

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 399**  
**OFFERED BY MRS. MILLER OF MICHIGAN**

Strike all after the enacting clause and insert the  
following:

**1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

**2** (a) SHORT TITLE.—This Act may be cited as the  
**3** “Secure Our Borders First Act of 2015”.

**4** (b) TABLE OF CONTENTS.—The table of contents for  
**5** 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 activi-  
ties.
- Sec. 18. Reimbursement of States for deployment of National Guard to the  
southern border.
- Sec. 19. Definitions.
- Sec. 20. Operation of the Border Patrol.
- Sec. 21. Authorization of appropriations.

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

2 (a) IN GENERAL.—

3 (1) REPORTS.—The Secretary of Homeland Se-  
4 curity shall submit to the appropriate congressional  
5 committees, the Border Security Verification Com-  
6 mission (BSVC), and the Government Accountability  
7 Office reports that assess and describe the state of  
8 situational awareness and operational control along  
9 the northern and southern borders of the United  
10 States. Such reports shall include an identification  
11 of the high traffic areas and the unlawful border  
12 crossing effectiveness rate for each sector along the  
13 northern and southern borders of the United States  
14 that are within the responsibility of the Border Pa-  
15 trol.

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

18 (A) The first such report shall be sub-  
19 mitted by not later than 30 days after the date  
20 of the enactment of this Act.

21 (B) During the two-year period beginning  
22 on the date of the submission of such first re-  
23 port, such reports shall be submitted every 180  
24 days.

25 (C) During the period beginning on the  
26 date that is 180 days after the date of the sub-

1 mission of last report under subparagraph (B),  
2 such reports shall be submitted every 360 days.

3 (b) GAO REPORT.—Not later than 90 days after re-  
4 ceiving the initial report required under subsection (a), the  
5 Comptroller General of the United States shall report to  
6 the appropriate congressional committees and the BSVC  
7 regarding the verification of the data and methodology  
8 used to determine high traffic areas and the unlawful bor-  
9 der crossing effectiveness rate.

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

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

19 (b) REQUIRED CAPABILITY DEPLOYMENT.—Not  
20 later than one year after the date of the enactment of this  
21 Act, the Secretary of Homeland Security, acting through  
22 the appropriate component of the Department of Home-  
23 land Security, shall, at a minimum, deploy to each sector  
24 or region, as the case may be, of the southern border, in  
25 a prioritized, risk-based manner to achieve situational

1 awareness and operational control of the border the fol-  
2 lowing additional capabilities:

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

5 (A) Subterranean surveillance and detec-  
6 tion technologies.

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

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

11 (ii) Unmanned aerial vehicles with  
12 maritime surveillance capability.

13 (iii) Maritime patrol aircraft.

14 (iv) Coastal radar surveillance sys-  
15 tems.

16 (v) Maritime signals intelligence capa-  
17 bilities.

18 (C) Ultralight aircraft detection capabili-  
19 ties.

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

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

24 (2) EL CENTRO SECTOR.—For the El Centro  
25 sector, the following:

1 (A) Tower-based surveillance technology.

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

4 (C) Man-portable unmanned aerial vehi-  
5 cles.

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

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

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

12 (3) YUMA SECTOR.—For the Yuma sector, the  
13 following:

14 (A) Tower-based surveillance technology.

15 (B) Mobile vehicle-mounted and man-port-  
16 able surveillance systems.

17 (C) Deployable, lighter-than-air ground  
18 surveillance equipment.

19 (D) Ultralight aircraft detection capabili-  
20 ties.

21 (E) Advanced unattended surveillance sen-  
22 sors.

23 (F) A rapid reaction capability supported  
24 by aviation assets.

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

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

6                   (B) Man-portable unmanned aerial vehi-  
7                   cles.

8                   (C) Tower-based surveillance technology.

9                   (D) Ultralight aircraft detection capabili-  
10                  ties.

11                  (E) Advanced unattended surveillance sen-  
12                  sors.

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

15                  (G) A rapid reaction capability supported  
16                  by aviation assets.

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

19                   (A) Tower-based surveillance technology.

20                   (B) Ultralight aircraft detection capabili-  
21                   ties.

22                   (C) Advanced unattended surveillance sen-  
23                   sors.

24                   (D) Mobile vehicle-mounted and man-port-  
25                   able surveillance systems.

