capabilities.
(C) Advanced unattended surveillance sensors.

(D) Mobile vehicle-mounted and man-portable surveillance systems.

(E) Deployable, lighter than air ground surveillance equipment.

(6) BIG BEND SECTOR.—For the Big Bend sector, the following:

(A) Tower-based surveillance technology.

(B) Deployable, lighter than air ground surveillance equipment.

(C) Improved agent communications capabilities.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

(7) DEL RIO SECTOR.—For the Del Rio sector, the following:

(A) Increased monitoring for cross-river dams, culverts, and footpaths.

(B) Improved communications capabilities.

(C) Improved maritime capabilities in the Amistad Recreation Area.
(D) Advanced unattended surveillance sensors.

(8) LAREDO SECTOR.—For the Laredo sector, the following:

(A) Maritime detection resources for Falcon Lake region.

(B) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(C) Increased monitoring for cross-river dams, culverts, and footpaths.

(D) Ultralight aircraft detection capability.

(E) Advanced unattended surveillance sensors.

(9) RIO GRANDE VALLEY SECTOR.—For the Rio Grande Valley sector, the following:

(A) Deployable, lighter than air ground surveillance equipment.

(B) Increased flight hours for aerial detection, interdiction and monitoring operations capability.

(C) Ultralight aircraft detection capability.

(D) Advanced unattended surveillance sensors.
(E) Increased monitoring for cross-river
dams, culverts, footpaths.

(10) EASTERN PACIFIC MARITIME REGION.—

For the Eastern Pacific Maritime region, the fol-
lowing:

(A) Increased cutter and boat hours and
operation platforms to conduct interdiction op-
erations.

(B) Increased maritime signals intelligence
capabilities.

(C) To increase maritime domain aware-
ness, the following:

(i) Deployable, lighter than air surface
surveillance equipment.

(ii) Unmanned aerial vehicles with
maritime surveillance capability.

(iii) Increased maritime aviation pa-
trol hours.

(iv) Coastal radar surveillance sys-
tems.

(D) Increased operational hours for mar-
time security components dedicated to joint
counter-smuggling and interdiction efforts with
other Federal agencies, including the Joint
Interagency Task Forces, and the United
States Coast Guard Deployable Law Enforcement Teams.

(11) CARIBBEAN AND GULF MARITIME REGION.—For the Caribbean and Gulf Maritime region, the following:

(A) Increased cutter and boat hours and operation platforms to conduct interdiction operations.

(B) Increased maritime signals intelligence capabilities.

(C) Increased maritime domain awareness and surveillance capabilities, including the following:

   (i) Deployable, lighter than air surface surveillance equipment.

   (ii) Unmanned aerial vehicles with maritime surveillance capability.

   (iii) Increased maritime aviation patrol hours.

   (iv) Coastal radar surveillance systems.

(D) Increased operational hours for maritime security components dedicated to joint counter-smuggling and interdiction efforts with other Federal agencies, including the Joint
Interagency Task Forces, and the United States Coast Guard Tactical Law Enforcement Teams.

(c) FENCING AND INFRASTRUCTURE.—

(1) NEW FENCING.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Homeland Security shall construct, at a minimum, each of the following:

(A) Seven miles of double layer fencing in the Border Patrol’s San Diego sector in addition to such fencing in existence as of the date of the enactment of this Act.

(B) Ten miles of double layer pedestrian fencing in the Border Patrol’s Tucson sector in addition to such fencing in existence as of the date of the enactment of this Act.

(C) Ten miles of double layer pedestrian fencing in the Border Patrol’s Rio Grande Valley sector in addition to such fencing in existence as of the date of the enactment of this Act.

(2) FENCE REPAIR AND REPLACEMENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Homeland Secu-
rity shall replace, at a minimum, each of the fol-
lowing:

(A) Thirty-one miles of landing mat fence-
ing with bollard style fencing in the Border Pa-
trol’s San Diego sector.

(B) Five miles of landing mat fencing with
bollard style fencing in the Border Patrol’s El
Centro sector.

(C) Three miles of landing mat fencing
with bollard style fencing in the Border Patrol’s
Yuma sector.

(D) Twenty-five miles of landing mat fence-
ing with bollard style fencing in the Border Pa-
trol’s Tucson sector.

(E) Two miles of landing mat fencing with
bollard style fencing in the Border Patrol’s El
Paso sector.

(3) ROAD CONSTRUCTION.—Not later than 18
months after the date of the enactment of this Act,
the Secretary of Homeland Security shall complete,
at a minimum, each of the following road construc-
tion projects to allow greater access for the Border
Patrol:

(A) Seven miles of road construction in the
Border Patrol’s San Diego sector.
(B) Ten miles of road construction in the Border Patrol’s El Centro sector.

(C) Sixteen miles of road construction in the Border Patrol’s Yuma sector.

(D) Fifty-four miles of road construction in the Border Patrol’s Tucson sector.

(E) One hundred ninety-two miles of road construction in the Border Patrol’s Big Bend sector.

(F) Two miles of road construction in the Border Patrol’s El Paso sector.

(G) Forty-two miles of road construction in the Border Patrol’s Del Rio sector.

(H) Sixty-five miles of road construction in the Border Patrol’s Laredo sector.

(I) Fifteen miles of road construction in the Border Patrol’s Rio Grande Valley sector.

(4) ROAD MAINTENANCE.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Homeland Security shall complete, at a minimum, each of the following:

(A) Thirty-seven miles of road maintenance in the Border Patrol’s San Diego sector.
(B) One thousand two hundred miles of road maintenance in the Border Patrol’s Del Rio sector.

(C) Twenty-six miles of road maintenance in the Border Patrol’s Laredo sector.

(D) Ninety-four miles of road maintenance in the Border Patrol’s Rio Grande Valley sector.

(5) NEW VEHICLE FENCE.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall complete six miles of vehicle fencing in the Border Patrol’s Big Bend sector in addition to such fencing in existence as of the date of the enactment of this Act.

(6) VEHICLE FENCE REPLACEMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall replace five miles of vehicle fencing with new vehicle fencing in the Border Patrol’s Tucson sector in addition to such fencing in existence as of the date of the enactment of this Act.

(7) BOAT RAMPS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall complete, at a minimum, the construction of each of the following:
(A) Eight boat ramps in the Border Patrol’s Del Rio sector in addition to such ramps in existence as of the date of the enactment of this Act.

(B) One boat ramp in the Border Patrol’s Laredo sector in addition to such ramps in existence as of the date of the enactment of this Act.

(C) Twenty-one boat ramps in the Border Patrol’s Rio Grande Valley sector in addition to such ramps in existence as of the date of the enactment of this Act.

(8) Access gates.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall construct 34 access gates in the Border Patrol’s Rio Grande Valley sector in addition to such gates in existence as of the date of the enactment of this Act.

