

SOUTHWEST BORDER SECURITY THREAT ASSESSMENT
ACT OF 2016

APRIL 13, 2016.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 4482]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4482) to require the Secretary of Homeland Security to prepare a southwest border threat analysis, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Southwest Border Security Threat Assessment Act of 2016”.

SEC. 2. SOUTHWEST BORDER THREAT ANALYSIS.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a southwest border threat analysis that includes the following:

(1) An assessment of current and potential terrorism and criminal threats posed by individuals and organized groups seeking to—

- (A) unlawfully enter the United States through the southwest border; or
- (B) exploit security vulnerabilities along the southwest border.

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

(3) An assessment of gaps in law, policy, and coordination between State, local, or tribal law enforcement, international agreements, or tribal agreements that hinder effective and efficient border security, counterterrorism, and anti-human smuggling and trafficking efforts.

(4) An assessment of the flow of legitimate trade along the southwest border.

(5) An assessment of the current percentage of situational awareness achieved by the Department of Homeland Security along the southwest border.

(6) An assessment of the current percentage of operational control (as such term is defined in section 2 of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–367)) achieved by the Department of Homeland Security of the southwest.

(7) An assessment of impact of trusted traveler programs on border wait times and border security.

(8) An assessment of traveler crossing times and any potential security vulnerability associated with prolonged wait times.

(b) **ANALYSIS REQUIREMENTS.**—For the southwest border threat analysis required under subsection (a), the Secretary of Homeland Security shall consider and examine the following:

(1) Technology needs and challenges, including such needs and challenges identified as a result of previous investments that have not fully realized the security and operational benefits that were sought.

(2) Personnel needs and challenges, including such needs and challenges associated with recruitment and hiring.

(3) Infrastructure needs and challenges.

(4) The roles and authorities of State, local, and tribal law enforcement in general border security activities.

(5) The status of coordination among Federal, State, local, tribal, and Mexican law enforcement entities relating to border security.

(6) The terrain, population density, and climate along the southwest border.

(7) International agreements between the United States and Mexico related to border security.

(c) **CLASSIFIED THREAT ANALYSIS.**—To the extent possible, the Secretary of Homeland Security shall submit the southwest border threat analysis required under subsection (a) in unclassified form. The Secretary may submit a portion of such threat analysis in classified form if the Secretary determines such is appropriate.

SEC. 3. BORDER PATROL STRATEGIC PLAN.

(a) **IN GENERAL.**—Not later than 180 days after the submission of the threat analysis required under section 2 but not later than June 30, 2017, and every five years thereafter, the Secretary of Homeland Security, acting through the Chief of U.S. Border Patrol, shall, in consultation with the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, issue a Border Patrol Strategic Plan.

(b) **CONTENTS.**—The Border Patrol Strategic Plan required under subsection (a) shall include, at a minimum, a consideration of the following:

(1) The southwest border threat analysis required under section 2, with an emphasis on efforts to mitigate threats identified in such threat analysis.

(2) Efforts to analyze and disseminate border security and border threat information between Department of Homeland Security border security components and with other appropriate Federal departments and agencies with missions associated with the border.

(3) Efforts to increase situational awareness, including the following:

- (A) Surveillance capabilities, including capabilities developed or utilized by the Department of Defense, and any appropriate technology determined to be excess by the Department of Defense.