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

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

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

7 (A) Tower-based surveillance technology.

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

10 (C) Improved agent communications capa-  
11 bilities.

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

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

22 (B) Improved agent communications capa-  
23 bilities.

24 (C) Improved maritime capabilities in the  
25 Amistad Recreation Area.

1 (D) Advanced unattended surveillance sen-  
2 sors.

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

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

7 (A) Maritime detection resources for Fal-  
8 con Lake region.

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

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

14 (D) Ultralight aircraft detection capability.

15 (E) Advanced unattended surveillance sen-  
16 sors.

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

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

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

23 (B) Increased flight hours for aerial detec-  
24 tion, interdiction and monitoring operations ca-  
25 pability.



1 (C) Ultralight aircraft detection capability.

2 (D) Advanced unattended surveillance sen-  
3 sors.

4 (E) Increased monitoring for cross-river  
5 dams, culverts, footpaths.

6 (F) A rapid reaction capability supported  
7 by aviation assets.

8 (10) EASTERN PACIFIC MARITIME REGION.—

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

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

14 (B) Increased maritime signals intelligence  
15 capabilities.

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

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

20 (ii) Unmanned aerial vehicles with  
21 maritime surveillance capability.

22 (iii) Increased maritime aviation pa-  
23 trol hours.

24 (iv) Coastal radar surveillance sys-  
25 tems.

1 (D) Increased operational hours for mari-  
2 time security components dedicated to joint  
3 counter-smuggling and interdiction efforts with  
4 other Federal agencies, including the Joint  
5 Interagency Task Forces, and the United  
6 States Coast Guard Deployable Specialized  
7 Forces.

8 (11) CARIBBEAN AND GULF MARITIME RE-  
9 GION.—For the Caribbean and Gulf Maritime re-  
10 gion, the following:

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

14 (B) Increased maritime signals intelligence  
15 capabilities.

16 (C) Increased maritime domain awareness  
17 and surveillance capabilities, including the fol-  
18 lowing:

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

21 (ii) Unmanned aerial vehicles with  
22 maritime surveillance capability.

23 (iii) Increased maritime aviation pa-  
24 trol hours.

1 (iv) Coastal radar surveillance sys-  
2 tems.

3 (D) Increased operational hours for mari-  
4 time security components dedicated to joint  
5 counter-smuggling and interdiction efforts with  
6 other Federal agencies, including the Joint  
7 Interagency Task Forces, and the United  
8 States Coast Guard Deployable Specialized  
9 Forces.

10 (c) FENCING AND INFRASTRUCTURE.—

11 (1) NEW FENCING.—Not later than 18 months  
12 after the date of the enactment of this Act, the Sec-  
13 retary of Homeland Security shall construct, at a  
14 minimum, each of the following:

15 (A) Seven miles of double layer fencing in  
16 the Border Patrol's San Diego sector in addi-  
17 tion to such fencing in existence as of the date  
18 of the enactment of this Act.

19 (B) Twenty-one miles of double layer pe-  
20 destrian fencing in the Border Patrol's Tucson  
21 sector in addition to such fencing in existence  
22 as of the date of the enactment of this Act.

23 (C) Ten miles of double layer pedestrian  
24 fencing in the Border Patrol's Rio Grande Val-  
25 ley sector in addition to such fencing in exist-

1           ence as of the date of the enactment of this  
2           Act.

3           (D) Ten miles of double layer pedestrian  
4           fencing in the Border Patrol's Del Rio sector in  
5           addition to such fencing in existence as of the  
6           date of the enactment of this Act.

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

12           (A) Thirty-one miles of landing mat fenc-  
13           ing with bollard style fencing in the Border Pa-  
14           trol's San Diego sector.

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

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

21           (D) Twenty-five miles of landing mat fenc-  
22           ing with bollard style fencing in the Border Pa-  
23           trol's Tucson sector.

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

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

10 (A) Seven miles of road construction in the  
11 Border Patrol's San Diego sector.

12 (B) Ten miles of road construction in the  
13 Border Patrol's El Centro sector.

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

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

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

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

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

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

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

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

9                   (A) Thirty-seven miles of road mainte-  
10                  nance in the Border Patrol's San Diego sector.

11                  (B) One thousand two hundred miles of  
12                  road maintenance in the Border Patrol's Del  
13                  Rio sector.