(9) Forward operating bases.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security shall complete, at a minimum, construction of each of the following:

(A) One forward operating base in the Border Patrol’s El Paso sector in addition to
such bases in existence as of the date of the en-
actment of this Act.

(B) Two forward operating bases in the
Border Patrol’s Tucson sector in addition to
such bases in existence as of the date of the en-
actment of this Act.

(C) Three forward operating bases in the
Border Patrol’s Big Bend sector in addition to
such bases in existence as of the date of the en-
actment of this Act.

(D) Two forward operating bases in the
Border Patrol’s Del Rio sector in addition to
such bases in existence as of the date of the en-
actment of this Act.

(E) Two forward operating bases in the
Border Patrol’s Laredo sector in addition to
such bases in existence as of the date of the en-
actment of this Act.

(F) Two forward operating bases in the
Border Patrol’s Rio Grande Valley sector in ad-
dition to such bases in existence as of the date
of the enactment of this Act.

(10) ROADS.—The roads referred to in para-
graphs (3) and (4) shall include border roads, patrol
roads, access roads, and Federal, State, local, and privately owned roads.

(11) **Minimum Forward Operating Base Requirements.**—The forward operating bases referred to in paragraph (9) shall be equipped with each of the following:

(A) Perimeter security.

(B) Temporary detention space.

(C) An interview room.

(D) Water.

(E) Power.

(F) Adequate communications, including local area network connectivity.

(G) Helicopter landing zone.

(d) **Carrizo Cane Eradication.**—

(1) **Findings.**—Congress makes the following findings:

(A) Carrizo cane is a non-native, invasive plant growing along the Rio Grande River in Texas, with heights of up to 27 feet tall.

(B) According to U.S. Customs and Border Protection, “the [Carrizo cane] plant causes serious officer safety issues and operational concerns because it hampers enforcement along the [Rio Grande] river. The plant also provides
concealment to criminals, drug smugglers, illegal aliens, and potential terrorists who could use it as an advantage to enter the United States illegally. The obvious officer safety hazards created by this situation are of grave concern to the Border Patrol and need to be remedied.”

(2) ERADICATION.—The Chief of the Border Patrol shall coordinate with the heads of each relevant Federal and State agency to eradicate, to the greatest extent practicable, the Carrizo cane plant along the Rio Grande River.

(e) CONSULTATION.—The Secretary of Homeland Security shall consult with the governors of each southern border State, including southern border maritime States, representatives of the Border Patrol and U.S. Customs and Border Protection, and relevant Federal, State, local, and tribal agencies that have jurisdiction on the southern border, or in the maritime environment, to develop the operational plan required under subsection (f) and the metrics required under subsections (h), (i), (j), and (k).

(f) OPERATIONAL PLAN.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the ap-
propriate congressional committees, the BSVC, and
the Comptroller General of the United States a com-
prehensive operational plan for each of the compo-
nents of the Department of Homeland Security re-
sponsible for border or maritime security to gain and
maintain situational awareness, operational control
of high traffic areas, and operational control along
the southern land border of the United States by the
dates, respectively, referred to in subsection (a).

(2) CONTENTS OF PLAN.—The plan required
under paragraph (1) shall include the following:

(A) An assessment of principal border se-
curity threats, including threats relating to the
smuggling and trafficking of humans, weapons,
and illicit drugs.

(B) A description of the required capability
deployment under subsection (b).

(C) A plan to analyze and disseminate bor-
der security and border threat information
among the border security components of the
Department of Homeland Security, and be-
tween the Department and other appropriate
Federal departments and agencies with mis-
sions associated with the border.
(D) A plan to achieve situational awareness using the capabilities deployed under subsection (b).

(E) A plan to ensure that any new border security assets will be operationally integrated with assets in use by the Department of Homeland Security as of the date of the enactment of this Act.

(F) A plan to eradicate the Carrizo cane plant, as required under subsection (d).

(G) Lessons learned from Operation Jumpstart and Operation Phalanx.

(H) A description of border security information received from consultation with border community stakeholders, including representatives from agricultural and ranching organizations and business and civic organizations along the northern or southern border.

(I) A description of the staffing requirements for all border security functions of the border security components of the Department of Homeland Security.

(J) A prioritized list of research and development objectives to enhance the security of the
international land and maritime borders of the United States.

(K) An assessment of the relationship between border security operations and crossing times.

(L) Metrics required under subsections (h), (i), (j), and (k).

(M) An integrated master schedule and cost estimate, including lifecycle costs, for the activities contained in such operational plan.

(N) A documented justification and rationale for technology choices.

(O) Deployment locations.

(P) A timetable for procurement and deployment.

(Q) Estimates of operation and maintenance costs.

(R) An identification of any impediments to the deployment of such technologies.

(3) CLASSIFIED ASSESSMENT.—The assessment required to be included in the report under paragraph (2)(A) may be submitted in classified form, if the Secretary of Homeland Security determines that such is appropriate.

(4) IMPLEMENTATION.—
(A) IN GENERAL.—The Secretary of Homeland Security shall commence the implementa-
tion of the operational plan under paragraph (1) not later than 30 days after the sub-
mission to the appropriate congressional com-
mittees of the report by the Comptroller Gen-
eral of the United States under subparagraph (C).

(B) COMPTROLLER GENERAL REVIEW.—
Not later than 90 days after receiving the oper-
tional plan under paragraph (1), the Comptroller General of the United States shall sub-
mit to the appropriate congressional committees and the BSVC a report on the operational plan required under paragraph (1) and such congress-

(g) PERIODIC UPDATES.—Not later than 180 days after the submission of each Quadrennial Homeland Security Review required under section 707 of the Homeland Security Act of 2002 (6 U.S.C. 347) beginning with the first such Review that is due after the operational plan is submitted under subsection (f), the Secretary of Home-

land Security shall submit to the appropriate congress-

ional committees, the BSVC, and the Comptroller Gen-
eral of the United States an updated operational plan under paragraph (1) of subsection (f).

(h) METRICS FOR SECURING THE BORDER BETWEEN PORTS OF ENTRY.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act and annually thereafter, the Chief of the Border Patrol shall develop metrics, informed by situational awareness, to measure the effectiveness of security between ports of entry, which shall include, at a minimum, the following:

(A) An unlawful border crossing effectiveness rate, informed by situational awareness.

(B) A probability of detection that measures the estimated total unlawful border crossing attempts not detected by the Border Patrol against the unlawful border crossing effectiveness rate referred to in subparagraph (A).

(C) A weight-to-frequency rate which measures the average weight of marijuana seized per seizure by the Border Patrol in any fiscal year compared to such a weight-to-frequency rate for the immediately preceding five fiscal years.
(D) A situational awareness achievement metric that measures the amount of situational awareness achieved in each Border Patrol sector.

