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114TH CONGRESS
1ST SESSION

H. R. 399

[Report No. 114–10, Part I]

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. FARENTHOLD, 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

JANUARY 27, 2015

Additional sponsors: Mr. CLAWSON of Florida, Mr. PALAZZO, Mr. KING of New York, Mr. NEUGEBAUER, Mr. PERRY, Mr. COFFMAN, Mr. HARDY, Mr. KATKO, Mr. CARTER of Georgia, Mr. JOLLY, Ms. GRANGER, Mr. LONG, Mr. GOODLATTE, Mr. BRADY of Texas, and Mr. BARTON

JANUARY 27, 2015

Reported from the Committee on Homeland Security with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 16, 2015]

JANUARY 27, 2015

The Committees on Armed Services, Natural Resources, and Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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.

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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Se-*
 5 *cure Our Borders First Act of 2015”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *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. Patrol by the Border Patrol of physical land border.

Sec. 7. Tactical flexibility.

Sec. 8. Deployment of certain aviation assets to the southern land border.

Sec. 9. U.S. Customs and Border Protection officer and agent authorization.

Sec. 10. Office of Air and Marine flight hours.

Sec. 11. Air and Marine prioritization.

Sec. 12. Border Patrol flexibility.

Sec. 13. Prohibition on actions that impede border security on certain Federal
land.

Sec. 14. Biometric exit data system.

Sec. 15. Northern border threat analysis.

Sec. 16. Operation Stonegarden program.

Sec. 17. Sale or donation of excess personal property for border security activities.

Sec. 18. Reimbursement of States for deployment of National Guard to the south-
ern land border.

Sec. 19. Operation of the Border Patrol.

Sec. 20. Definitions.

Sec. 21. Authorization of appropriations.

8 **SEC. 2. REPORTS ON CURRENT BORDER SECURITY STATUS.**

9 (a) *IN GENERAL.*—

10 (1) *REPORTS.*—*The Secretary of Homeland Se-*
 11 *curity shall submit to the appropriate congressional*
 12 *committees, the Border Security Verification Commis-*
 13 *sion (BSVC), and the Government Accountability Of-*
 14 *fice reports that assess and describe the state of situa-*

1 *tional awareness and operational control along the*
2 *northern and southern land borders of the United*
3 *States. Such reports shall include an identification of*
4 *the high traffic areas and the unlawful border cross-*
5 *ing effectiveness rate for each sector along the north-*
6 *ern and southern land borders of the United States*
7 *that are within the responsibility of the Border Pa-*
8 *trol.*

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

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

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

17 (C) *During the period beginning on the date*
18 *that is 180 days after the date of the submission*
19 *of last report under subparagraph (B), such re-*
20 *ports shall be submitted every 360 days.*

21 (b) *GAO REPORT.*—*Not later than 90 days after re-*
22 *ceiving the initial report required under subsection (a), the*
23 *Comptroller General of the United States shall report to the*
24 *appropriate congressional committees and the BSVC re-*
25 *garding the verification of the data and methodology used*

1 *to determine high traffic areas and the unlawful border*
2 *crossing effectiveness rate.*

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

4 (a) *SECURING THE BORDER.*—The Secretary of Home-
5 *land Security shall gain and maintain situational aware-*
6 *ness, and operational control of high traffic areas, by the*
7 *date that is not later than two years after the date of the*
8 *enactment of this Act, and operational control and situa-*
9 *tional awareness along the southern land border of the*
10 *United States by the date that is not later than five years*
11 *after such date of enactment.*

12 (b) *REQUIRED CAPABILITY DEPLOYMENT.*—Not later
13 *than one year after the date of the enactment of this Act,*
14 *the Secretary of Homeland Security, acting through the ap-*
15 *propriate component of the Department of Homeland Secu-*
16 *riety, shall, at a minimum, deploy to each sector or region,*
17 *as the case may be, of the southern border, in a prioritized,*
18 *risk-based manner to achieve situational awareness and*
19 *operational control of the border the following additional*
20 *capabilities:*

21 (1) *SAN DIEGO SECTOR.*—For the San Diego sec-
22 *tor, the following:*

23 (A) *Subterranean surveillance and detection*
24 *technologies.*

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

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

5 (ii) Unmanned aerial vehicles with
6 maritime surveillance capability.

7 (iii) Maritime patrol aircraft.

8 (iv) Coastal radar surveillance sys-
9 tems.

10 (v) Maritime signals intelligence capa-
11 bilities.

12 (C) Ultralight aircraft detection capabili-
13 ties.

14 (D) Advanced unattended surveillance sen-
15 sors.

16 (E) A rapid reaction capability supported
17 by aviation assets.

18 (2) *EL CENTRO SECTOR*.—For the El Centro sec-
19 tor, the following:

20 (A) Tower-based surveillance technology.

21 (B) Deployable, lighter than air ground sur-
22 veillance equipment.

23 (C) Man-portable unmanned aerial vehicles.

24 (D) Ultralight aircraft detection capabili-
25 ties.

1 (E) *Advanced unattended surveillance sen-*
2 *sors.*

3 (F) *A rapid reaction capability supported*
4 *by aviation assets.*

5 (3) *YUMA SECTOR.—For the Yuma sector, the*
6 *following:*

7 (A) *Tower-based surveillance technology.*

8 (B) *Mobile vehicle-mounted and man-port-*
9 *able surveillance systems.*

10 (C) *Deployable, lighter-than-air ground sur-*
11 *veillance equipment.*

12 (D) *Ultralight aircraft detection capabili-*
13 *ties.*

14 (E) *Advanced unattended surveillance sen-*
15 *sors.*

16 (F) *A rapid reaction capability supported*
17 *by aviation assets.*

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

20 (A) *Increased flight hours for aerial detec-*
21 *tion, interdiction, and monitoring operations ca-*
22 *pability.*

23 (B) *Man-portable unmanned aerial vehicles.*

24 (C) *Tower-based surveillance technology.*

1 (D) *Ultralight aircraft detection capabili-*
2 *ties.*

3 (E) *Advanced unattended surveillance sen-*
4 *sors.*

5 (F) *Deployable, lighter than air ground sur-*
6 *veillance equipment.*

7 (G) *A rapid reaction capability supported*
8 *by aviation assets.*

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

11 (A) *Tower-based surveillance technology.*

12 (B) *Ultralight aircraft detection capabili-*
13 *ties.*

14 (C) *Advanced unattended surveillance sen-*
15 *sors.*

16 (D) *Mobile vehicle-mounted and man-port-*
17 *able surveillance systems.*

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

20 (F) *A rapid reaction capability supported*
21 *by aviation assets.*

22 (6) *BIG BEND SECTOR.—For the Big Bend sec-*
23 *tor, the following:*

24 (A) *Tower-based surveillance technology.*

1 (B) Deployable, lighter than air ground sur-
2 veillance equipment.

3 (C) Improved agent communications capa-
4 bilities.

5 (D) Ultralight aircraft detection capabili-
6 ties.

7 (E) Advanced unattended surveillance sen-
8 sors.

9 (F) A rapid reaction capability supported
10 by aviation assets.

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

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

15 (B) Improved agent communications capa-
16 bilities.

17 (C) Improved maritime capabilities in the
18 Amistad Recreation Area.

19 (D) Advanced unattended surveillance sen-
20 sors.

21 (E) A rapid reaction capability supported
22 by aviation assets.

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

1 (A) *Maritime detection resources for Falcon*
2 *Lake region.*

3 (B) *Increased flight hours for aerial detec-*
4 *tion, interdiction, and monitoring operations ca-*
5 *pability.*

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

8 (D) *Ultralight aircraft detection capabili-*
9 *ties.*

10 (E) *Advanced unattended surveillance sen-*
11 *sors.*

12 (F) *A rapid reaction capability supported*
13 *by aviation assets.*

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

16 (A) *Deployable, lighter than air ground sur-*
17 *veillance equipment.*

18 (B) *Increased flight hours for aerial detec-*
19 *tion, interdiction and monitoring operations ca-*
20 *pability.*

21 (C) *Ultralight aircraft detection capabili-*
22 *ties.*

23 (D) *Advanced unattended surveillance sen-*
24 *sors.*

1 (E) Increased monitoring for cross-river
2 dams, culverts, footpaths.

3 (F) A rapid reaction capability supported
4 by aviation assets.

5 (10) EASTERN PACIFIC MARITIME REGION.—For
6 the Eastern Pacific Maritime region, the following:

7 (A) Increased cutter and boat hours and op-
8 eration platforms to conduct interdiction oper-
9 ations.

10 (B) Increased maritime signals intelligence
11 capabilities.

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

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

16 (ii) Unmanned aerial vehicles with
17 maritime surveillance capability.

18 (iii) Increased maritime aviation pa-
19 trol hours.

20 (iv) Coastal radar surveillance sys-
21 tems.

22 (D) Increased operational hours for mari-
23 time security components dedicated to joint
24 counter-smuggling and interdiction efforts with
25 other Federal agencies, including the Joint Inter-

1 *agency Task Forces, and the United States Coast*
2 *Guard Deployable Specialized Forces.*

3 (11) *CARIBBEAN AND GULF MARITIME REGION.*—

4 *For the Caribbean and Gulf Maritime region, the fol-*
5 *lowing:*

6 (A) *Increased cutter and boat hours and op-*
7 *eration platforms to conduct interdiction oper-*
8 *ations.*

9 (B) *Increased maritime signals intelligence*
10 *capabilities.*

11 (C) *Increased maritime domain awareness*
12 *and surveillance capabilities, including the fol-*
13 *lowing:*

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

16 (ii) *Unmanned aerial vehicles with*
17 *maritime surveillance capability.*

18 (iii) *Increased maritime aviation pa-*
19 *trol hours.*

20 (iv) *Coastal radar surveillance sys-*
21 *tems.*

22 (D) *Increased operational hours for mari-*
23 *time security components dedicated to joint*
24 *counter-smuggling and interdiction efforts with*
25 *other Federal agencies, including the Joint Inter-*

1 *agency Task Forces, and the United States Coast*
2 *Guard Deployable Specialized Forces.*

3 *(c) FENCING AND INFRASTRUCTURE.—*

4 *(1) NEW FENCING.—Not later than 18 months*
5 *after the date of the enactment of this Act, the Sec-*
6 *retary of Homeland Security shall construct, at a*
7 *minimum, each of the following:*

8 *(A) Seven miles of double layer fencing in*
9 *the Border Patrol's San Diego sector in addition*
10 *to such fencing in existence as of the date of the*
11 *enactment of this Act.*

12 *(B) Twenty-one miles of double layer pedes-*
13 *trian fencing in the Border Patrol's Tucson sec-*
14 *tor in addition to such fencing in existence as of*
15 *the date of the enactment of this Act.*