- (B) Use of manned aircraft and unmanned aerial systems, including camera and sensor technology deployed on such assets.
- (4) Efforts to detect and prevent terrorists and instruments of terrorism from entering the United States.
- (5) Efforts to detect, interdict, and disrupt aliens and illicit drugs at the earliest possible point.
- (6) Efforts to focus intelligence collection to disrupt transnational criminal organizations outside of the international and maritime borders of the United States.
- (7) Efforts to ensure that any new border security technology can be operationally integrated with existing technologies in use by the Department of Homeland Security.
- (8) Technology required to maintain, support, and enhance security and facilitate trade at ports of entry, including nonintrusive detection equipment, radiation detection equipment, biometric technology, surveillance systems, and other sensors and technology that the Secretary of Homeland Security determines necessary.
- (9) Operational coordination unity of effort initiatives of the border security components of the Department of Homeland Security, including any relevant task forces of the Department.
- (10) Lessons learned from Operation Jumpstart and Operation Phalanx.
- (11) Cooperative agreements and information sharing with State, local, tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the northern or southern border.
- (12) Border security information received from consultation with State, local, tribal, territorial, and Federal law enforcement agencies that have jurisdiction on the northern or southern border, or in the maritime environment, and from border community stakeholders (including through public meetings with such stakeholders), including representatives from border agricultural and ranching organizations and representatives from business and civic organizations along the northern or southern border.
- (13) Staffing requirements for all departmental border security functions.
- (14) A prioritized list of departmental research and development objectives to enhance the security of the southwest border.
- (15) An assessment of training programs, including training programs regarding the following:
 - (A) Identifying and detecting fraudulent documents.
 - (B) Understanding the scope of enforcement authorities and the use of force policies.
 - (C) Screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking.
- (16) An assessment of how border security operations affect crossing times.

SEC. 4. DEFINITIONS.

In this Act:

- (1) **SITUATIONAL AWARENESS.**—The term “situational awareness” means a knowledge and unified understanding of unlawful cross-border activity, including threats and trends concerning illicit trafficking and unlawful crossings (which may be used to forecast future shifts in such threats and trends), and the operational capability to conduct continuous and integrated surveillance of the international borders of the United States.
- (2) **SOUTHWEST BORDER.**—The term “southwest border” means the land and maritime borders between the United States and Mexico.

PURPOSE AND SUMMARY

The purpose of H.R. 4482 is to require the Secretary of Homeland Security to prepare a southwest border threat analysis, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

In May 2012, Customs and Border Protection released “2012–2016 Border Patrol Strategic Plan, The Mission: Protect America,” an updated five-year strategic plan for the U.S. Border Patrol for 2012–2016, which previously was not updated since 2004. The plan states that the Border Patrol is adopting a “risk-based approach to

border security by integrating operational and threat-condition assessments” and focusing resources on the greatest border threats. While the updated strategy reflects the evolving threats on the border as well as resource constraints, it lacks critical elements for the Border Patrol to gauge its success.

A new Border Patrol strategic plan is necessary to address evolving border threats and conditions. A new strategic plan needs to take into account updated resource needs, account for advances in technology, as well as consider lessons learned so the Border Patrol can accomplish its mission in the most effective manner. This updated plan is to be informed by a southwest border threat assessment that provides a picture of current border threats and conditions.

HEARINGS

No hearings were held on H.R. 4482.

COMMITTEE CONSIDERATION

The Committee met on March 23, 2016, to consider H.R. 4482, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by Ms. MCSALLY (#1); was AGREED TO by voice vote.

An Amendment by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1A); was AGREED TO by voice vote.

In section 2(a), add at the end the following: (7) An assessment of traveler crossing times and any potential security vulnerability associated with prolonged wait times.

An Amendment by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1B); was AGREED TO by voice vote.

In section 2(a), add at the end the following: (7) An assessment of impact of trusted traveler programs on border wait times and border security.

An Amendment by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1C); was AGREED TO by voice vote.

In section 2(b)(1), insert before the period at the end the following: “, including needs and challenges identified as a result of previous investments that have not fully realized the security and operational benefits that were sought”.

The Committee considered an en bloc amendment consisting of four amendments offered by Mr. Thompson of Mississippi. The Chair announced that the amendments would be voted upon as two separate amendments as follows:

An en bloc amendment to the Amendment in the Nature of a Substitute offered by MR. THOMPSON of Mississippi (#1D); was AGREED TO by voice vote.

Consisting of the following amendments:

In section 2(b)(2), insert before the period at the end the following: “, including needs and challenges associated with recruitment and hiring”.

In section 2(b), add at the end the following: (7) International agreements between the United States and Mexico related to border security.

In section 3(a), insert “, in consultation with the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security,” after “shall”.