(E) An illicit drugs seizure rate which measures the amount and type of illicit drugs seized by the Border Patrol in any fiscal year compared to an average of the amount and type of illicit drugs seized by the Border Patrol for the immediately preceding five fiscal years.

(F) In consultation the Office of National Drug Control Policy and the United States Southern Command, a cocaine seizure effectiveness rate measured as a percentage that results from dividing the amount of cocaine seized by the Border Patrol by the total documented cocaine flow rate between ports of entry along the southern land border.

(G) Estimates, using alternative methodologies, including recidivism data, survey data, known-flow data, and technologically measured data, of total attempted unlawful border crossings, the rate of apprehension of attempted unlawful border crossers, and the in-
flow into the United States of unlawful border
crossers who evade apprehension.

(H) Estimates of the impact of the Border
Patrol’s Consequence Delivery System on the
rate of recidivism of unlawful border crossers.

(2) METRICS CONSULTATION.—In developing
the metrics required under paragraph (1), the Chief
of the Border Patrol shall consult with staff mem-
ers of the Office of Policy at the Department of
Homeland Security and staff members of the Office
of the Chief Financial Officer of the Department of
Homeland Security. Such staff members may not be
political appointees.

(3) METRICS NOT REVIEWABLE.—The metrics
required under paragraph (1) may not be reviewed
or otherwise amended by the President, any staff
employed by the Executive Office of the President,
the Secretary of Homeland Security, the Deputy
Secretary of Homeland Security, the Commissioner
of U.S. Customs and Border Protection, or the De-
puty Commissioner of U.S. Customs and Border Pro-
tection before the submission of such metrics to the
appropriate congressional committees, the BSVC,
and Comptroller General of the United States, as re-
quired under subsection (m). The prohibition de-
scribed in this paragraph does not apply to the Office of National Drug Control Policy.

(i) METRICS FOR SECURING THE BORDER AT PORTS OF ENTRY.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act and annually thereafter, the Assistant Commissioner for the Office of Field Operations in U.S. Customs and Border Protection shall develop metrics, informed by situational awareness, to measure the effectiveness of security at ports of entry, which shall include, at a minimum, the following:

(A) An inadmissible border crossing rate which measures the number of known inadmissible border crossers who are denied entry, excluding those border crossers who voluntarily withdraw their applications for admission, divided by the total estimated number of inadmissible border crossers who attempt entry.

(B) An illicit drugs seizure rate which measures the amount and type of illicit drugs seized by the Office of Field Operations of U.S. Customs and Border Protection in any fiscal year compared to an average of the amount and type of illicit drugs seized by U.S. Customs and
Border Protection for the immediately preceeding five fiscal years.

(C) In consultation with the Office of National Drug Control Policy and the United States Southern Command, a cocaine seizure effectiveness rate measured as a percentage that results from dividing the amount of cocaine seized by the Office of Field Operations of U.S. Customs and Border Protection by the total documented cocaine flow rate at ports of entry along the southern land border.

(D) Estimates, using alternative methodologies, including survey data and randomized secondary screening data, of total attempted inadmissible border crossers, the rate of apprehension of attempted inadmissible border crossers, and the inflow into the United States of inadmissible border crossers who evade apprehension.

(E) The number of infractions related to personnel and cargo committed by major violators who are apprehended by the Office of Field Operations of U.S. Customs and Border Protection at ports of entry, and the estimated num-
ber of such infractions committed by major viol-
ators who are not apprehended.

(F) A measurement of how border security
operations affect crossing times.

(2) METRICS CONSULTATION.—In developing
the metrics required under paragraph (1), the As-
sistant Commissioner for the Office of Field Oper-
ations shall consult with staff members of the Office
of Policy at the Department of Homeland Security
and staff members of the Office of the Chief Finan-
cial Officer of the Department of Homeland Secu-
rity. Such staff members may not be political ap-
pointees.

(3) METRICS NOT REVIEWABLE.—The metrics
required under paragraph (1) may not be reviewed
or otherwise amended by the President, any staff
employed by the Executive Office of the President,
the Secretary of Homeland Security, the Deputy
Secretary of Homeland Security, the Commissioner
of U.S. Customs and Border Protection, or the Dep-
uty Commissioner of U.S. Customs and Border Pro-
tection before the submission of such metrics to the
appropriate congressional committees, the BSVC,
and the Comptroller General of the United States,
as required under subsection (m). The prohibition
described in this paragraph does not apply to the Office of National Drug Control Policy.

(j) Metrics for Securing the Maritime Border.—

(1) In general.—Not later than 120 days after the date of the enactment of this Act and annually thereafter, the Commandant of the United States Coast Guard and the Assistant Commissioner for the Office of Air and Marine for U.S. Customs and Border Protection shall jointly implement metrics, informed by situational awareness, to measure the effectiveness of security in the maritime environment, which shall include, at a minimum, the following:

(A) An estimate of the total number of undocumented migrants the Department of Homeland Security’s maritime security components fail to interdict.

(B) An undocumented migrant interdiction rate which measures the flow of undocumented migrants interdicted against the total estimated number of undocumented migrants the Department of Homeland Security’s maritime security components fail to interdict.
(C) An illicit drugs removal rate which measures the amount and type of illicit drugs removed by the Department of Homeland Security’s maritime security components inside a transit zone in any fiscal year compared to an average of the amount and type of illicit drugs removed by the Department of Homeland Security’s maritime security components inside a transit zone for the immediately preceding five fiscal years.

(D) An illicit drugs removal rate which measures the amount and type of illicit drugs removed by the Department of Homeland Security’s maritime security components outside a transit zone in any fiscal year compared to an average of the amount and type of illicit drugs removed by the Department of Homeland Security’s maritime security components outside a transit zone for the immediately preceding five fiscal years.

(E) A cocaine removal effectiveness rate inside a transit zone.

(F) A cocaine removal effectiveness rate outside a transit zone.
(G) A response rate which measures the ability of the maritime security components of the Department of Homeland Security to respond to and resolve known maritime threats, both inside and outside a transit zone, by placing assets on-scene, compared to the total number of events with respect to which the Department has known threat information.

(2) METRICS CONSULTATION.—In developing the metrics required under paragraph (1), the Commandant of the Coast Guard and the Assistant Commissioner for Air and Marine shall consult with staff members of the Office of Policy at the Department of Homeland Security and staff members of the Office of the Chief Financial Officer of the Department of Homeland Security. Such staff members may not be political appointees.