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

20 *(D) Ten miles of double layer pedestrian*
21 *fencing in the Border Patrol's Del Rio sector in*
22 *addition to such fencing in existence as of the*
23 *date of the enactment of this Act.*

24 *(2) FENCE REPAIR AND REPLACEMENT.—Not*
25 *later than 18 months after the date of the enactment*

1 *of this Act, the Secretary of Homeland Security shall*
2 *replace, at a minimum, each of the following:*

3 *(A) Thirty-one miles of landing mat fencing*
4 *with bollard style fencing in the Border Patrol's*
5 *San Diego sector.*

6 *(B) Five miles of landing mat fencing with*
7 *bollard style fencing in the Border Patrol's El*
8 *Centro sector.*

9 *(C) Three miles of landing mat fencing with*
10 *bollard style fencing in the Border Patrol's*
11 *Yuma sector.*

12 *(D) Twenty-five miles of landing mat fenc-*
13 *ing with bollard style fencing in the Border Pa-*
14 *trol's Tucson sector.*

15 *(E) Two miles of landing mat fencing with*
16 *bollard style fencing in the Border Patrol's El*
17 *Paso sector.*

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

23 *(A) Seven miles of road construction in the*
24 *Border Patrol's San Diego sector.*

1 (B) *Ten miles of road construction in the*
2 *Border Patrol's El Centro sector.*

3 (C) *Sixteen miles of road construction in*
4 *the Border Patrol's Yuma sector.*

5 (D) *Fifty-four miles of road construction in*
6 *the Border Patrol's Tucson sector.*

7 (E) *One hundred ninety-two miles of road*
8 *construction in the Border Patrol's Big Bend*
9 *sector.*

10 (F) *Two miles of road construction in the*
11 *Border Patrol's El Paso sector.*

12 (G) *Forty-two miles of road construction in*
13 *the Border Patrol's Del Rio sector.*

14 (H) *Sixty-five miles of road construction in*
15 *the Border Patrol's Laredo sector.*

16 (I) *Fifteen miles of road construction in the*
17 *Border Patrol's Rio Grande Valley sector.*

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

22 (A) *Thirty-seven miles of road maintenance*
23 *in the Border Patrol's San Diego sector.*

1 (B) *One thousand two hundred miles of*
2 *road maintenance in the Border Patrol's Del Rio*
3 *sector.*

4 (C) *Twenty-six miles of road maintenance*
5 *in the Border Patrol's Laredo sector.*

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

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

14 (6) *VEHICLE FENCE REPLACEMENT.*—*Not later*
15 *than one year after the date of the enactment of this*
16 *Act, the Secretary of Homeland Security shall replace*
17 *five miles of vehicle fencing with new vehicle fencing*
18 *in the Border Patrol's Tucson sector in addition to*
19 *such fencing in existence as of the date of the enact-*
20 *ment of this Act.*

21 (7) *BOAT RAMPS.*—*Not later than 180 days after*
22 *the date of the enactment of this Act, the Secretary of*
23 *Homeland Security shall complete, at a minimum,*
24 *the construction of each of the following:*

1 (A) *Eight boat ramps in the Border Patrol's*
2 *Del Rio sector in addition to such ramps in ex-*
3 *istence as of the date of the enactment of this*
4 *Act.*

5 (B) *One boat ramp in the Border Patrol's*
6 *Laredo sector in addition to such ramps in exist-*
7 *ence as of the date of the enactment of this Act.*

8 (C) *Twenty-one boat ramps in the Border*
9 *Patrol's Rio Grande Valley sector in addition to*
10 *such ramps in existence as of the date of the en-*
11 *actment of this Act.*

12 (8) *ACCESS GATES.—Not later than 180 days*
13 *after the date of the enactment of this Act, the Sec-*
14 *retary of Homeland Security shall construct 34 access*
15 *gates in the Border Patrol's Rio Grande Valley sector*
16 *in addition to such gates in existence as of the date*
17 *of the enactment of this Act.*

18 (9) *FORWARD OPERATING BASES.—Not later*
19 *than one year after the date of enactment of this Act,*
20 *the Secretary of Homeland Security shall complete, at*
21 *a minimum, construction of each of the following:*

22 (A) *One forward operating base in the Bor-*
23 *der Patrol's El Paso sector in addition to such*
24 *bases in existence as of the date of the enactment*
25 *of this Act.*

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

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

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

13 (E) *Two forward operating bases in the*
14 *Border Patrol’s Laredo sector in addition to such*
15 *bases in existence as of the date of the enactment*
16 *of this Act.*

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

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

1 (11) *MINIMUM FORWARD OPERATING BASE RE-*
2 *QUIREMENTS.—The forward operating bases referred*
3 *to in paragraph (9) shall be equipped with each of the*
4 *following:*

5 *(A) Perimeter security.*

6 *(B) Temporary detention space.*

7 *(C) An interview room.*

8 *(D) Water.*

9 *(E) Power.*

10 *(F) Adequate communications, including*
11 *wide area network connectivity.*

12 *(G) Helicopter landing zone.*

13 (d) *CARRIZO CANE ERADICATION.—*

14 (1) *FINDINGS.—Congress makes the following*
15 *findings:*

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

19 *(B) According to U.S. Customs and Border*
20 *Protection, “the [Carrizo cane] plant causes seri-*
21 *ous officer safety issues and operational concerns*
22 *because it hampers enforcement along the [Rio*
23 *Grande] river. The plant also provides conceal-*
24 *ment to criminals, drug smugglers, illegal aliens,*
25 *and potential terrorists who could use it as an*

1 *advantage to enter the United States illegally.*
2 *The obvious officer safety hazards created by this*
3 *situation are of grave concern to the Border Pa-*
4 *trol and need to be remedied”.*

5 (2) *ERADICATION.*—*The Chief of the Border Pa-*
6 *trol shall coordinate with the heads of each relevant*
7 *Federal and State agency to eradicate, to the greatest*
8 *extent practicable, the Carrizo cane plant along the*
9 *Rio Grande River.*

10 (e) *CONSULTATION.*—*The Secretary of Homeland Se-*
11 *curity shall consult with the governors of each southern land*
12 *border State and each southern border maritime State, rep-*
13 *resentatives of the Border Patrol and U.S. Customs and*
14 *Border Protection, and relevant Federal, State, local, and*
15 *tribal agencies that have jurisdiction on the southern land*
16 *border, or in the maritime environment, to develop the oper-*
17 *ational plan required under subsection (f) and the metrics*
18 *required under subsections (h), (i), (j), and (k).*

19 (f) *OPERATIONAL PLAN.*—

20 (1) *IN GENERAL.*—*Not later than 120 days after*
21 *the date of the enactment of this Act, the Secretary of*
22 *Homeland Security shall submit to the appropriate*
23 *congressional committees, the BSVC, and the Comp-*
24 *troller General of the United States a comprehensive*
25 *operational plan for each of the components of the De-*

1 *partment of Homeland Security responsible for border*
2 *or maritime security to gain and maintain situa-*
3 *tional awareness, operational control of high traffic*
4 *areas, and operational control along the southern*
5 *land border of the United States by the dates, respec-*
6 *tively, referred to in subsection (a).*

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

9 (A) *An assessment of principal border secu-*
10 *rity threats, including threats relating to the*
11 *smuggling and trafficking of humans, weapons,*
12 *and illicit drugs.*

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

15 (C) *A plan to analyze and disseminate bor-*
16 *der security and border threat information*
17 *among the border security components of the De-*
18 *partment of Homeland Security, and between the*
19 *Department and other appropriate Federal de-*
20 *partments and agencies with missions associated*
21 *with the border.*

22 (D) *A plan to achieve situational awareness*
23 *using the capabilities deployed under subsection*
24 *(b).*

1 (E) A plan to ensure that any new border
2 security assets will be operationally integrated
3 with assets in use by the Department of Home-
4 land Security as of the date of the enactment of
5 this Act.

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

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

10 (H) A description of border security infor-
11 mation received from consultation with border
12 community stakeholders, including representa-
13 tives from agricultural and ranching organiza-
14 tions and business and civic organizations along
15 the northern or southern land borders.

16 (I) A description of the staffing require-
17 ments for all border security functions of the bor-
18 der security components of the Department of
19 Homeland Security.

20 (J) A prioritized list of research and devel-
21 opment objectives to enhance the security of the
22 international land and maritime borders of the
23 United States.

1 (K) *An assessment of the relationship be-*
 2 *tween border security operations and crossing*
 3 *times.*

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

6 (M) *An integrated master schedule and cost*
 7 *estimate, including lifecycle costs, for the activi-*
 8 *ties contained in such operational plan.*

9 (N) *A documented justification and ration-*
 10 *ale for technology choices.*

11 (O) *Deployment locations.*

12 (P) *A timetable for procurement and de-*
 13 *ployment.*

14 (Q) *Estimates of operation and mainte-*
 15 *nance costs.*

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

18 (3) *CLASSIFIED ASSESSMENT.—The assessment*
 19 *required to be included in the report under paragraph*
 20 *(2)(A) may be submitted in classified form, if the Sec-*
 21 *retary of Homeland Security determines that such is*
 22 *appropriate.*

23 (4) *IMPLEMENTATION.—*

24 (A) *IN GENERAL.—The Secretary of Home-*
 25 *land Security shall commence the implementa-*

tion of the operational plan under paragraph (1) not later than 30 days after the submission to the appropriate congressional committees of the report by the Comptroller General of the United States under subparagraph (C).

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

(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 Homeland Security shall submit to the appropriate congressional committees, the BSVC, and the Comptroller General 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 (1) *IN GENERAL.*—Not later than 120 days after
2 the date of the enactment of this Act and annually
3 thereafter, the Chief of the Border Patrol shall develop
4 metrics, informed by situational awareness, to meas-
5 ure the effectiveness of security between ports of entry,
6 which shall include, at a minimum, the following:

7 (A) *An unlawful border crossing effective-*
8 ness rate, informed by situational awareness.

9 (B) *A probability of detection that measures*
10 the estimated total unlawful border crossing at-
11 tempts not detected by the Border Patrol against
12 the unlawful border crossing effectiveness rate re-
13 ferred to in subparagraph (A).

14 (C) *A weight-to-frequency rate which meas-*
15 ures the average weight of marijuana seized per
16 seizure by the Border Patrol in any fiscal year
17 compared to such a weight-to-frequency rate for
18 the immediately preceding five fiscal years.

19 (D) *A situational awareness achievement*
20 metric that measures the amount of situational
21 awareness achieved in each Border Patrol sector.