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

16                  (D) Ninety-four miles of road maintenance  
17                  in the Border Patrol's Rio Grande Valley sec-  
18                  tor.

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

1           (6) VEHICLE FENCE REPLACEMENT.—Not later  
2           than one year after the date of the enactment of this  
3           Act, the Secretary of Homeland Security shall re-  
4           place five miles of vehicle fencing with new vehicle  
5           fencing in the Border Patrol’s Tucson sector in addi-  
6           tion to such fencing in existence as of the date of  
7           the enactment of this Act.

8           (7) BOAT RAMPS.—Not later than 180 days  
9           after the date of the enactment of this Act, the Sec-  
10          retary of Homeland Security shall complete, at a  
11          minimum, the construction of each of the following:

12                 (A) Eight boat ramps in the Border Pa-  
13                 trol’s Del Rio sector in addition to such ramps  
14                 in existence as of the date of the enactment of  
15                 this Act.

16                 (B) One boat ramp in the Border Patrol’s  
17                 Laredo sector in addition to such ramps in ex-  
18                 istence as of the date of the enactment of this  
19                 Act.

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

24           (8) ACCESS GATES.—Not later than 180 days  
25          after the date of the enactment of this Act, the Sec-

1       retary of Homeland Security shall construct 34 ac-  
2       cess gates in the Border Patrol's Rio Grande Valley  
3       sector in addition to such gates in existence as of  
4       the date of the enactment of this Act.

5           (9) FORWARD OPERATING BASES.—Not later  
6       than one year after the date of enactment of this  
7       Act, the Secretary of Homeland Security shall com-  
8       plete, at a minimum, construction of each of the fol-  
9       lowing:

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

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

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

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



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

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

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

13 (11) MINIMUM FORWARD OPERATING BASE RE-  
14 QUIREMENTS.—The forward operating bases re-  
15 ferred to in paragraph (9) shall be equipped with  
16 each of the following:

17 (A) Perimeter security.

18 (B) Temporary detention space.

19 (C) An interview room.

20 (D) Water.

21 (E) Power.

22 (F) Adequate communications, including  
23 wide area network connectivity.

24 (G) Helicopter landing zone.

25 (d) CARRIZO CANE ERADICATION.—

1           (1) FINDINGS.—Congress makes the following  
2 findings:

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

6           (B) According to U.S. Customs and Bor-  
7 der Protection, “the [Carrizo cane] plant causes  
8 serious officer safety issues and operational  
9 concerns because it hampers enforcement along  
10 the [Rio Grande] river. The plant also provides  
11 concealment to criminals, drug smugglers, ille-  
12 gal aliens, and potential terrorists who could  
13 use it as an advantage to enter the Unites  
14 States illegally. The obvious officer safety haz-  
15 ards created by this situation are of grave con-  
16 cern to the Border Patrol and need to be rem-  
17 edied”.

18          (2) ERADICATION.—The Chief of the Border  
19 Patrol shall coordinate with the heads of each rel-  
20 evant Federal and State agency to eradicate, to the  
21 greatest extent practicable, the Carrizo cane plant  
22 along the Rio Grande River.

23          (e) CONSULTATION.—The Secretary of Homeland Se-  
24 curity shall consult with the governors of each southern  
25 border State, including southern border maritime States,

1 representatives of the Border Patrol and U.S. Customs  
2 and Border Protection, and relevant Federal, State, local,  
3 and tribal agencies that have jurisdiction on the southern  
4 border, or in the maritime environment, to develop the  
5 operational plan required under subsection (f) and the  
6 metrics required under subsections (h), (i), (j), and (k).

7 (f) OPERATIONAL PLAN.—

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

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

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

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

3 (C) A plan to analyze and disseminate bor-  
4 der security and border threat information  
5 among the border security components of the  
6 Department of Homeland Security, and be-  
7 tween the Department and other appropriate  
8 Federal departments and agencies with mis-  
9 sions associated with the border.

10 (D) A plan to achieve situational aware-  
11 ness using the capabilities deployed under sub-  
12 section (b).

13 (E) A plan to ensure that any new border  
14 security assets will be operationally integrated  
15 with assets in use by the Department of Home-  
16 land Security as of the date of the enactment  
17 of this Act.

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

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

22 (H) A description of border security infor-  
23 mation received from consultation with border  
24 community stakeholders, including representa-  
25 tives from agricultural and ranching organiza-

1           tions and business and civic organizations along  
2           the northern or southern border.