(3) METRICS NOT REVIEWABLE.—The metrics required under paragraph (1) may not be reviewed or otherwise amended by the President, any staff employed by the Executive Office of the President, the Secretary of Homeland Security, the Deputy Secretary of Homeland Security, the Commissioner of U.S. Customs and Border Protection, or the Deputy Commissioner of U.S. Customs and Border Pro-
tection before the submission of such metrics to the appropriate congressional committees, the BSVC, and the Comptroller General of the United States, as required under subsection (m). The prohibition described in this paragraph does not apply to the Office of National Drug Control Policy.

(k) Air and Marine Security Metrics in the Land Domain.—

(1) In general.—Not later than 120 days after the date of the enactment of this Act and annually thereafter, the Assistant Commissioner for the Office of Air and Marine for U.S. Customs and Border Protection shall implement metrics, informed by situational awareness, to measure the effectiveness of security in the aviation environment, which shall include, at a minimum, the following:

(A) A requirement effectiveness rate which measures U.S. Customs and Border Protection’s Office of Air and Marine flight hours requirements against the number of flight hours actually flown by such Office.

(B) A funded flight hours effectiveness rate which measures the number of funded flight hours appropriated to U.S. Customs and Border Protection’s Office of Air and Marine
against the number of actual flight hours flown by such Office.

(C) A readiness rate which measures the number of aviation missions flown by U.S. Customs and Border Protection’s Office of Air and Marine against the number of aviation missions cancelled by such Office due to weather, maintenance, operations, or other causes.

(D) The number of subjects detected by U.S. Customs and Border Protection’s Office of Air and Marine through the use of unmanned aerial systems.

(E) The number of apprehensions assisted by U.S. Customs and Border Protection’s Office of Air and Marine through the use of unmanned aerial systems.

(F) The number and quantity of illicit drug seizures assisted by U.S. Customs and Border Protection’s Office of Air and Marine through the use of unmanned aerial systems.

(2) METRICS CONSULTATION.—In developing the metrics required under paragraph (1), the Assistant Commissioner for Air and Marine shall consult with staff members of the Office of Policy at the Department of Homeland Security and staff mem-
bers of the Office of the Chief Financial Officer of
the Department of Homeland Security. Such staff
members may not be political appointees.

(3) METRICS NOT REVIEWABLE.—The metrics
required under paragraph (1) may not be reviewed
or otherwise amended by the President, any staff
employed by the Executive Office of the President,
the Secretary of Homeland Security, the Deputy
Secretary of Homeland Security, the Commissioner
of U.S. Customs and Border Protection, or the Dep-
uty Commissioner of U.S. Customs and Border Pro-
tection before the submission to the appropriate con-
gressional committees, the BSVC, and the Compt-
troller General of the United States, as required
under subsection (m). The prohibition described in
this paragraph does not apply to the Office of Na-
tional Drug Control Policy.

(l) PENALTIES FOR FAILURE TO SUBMIT
METRICS.—

(1) IN GENERAL.—If any of the officials re-
ferred to in subsection (h), (i), (j), or (k) fail to
meet any of the deadlines required under any of
such subsections, no political appointee of the De-
partment of Homeland Security may perform any
function described in paragraph (2) until all such of-
officials have meet all of such deadlines.

(2) FUNCTIONS DESCRIBED.—The functions de-
scribed in this paragraph are the following:

(A) Travel using Government aircraft.

(B) Receipt of any non-essential training.

(C) Receipt of bonus pay, excluding over-
time pay.

(D) Receipt of any salary increase.

(m) EVALUATION BY THE GOVERNMENT ACCOUNT-
ABILITY OFFICE.—

(1) IN GENERAL.—The metrics required under
subsections (h), (i), (j), and (k) shall be made avail-
able to the appropriate congressional committees,
the BSVC, and the Comptroller General of the
United States, together with the data and method-
ology used to develop such metrics.

(2) REPORT.—Not later than 270 days after re-
ceiving the data and methodology referred to in
paragraph (1), the Comptroller General of the
United States shall submit to the appropriate con-
gressional committees and the BSVC a report on the
suitability and statistical validity of such data and
methodology, and shall make recommendations to
the Secretary of Homeland Security for other suit-
able metrics that may be used to measure the effectiveness of border security. Such report shall inform the BSVC in reviewing the notifications required under subsection (n)(2).

(n) BSVC Certification of Metrics and Operational Control.—

(1) Secretary of Homeland Security Notifications.—

(A) Two Years.—If the Secretary of Homeland Security determines that situational awareness and operational control of high traffic areas have been achieved by the date that is not later than two years after the date of the enactment of this Act, the Secretary shall, under penalty of perjury, submit to the appropriate congressional committees and the BSVC a notification that so attests.

(B) Five Years.—If the Secretary of Homeland Security determines that operational control along the southern land border of the United States has been achieved by the date that is not later than five years after the date of the enactment of this Act, the Secretary shall, under penalty of perjury, submit to the
appropriate congressional committees and the
BSVC a notification that so attests.

(C) ANNUAL UPDATES.—Every year begin-
ning with the year after the Secretary of Hom-
eland Security submits the notification under
subparagraph (B), if the Secretary determines
that operational control along the southern land
border of the United States is being main-
tained, the Secretary shall submit to the appro-
priate congressional committees and the BSVC
a notification that so attests.

(2) BSVC CERTIFICATION.—

(A) Operational control reviews.—
The BSVC shall review the notifications of the
Secretary of Homeland Security under subpara-
graphs (A), (B), and (C) of paragraph (1) to
assess such notifications relating to the achieve-
ment of situational awareness, operational con-
trol, or both, as the case may be, in accordance
with such subparagraphs.

(B) Review of metrics.—Beginning with
the second annual submission of each of the
metrics required under subsection (m) and pur-
suant to subsections (h), (i), (j), and (k) and
annually thereafter until the termination of the
BSVC under section 4(q), the BSVC shall re-
view such metrics to assess the statistical valid-
ity and methodology of the data used to imple-
ment such metrics.

(C) REPORTS.—

(i) OPERATIONAL CONTROL.—Not later than 120 days after conducting a re-
view described in subparagraph (A), the BSVC shall submit to the appropriate con-
gressional committees a report on the re-
sults of each such review and a certifi-
cation of the accuracy of the notification reviewed, in accordance with subparagraph (D).

(ii) OPERATIONAL CONTROL NOT ACHIEVED.—If the BSVC determines that any notification required under subpara-
graph (A), (B), or (C) of paragraph (1) is not accurate, the BSVC shall include in the report under clause (i) an explanation of why situational awareness, operational control, or both, as the case may be, was not achieved. Such explanation shall in-
clude, at a minimum—

(I) impediments incurred;
(II) potential remedies; and

(III) recommendations to achieve

situational awareness, operational

control, or both, as the case may be.

(iii) METRICS.—Not later than 120
days after conducting a review described in
subparagraph (B), the BSVC shall submit
to the appropriate congressional commit-
tees a report on the results of each such
review and a determination of the accuracy
of the metrics implemented under sub-
sections (h), (i), (j), and (k).