22 (E) *An illicit drugs seizure rate which*
23 measures the amount and type of illicit drugs
24 seized by the Border Patrol in any fiscal year
25 compared to an average of the amount and type

1 *of illicit drugs seized by the Border Patrol for*
2 *the immediately preceding five fiscal years.*

3 *(F) In consultation with the Office of Na-*
4 *tional Drug Control Policy and the United*
5 *States Southern Command, a cocaine seizure ef-*
6 *fectiveness rate measured as a percentage that re-*
7 *sults from dividing the amount of cocaine seized*
8 *by the Border Patrol by the total documented co-*
9 *caine flow rate between ports of entry along the*
10 *southern land border.*

11 *(G) Estimates, using alternative methodolo-*
12 *gies, including recidivism data, survey data,*
13 *known-flow data, and technologically measured*
14 *data, of total attempted unlawful border cross-*
15 *ings, the rate of apprehension of attempted un-*
16 *lawful border crossers, and the inflow into the*
17 *United States of unlawful border crossers who*
18 *evade apprehension.*

19 *(H) Estimates of the impact of the Border*
20 *Patrol's Consequence Delivery System on the rate*
21 *of recidivism of unlawful border crossers.*

22 *(2) METRICS CONSULTATION.—In developing the*
23 *metrics required under paragraph (1), the Chief of the*
24 *Border Patrol shall consult with staff members of the*
25 *Office of Policy at the Department of Homeland Secu-*

1 rity and staff members of the Office of the Chief Fi-
2 nancial Officer of the Department of Homeland Secu-
3 rity. Such staff members may not be political ap-
4 pointees.

5 (3) *METRICS NOT REVIEWABLE.*—*The metrics re-*
6 *quired under paragraph (1) may not be reviewed or*
7 *otherwise amended by the President, any staff em-*
8 *ployed by the Executive Office of the President, the*
9 *Secretary of Homeland Security, the Deputy Sec-*
10 *retary of Homeland Security, the Commissioner of*
11 *U.S. Customs and Border Protection, or the Deputy*
12 *Commissioner of U.S. Customs and Border Protection*
13 *before the submission of such metrics to the appro-*
14 *priate congressional committees, the BSVC, and*
15 *Comptroller General of the United States, as required*
16 *under subsection (m). The prohibition described in*
17 *this paragraph does not apply to the Office of Na-*
18 *tional Drug Control Policy.*

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

21 (1) *IN GENERAL.*—*Not later than 120 days after*
22 *the date of the enactment of this Act and annually*
23 *thereafter, the Assistant Commissioner for the Office*
24 *of Field Operations in U.S. Customs and Border Pro-*
25 *tection shall develop metrics, informed by situational*

1 *awareness, to measure the effectiveness of security at*
2 *ports of entry, which shall include, at a minimum,*
3 *the following:*

4 (A) *An inadmissible border crossing rate*
5 *which measures the number of known inadmis-*
6 *sible border crossers who are denied entry, ex-*
7 *cluding those border crossers who voluntarily*
8 *withdraw their applications for admission, di-*
9 *vided by the total estimated number of inadmis-*
10 *sible border crossers who attempt entry.*

11 (B) *An illicit drugs seizure rate which*
12 *measures the amount and type of illicit drugs*
13 *seized by the Office of Field Operations of U.S.*
14 *Customs and Border Protection in any fiscal*
15 *year compared to an average of the amount and*
16 *type of illicit drugs seized by U.S. Customs and*
17 *Border Protection for the immediately preceding*
18 *five fiscal years.*

19 (C) *In consultation with the Office of Na-*
20 *tional Drug Control Policy and the United*
21 *States Southern Command, a cocaine seizure ef-*
22 *fectiveness rate measured as a percentage that re-*
23 *sults from dividing the amount of cocaine seized*
24 *by the Office of Field Operations of U.S. Cus-*
25 *toms and Border Protection by the total docu-*

1 *mented cocaine flow rate at ports of entry along*
2 *the southern land border.*

3 *(D) Estimates, using alternative methodolo-*
4 *gies, including survey data and randomized sec-*
5 *ondary screening data, of total attempted inad-*
6 *missible border crossers, the rate of apprehension*
7 *of attempted inadmissible border crossers, and*
8 *the inflow into the United States of inadmissible*
9 *border crossers who evade apprehension.*

10 *(E) The number of infractions related to*
11 *personnel and cargo committed by major viola-*
12 *tors who are apprehended by the Office of Field*
13 *Operations of U.S. Customs and Border Protec-*
14 *tion at ports of entry, and the estimated number*
15 *of such infractions committed by major violators*
16 *who are not apprehended.*

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

19 *(G) The amount and type of illicit drugs*
20 *seized by the Office of Field Operations of U.S.*
21 *Customs and Border Protection at United States*
22 *seaports during the previous fiscal year.*

23 *(H) A cargo scanning rate that measures*
24 *the number of cargo containers scanned by the*
25 *Office of Field Operations of U.S. Customs and*

1 *Border Protection at each United States seaport*
2 *during the previous fiscal year against the total*
3 *number of cargo containers entering the United*
4 *States at each seaport during the previous fiscal*
5 *year.*

6 (2) *METRICS CONSULTATION.*—*In developing the*
7 *metrics required under paragraph (1), the Assistant*
8 *Commissioner for the Office of Field Operations shall*
9 *consult with staff members of the Office of Policy at*
10 *the Department of Homeland Security and staff mem-*
11 *bers of the Office of the Chief Financial Officer of the*
12 *Department of Homeland Security. Such staff mem-*
13 *bers may not be political appointees.*

14 (3) *METRICS NOT REVIEWABLE.*—*The metrics re-*
15 *quired under paragraph (1) may not be reviewed or*
16 *otherwise amended by the President, any staff em-*
17 *ployed by the Executive Office of the President, the*
18 *Secretary of Homeland Security, the Deputy Sec-*
19 *retary of Homeland Security, the Commissioner of*
20 *U.S. Customs and Border Protection, or the Deputy*
21 *Commissioner of U.S. Customs and Border Protection*
22 *before the submission of such metrics to the appro-*
23 *priate congressional committees, the BSVC, and the*
24 *Comptroller General of the United States, as required*
25 *under subsection (m). The prohibition described in*

1 *this paragraph does not apply to the Office of Na-*
2 *tional Drug Control Policy.*

3 (j) *METRICS FOR SECURING THE MARITIME BOR-*
4 *DER.—*

5 (1) *IN GENERAL.—Not later than 120 days after*
6 *the date of the enactment of this Act and annually*
7 *thereafter, the Commandant of the United States*
8 *Coast Guard and the Assistant Commissioner for the*
9 *Office of Air and Marine for U.S. Customs and Bor-*
10 *der Protection shall jointly implement metrics, in-*
11 *formed by situational awareness, to measure the effec-*
12 *tiveness of security in the maritime environment,*
13 *which shall include, at a minimum, the following:*

14 (A) *An estimate of the total number of un-*
15 *documented migrants the Department of Home-*
16 *land Security’s maritime security components*
17 *fail to interdict.*

18 (B) *An undocumented migrant interdiction*
19 *rate which measures the flow of undocumented*
20 *migrants interdicted against the total estimated*
21 *number of undocumented migrants the Depart-*
22 *ment of Homeland Security’s maritime security*
23 *components fail to interdict.*

24 (C) *An illicit drugs removal rate which*
25 *measures the amount and type of illicit drugs re-*

1 *moved by the Department of Homeland Secu-*
2 *rity's maritime security components inside a*
3 *transit zone in any fiscal year compared to an*
4 *average of the amount and type of illicit drugs*
5 *removed by the Department of Homeland Secu-*
6 *rity's maritime security components inside a*
7 *transit zone for the immediately preceding five*
8 *fiscal years.*

9 *(D) An illicit drugs removal rate which*
10 *measures the amount and type of illicit drugs re-*
11 *moved by the Department of Homeland Secu-*
12 *rity's maritime security components outside a*
13 *transit zone in any fiscal year compared to an*
14 *average of the amount and type of illicit drugs*
15 *removed by the Department of Homeland Secu-*
16 *rity's maritime security components outside a*
17 *transit zone for the immediately preceding five*
18 *fiscal years.*

19 *(E) A cocaine removal effectiveness rate in-*
20 *side a transit zone.*

21 *(F) A cocaine removal effectiveness rate out-*
22 *side a transit zone.*

23 *(G) A response rate which measures the*
24 *ability of the maritime security components of*
25 *the Department of Homeland Security to re-*

1 *spond to and resolve known maritime threats,*
2 *both inside and outside a transit zone, by plac-*
3 *ing assets on-scene, compared to the total number*
4 *of events with respect to which the Department*
5 *has known threat information.*

6 (2) *METRICS CONSULTATION.*—*In developing the*
7 *metrics required under paragraph (1), the Com-*
8 *mandant of the Coast Guard and the Assistant Com-*
9 *missioner for Air and Marine shall consult with staff*
10 *members of the Office of Policy at the Department of*
11 *Homeland Security and staff members of the Office of*
12 *the Chief Financial Officer of the Department of*
13 *Homeland Security. Such staff members may not be*
14 *political appointees.*

15 (3) *METRICS NOT REVIEWABLE.*—*The metrics re-*
16 *quired under paragraph (1) may not be reviewed or*
17 *otherwise amended by the President, any staff em-*
18 *ployed by the Executive Office of the President, the*
19 *Secretary of Homeland Security, the Deputy Sec-*
20 *retary of Homeland Security, the Commissioner of*
21 *U.S. Customs and Border Protection, or the Deputy*
22 *Commissioner of U.S. Customs and Border Protection*
23 *before the submission of such metrics to the appro-*
24 *priate congressional committees, the BSVC, and the*
25 *Comptroller General of the United States, as required*

1 *under subsection (m). The prohibition described in*
2 *this paragraph does not apply to the Office of Na-*
3 *tional Drug Control Policy.*

4 *(k) AIR AND MARINE SECURITY METRICS IN THE*
5 *LAND DOMAIN.—*

6 *(1) IN GENERAL.—Not later than 120 days after*
7 *the date of the enactment of this Act and annually*
8 *thereafter, the Assistant Commissioner for the Office*
9 *of Air and Marine for U.S. Customs and Border Pro-*
10 *tection shall implement metrics, informed by situa-*
11 *tional awareness, to measure the effectiveness of secu-*
12 *rity in the aviation environment, which shall include,*
13 *at a minimum, the following:*

14 *(A) A requirement effectiveness rate which*
15 *measures U.S. Customs and Border Protection's*
16 *Office of Air and Marine flight hours require-*
17 *ments against the number of flight hours actu-*
18 *ally flown by such Office.*

19 *(B) A funded flight hours effectiveness rate*
20 *which measures the number of funded flight*
21 *hours appropriated to U.S. Customs and Border*
22 *Protection's Office of Air and Marine against the*
23 *number of actual flight hours flown by such Of-*
24 *fice.*

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

7 (D) *The number of subjects detected by U.S.*
8 *Customs and Border Protection's Office of Air*
9 *and Marine through the use of unmanned aerial*
10 *systems.*