3           (I) A description of the staffing require-  
4           ments for all border security functions of the  
5           border security components of the Department  
6           of Homeland Security.

7           (J) A prioritized list of research and devel-  
8           opment objectives to enhance the security of the  
9           international land and maritime borders of the  
10          United States.

11          (K) An assessment of the relationship be-  
12          tween border security operations and crossing  
13          times.

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

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

19          (N) A documented justification and ration-  
20          ale for technology choices.

21          (O) Deployment locations.

22          (P) A timetable for procurement and de-  
23          ployment.

24          (Q) Estimates of operation and mainte-  
25          nance costs.

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

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

8 (4) IMPLEMENTATION.—

9 (A) IN GENERAL.—The Secretary of  
10 Homeland Security shall commence the imple-  
11 mentation of the operational plan under para-  
12 graph (1) not later than 30 days after the sub-  
13 mission to the appropriate congressional com-  
14 mittees of the report by the Comptroller Gen-  
15 eral of the United States under subparagraph  
16 (C).

17 (B) COMPTROLLER GENERAL REVIEW.—  
18 Not later than 90 days after receiving the oper-  
19 ational plan under paragraph (1), the Comp-  
20 troller General of the United States shall sub-  
21 mit to the appropriate congressional committees  
22 and the BSVC a report on the operational plan  
23 required under paragraph (1) and such congres-  
24 sional justification.

1 (g) PERIODIC UPDATES.—Not later than 180 days  
2 after the submission of each Quadrennial Homeland Secu-  
3 rity Review required under section 707 of the Homeland  
4 Security Act of 2002 (6 U.S.C. 347) beginning with the  
5 first such Review that is due after the operational plan  
6 is submitted under subsection (f), the Secretary of Home-  
7 land Security shall submit to the appropriate congres-  
8 sional committees, the BSVC, and the Comptroller Gen-  
9 eral of the United States an updated operational plan  
10 under paragraph (1) of subsection (f).

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

13 (1) IN GENERAL.—Not later than 120 days  
14 after the date of the enactment of this Act and an  
15 annually thereafter, the Chief of the Border Patrol  
16 shall develop metrics, informed by situational aware-  
17 ness, to measure the effectiveness of security be-  
18 tween ports of entry, which shall include, at a min-  
19 imum, the following:

20 (A) An unlawful border crossing effective-  
21 ness rate, informed by situational awareness.

22 (B) A probability of detection that meas-  
23 ures the estimated total unlawful border cross-  
24 ing attempts not detected by the Border Patrol

1           against the unlawful border crossing effective-  
2           ness rate referred to in subparagraph (A).

3           (C) A weight-to-frequency rate which  
4           measures the average weight of marijuana  
5           seized per seizure by the Border Patrol in any  
6           fiscal year compared to such a weight-to-fre-  
7           quency rate for the immediately preceding five  
8           fiscal years.

9           (D) A situational awareness achievement  
10          metric that measures the amount of situational  
11          awareness achieved in each Border Patrol sec-  
12          tor.

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

19          (F) In consultation the Office of National  
20          Drug Control Policy and the United States  
21          Southern Command, a cocaine seizure effective-  
22          ness rate measured as a percentage that results  
23          from dividing the amount of cocaine seized by  
24          the Border Patrol by the total documented co-



1           caine flow rate between ports of entry along the  
2           southern land border.

3           (G) Estimates, using alternative meth-  
4           odologies, including recidivism data, survey  
5           data, known-flow data, and technologically  
6           measured data, of total attempted unlawful bor-  
7           der crossings, the rate of apprehension of at-  
8           tempted unlawful border crossers, and the in-  
9           flow into the United States of unlawful border  
10          crossers who evade apprehension.

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

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

22          (3) METRICS NOT REVIEWABLE.—The metrics  
23          required under paragraph (1) may not be reviewed  
24          or otherwise amended by the President, any staff  
25          employed by the Executive Office of the President,

1 the Secretary of Homeland Security, the Deputy  
2 Secretary of Homeland Security, the Commissioner  
3 of U.S. Customs and Border Protection, or the Dep-  
4 uty Commissioner of U.S. Customs and Border Pro-  
5 tection before the submission of such metrics to the  
6 appropriate congressional committees, the BSVC,  
7 and Comptroller General of the United States, as re-  
8 quired under subsection (m). The prohibition de-  
9 scribed in this paragraph does not apply to the Of-  
10 fice of National Drug Control Policy.