(D) OPERATIONAL CONTROL CERTIFI-

CATION.—

(i) IN GENERAL.—For purposes of
subparagraph (C)(i), the BSVC shall cer-
tify the accuracy of a notification of the
Secretary if four members of the BSVC
vote that such certification is accurate.

(ii) PUBLIC VOTING.—A vote referred
to under clause (i) shall be conducted in
public.

(iii) CONSULTATION.—Before con-
ducting a vote referred to in clause (i), the
BSVC shall consult with the governors of
each southern border State, representatives
of the National Border Patrol Council, and
relevant State and local government agen-
cies that have jurisdiction on the southern
border.

(E) METRICS DETERMINATION.—For pur-
poses of subparagraph (C)(iii), the BSVC shall
concur in the accuracy of the metrics required
under subsections (h), (i), (j), and (k) if four
members of the BSVC vote that such certifi-
cation is accurate.

(o) FAILURE TO ACHIEVE OPERATIONAL CON-
TROL.—

(1) PENALTIES.—

(A) IN GENERAL.—If the Secretary of
Homeland Security determines that situational
awareness, operational control, or both, as the
case may be, has not been achieved by the dates
referred to in subsection (n)(1) (and thus fails
to submit a notification to the BSVC), or if the
BSVC determines pursuant to subsection (n)(2)
that the Secretary has failed to achieve situa-
tional awareness and operational control of high
traffic areas or has failed to achieve operational
control along the southern border by such re-
spective dates, no political appointee of the Department of Homeland Security may perform any function described in subparagraph (B) until the BSVC certifies that the Secretary has achieved such situational awareness, operational control, or both, as the case may be.

(B) FUNCTIONS DESCRIBED.—The functions described in this subparagraph are each of the following:

(i) Travel using Government aircraft.

(ii) Receipt of any non-essential training, including conferences.

(iii) Receipt of bonus pay, excluding overtime pay.

(iv) Receipt of any salary increase.

(2) NATIONAL SECURITY EXCEPTION.—The Secretary of Homeland Security may waive the travel prohibition in paragraph (1)(B)(i) if the Secretary determines and notifies the appropriate congressional committees that—

(A) such a waiver is in the national security interests of the United States; or

(B) such travel is being carried out to achieve operational control of the southern border of the United States.
(3) **FURTHER ACTION REQUIRED.**—If the Secretary of Homeland Security determines that situation awareness, operational control, or both, as the case may be, has not been achieved by the dates referred to in subsection (n)(1) (and thus fails to submit a notification to the BSVC), or if the BSVC determines pursuant to subsection (n)(2) that the Secretary has failed to achieve situational awareness and operational control of high traffic areas or fails to achieve operational control along the southern border by such respective dates, the Secretary of Homeland Security shall, within 180 days, submit to the appropriate congressional committees and the BSVC and implement a revised plan to achieve situational awareness, operational control, or both, as the case may be, that adopts the recommendations of the BSVC referred to in subsection (n)(2)(C)(ii)(III).

(p) **REPORTS.**—Not later than 60 days after the date of the enactment of this Act and annually thereafter, the Secretary of Homeland Security shall submit to the appropriate congressional committees a report that includes each of the following:

(1) A resource allocation model for current and future year staffing requirements that includes opti-
mal staffing levels at all land, air, and sea ports of entry, and an explanation of U.S. Customs and Border Protection methodology for aligning staffing levels and workload to threats and vulnerabilities and their effects on cross border trade and passenger travel across all mission areas.

(2) Detailed information on the level of manpower available at all land, air, and sea ports of entry and between ports of entry, including the number of canine and agricultural specialists assigned to each such port of entry.

(3) Detailed information describing the difference between the staffing the model suggests and the actual staffing at each port of entry and between the ports of entry.

(4) Monthly per passenger wait times, including data on per passenger processing wait times at all land, air, and sea ports of entry.

(5) A description of the infrastructure, security resources, and other measures that are necessary to achieve substantial reductions in the average wait times of vehicles at land border ports of entry.
SEC. 4. ESTABLISHMENT OF BORDER SECURITY VERIFICATION COMMISSION.

(a) IN GENERAL.—There is established a Border Security Verification Commission (in this Act referred to as the “BSVC”).

(b) PURPOSE.—The BSVC shall certify the accuracy of the notifications regarding situational awareness and operational control required from the Secretary pursuant to section 3(n).

(c) COMPOSITION.—The BSVC shall be composed of—

(1) the head of a national laboratory within the Department of Homeland Security laboratory network with prior expertise in border security, appointed by the President, in coordination with the Speaker and minority leader of the House of Representatives and the majority and minority leaders of the Senate;

(2) the head of a border security university-based center within the Department of Homeland Security Centers of Excellence network, appointed by the President, in coordination with the Speaker and minority leader of the House of Representatives and the majority and minority leaders of the Senate;
(3) three individuals, appointed by the President, based on the recommendations of the special congressional commission on border security established pursuant to subsection (d).

(d) SPECIAL CONGRESSIONAL COMMISSION ON BORDER SECURITY.—

(1) Establishment.—There is established a special congressional commission on border security (in this subsection referred to as the “commission”). The commission shall determine the criteria for making recommendations for the individuals to be appointed by the President under subsection (c)(3), and shall recommend not more than five individuals for such appointments. The commission shall consist of—

(A) the Speaker and minority leader of the House of Representatives;

(B) the majority and minority leaders of the Senate;

(C) the chairman and ranking member of the Committee on Homeland Security of the House of Representatives; and

(D) the chairman and ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate.
(2) VOTING PROCEDURES.—

(A) IN GENERAL.—The commission may make a recommendation to the President concerning an individual referred to in subsection (c)(3) only if such recommendation is approved by a majority vote of the full membership of the commission.

(B) TIE VOTE.—In the event of a tie vote of the commission during its consideration of whether or not to recommend an individual to the President under paragraph (1), the Speaker of the House of Representatives shall cast the deciding vote.

(e) QUALIFICATIONS.—The individuals referred to in subsection (c)(3) shall have a minimum of five years professional experience in law enforcement and border security.

(f) CHAIR.—The BSVC shall be chaired by the individual referred to in subsection (c)(1).

(g) APPOINTMENT.—The members of the BSVC shall be appointed not later than 60 days after the date of the enactment of this Act.

(h) PROHIBITION ON COMPENSATION.—Members of the BSVC may not receive pay, allowances, or benefits
from the Federal Government by reason of their service
on the BSVC.

(i) Prohibition on Certain Membership.—Members of the BSVC may not be current Federal employees
or current Members of Congress.

(j) Security Clearances.—A member or employee
of the BSVC shall receive an appropriate security clear-
ance, as determined by the BSVC in consultation with the
Secretary of Homeland Security, that is commensurate
with the sensitivity of the classified information to which
such member or employee will be given access by reason
of membership in or employment by the BSVC.