11 (E) *The number of apprehensions assisted*
12 *by U.S. Customs and Border Protection's Office*
13 *of Air and Marine through the use of unmanned*
14 *aerial systems.*

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

19 (G) *A detailed description of how, where,*
20 *and for how long data and images collected*
21 *through the use of unmanned aerial systems by*
22 *U.S. Customs and Border Protection is collected*
23 *and stored.*

24 (2) *METRICS CONSULTATION.—In developing the*
25 *metrics required under paragraph (1), the Assistant*

1 *Commissioner for Air and Marine shall consult with*
2 *staff members of the Office of Policy at the Depart-*
3 *ment of Homeland Security and staff members of the*
4 *Office of the Chief Financial Officer of the Depart-*
5 *ment of Homeland Security. Such staff members may*
6 *not be political appointees.*

7 (3) *METRICS NOT REVIEWABLE.—The metrics re-*
8 *quired under paragraph (1) may not be reviewed or*
9 *otherwise amended by the President, any staff em-*
10 *ployed by the Executive Office of the President, the*
11 *Secretary of Homeland Security, the Deputy Sec-*
12 *retary of Homeland Security, the Commissioner of*
13 *U.S. Customs and Border Protection, or the Deputy*
14 *Commissioner of U.S. Customs and Border Protection*
15 *before the submission to the appropriate congressional*
16 *committees, the BSVC, and the Comptroller General*
17 *of the United States, as required under subsection*
18 *(m). The prohibition described in this paragraph does*
19 *not apply to the Office of National Drug Control Pol-*
20 *icy.*

21 (4) *PENALTIES FOR FAILURE TO SUBMIT METRICS.—*

22 (1) *IN GENERAL.—If any of the officials referred*
23 *to in subsection (h), (i), (j), or (k) fail to meet any*
24 *of the deadlines required under any of such sub-*
25 *sections, no political appointee of the Department of*

1 *Homeland Security may perform any function de-*
 2 *scribed in paragraph (2) until all such officials have*
 3 *met all of such deadlines.*

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

6 (A) *Travel using Government aircraft.*

7 (B) *Receipt of any non-essential training.*

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

10 (D) *Receipt of any salary increase.*

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

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

19 (2) *REPORT.*—*Not later than 270 days after re-*
 20 *ceiving the data and methodology referred to in para-*
 21 *graph (1), the Comptroller General of the United*
 22 *States shall submit to the appropriate congressional*
 23 *committees and the BSVC a report on the suitability*
 24 *and statistical validity of such data and methodology,*
 25 *and shall make recommendations to the Secretary of*

1 *Homeland Security for other suitable metrics that*
 2 *may be used to measure the effectiveness of border se-*
 3 *curity. Such report shall inform the BSVC in review-*
 4 *ing the notifications required under subsection (n)(2).*

5 *(n) BSVC CERTIFICATION OF METRICS AND OPER-*
 6 *ATIONAL CONTROL.—*

7 *(1) SECRETARY OF HOMELAND SECURITY NOTIFI-*
 8 *CATIONS.—*

9 *(A) TWO YEARS.—If the Secretary of Home-*
 10 *land Security determines that situational aware-*
 11 *ness and operational control of high traffic areas*
 12 *have been achieved by the date that is not later*
 13 *than two years after the date of the enactment of*
 14 *this Act, the Secretary shall, under penalty of*
 15 *perjury, submit to the appropriate congressional*
 16 *committees and the BSVC a notification that so*
 17 *attests.*

18 *(B) FIVE YEARS.—If the Secretary of*
 19 *Homeland Security determines that operational*
 20 *control along the southern land border of the*
 21 *United States has been achieved by the date that*
 22 *is not later than five years after the date of the*
 23 *enactment of this Act, the Secretary shall, under*
 24 *penalty of perjury, submit to the appropriate*

1 *congressional committees and the BSVC a notifi-*
2 *cation that so attests.*

3 (C) *ANNUAL UPDATES.*—*Every year begin-*
4 *ning with the year after the Secretary of Home-*
5 *land Security submits the notification under*
6 *subparagraph (B), if the Secretary determines*
7 *that operational control along the southern land*
8 *border of the United States is being maintained,*
9 *the Secretary shall submit to the appropriate*
10 *congressional committees and the BSVC a notifi-*
11 *cation that so attests.*

12 (2) *BSVC CERTIFICATION.*—

13 (A) *OPERATIONAL CONTROL REVIEWS.*—*The*
14 *BSVC shall review the notifications of the Sec-*
15 *retary of Homeland Security under subpara-*
16 *graphs (A), (B), and (C) of paragraph (1) to as-*
17 *sess such notifications relating to the achieve-*
18 *ment of situational awareness, operational con-*
19 *trol, or both, as the case may be, in accordance*
20 *with such subparagraphs.*

21 (B) *REVIEW OF METRICS.*—*Beginning with*
22 *the second annual submission of each of the*
23 *metrics required under subsection (m) and pur-*
24 *suant to subsections (h), (i), (j), and (k) and an-*
25 *nually thereafter until the termination of the*

1 *BSVC under section 4(q), the BSVC shall review*
 2 *such metrics to assess the statistical validity and*
 3 *methodology of the data used to implement such*
 4 *metrics.*

5 *(C) REPORTS.—*

6 *(i) OPERATIONAL CONTROL.—Not later*
 7 *than 120 days after conducting a review de-*
 8 *scribed in subparagraph (A), the BSVC*
 9 *shall submit to the appropriate congres-*
 10 *sional committees a report on the results of*
 11 *each such review and a certification of the*
 12 *accuracy of the notification reviewed, in ac-*
 13 *cordance with subparagraph (D).*

14 *(ii) OPERATIONAL CONTROL NOT*
 15 *ACHIEVED.—If the BSVC determines that*
 16 *any notification required under subpara-*
 17 *graph (A), (B), or (C) of paragraph (1) is*
 18 *not accurate, the BSVC shall include in the*
 19 *report under clause (i) an explanation of*
 20 *why situational awareness, operational con-*
 21 *trol, or both, as the case may be, was not*
 22 *achieved. Such explanation shall include, at*
 23 *a minimum—*

24 *(I) impediments incurred;*

25 *(II) potential remedies; and*

1 (III) recommendations to achieve
2 situational awareness, operational con-
3 trol, or both, as the case may be.

4 (iii) METRICS.—Not later than 120
5 days after conducting a review described in
6 subparagraph (B), the BSVC shall submit
7 to the appropriate congressional committees
8 a report on the results of each such review
9 and a determination of the accuracy of the
10 metrics implemented under subsections (h),
11 (i), (j), and (k).

12 (D) OPERATIONAL CONTROL CERTIFI-
13 CATION.—

14 (i) IN GENERAL.—For purposes of sub-
15 paragraph (C)(i), the BSVC shall certify
16 the accuracy of a notification of the Sec-
17 retary if four members of the BSVC vote
18 that such certification is accurate.

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

22 (iii) CONSULTATION.—Before con-
23 ducting a vote referred to in clause (i), the
24 BSVC shall consult with the governors of
25 each southern land border State, representa-

1 *tives of the National Border Patrol Council,*
 2 *representatives of the ranching industry in*
 3 *each southern land border State, and rel-*
 4 *evant State and local government agencies*
 5 *that have jurisdiction on the southern land*
 6 *border.*

7 *(E) METRICS DETERMINATION.—For pur-*
 8 *poses of subparagraph (C)(iii), the BSVC shall*
 9 *concur in the accuracy of the metrics required*
 10 *under subsections (h), (i), (j), and (k) if four*
 11 *members of the BSVC vote that such certification*
 12 *is accurate.*

13 *(o) FAILURE TO ACHIEVE OPERATIONAL CONTROL.—*

14 *(1) PENALTIES.—*

15 *(A) IN GENERAL.—If the Secretary of*
 16 *Homeland Security determines that situational*
 17 *awareness, operational control, or both, as the*
 18 *case may be, has not been achieved by the dates*
 19 *referred to in subsection (n)(1) (and thus fails to*
 20 *submit a notification to the BSVC), or if the*
 21 *BSVC determines pursuant to subsection (n)(2)*
 22 *that the Secretary has failed to achieve situa-*
 23 *tional awareness and operational control of high*
 24 *traffic areas or has failed to achieve operational*
 25 *control along the southern land border by such*

1 *respective dates, no political appointee of the De-*
 2 *partment of Homeland Security may perform*
 3 *any function described in subparagraph (B)*
 4 *until the BSVC certifies that the Secretary has*
 5 *achieved such situational awareness, operational*
 6 *control, or both, as the case may be.*

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

10 *(i) Travel using Government aircraft.*

11 *(ii) Receipt of any non-essential train-*
 12 *ing, including conferences.*

13 *(iii) Receipt of bonus pay.*

14 *(iv) Receipt of any salary increase.*

15 *(2) NATIONAL SECURITY EXCEPTION.—The Sec-*
 16 *retary of Homeland Security may waive the travel*
 17 *prohibition in paragraph (1)(B)(i) if the Secretary*
 18 *determines and notifies the appropriate congressional*
 19 *committees that—*

20 *(A) such a waiver is in the national secu-*
 21 *rity interests of the United States; or*

22 *(B) such travel is being carried out to*
 23 *achieve operational control of the southern land*
 24 *border of the United States.*

1 (3) *FURTHER ACTION REQUIRED.*—If the Sec-
2 retary of Homeland Security determines that situa-
3 tional awareness, operational control, or both, as the
4 case may be, has not been achieved by the dates re-
5 ferred to in subsection (n)(1) (and thus fails to sub-
6 mit a notification to the BSVC), or if the BSVC de-
7 termines pursuant to subsection (n)(2) that the Sec-
8 retary has failed to achieve situational awareness and
9 operational control of high traffic areas or fails to
10 achieve operational control along the southern land
11 border by such respective dates, the Secretary of
12 Homeland Security shall, within 180 days, submit to
13 the appropriate congressional committees and the
14 BSVC and implement a revised plan to achieve situa-
15 tional awareness, operational control, or both, as the
16 case may be, that adopts the recommendations of the
17 BSVC referred to in subsection (n)(2)(C)(ii)(III).