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

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

21 (A) An inadmissible border crossing rate  
22 which measures the number of known inadmis-  
23 sible border crossers who are denied entry, ex-  
24 cluding those border crossers who voluntarily  
25 withdraw their applications for admission, di-

1           vided by the total estimated number of inadmis-  
2           sible border crossers who attempt entry.

3           (B) An illicit drugs seizure rate which  
4           measures the amount and type of illicit drugs  
5           seized by the Office of Field Operations of U.S.  
6           Customs and Border Protection in any fiscal  
7           year compared to an average of the amount and  
8           type of illicit drugs seized by U.S. Customs and  
9           Border Protection for the immediately pre-  
10          ceding five fiscal years.

11          (C) In consultation with the Office of Na-  
12          tional Drug Control Policy and the United  
13          States Southern Command, a cocaine seizure  
14          effectiveness rate measured as a percentage  
15          that results from dividing the amount of co-  
16          caine seized by the Office of Field Operations  
17          of U.S. Customs and Border Protection by the  
18          total documented cocaine flow rate at ports of  
19          entry along the southern land border.

20          (D) Estimates, using alternative meth-  
21          odologies, including survey data and random-  
22          ized secondary screening data, of total at-  
23          tempted inadmissible border crossers, the rate  
24          of apprehension of attempted inadmissible bor-  
25          der crossers, and the inflow into the United

1 States of inadmissible border crossers who  
2 evade apprehension.

3 (E) The number of infractions related to  
4 personnel and cargo committed by major viola-  
5 tors who are apprehended by the Office of Field  
6 Operations of U.S. Customs and Border Protec-  
7 tion at ports of entry, and the estimated num-  
8 ber of such infractions committed by major vio-  
9 lators who are not apprehended.

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

12 (G) The amount and type of illicit drugs  
13 seized by the Office of Field Operations of U.S.  
14 Customs and Border Protection at United  
15 States seaports during the previous fiscal year.

16 (H) A cargo scanning rate that measures  
17 the number of cargo containers scanned by the  
18 Office of Field Operations of U.S. Customs and  
19 Border Protection at each United States sea-  
20 port during the previous fiscal year against the  
21 total number of cargo containers entering the  
22 United States at each seaport during the pre-  
23 vious fiscal year.

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

1       sistant Commissioner for the Office of Field Oper-  
2       ations shall consult with staff members of the Office  
3       of Policy at the Department of Homeland Security  
4       and staff members of the Office of the Chief Finan-  
5       cial Officer of the Department of Homeland Secu-  
6       rity. Such staff members may not be political ap-  
7       pointees.

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

22      (j) METRICS FOR SECURING THE MARITIME BOR-  
23      DER.—

24               (1) IN GENERAL.—Not later than 120 days  
25      after the date of the enactment of this Act and an-

1 nually thereafter, the Commandant of the United  
2 States Coast Guard and the Assistant Commissioner  
3 for the Office of Air and Marine for U.S. Customs  
4 and Border Protection shall jointly implement  
5 metrics, informed by situational awareness, to meas-  
6 ure the effectiveness of security in the maritime en-  
7 vironment, which shall include, at a minimum, the  
8 following:

9 (A) An estimate of the total number of un-  
10 documented migrants the Department of Home-  
11 land Security's maritime security components  
12 fail to interdict.

13 (B) An undocumented migrant interdiction  
14 rate which measures the flow of undocumented  
15 migrants interdicted against the total estimated  
16 number of undocumented migrants the Depart-  
17 ment of Homeland Security's maritime security  
18 components fail to interdict.

19 (C) An illicit drugs removal rate which  
20 measures the amount and type of illicit drugs  
21 removed by the Department of Homeland Secu-  
22 rity's maritime security components inside a  
23 transit zone in any fiscal year compared to an  
24 average of the amount and type of illicit drugs  
25 removed by the Department of Homeland Secu-

1           rity's maritime security components inside a  
2           transit zone for the immediately preceding five  
3           fiscal years.