(k) Meetings.—The BSVC shall meet on the call
of the chairperson. The BSVC shall meet and begin oper-
ations not later than 180 days after the date of the enact-
ment of this Act.

(l) Public Hearings.—

(1) In General.—The BSVC shall hold not
fewer than two public hearings each calendar year.

(2) Witness Testimony.—In holding the
hearings required under paragraph (1), the BSVC
shall request the public testimony of Federal, State,
and local officials, and any private citizen or organi-
zation the BSVC determines is relevant to carrying
out its mission.
(m) QUORUM.—Four members of the BSVC shall constitute a quorum to conduct business, but the BSVC may establish a lesser quorum for conducting hearings scheduled by the BSVC.

(n) RULES.—The BSVC may establish by majority vote any other rules for the conduct of business, if such rules are not inconsistent with this Act.

(o) VACANCIES.—Any vacancy in the membership of the BSVC shall be filled within 60 days and in the same manner as the original appointment.

(p) PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—The members of the BSVC shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the BSVC.

(2) DETAIL OF FEDERAL EMPLOYEES.—With the affirmative vote of four of the members of the BSVC, any Federal Government employee, with the approval of the head of the appropriate Federal agency or congressional office, may be detailed to the BSVC without reimbursement, and such detail
shall be without interruption or loss of civil service status, salary, benefits, or privileges.

(3) Office space and assistance.—Upon the request of the BSVC, the Secretary of Homeland Security shall provide reasonable and appropriate office space, supplies, and administrative assistance.

(q) Termination.—The BSVC shall terminate after determining the accuracy of the seventh annual metrics submission required under subsection (n)(2) of section 3.

SEC. 5. REQUIRED CONSEQUENCE.

The Chief of the Border Patrol shall impose a consequence for each alien apprehended pursuant to the Border Patrol’s Consequence Delivery System.

SEC. 6. TACTICAL FLEXIBILITY.

The Chief of the Border Patrol may alter the capability deployment referred to in subsection (b) of section 3 if the Chief determines, after consultation with the appropriate congressional committees, that the principal border security threats referred to in subsection (f)(2)(A) of such section require such alteration.

SEC. 7. DEPLOYMENT OF CERTAIN AVIATION ASSETS TO

THE SOUTHERN LAND BORDER.

(a) In general.—The Secretary of Defense, in collaboration with the Secretary of Homeland Security, may allocate additional aviation assets of the Department of
Defense to the southern land border of the United States to assist the Secretary of Homeland Security in achieving situational awareness and operational control in accordance with section 3(a).

(b) ADDITIONAL REQUIREMENTS.—

(1) PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees and the BSVC a plan for the Department of Homeland Security to acquire and deploy aviation capabilities of the Department along the southern land border of the United States.

(2) DHS DEPLOYMENT.—Not later than 180 days after the submission of the plan under paragraph (1), the Secretary of Homeland Security shall begin acquiring and deploying to the southern land border of the United States aviation capabilities of the Department of Homeland Security acquired in accordance with such plan.

SEC. 8. U.S. CUSTOMS AND BORDER PROTECTION OFFICER AND AGENT AUTHORIZATION.

(a) BORDER PATROL.—The Border Patrol shall maintain an active duty presence of not fewer than 21,370 full time equivalent agents.
(b) Office of Field Operations.—The Office of Field Operations of U.S. Customs and Border Protection shall maintain not fewer than 23,775 full time equivalent officers.

c) Office of Air and Marine.—The Office of Air and Marine of U.S. Customs and Border Protection shall maintain not fewer than 1,675 full time equivalent agents.


(a) Increased Flight Hours.—The Secretary of Homeland Security shall ensure not fewer than 130,000 annual flight hours of the Office of Air and Marine of U.S. Customs and Border Protection.

(b) Unmanned Aerial Systems.—The Office of Air and Marine of U.S. Customs and Border Protection shall operate unmanned aerial systems not less than 16 hours per day, seven days per week.

SEC. 10. Air and Marine Prioritization.

The Assistant Commissioner for the Office of Air and Marine of U.S. Customs and Border Protection shall assign the greatest prioritization to support requests from the Chief of the Border Patrol to carry out the requirements of section 3(a).
SEC. 11. BORDER PATROL FLEXIBILITY.

(a) TRANSFER.—The Chief of the Border Patrol may transfer Border Patrol agents, on a voluntary basis, to high traffic areas, as determined by the Chief.

(b) INCENTIVE BONUS.—At the discretion of the Chief of the Border Patrol, a Border Patrol agent may be eligible for an incentive bonus for any transfer carried out pursuant to subsection (a) if the Chief determines that such transfer is critical to the risk-based approach of the Border Patrol to patrolling the international borders of the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for each fiscal year.

SEC. 12. PROHIBITION ON ACTIONS THAT IMPEDE BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) PROHIBITION ON SECRETARIES OF THE INTERIOR AND AGRICULTURE.—The Secretary of the Interior or the Secretary of Agriculture shall not impede, prohibit, or restrict activities of U.S. Customs and Border Protection on Federal land located within 100 miles of the United States border with Mexico that is under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture, to execute search and rescue operations, and to prevent all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, in-
Instruments of terrorism, narcotics, and other contraband through such international border. These authorities of U.S. Customs and Border Protection on such Federal land apply whether or not a state of emergency exists.

(b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND BORDER PROTECTION.—U.S. Customs and Border Protection shall have immediate access to Federal land within 100 miles of the United States border with Mexico that is under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture for purposes of conducting the following activities on such land to prevent all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband through such international border:

(1) Construction and maintenance of roads.
(2) Construction and maintenance of barriers.
(3) Use of vehicles to patrol, apprehend, or rescue.
(4) Installation, maintenance, and operation of communications and surveillance equipment and sensors.
(5) Deployment of temporary tactical infrastructure.
(c) **Clarification Relating to Waiver Authority.**—

(1) **In General.**—Notwithstanding any other provision of law (including any termination date relating to the waiver referred to in this subsection), the waiver by the Secretary of Homeland Security on April 1, 2008, under section 102(c)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note; Public Law 104–208) of the laws described in paragraph (2) with respect to certain sections of the international border between the United States and Mexico shall be considered to apply to all Federal land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture within 100 miles of such international border for the activities of U.S. Customs and Border Protection described in subsection (b).


(d) PROTECTION OF LEGAL USES.—This section may not be construed to provide—

(1) authority to restrict legal uses, such as grazing, hunting, mining, or public-use recreational and backcountry airstrips on land under the jurisdic-
tion of the Secretary of the Interior or the Secretary of Agriculture; or

(2) any additional authority to restrict legal access to such land.