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

23 (1) *A resource allocation model for current and*
24 *future year staffing requirements that includes opti-*
25 *mal staffing levels at all land, air, and sea ports of*

1 *entry, and an explanation of U.S. Customs and Bor-*
2 *der Protection methodology for aligning staffing levels*
3 *and workload to threats and vulnerabilities and their*
4 *effects on cross border trade and passenger travel*
5 *across all mission areas.*

6 (2) *Detailed information on the level of man-*
7 *power available at all land, air, and sea ports of*
8 *entry and between ports of entry, including the num-*
9 *ber of canine and agricultural specialists assigned to*
10 *each such port of entry.*

11 (3) *Detailed information describing the dif-*
12 *ference between the staffing the model suggests and the*
13 *actual staffing at each port of entry and between the*
14 *ports of entry.*

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

18 (5) *A description of the infrastructure, security*
19 *resources, and other measures that are necessary to*
20 *achieve substantial reductions in the average wait*
21 *times of vehicles at land border ports of entry.*

22 (g) *ADHERENCE TO CERTAIN STANDARDS.—The*
23 *Under Secretary for Management of the Department of*
24 *Homeland Security, in coordination with the Assistant*
25 *Commissioner of the Office of Administration of U.S. Cus-*

1 *toms and Border Protection, shall ensure component pro-*
 2 *gram managers who are responsible for carrying out sub-*
 3 *sections (b) and (c) adhere to internal control standards*
 4 *identified by the Comptroller General of the United States.*
 5 *The Assistant Commissioner shall provide information, as*
 6 *needed, to assist the Under Secretary for Management in*
 7 *monitoring proper program management of border security*
 8 *programs carried out pursuant to such subsections.*

9 **SEC. 4. ESTABLISHMENT OF BORDER SECURITY**
 10 **VERIFICATION COMMISSION.**

11 *(a) IN GENERAL.—There is established a Border Secu-*
 12 *rity Verification Commission (in this Act referred to as the*
 13 *“BSVC”).*

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

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

19 *(1) the head of a national laboratory within the*
 20 *Department of Homeland Security laboratory net-*
 21 *work with prior expertise in border security, ap-*
 22 *pointed by the President, in coordination with the*
 23 *Speaker and minority leader of the House of Rep-*
 24 *resentatives and the majority and minority leaders of*
 25 *the Senate;*

1 (2) *the head of a border security university-based*
 2 *center within the Department of Homeland Security*
 3 *Centers of Excellence network, appointed by the Presi-*
 4 *dent, in coordination with the Speaker and minority*
 5 *leader of the House of Representatives and the major-*
 6 *ity and minority leaders of the Senate; and*

7 (3) *three individuals, appointed by the Presi-*
 8 *dent, based on the recommendations of the special*
 9 *congressional commission on border security estab-*
 10 *lished pursuant to subsection (d).*

11 (d) *SPECIAL CONGRESSIONAL COMMISSION ON BOR-*
 12 *DER SECURITY.—*

13 (1) *ESTABLISHMENT.—There is established a*
 14 *special congressional commission on border security*
 15 *(in this subsection referred to as the “commission”).*
 16 *The commission shall determine the criteria for mak-*
 17 *ing recommendations for the individuals to be ap-*
 18 *pointed by the President under subsection (c)(3), and*
 19 *shall recommend not more than five individuals for*
 20 *such appointments. The commission shall consist of—*

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

23 (B) *the majority and minority leaders of*
 24 *the Senate;*

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

4 (D) the chairman and ranking member of
 5 the Committee on Homeland Security and Gov-
 6 ernmental Affairs of the Senate.

7 (2) VOTING PROCEDURES.—

8 (A) IN GENERAL.—The commission may
 9 make a recommendation to the President con-
 10 cerning an individual referred to in subsection
 11 (c)(3) only if such recommendation is approved
 12 by a majority vote of the full membership of the
 13 commission.

14 (B) TIE VOTE.—In the event of a tie vote of
 15 the commission during its consideration of
 16 whether or not to recommend an individual to
 17 the President under paragraph (1), the Speaker
 18 of the House of Representatives shall cast the de-
 19 ciding vote.

20 (e) QUALIFICATIONS.—The individuals referred to in
 21 subsection (c)(3) shall have a minimum of five years profes-
 22 sional experience in law enforcement and border security.

23 (f) CHAIR.—The BSVC shall be chaired by the indi-
 24 vidual referred to in subsection (c)(1).

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

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

8 (i) *PROHIBITION ON CERTAIN MEMBERSHIP.*—*Mem-*
9 *bers of the BSVC may not be current Federal employees*
10 *or current Members of Congress.*

11 (j) *SECURITY CLEARANCES.*—*A member or employee*
12 *of the BSVC shall receive an appropriate security clearance,*
13 *as determined by the BSVC in consultation with the Sec-*
14 *retary of Homeland Security, that is commensurate with*
15 *the sensitivity of the classified information to which such*
16 *member or employee will be given access by reason of mem-*
17 *bership in or employment by the BSVC.*

18 (k) *MEETINGS.*—*The BSVC shall meet on the call of*
19 *the chairperson. The BSVC shall meet and begin operations*
20 *not later than 180 days after the date of the enactment of*
21 *this Act.*

22 (l) *PUBLIC HEARINGS.*—

23 (1) *IN GENERAL.*—*The BSVC shall hold not*
24 *fewer than two public hearings each calendar year.*

1 (2) *WITNESS TESTIMONY.*—*In holding the hear-*
2 *ings required under paragraph (1), the BSVC shall*
3 *request the public testimony of Federal, State, and*
4 *local officials, and any private citizen or organization*
5 *the BSVC determines is relevant to carrying out its*
6 *mission.*

7 (m) *QUORUM.*—*Four members of the BSVC shall con-*
8 *stitute a quorum to conduct business, but the BSVC may*
9 *establish a lesser quorum for conducting hearings scheduled*
10 *by the BSVC.*

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

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

17 (p) *PERSONNEL MATTERS.*—

18 (1) *TRAVEL EXPENSES.*—*The members of the*
19 *BSVC shall be allowed travel expenses, including per*
20 *diem in lieu of subsistence, at rates authorized for*
21 *employees of agencies under subchapter I of chapter*
22 *57 of title 5, United States Code, while away from*
23 *their homes or regular places of business in the per-*
24 *formance of service for the BSVC.*

1 (2) *DETAIL OF FEDERAL EMPLOYEES.*—With the
 2 affirmative vote of four of the members of the BSVC,
 3 any Federal Government employee, with the approval
 4 of the head of the appropriate Federal agency or con-
 5 gressional office, may be detailed to the BSVC with-
 6 out reimbursement, and such detail shall be without
 7 interruption or loss of civil service status, salary, ben-
 8 efits, or privileges.

9 (3) *OFFICE SPACE AND ASSISTANCE.*—Upon the
 10 request of the BSVC, the Secretary of Homeland Secu-
 11 rity shall provide reasonable and appropriate office
 12 space, supplies, and administrative assistance.

13 (q) *TERMINATION.*—The BSVC shall terminate after
 14 determining the accuracy of the tenth annual metrics sub-
 15 mission required under subsection (n)(2) of section 3.

16 **SEC. 5. REQUIRED CONSEQUENCE.**

17 *The Chief of the Border Patrol shall impose a con-*
 18 *sequence for each alien apprehended pursuant to the Border*
 19 *Patrol’s Consequence Delivery System.*

20 **SEC. 6. PATROL BY THE BORDER PATROL OF PHYSICAL**
 21 **LAND BORDER.**

22 (a) *IN GENERAL.*—The Chief of the Border Patrol shall
 23 direct agents of the Border Patrol to patrol as close to the
 24 physical land border as possible, consistent with the accessi-
 25 bility to such areas.

1 (b) *FORWARD OPERATING BASE PERSONNEL.*—The
 2 *Chief of the Border Patrol shall deploy the maximum prac-*
 3 *ticable number of Border Patrol agents to forward oper-*
 4 *ating bases along the southern land border of the United*
 5 *States to meet the requirements of this section.*

6 **SEC. 7. TACTICAL FLEXIBILITY.**

7 (a) *SOUTHERN LAND BORDER.*—The Chief of the Bor-
 8 *der Patrol may alter the capability deployment referred to*
 9 *in subsection (b) of section 3 if the Chief determines, after*
 10 *consultation with the appropriate congressional committees,*
 11 *that the principal border security threats referred to in sub-*
 12 *section (f)(2)(A) of such section require such alteration.*

13 (b) *NORTHERN LAND BORDER.*—The Chief of the Bor-
 14 *der Patrol may alter the capability deployment referred to*
 15 *in subsection (c) of section 15 if the Chief determines, after*
 16 *consultation with the appropriate congressional committees,*
 17 *that the threat analysis referred to in subsection (a) of such*
 18 *section requires such alteration.*

19 **SEC. 8. DEPLOYMENT OF CERTAIN AVIATION ASSETS TO**
 20 **THE SOUTHERN LAND BORDER.**

21 (a) *IN GENERAL.*—The Secretary of Defense, in col-
 22 *laboration with the Secretary of Homeland Security, may*
 23 *allocate additional aviation assets of the Department of De-*
 24 *fense to the southern land border of the United States to*
 25 *assist the Secretary of Homeland Security in achieving sit-*

1 *national awareness and operational control in accordance*
 2 *with section 3(a).*

3 *(b) ADDITIONAL REQUIREMENTS.—*

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

11 *(2) DHS DEPLOYMENT.—Not later than 180*
 12 *days after the submission of the plan under para-*
 13 *graph (1), the Secretary of Homeland Security shall*
 14 *begin acquiring and deploying to the southern land*
 15 *border of the United States aviation capabilities of*
 16 *the Department of Homeland Security acquired in*
 17 *accordance with such plan.*

18 **SEC. 9. U.S. CUSTOMS AND BORDER PROTECTION OFFICER**

19 **AND AGENT AUTHORIZATION.**

20 *(a) BORDER PATROL.—The Border Patrol shall main-*
 21 *tain an active duty presence of not fewer than 21,370 full*
 22 *time equivalent agents.*

23 *(b) OFFICE OF FIELD OPERATIONS.—The Office of*
 24 *Field Operations of U.S. Customs and Border Protection*

1 *shall maintain not fewer than 23,775 full time equivalent*
 2 *officers.*

3 *(c) OFFICE OF AIR AND MARINE.—The Office of Air*
 4 *and Marine of U.S. Customs and Border Protection shall*
 5 *maintain not fewer than 1,675 full time equivalent agents.*

6 **SEC. 10. OFFICE OF AIR AND MARINE FLIGHT HOURS.**

7 *(a) INCREASED FLIGHT HOURS.—The Secretary of*
 8 *Homeland Security shall ensure not fewer than 130,000 an-*
 9 *nual flight hours of the Office of Air and Marine of U.S.*
 10 *Customs and Border Protection.*

11 *(b) UNMANNED AERIAL SYSTEMS.—The Office of Air*
 12 *and Marine of U.S. Customs and Border Protection shall*
 13 *operate unmanned aerial systems not less than 16 hours*
 14 *per day, seven days per week.*

15 *(c) UNMANNED AERIAL SYSTEMS REPORT.—The Of-*
 16 *fice of Air and Marine of U.S. Customs and Border Protec-*
 17 *tion shall annually submit to the appropriate congressional*
 18 *committees a report regarding the requirement referred to*
 19 *in subsection (b). Such report shall describe the number of*
 20 *hours the Office of Air and Marine operated unmanned aer-*
 21 *ial systems—*

22 *(1) in a transit zone;*

23 *(2) on a land border;*

24 *(3) on a maritime border; and*

1 (4) to assist other Federal, State, local, and trib-
2 al law enforcement agencies.