4           (D) An illicit drugs removal rate which  
5           measures the amount and type of illicit drugs  
6           removed by the Department of Homeland Secu-  
7           rity's maritime security components outside a  
8           transit zone in any fiscal year compared to an  
9           average of the amount and type of illicit drugs  
10          removed by the Department of Homeland Secu-  
11          rity's maritime security components outside a  
12          transit zone for the immediately preceding five  
13          fiscal years.

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

16          (F) A cocaine removal effectiveness rate  
17          outside a transit zone.

18          (G) A response rate which measures the  
19          ability of the maritime security components of  
20          the Department of Homeland Security to re-  
21          spond to and resolve known maritime threats,  
22          both inside and outside a transit zone, by plac-  
23          ing assets on-scene, compared to the total num-  
24          ber of events with respect to which the Depart-  
25          ment has known threat information.

1           (2) METRICS CONSULTATION.—In developing  
2           the metrics required under paragraph (1), the Com-  
3           mandant of the Coast Guard and the Assistant  
4           Commissioner for Air and Marine shall consult with  
5           staff members of the Office of Policy at the Depart-  
6           ment of Homeland Security and staff members of  
7           the Office of the Chief Financial Officer of the De-  
8           partment of Homeland Security. Such staff members  
9           may not be political appointees.

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

24          (k) AIR AND MARINE SECURITY METRICS IN THE  
25          LAND DOMAIN.—



1           (1) IN GENERAL.—Not later than 120 days  
2       after the date of the enactment of this Act and an-  
3       nually thereafter, the Assistant Commissioner for  
4       the Office of Air and Marine for U.S. Customs and  
5       Border Protection shall implement metrics, informed  
6       by situational awareness, to measure the effective-  
7       ness of security in the aviation environment, which  
8       shall include, at a minimum, the following:

9           (A) A requirement effectiveness rate which  
10       measures U.S. Customs and Border Protec-  
11       tion's Office of Air and Marine flight hours re-  
12       quirements against the number of flight hours  
13       actually flown by such Office.

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

20          (C) A readiness rate which measures the  
21       number of aviation missions flown by U.S. Cus-  
22       toms and Border Protection's Office of Air and  
23       Marine against the number of aviation missions  
24       cancelled by such Office due to weather, main-  
25       tenance, operations, or other causes.

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

5 (E) The number of apprehensions assisted  
6 by U.S. Customs and Border Protection's Of-  
7 fice of Air and Marine through the use of un-  
8 manned aerial systems.

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

13 (G) A detailed description of how, where,  
14 and for how long data and images collected  
15 through the use of unmanned aerial systems by  
16 U.S. Customs and Border Protection is col-  
17 lected and stored.

18 (2) METRICS CONSULTATION.—In developing  
19 the metrics required under paragraph (1), the As-  
20 sistant Commissioner for Air and Marine shall con-  
21 sult with staff members of the Office of Policy at the  
22 Department of Homeland Security and staff mem-  
23 bers of the Office of the Chief Financial Officer of  
24 the Department of Homeland Security. Such staff  
25 members may not be political appointees.

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

15      (l) PENALTIES FOR FAILURE TO SUBMIT  
16      METRICS.—

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

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

1 (A) Travel using Government aircraft.

2 (B) Receipt of any non-essential training.

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

5 (D) Receipt of any salary increase.

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

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

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

1           (n) BSVC CERTIFICATION OF METRICS AND OPER-  
2    TIONAL CONTROL.—

3           (1) SECRETARY OF HOMELAND SECURITY NOTI-  
4    FICATIONS.—

5           (A) TWO YEARS.—If the Secretary of  
6    Homeland Security determines that situational  
7    awareness and operational control of high traf-  
8    fic areas have been achieved by the date that is  
9    not later than two years after the date of the  
10   enactment of this Act, the Secretary shall,  
11   under penalty of perjury, submit to the appro-  
12   priate congressional committees and the BSVC  
13   a notification that so attests.

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

23          (C) ANNUAL UPDATES.—Every year begin-  
24   ning with the year after the Secretary of Home-  
25   land Security submits the notification under

1           subparagraph (B), if the Secretary determines  
2           that operational control along the southern land  
3           border of the United States is being main-  
4           tained, the Secretary shall submit to the appro-  
5           priate congressional committees and the BSVC  
6           a notification that so attests.