(e) Effect on State and Private Land.—This section shall—

(1) have no force or effect on State or private lands; and

(2) not provide authority on or access to State or private lands.

(f) Tribal Sovereignty.—Nothing in this section supersedes, replaces, negates, or diminishes treaties or other agreements between the United States and Indian tribes.

SEC. 13. BIOMETRIC EXIT DATA SYSTEM.

(a) Establishment.—The Secretary of Homeland Security shall—

(1) not later than 180 days after the date of the enactment of this Act, submit to the appropriate congressional committees an implementation plan to establish a biometric exit data system to complete the integrated biometric entry and exit data system required under section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b), including—
(A) an integrated master schedule and cost estimate, including requirements and design, development, operational, and maintenance costs, of such a system that takes into account prior reports on such matters issued by the Government Accountability Office and the Department of Homeland Security;

(B) cost-effective staffing and personnel requirements of such a system that leverages existing resources of the Department of Homeland Security that takes into account prior reports on such matters issued by the Government Accountability Office and the Department of Homeland Security;

(C) a consideration of training programs necessary to establish such a system that takes into account prior reports on such matters issued by the Government Accountability Office and the Department of Homeland Security;

(D) a consideration of how such a system will affect wait times that takes into account prior reports on such matter issued by the Government Accountability Office and the Department of Homeland Security;
(E) information received after consultation with private sector stakeholders, including—

(i) the trucking industry;

(ii) the airport industry;

(iii) the airline industry;

(iv) the seaport industry;

(v) the travel industry; and

(vi) the biometric technology industry;

(F) a consideration of how trusted traveler programs in existence as of the date of the enactment of this Act may be impacted by, or incorporated into, such a system;

(G) defined metrics of success and milestones;

(H) identified risks and mitigation strategies to address such risks; and

(I) a consideration of how other countries have implemented a biometric exit data system;

and

(2) not later than two years after the date of the enactment of this Act, establish a biometric exit data system at—

(A) the 15 United States airports that support the highest volume of international air
travel, as determined by available Federal flight data;

(B) the 15 United States seaports that support the highest volume of international sea travel, as determined by available Federal travel data; and

(C) the 15 United States land ports of entry that support the highest volume of pedestrian crossings, as determined by available Federal border crossing data.

(b) IMPLEMENTATION.—

(1) PILOT PROGRAM AT LAND PORTS OF ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAFFIC.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security, in collaboration with industry stakeholders, shall establish a six-month pilot program to test the biometric exit data system referred to in subsection (a)(2) on non-pedestrian outbound traffic at not fewer than three land ports of entry with significant cross-border traffic, including at not fewer than two land ports of entry on the southern border and at least one land port of entry on the northern border. Such pilot program may include a consideration of more
than one biometric mode, and shall be implemented
to determine the following:

(A) How a nationwide implementation of
such biometric exit data system at land ports of
entry shall be carried out.

(B) The infrastructure required to carry
out subparagraph (A).

(C) The effects of such pilot program on
legitimate travel and trade.

(D) The effects of such pilot program on
wait times, including processing times, for such
non-pedestrian traffic.

(E) Its effectiveness in combating ter-
rorism.

(2) AT LAND PORTS OF ENTRY FOR NON-PE-
DESTRIAN OUTBOUND TRAFFIC.—

(A) IN GENERAL.—Not later than five
years after the date of the enactment of this
Act, the Secretary of Homeland Security shall
expand the biometric exit data system referred
to in subsection (a)(2) to all land ports of
entry, and such system shall apply only in the
case of non-pedestrian outbound traffic.

(B) EXTENSION.—The Secretary of Home-
land Security may extend by two years the ini-
tial date specified in subparagraph (A), and may renew such extension for a single addi-
tional two-year period, if the Secretary certifies to the appropriate congressional committees that the 15 land ports of entry that support the highest volume of passenger vehicles, as deter-
mined by available Federal data, do not have the physical infrastructure or characteristics to install the systems necessary to implement a bi-
ometric exit data system.

(3) AT AIR AND SEA PORTS OF ENTRY.—Not later than five years after the date of the enactment of this Act, the Secretary of Homeland Security shall expand the biometric exit data system referred to in subsection (a)(2) to all air and sea ports of entry.

(4) AT LAND PORTS OF ENTRY FOR PEDESTRIANS.—Not later than five years after the date of the enactment of this Act, the Secretary of Homeland Security shall expand the biometric exit data system referred to in subsection (a)(2) to all land ports of entry, and such system shall apply only in the case of pedestrians.

(c) EFFECTS ON AIR, SEA, AND LAND TRANSPORTATION.—The Secretary of Homeland Security, in con-
sultation with appropriate private sector stakeholders, shall ensure that the collection of biometric data under this section causes the least possible disruption to the movement of people or cargo in air, sea, or land transportation.

(d) Termination of Proceeding.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, on the date of the enactment of this Act, terminate the proceeding entitled “Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure”, issued on April 24, 2008 (73 C.F.R. 22065; DHS Docket No. 2008–0039).

(e) Data-Matching.—The biometric exit data system established under this section shall—

(1) require that the biometric data that is obtained for a person upon entry to the United States is matched against the biometric data of such person when such person exits the United States;

(2) leverage the infrastructure and databases of the current entry system established pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and
(3) be interoperable with, and allow matching against, other Federal databases that store biometrics of known or suspected terrorists.

(f) Scope.—

(1) In general.—The biometric exit data system established under this section shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data.

(2) Exception.—This section shall not apply in the case of a citizen of the United States.

(g) Collection of Data.—The Secretary of Homeland Security may not require any non-Federal person to collect biometric data pursuant to the biometric exit data system established under this section, except through a contractual agreement.

(h) Multi-Modal Collection.—In carrying out subsections (a)(1) and (b), the Secretary of Homeland Security shall make every effort to collect biometric data using additional modes of biometric technology.

(i) Penalties for Failure to Meet Deadlines.—

(1) Biometric exit data system.—If the Secretary fails to meet any of the following requirements by the applicable deadline, no political ap-
pointee of the Department of Homeland Security may perform any function described in paragraph (2) until the Secretary has complied with the requirement:

(A) The submission of the implementation plan under subsection (a)(1).

(B) The establishment of a biometric exit data system under subsection (a)(2).

(C) The establishment a six-month pilot program to test such biometric exit data system under subsection (b)(1)(A).

(D) The expansion of such biometric exit data system under subsection (b)(2)(A).

(E) Any extension of the deadline for such expansion authorized by the Secretary under subsection (b)(2)(B)(ii).

(2) FUNCTIONS DESCRIBED.—The functions described in this subparagraph are each of the following:

(A) Travel using government aircraft.

(B) Receipt of any non-essential training.

(C) Receipt of bonus pay, excluding overtime pay.