3 **SEC. 11. AIR AND MARINE PRIORITIZATION.**

4 *The Assistant Commissioner for the Office of Air and*
5 *Marine of U.S. Customs and Border Protection shall assign*
6 *the greatest prioritization to support requests from the Chief*
7 *of the Border Patrol to carry out the requirements of section*
8 *3(a).*

9 **SEC. 12. BORDER PATROL FLEXIBILITY.**

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

13 (b) *INCENTIVE BONUS.—At the discretion of the Chief*
14 *of the Border Patrol, a Border Patrol agent may be eligible*
15 *for an incentive bonus for any transfer carried out pursu-*
16 *ant to subsection (a) if the Chief determines that such trans-*
17 *fer is critical to the risk-based approach of the Border Pa-*
18 *trol to patrolling the international borders of the United*
19 *States.*

20 (c) *AUTHORIZATION OF APPROPRIATIONS.—There is*
21 *authorized to be appropriated to carry out this section*
22 *\$30,000,000 for each fiscal year.*

1 **SEC. 13. PROHIBITION ON ACTIONS THAT IMPEDE BORDER**
2 **SECURITY ON CERTAIN FEDERAL LAND.**

3 (a) *PROHIBITION ON SECRETARIES OF THE INTERIOR*
4 *AND AGRICULTURE.*—*The Secretary of the Interior or the*
5 *Secretary of Agriculture shall not impede, prohibit, or re-*
6 *strict activities of U.S. Customs and Border Protection on*
7 *Federal land located within 100 miles of the United States*
8 *border with Mexico and the United States border with Can-*
9 *ada that is under the jurisdiction of the Secretary of the*
10 *Interior or the Secretary of Agriculture, to execute search*
11 *and rescue operations, and to prevent all unlawful entries*
12 *into the United States, including entries by terrorists, other*
13 *unlawful aliens, instruments of terrorism, narcotics, and*
14 *other contraband through such international borders. These*
15 *authorities of U.S. Customs and Border Protection on such*
16 *Federal land apply whether or not a state of emergency ex-*
17 *ists.*

18 (b) *AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND*
19 *BORDER PROTECTION.*—*U.S. Customs and Border Protec-*
20 *tion shall have immediate access to Federal land within 100*
21 *miles of the United States borders with Mexico and Canada*
22 *that are under the jurisdiction of the Secretary of the Inte-*
23 *rior or the Secretary of Agriculture for purposes of con-*
24 *ducting the following activities on such land to prevent all*
25 *unlawful entries into the United States, including entries*
26 *by terrorists, other unlawful aliens, instruments of ter-*

1 rorism, narcotics, and other contraband through such inter-
2 national border:

3 (1) Construction and maintenance of roads.

4 (2) Construction and maintenance of barriers.

5 (3) Use of vehicles to patrol, apprehend, or res-
6 cue.

7 (4) Installation, maintenance, and operation of
8 communications and surveillance equipment and sen-
9 sors.

10 (5) Deployment of temporary tactical infrastruc-
11 ture.

12 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
13 ITY.—

14 (1) IN GENERAL.—Notwithstanding any other
15 provision of law (including any termination date re-
16 lating to the waiver referred to in this subsection), the
17 waiver by the Secretary of Homeland Security on
18 April 1, 2008, under section 102(c)(1) of the Illegal
19 Immigration Reform and Immigrant Responsibility
20 Act of 1996 (8 U.S.C. 1103 note; Public Law 104–
21 208) of the laws described in paragraph (2) with re-
22 spect to certain sections of the international borders
23 between the United States and Mexico and the United
24 States and Canada shall be considered to apply to all
25 Federal land under the jurisdiction of the Secretary

1 *of the Interior or the Secretary of Agriculture within*
 2 *100 miles of such international borders for the activi-*
 3 *ties of U.S. Customs and Border Protection described*
 4 *in subsection (b).*

5 (2) *DESCRIPTION OF LAWS WAIVED.—The laws*
 6 *referred to in paragraph (1) are limited to the Wil-*
 7 *derness Act (16 U.S.C. 1131 et seq.), the National En-*
 8 *vironmental Policy Act of 1969 (42 U.S.C. 4321 et*
 9 *seq.), the Endangered Species Act of 1973 (16 U.S.C.*
 10 *1531 et seq.), the National Historic Preservation Act*
 11 *(16 U.S.C. 470 et seq.), Public Law 86–523 (16*
 12 *U.S.C. 469 et seq.), the Act of June 8, 1906 (com-*
 13 *monly known as the “Antiquities Act of 1906”; 16*
 14 *U.S.C. 431 et seq.), the Wild and Scenic Rivers Act*
 15 *(16 U.S.C. 1271 et seq.), the Federal Land Policy and*
 16 *Management Act of 1976 (43 U.S.C. 1701 et seq.), the*
 17 *National Wildlife Refuge System Administration Act*
 18 *of 1966 (16 U.S.C. 668dd et seq.), the Fish and Wild-*
 19 *life Act of 1956 (16 U.S.C. 742a et seq.), the Fish and*
 20 *Wildlife Coordination Act (16 U.S.C. 661 et seq.),*
 21 *subchapter II of chapter 5, and chapter 7, of title 5,*
 22 *United States Code (commonly known as the “Admin-*
 23 *istrative Procedure Act”), the National Park Service*
 24 *Organic Act (16 U.S.C. 1 et seq.), the General Au-*
 25 *thorities Act of 1970 (Public Law 91–383) (16 U.S.C.*

1 *1a–1 et seq.*), sections 401(7), 403, and 404 of the Na-
 2 *tional Parks and Recreation Act of 1978 (Public Law*
 3 *95–625, 92 Stat. 3467), and the Arizona Desert Wil-*
 4 *derness Act of 1990 (16 U.S.C. 1132 note; Public Law*
 5 *101–628).*

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

8 *(1) authority to restrict legal uses, such as graz-*
 9 *ing, hunting, mining, or public-use recreational and*
 10 *backcountry airstrips on land under the jurisdiction*
 11 *of the Secretary of the Interior or the Secretary of Ag-*
 12 *riculture; or*

13 *(2) any additional authority to restrict legal ac-*
 14 *cess to such land.*

15 *(e) EFFECT ON STATE AND PRIVATE LAND.—This sec-*
 16 *tion shall—*

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

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

21 *(f) TRIBAL SOVEREIGNTY.—Nothing in this section su-*
 22 *persedes, replaces, negates, or diminishes treaties or other*
 23 *agreements between the United States and Indian tribes.*

1 **SEC. 14. BIOMETRIC EXIT DATA SYSTEM.**

2 (a) *ESTABLISHMENT.*—*The Secretary of Homeland*
3 *Security shall—*

4 (1) *not later than 180 days after the date of the*
5 *enactment of this Act, submit to the Committee on*
6 *Homeland Security and the Committee on the Judici-*
7 *ary of the House of Representatives and the Com-*
8 *mittee on Homeland Security and Governmental Af-*
9 *airs and the Committee on the Judiciary of the Sen-*
10 *ate an implementation plan to establish a biometric*
11 *exit data system to complete the integrated biometric*
12 *entry and exit data system required under section*
13 *7208 of the Intelligence Reform and Terrorism Pre-*
14 *vention Act of 2004 (8 U.S.C. 1365b), including—*

15 (A) *an integrated master schedule and cost*
16 *estimate, including requirements and design, de-*
17 *velopment, operational, and maintenance costs,*
18 *of such a system that takes into account prior re-*
19 *ports on such matters issued by the Government*
20 *Accountability Office and the Department of*
21 *Homeland Security;*

22 (B) *cost-effective staffing and personnel re-*
23 *quirements of such a system that leverages exist-*
24 *ing resources of the Department of Homeland Se-*
25 *curity that takes into account prior reports on*
26 *such matters issued by the Government Account-*

1 *ability Office and the Department of Homeland*
2 *Security;*

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

8 *(D) a consideration of how such a system*
9 *will affect wait times that takes into account*
10 *prior reports on such matter issued by the Gov-*
11 *ernment Accountability Office and the Depart-*
12 *ment of Homeland Security;*

13 *(E) information received after consultation*
14 *with private sector stakeholders, including—*

15 *(i) the trucking industry;*

16 *(ii) the airport industry;*

17 *(iii) the airline industry;*

18 *(iv) the seaport industry;*

19 *(v) the travel industry; and*

20 *(vi) the biometric technology industry;*

21 *(F) a consideration of how trusted traveler*
22 *programs in existence as of the date of the enact-*
23 *ment of this Act may be impacted by, or incor-*
24 *porated into, such a system;*

1 (G) *defined metrics of success and mile-*
2 *stones;*

3 (H) *identified risks and mitigation strate-*
4 *gies to address such risks; and*

5 (I) *a consideration of how other countries*
6 *have implemented a biometric exit data system;*
7 *and*

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

11 (A) *the 15 United States airports that sup-*
12 *port the highest volume of international air trav-*
13 *el, as determined by available Federal flight*
14 *data;*

15 (B) *the 15 United States seaports that sup-*
16 *port the highest volume of international sea trav-*
17 *el, as determined by available Federal travel*
18 *data; and*

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

23 (b) *IMPLEMENTATION.—*

24 (1) *PILOT PROGRAM AT LAND PORTS OF ENTRY*
25 *FOR NON-PEDESTRIAN OUTBOUND TRAFFIC.—Not*

1 *later than one year after the date of the enactment of*
2 *this Act, the Secretary of Homeland Security, in col-*
3 *laboration with industry stakeholders, shall establish*
4 *a six-month pilot program to test the biometric exit*
5 *data system referred to in subsection (a)(2) on non-*
6 *pedestrian outbound traffic at not fewer than three*
7 *land ports of entry with significant cross-border traf-*
8 *fic, including at not fewer than two land ports of*
9 *entry on the southern land border and at least one*
10 *land port of entry on the northern land border. Such*
11 *pilot program may include a consideration of more*
12 *than one biometric mode, and shall be implemented to*
13 *determine the following:*

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

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

19 *(C) The effects of such pilot program on le-*
20 *gitimate travel and trade.*

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

24 *(E) Its effectiveness in combating terrorism.*

1 (F) *Its effectiveness in identifying visa hold-*
2 *ers who violate the terms of their visas.*

3 (2) *AT LAND PORTS OF ENTRY FOR NON-PEDES-*
4 *TRIAN OUTBOUND TRAFFIC.—*

5 (A) *IN GENERAL.—Not later than five years*
6 *after the date of the enactment of this Act, the*
7 *Secretary of Homeland Security shall expand the*
8 *biometric exit data system referred to in sub-*
9 *section (a)(2) to all land ports of entry, and such*
10 *system shall apply only in the case of non-pedes-*
11 *trian outbound traffic.*