An Amendment by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1E); was NOT AGREED TO by a recorded vote of 8 yeas and 18 nays (Roll Call Vote No. 17).

In section 3(b)(14), strike “the security of the southwest border” and insert “Border Patrol operations and activities”.

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

The Committee on Homeland Security considered H.R. 4482 on March 23, 2016, and took the following votes:

COMMITTEE ON HOMELAND SECURITY

ROLL CALL NO. 17

H.R. 4482

Roll Call Vote No. 17.

On agreeing to the amendment #1E offered by Mr. Thompson of Mississippi.

Not agreed to: 8 yeas and 18 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair.		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas		X	Ms. Loretta Sanchez of California		
Mr. King of New York		X	Ms. Jackson Lee		
Mr. Rogers of Alabama		X	Mr. Langevin		
Mrs. Miller of Michigan		X	Mr. Higgins	X	
Mr. Duncan of South Carolina		X	Mr. Richmond	X	
Mr. Marino		X	Mr. Keating	X	
Mr. Barletta		X	Mr. Payne	X	
Mr. Perry		X	Mr. Vela	X	
Mr. Clawson of Florida		X	Mrs. Watson Coleman	X	
Mr. Katko		X	Miss Rice		X
Mr. Hurd of Texas		X	Mrs. Torres	X	
Mr. Carter of Georgia		X			
Mr. Walker		X			
Mr. Loudermilk		X			
Ms. McSally		X			
Mr. Ratcliffe		X			
Mr. Donovan		X			
Vote Total:				8	18

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4482, the Southwest Border Security Threat Assessment Act of 2016, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 4482 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The general performance goal or objective of this bill is to ensure the Secretary of Homeland Security conducts a comprehensive threat assessment of the Southwest Border that would inform future homeland security resourcing needs and future Strategic Plans for the U.S. Border Patrol.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 4482 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint

resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 4482 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 4482 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section provides that this bill may be cited as the “Southwest Border Security Threat Assessment Act of 2016”.

Sec. 2. Southwest Border Threat Analysis.

This section requires the Secretary of Homeland Security to submit to the appropriate congressional committees, within six months from the date of enactment of this Act, a southwest border threat analysis. The threat analysis shall include, at a minimum, an assessment of terrorist and criminal threats posed by individuals seeking to enter the United States through the southwest border; an analysis of improvements needed at ports of entry along the southwest border to prevent terrorists and instruments of terror from crossing the border; an analysis of gaps in law, policy, international agreements, or tribal agreements that hinder border security efforts along the southwest border; as well as assessments for the current percentage of the southwest border under situational awareness and operational control.

The Committee believes a threat analysis of the unique challenges along the Southwest border is necessary to better determine future capability requirements and inform future strategic plans for the Border Patrol. The Committee believes the type of analysis required in this bill will better provide CBP with a greater foundation needed to ensure adequate security coverage, at and between the ports of entry along the Southwest border, and will provide Congress with the information necessary to conduct proper oversight.

The Act directs that as much of the assessment as possible will be published in an unclassified and transparent form. The Committee understands, however, that this assessment will contain sensitive information and stresses the need to balance properly classifying material with the need to share such information, and

expects that it will be classified at the lowest appropriate classification.

Sec. 3. Border Patrol Strategic Plan.

This section requires the Secretary of Homeland Security, acting through the Chief of the Border Patrol, to issue a Strategic Plan within 6 months after the submission of the southwest border threat analysis and not later than June 20, 2017. This section also outlines the minimum requirements of the Border Patrol Strategic Plan, including a mitigation of threats identified in the southwest border threat analysis required by Section 2 of this Act.

The Committee believes an additional threat assessment is necessary at this time to inform the next Border Patrol Strategic Plan, which would update the current 2012-2016 Strategic Plan. The Committee expects this updated strategy to reflect the evolving threats on the border, and include specific metrics to gauge border security.

Sec. 4. Definitions.

This section defines the terms used in this measure “situational awareness” and “southwest border”.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 4482 makes no changes to existing law.