(D) Receipt of any salary increase.
SEC. 14. NORTHERN BORDER THREAT ANALYSIS.

(a) In General.—Not later than six months after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a northern border threat analysis. Such analysis, at a minimum, shall include the following:

(1) An analysis of current and potential terrorism threats posed by individuals seeking to enter the United States through the northern border.

(2) An analysis of improvements needed at ports of entry along the northern border to prevent terrorists and instruments of terror from entering the United States.

(3) An analysis of gaps in law, policy, international agreements, or tribal agreements that hinder the border security and counter-terrorism efforts along the northern border.

(4) An analysis of unlawful cross border activity between ports of entry, including the maritime borders of the Great Lakes.

(b) Classified Threat Analysis.—The threat analysis required under subsection (a) may be submitted in classified form, if the Secretary of Homeland Security determines that such is appropriate.
SEC. 15. OPERATION STONEGARDEN PROGRAM.

(a) IN GENERAL.—Title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.) is amended by adding the following new subtitle:

“Subtitle C—Other Grant Programs

“SEC. 2031. OPERATION STONEGARDEN.

“(a) Establishment.—There is established in the Department a program to be known as ‘Operation Stonegarden’. Under such program, the Secretary, acting through the Administrator, shall make grants to eligible law enforcement agencies to enhance border security in accordance with this section.

“(b) Eligible Recipients.—To be eligible to receive a grant under this section, a law enforcement agency shall—

“(1) be located in—

“(A) a State bordering either Canada or Mexico; or

“(B) a State or territory with a maritime border; and

“(2) be involved in an active ongoing U.S. Customs and Border Protection operation coordinated through a sector office.

“(c) Permitted Uses.—The recipient of a grant under this section may use the grant for any of the following activities:
“(1) Equipment, including maintenance and sustainment costs.

“(2) Personnel, including overtime and backfill, in support of enhanced border law enforcement activities.


“(4) Any other appropriate activity, as determined by the Administrator.

“(d) Authorization of Appropriations.—There is authorized to be appropriated $110,000,000 for each of fiscal years 2015 through 2019 for grants under this section.

“(e) Report.—The Administrator shall annually submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report containing information on the expenditure of grants made under this section by each grant recipient.”.

(b) Clerical Amendment.—The table of contents in section 1(b) of such Act is amended by inserting after the items relating to subtitle B of title XX the following new items:
SEC. 16. SALE OR DONATION OF EXCESS PERSONAL PROPERTY FOR BORDER SECURITY ACTIVITIES.

Section 2576a of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking “counter-drug and counter-terrorism activities” and inserting “counterdrug, counterterrorism, and border security activities”; and

(B) in paragraph (2), by striking “the Attorney General and the Director of National Drug Control Policy” and inserting “the Attorney General, the Director of National Drug Control Policy, and the Secretary of Homeland Security, as appropriate.”; and

(2) in subsection (d), by striking “counter-drug or counter-terrorism activities” and inserting “counterdrug, counterterrorism, or border security activities”.

SEC. 17. REIMBURSEMENT OF STATES FOR DEPLOYMENT OF NATIONAL GUARD TO THE SOUTHERN BORDER.

(a) REIMBURSEMENT AUTHORIZED.—The Secretary of Defense shall reimburse States for the cost of the de-
employment of any units or personnel of the National Guard
to perform operations and missions under State Active
Duty status in support of a southern border mission.

(b) LIMITATION.—The total amount of reimburse-
ments under subsection (a) for any fiscal year may not
exceed $35,000,000.

SEC. 18. DEFINITIONS.

In this Act:

(1) ADVANCED UNATTENDED SURVEILLANCE
SENSORS.—The term “advanced unattended surveil-
lance sensors” means sensors that utilize an onboard
computer to analyze detections in an effort to dis-
cern between vehicles, humans, and animals, and ul-
timately filter false positives prior to transmission.

(2) APPROPRIATE CONGRESSIONAL COMMIT-
TEES.—The term “appropriate congressional com-
mittees” means the Committee on Homeland Secu-
rit y of the House of Representatives and the Com-
mittee on Homeland Security and Governmental Af-
fairs of the Senate.

(3) COCAINE REMOVAL EFFECTIVENESS
RATE.—The term “cocaine removal effectiveness
rate” means the percentage that results from divid-
ing the amount of cocaine removed by the Depart-
ment of Homeland Security’s maritime security com-
ponents inside or outside a transit zone, as the case
may be, by the total documented cocaine flow rate
as contained in Federal drug databases.

(4) Consequence delivery system.—The
term “Consequence Delivery System” means the se-
ries of consequences applied to persons unlawfully
entering the United States by the Border Patrol to
prevent unlawful border crossing recidivism.

(5) Got away.—The term “got away” means
an unlawful border crosser who, after making an un-
lawful entry into the United States, is not turned
back or apprehended.

(6) High traffic areas.—The term “high
traffic areas” means sectors along the northern and
southern borders of the United States that are with-
in the responsibility of the Border Patrol that have
significant unlawful cross-border activity, informed
through situational awareness.

(7) Unlawful border crossing effectiveness rate.—The term “unlawful border crossing
effectiveness rate” means the percentage that results
from dividing the number of apprehensions and turn
backs by the number of apprehensions, turn backs,
and got aways. The data used by the Secretary of
Homeland Security to determine such rate shall be
collected and reported in a consistent and standard-
ized manner across all Border Patrol sectors, in-
formed by situational awareness.

(8) MAJOR VIOLATOR.—The term “major viola-
tor” means a person or entity that has engaged in
serious criminal activities at any land, air, or sea
port of entry, including possession of illicit drugs,
smuggling of prohibited products, human smuggling,
weapons possession, use of fraudulent United States
documents, or other offenses serious enough to re-
sult in arrest.

(9) OPERATIONAL CONTROL.—The term “oper-
ational control” has the meaning given such term in
section 2(b) of the Secure Fence Act of 2006 (8

(10) SITUATIONAL AWARENESS.—The term
“situational awareness” means knowledge and an
understanding of current unlawful cross-border ac-
tivity, including cross-border threats and trends con-
cerning illicit trafficking and unlawful crossings
along the international borders of the United States,
the ability to forecast future shifts in such threats
and trends, and the operational capability to conduct
continuous and integrated surveillance of the inter-
national borders of the United States.
(11) Transit Zone.—The term “transit zone” means the sea corridors of the western Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and the eastern Pacific Ocean through which undocumented migrants and illicit drugs transit, either directly or indirectly, to the United States.

(12) Turn Back.—The term “turn back” means an unlawful border crosser who, after making an unlawful entry into the United States, returns to the country from which such crosser entered.

SEC. 19. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for each of fiscal years 2016 through 2025 $1,000,000,000 to carry out this Act and the amendments made by this Act.