12 (B) *EXTENSION.—The Secretary of Home-*
13 *land Security may extend for a single two year*
14 *period the date specified in subparagraph (A) if*
15 *the Secretary certifies to the Committee on*
16 *Homeland Security and the Committee on the*
17 *Judiciary of the House of Representatives and*
18 *the Committee on Homeland Security and Gov-*
19 *ernmental Affairs and the Committee on the Ju-*
20 *diary of the Senate that the 15 land ports of*
21 *entry that support the highest volume of pas-*
22 *senger vehicles, as determined by available Fed-*
23 *eral data, do not have the physical infrastructure*
24 *or characteristics to install the systems necessary*
25 *to implement a biometric exit data system.*

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

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

13 (c) *EFFECTS ON AIR, SEA, AND LAND TRANSPOR-*
14 *TATION.*—The Secretary of Homeland Security, in con-
15 *sultation with appropriate private sector stakeholders, shall*
16 *ensure that the collection of biometric data under this sec-*
17 *tion causes the least possible disruption to the movement*
18 *of people or cargo in air, sea, or land transportation, while*
19 *fulfilling the goals of improving counterterrorism efforts*
20 *and identifying visa holders who violate the terms of their*
21 *visas.*

22 (d) *TERMINATION OF PROCEEDING.*—Notwithstanding
23 *any other provision of law, the Secretary of Homeland Se-*
24 *curity shall, on the date of the enactment of this Act, termi-*
25 *nate the proceeding entitled “Collection of Alien Biometric*

1 *Data Upon Exit From the United States at Air and Sea*
2 *Ports of Departure*”, issued on April 24, 2008 (73 C.F.R.
3 22065; DHS Docket No. 2008–0039).

4 (e) *DATA-MATCHING.*—*The biometric exit data system*
5 *established under this section shall—*

6 (1) *require that the biometric data that is ob-*
7 *tained for a person upon entry to the United States*
8 *is matched against the biometric data of such person*
9 *when such person exits the United States;*

10 (2) *leverage the infrastructure and databases of*
11 *the current entry system established pursuant to sec-*
12 *tion 7208 of the Intelligence Reform and Terrorism*
13 *Prevention Act of 2004 (8 U.S.C. 1365b) for the pur-*
14 *pose described in paragraph (1); and*

15 (3) *be interoperable with, and allow matching*
16 *against, other Federal databases that store biometrics*
17 *of known or suspected terrorists, and visa holders who*
18 *have violated the terms of their visas.*

19 (f) *SCOPE.*—

20 (1) *IN GENERAL.*—*The biometric exit data sys-*
21 *tem established under this section shall include a re-*
22 *quirement for the collection of biometric exit data for*
23 *all categories of individuals who are required to pro-*
24 *vide biometric entry data.*

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

3 (g) *COLLECTION OF DATA.*—*The Secretary of Home-*
4 *land Security may not require any non-Federal person to*
5 *collect biometric data pursuant to the biometric exit data*
6 *system established under this section, except through a con-*
7 *tractual agreement.*

8 (h) *MULTI-MODAL COLLECTION.*—*In carrying out sub-*
9 *sections (a)(1) and (b), the Secretary of Homeland Security*
10 *shall make every effort to collect biometric data using addi-*
11 *tional modes of biometric technology.*

12 (i) *PENALTIES FOR FAILURE TO MEET DEADLINES.*—

13 (1) *BIOMETRIC EXIT DATA SYSTEM.*—*If the Sec-*
14 *retary fails to meet any of the following requirements*
15 *by the applicable deadline, no political appointee of*
16 *the Department of Homeland Security may perform*
17 *any function described in paragraph (2) until the*
18 *Secretary has complied with the requirement:*

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

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

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

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

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

6 (2) *FUNCTIONS DESCRIBED.—The functions de-*
 7 *scribed in this subparagraph are each of the fol-*
 8 *lowing:*

9 (A) *Travel using government aircraft.*

10 (B) *Receipt of any non-essential training.*

11 (C) *Receipt of bonus pay.*

12 (D) *Receipt of any salary increase.*

13 (j) *CONGRESSIONAL REVIEW.—Not later than 90 days*
 14 *after the date of the enactment of this Act, the Secretary*
 15 *of Homeland Security shall submit to the Committee on*
 16 *Homeland Security and the Committee on the Judiciary*
 17 *of the House of Representatives and the Committee on*
 18 *Homeland Security and Governmental Affairs and the*
 19 *Committee on the Judiciary of the Senate reports and rec-*
 20 *ommendations of the Department of Homeland Security*
 21 *Science and Technology Directorate’s Air Entry and Exit*
 22 *Re-Engineering Program and the reports and recommenda-*
 23 *tions of the U.S. Customs and Border Protection entry and*
 24 *exit mobility program demonstrations.*

1 **SEC. 15. NORTHERN BORDER THREAT ANALYSIS.**

2 (a) *IN GENERAL.*—Not later than six months after the
3 date of the enactment of this Act, the Secretary of Homeland
4 Security shall submit to the appropriate congressional com-
5 mittees a northern border threat analysis. Such analysis,
6 at a minimum, shall include the following:

7 (1) *An analysis of current and potential ter-*
8 *rorism threats posed by individuals seeking to enter*
9 *the United States through the northern border.*

10 (2) *An analysis of improvements needed at ports*
11 *of entry along the northern border to prevent terror-*
12 *ists and instruments of terror from entering the*
13 *United States.*

14 (3) *An analysis of gaps in law, policy, inter-*
15 *national agreements, or tribal agreements that hinder*
16 *the border security and counter-terrorism efforts along*
17 *the northern border.*

18 (4) *An analysis of unlawful cross border activity*
19 *between ports of entry, including the maritime bor-*
20 *ders of the Great Lakes.*

21 (b) *CLASSIFIED THREAT ANALYSIS.*—*The threat anal-*
22 *ysis required under subsection (a) may be submitted in clas-*
23 *sified form, if the Secretary of Homeland Security deter-*
24 *mines that such is appropriate.*

25 (c) *REQUIRED NORTHERN BORDER CAPABILITY DE-*
26 *PLOYMENT.*—*Not later than 18 months after the date of the*

1 *enactment of this Act, the Secretary of Homeland Security,*
2 *acting through the appropriate component of the Depart-*
3 *ment of Homeland Security, shall, at a minimum, deploy*
4 *to each sector of the northern border, in a prioritized, risk-*
5 *based manner, the following additional capabilities:*

6 (1) *BLAINE SECTOR.—For the Blaine sector, the*
7 *following:*

8 (A) *Coastal radar surveillance systems.*

9 (B) *Mobile vehicle-mounted and man-port-*
10 *able surveillance systems.*

11 (C) *Advanced unattended surveillance sen-*
12 *sors.*

13 (D) *Improved agent communications capa-*
14 *bilities.*

15 (E) *Increased flight hours for aerial detec-*
16 *tion, interdiction, and monitoring operations ca-*
17 *pability.*

18 (F) *Man-portable unmanned aerial vehicles.*

19 (G) *Ultralight aircraft detection capabili-*
20 *ties.*

21 (H) *Modernized port of entry surveillance*
22 *capabilities.*

23 (I) *Increased maritime interdiction capa-*
24 *bilities.*

1 (2) *SPOKANE SECTOR.*—*For the Spokane sector,*
2 *the following:*

3 (A) *Mobile vehicle-mounted and man-port-*
4 *able surveillance systems.*

5 (B) *Advanced unattended surveillance sen-*
6 *sors.*

7 (C) *Improved agent communications capa-*
8 *bilities.*

9 (D) *Increased flight hours for aerial detec-*
10 *tion, interdiction, and monitoring operations ca-*
11 *pability.*

12 (E) *Man-portable unmanned aerial vehicles.*

13 (F) *Completion of six miles of the Bog*
14 *Creek road.*

15 (G) *Ultralight aircraft detection capabili-*
16 *ties.*

17 (H) *Modernized port of entry surveillance*
18 *capabilities.*

19 (3) *HAVRE SECTOR.*—*For the Havre sector, the*
20 *following:*

21 (A) *Mobile vehicle-mounted and man-port-*
22 *able surveillance systems.*

23 (B) *Advanced unattended surveillance sen-*
24 *sors.*

1 (C) *Improved agent communications capa-*
2 *bilities.*

3 (D) *Increased flight hours for aerial detec-*
4 *tion, interdiction, and monitoring operations ca-*
5 *pability.*

6 (E) *Man-portable unmanned aerial vehicles.*

7 (F) *Ultralight aircraft detection capabili-*
8 *ties.*

9 (G) *Modernized port of entry surveillance*
10 *capabilities.*

11 (4) *GRAND FORKS SECTOR.—For the Grand*
12 *Forks sector, the following:*

13 (A) *Mobile vehicle-mounted and man-port-*
14 *able surveillance systems.*

15 (B) *Advanced unattended surveillance sen-*
16 *sors.*

17 (C) *Improved agent communications capa-*
18 *bilities.*

19 (D) *Increased flight hours for aerial detec-*
20 *tion, interdiction, and monitoring operations ca-*
21 *pability.*

22 (E) *Man-portable unmanned aerial vehicles.*

23 (F) *Ultralight aircraft detection capabili-*
24 *ties.*

1 (G) *Modernized port of entry surveillance*
2 *capabilities.*

3 (5) *DETROIT SECTOR.—For the Detroit sector,*
4 *the following:*

5 (A) *Coastal radar surveillance systems.*

6 (B) *Mobile vehicle-mounted and man-port-*
7 *able surveillance systems.*

8 (C) *Advanced unattended surveillance sen-*
9 *sors.*

10 (D) *Improved agent communications capa-*
11 *bilities.*

12 (E) *Increased flight hours for aerial detec-*
13 *tion, interdiction, and monitoring operations ca-*
14 *pability.*

15 (F) *Man-portable unmanned aerial vehicles.*

16 (G) *Ultralight aircraft detection capabili-*
17 *ties.*

18 (H) *Modernized port of entry surveillance*
19 *capabilities.*

20 (I) *Increased maritime interdiction capa-*
21 *bilities.*

22 (6) *BUFFALO SECTOR.—For the Buffalo sector,*
23 *the following:*

24 (A) *Coastal radar surveillance systems.*

1 (B) *Mobile vehicle-mounted and man-port-*
2 *able surveillance systems.*

3 (C) *Advanced unattended surveillance sen-*
4 *sors.*

5 (D) *Improved agent communications capa-*
6 *bilities.*

7 (E) *Increased flight hours for aerial detec-*
8 *tion, interdiction, and monitoring operations ca-*
9 *pability.*

10 (F) *Man-portable unmanned aerial vehicles.*

11 (G) *Ultralight aircraft detection capabili-*
12 *ties.*

13 (H) *Modernized port of entry surveillance*
14 *capabilities.*

15 (I) *Increased maritime interdiction capa-*
16 *bilities.*

17 (7) *SWANTON SECTOR.—For the Swanton sector,*
18 *the following:*

19 (A) *Mobile vehicle-mounted and man-port-*
20 *able surveillance systems.*

21 (B) *Advanced unattended surveillance sen-*
22 *sors.*

23 (C) *Improved agent communications capa-*
24 *bilities.*

1 (D) *Increased flight hours for aerial detec-*
2 *tion, interdiction, and monitoring operations ca-*
3 *pability.*

4 (E) *Man-portable unmanned aerial vehicles.*

5 (F) *Ultralight aircraft detection capabili-*
6 *ties.*

7 (G) *Modernized port of entry surveillance*
8 *capabilities.*

9 (8) *HOULTON SECTOR.—For the Houlton sector,*
10 *the following:*

11 (A) *Mobile vehicle-mounted and man-port-*
12 *able surveillance systems.*

13 (B) *Advanced unattended surveillance sen-*
14 *sors.*

15 (C) *Improved agent communications capa-*
16 *bilities.*

17 (D) *Increased flight hours for aerial detec-*
18 *tion, interdiction, and monitoring operations ca-*
19 *pability.*

20 (E) *Man-portable unmanned aerial vehicles.*

21 (F) *Ultralight aircraft detection capabili-*
22 *ties.*

23 (G) *Modernized port of entry surveillance*
24 *capabilities.*

1 (d) *ADHERENCE TO CERTAIN STANDARDS.—The*
 2 *Under Secretary for Management of the Department of*
 3 *Homeland Security, in coordination with the Assistant*
 4 *Commissioner of the Office of Administration of U.S. Cus-*
 5 *toms and Border Protection, shall ensure component pro-*
 6 *gram managers who are responsible for carrying out this*
 7 *section adhere to internal control standards identified by*
 8 *the Comptroller General of the United States. The Assistant*
 9 *Commissioner shall provide information, as needed, to as-*
 10 *sist the Under Secretary for Management in monitoring*
 11 *proper program management of border security programs*
 12 *carried out pursuant to this section.*

13 **SEC. 16. OPERATION STONEGARDEN PROGRAM.**

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

17 **“Subtitle C—Other Grant Programs**

18 **“SEC. 2031. OPERATION STONEGARDEN.**

19 “(a) *ESTABLISHMENT.—There is established in the De-*
 20 *partment a program to be known as ‘Operation*
 21 *Stonegarden’. Under such program, the Secretary, acting*
 22 *through the Administrator, shall make grants to eligible law*
 23 *enforcement agencies to enhance border security in accord-*
 24 *ance with this section.*

1 “(b) *ELIGIBLE RECIPIENTS.*—*To be eligible to receive*
2 *a grant under this section, a law enforcement agency*
3 *shall—*

4 “(1) *be located in—*

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

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

9 “(2) *be involved in an active ongoing U.S. Cus-*
10 *toms and Border Protection operation coordinated*
11 *through a sector office.*

12 “(c) *PERMITTED USES.*—*The recipient of a grant*
13 *under this section may use the grant for any of the following*
14 *activities:*

15 “(1) *Equipment, including maintenance and*
16 *sustainment costs.*

17 “(2) *Personnel, including overtime and backfill,*
18 *in support of enhanced border law enforcement activi-*
19 *ties.*

20 “(3) *Any activity permitted under the Depart-*
21 *ment of Homeland Security’s Fiscal Year 2014 Fund-*
22 *ing Opportunity Announcement for Operation*
23 *Stonegarden.*

24 “(4) *Any other appropriate activity, as deter-*
25 *mined by the Administrator.*

1 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
 2 *authorized to be appropriated \$110,000,000 for each of fis-*
 3 *cal years 2015 through 2019 for grants under this section.*

4 “(e) *REPORT.*—*The Administrator shall annually sub-*
 5 *mit to the Committee on Homeland Security and Govern-*
 6 *mental Affairs of the Senate and the Committee on Home-*
 7 *land Security of the House of Representatives a report con-*
 8 *taining information on the expenditure of grants made*
 9 *under this section by each grant recipient.”.*

10 “(b) *CLERICAL AMENDMENT.*—*The table of contents in*
 11 *section 1(b) of such Act is amended by inserting after the*
 12 *items relating to subtitle B of title XX the following new*
 13 *items:*

“Subtitle C—Other Grant Programs

“Sec. 2031. Operation Stonegarden.”.

14 **SEC. 17. SALE OR DONATION OF EXCESS PERSONAL PROP-**
 15 **ERTY FOR BORDER SECURITY ACTIVITIES.**

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

18 *(1) in subsection (a)—*

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

23 *(B) in paragraph (2), by striking “the At-*
 24 *torney General and the Director of National*

1 *Drug Control Policy*” and inserting “the Attor-
2 *ney General, the Director of National Drug Con-*
3 *trol Policy, and the Secretary of Homeland Se-*
4 *curity, as appropriate.”; and*

5 *(2) in subsection (d), by striking “counter-drug*
6 *or counter-terrorism activities” and inserting*
7 *“counterdrug, counterterrorism, or border security ac-*
8 *tivities”.*

9 **SEC. 18. REIMBURSEMENT OF STATES FOR DEPLOYMENT**
10 **OF NATIONAL GUARD TO THE SOUTHERN**
11 **LAND BORDER.**

12 *Of the amounts authorized to be appropriate pursuant*
13 *to section 21, not more than \$35,000,000 may be used for*
14 *any fiscal year to reimburse States for the cost of the de-*
15 *ployment of any units or personnel of the National Guard*
16 *to perform operations and missions under State Active*
17 *Duty status in support of a southern land border mission.*

18 **SEC. 19. OPERATION OF THE BORDER PATROL.**

19 *The Border Patrol shall operate using intelligence-*
20 *based operations to combat terrorist and transnational*
21 *criminal threats along the international borders of the*
22 *United States. In carrying out this section, the Border Pa-*
23 *trol shall coordinate with international, Federal, State,*
24 *local, and tribal law enforcement partners.*

1 **SEC. 20. DEFINITIONS.**

2 *In this Act:*

3 (1) *ADVANCED UNATTENDED SURVEILLANCE*
4 *SENSORS.*—*The term “advanced unattended surveil-*
5 *lance sensors” means sensors that utilize an onboard*
6 *computer to analyze detections in an effort to discern*
7 *between vehicles, humans, and animals, and ulti-*
8 *mately filter false positives prior to transmission.*

9 (2) *APPROPRIATE CONGRESSIONAL COMMIT-*
10 *TEES.*—*The term “appropriate congressional commit-*
11 *tees” means the Committee on Homeland Security of*
12 *the House of Representatives and the Committee on*
13 *Homeland Security and Governmental Affairs of the*
14 *Senate.*

15 (3) *COCAINE REMOVAL EFFECTIVENESS RATE.*—
16 *The term “cocaine removal effectiveness rate” means*
17 *the percentage that results from dividing the amount*
18 *of cocaine removed by the Department of Homeland*
19 *Security’s maritime security components inside or*
20 *outside a transit zone, as the case may be, by the total*
21 *documented cocaine flow rate as contained in Federal*
22 *drug databases.*

23 (4) *CONSEQUENCE DELIVERY SYSTEM.*—*The*
24 *term “Consequence Delivery System” means the series*
25 *of consequences applied to persons unlawfully enter-*

1 *ing the United States by the Border Patrol to prevent*
2 *unlawful border crossing recidivism.*

3 (5) *GOT AWAY.*—*The term “got away” means an*
4 *unlawful border crosser who, after making an unlaw-*
5 *ful entry into the United States, is not turned back*
6 *or apprehended.*

7 (6) *HIGH TRAFFIC AREAS.*—*The term “high traf-*
8 *fic areas” means sectors along the northern and*
9 *southern land borders of the United States that are*
10 *within the responsibility of the Border Patrol that*
11 *have significant unlawful cross-border activity, in-*
12 *formed through situational awareness.*

13 (7) *UNLAWFUL BORDER CROSSING EFFECTIVE-*
14 *NESS RATE.*—*The term “unlawful border crossing ef-*
15 *fectiveness rate” means the percentage that results*
16 *from dividing the number of apprehensions and turn*
17 *backs by the number of apprehensions, turn backs,*
18 *and got aways. The data used by the Secretary of*
19 *Homeland Security to determine such rate shall be*
20 *collected and reported in a consistent and standard-*
21 *ized manner across all Border Patrol sectors, in-*
22 *formed by situational awareness.*

23 (8) *MAJOR VIOLATOR.*—*The term “major viola-*
24 *tor” means a person or entity that has engaged in se-*
25 *rious criminal activities at any land, air, or sea port*

1 of entry, including possession of illicit drugs, smug-
2 gling of prohibited products, human smuggling, weap-
3 ons possession, use of fraudulent United States docu-
4 ments, or other offenses serious enough to result in ar-
5 rest.

6 (9) *OPERATIONAL CONTROL*.—The term “oper-
7 ational control” has the meaning given such term in
8 section 2(b) of the Secure Fence Act of 2006 (8 U.S.C.
9 1701 note; Public Law 109–367).

10 (10) *SITUATIONAL AWARENESS*.—The term “situ-
11 ational awareness” means knowledge and an under-
12 standing of current unlawful cross-border activity, in-
13 cluding cross-border threats and trends concerning il-
14 licit trafficking and unlawful crossings along the
15 international borders of the United States, the ability
16 to forecast future shifts in such threats and trends,
17 and the operational capability to conduct continuous
18 and integrated surveillance of the international bor-
19 ders of the United States.

20 (11) *TRANSIT ZONE*.—The term “transit zone”
21 means the sea corridors of the western Atlantic Ocean,
22 the Gulf of Mexico, the Caribbean Sea, and the east-
23 ern Pacific Ocean through which undocumented mi-
24 grants and illicit drugs transit, either directly or in-
25 directly, to the United States.

1 (12) *TURN BACK.*—*The term “turn back” means*
2 *an unlawful border crosser who, after making an un-*
3 *lawful entry into the United States, returns to the*
4 *country from which such crosser entered.*

5 **SEC. 21. AUTHORIZATION OF APPROPRIATIONS.**

6 *There is authorized to be appropriated for each of fis-*
7 *cal years 2016 through 2025 \$1,000,000,000 to carry out*
8 *this Act and the amendments made by this Act.*

Union Calendar No. 6

114TH CONGRESS
1ST Session

H. R. 399

[Report No. 114–10, Part I]

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.

JANUARY 27, 2015

Reported from the Committee on Homeland Security
with an amendment

JANUARY 27, 2015

The Committees on Armed Services, Natural Resources,
and Agriculture discharged; committed to the Com-
mittee of the Whole House on the State of the Union
and ordered to be printed