7           (2) BSVC CERTIFICATION.—

8                 (A) OPERATIONAL CONTROL REVIEWS.—

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

16          (B) REVIEW OF METRICS.—Beginning with  
17          the second annual submission of each of the  
18          metrics required under subsection (m) and pur-  
19          suant to subsections (h), (i), (j), and (k) and  
20          annually thereafter until the termination of the  
21          BSVC under section 4(q), the BSVC shall re-  
22          view such metrics to assess the statistical valid-  
23          ity and methodology of the data used to imple-  
24          ment such metrics.

25          (C) REPORTS.—

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

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

20 (I) impediments incurred;  
21 (II) potential remedies; and  
22 (III) recommendations to achieve  
23 situational awareness, operational  
24 control, or both, as the case may be.

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

9 (D) OPERATIONAL CONTROL CERTIFI-  
10 CATION.—

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

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

19 (iii) CONSULTATION.—Before con-  
20 ducting a vote referred to in clause (i), the  
21 BSVC shall consult with the governors of  
22 each southern border State, representatives  
23 of the National Border Patrol Council, rep-  
24 resentatives of the ranching industry in  
25 each southern land border State, and rel-



1           evant State and local government agencies  
2           that have jurisdiction on the southern bor-  
3           der.

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

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

12       (1) PENALTIES.—

13           (A) IN GENERAL.—If the Secretary of  
14           Homeland Security determines that situational  
15           awareness, operational control, or both, as the  
16           case may be, has not been achieved by the dates  
17           referred to in subsection (n)(1) (and thus fails  
18           to submit a notification to the BSVC), or if the  
19           BSVC determines pursuant to subsection (n)(2)  
20           that the Secretary has failed to achieve situa-  
21           tional awareness and operational control of high  
22           traffic areas or has failed to achieve operational  
23           control along the southern border by such re-  
24           spective dates, no political appointee of the De-  
25           partment of Homeland Security may perform

1 any function described in subparagraph (B)  
2 until the BSVC certifies that the Secretary has  
3 achieved such situational awareness, operational  
4 control, or both, as the case may be.

5 (B) FUNCTIONS DESCRIBED.—The func-  
6 tions described in this subparagraph are each of  
7 the following:

8 (i) Travel using Government aircraft.

9 (ii) Receipt of any non-essential train-  
10 ing, including conferences.

11 (iii) Receipt of bonus pay.

12 (iv) Receipt of any salary increase.

13 (2) NATIONAL SECURITY EXCEPTION.—The  
14 Secretary of Homeland Security may waive the trav-  
15 el prohibition in paragraph (1)(B)(i) if the Secretary  
16 determines and notifies the appropriate congres-  
17 sional committees that—

18 (A) such a waiver is in the national secu-  
19 rity interests of the United States; or

20 (B) such travel is being carried out to  
21 achieve operational control of the southern bor-  
22 der of the United States.

23 (3) FURTHER ACTION REQUIRED.—If the Sec-  
24 retary of Homeland Security determines that situa-  
25 tion awareness, operational control, or both, as the

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

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

21 (1) A resource allocation model for current and  
22 future year staffing requirements that includes opti-  
23 mal staffing levels at all land, air, and sea ports of  
24 entry, and an explanation of U.S. Customs and Bor-  
25 der Protection methodology for aligning staffing lev-

1        els and workload to threats and vulnerabilities and  
2        their effects on cross border trade and passenger  
3        travel across all mission areas.

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

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

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

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

20        (q) ADHERENCE TO CERTAIN STANDARDS.—The  
21       Under Secretary for Management of the Department of  
22       Homeland Security, in coordination with the Assistant  
23       Commissioner of the Office of Administration of U.S. Cus-  
24       toms and Border Protection, shall ensure component pro-  
25       gram managers who are responsible for carrying out sub-

1 sections (b) and (c) adhere to internal control standards  
2 identified by the Comptroller General of the United  
3 States. The Assistant Commissioner shall provide infor-  
4 mation, as needed, to assist the Under Secretary for Man-  
5 agement in monitoring proper program management of  
6 border security programs carried out pursuant to such  
7 subsections.

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

10 (a) IN GENERAL.—There is established a Border Se-  
11 curity Verification Commission (in this Act referred to as  
12 the “BSVC”).

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

17 (c) COMPOSITION.—The BSVC shall be composed  
18 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  
25 of the Senate;

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

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

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

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

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

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

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

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

9 (2) VOTING PROCEDURES.—

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

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

22 (e) QUALIFICATIONS.—The individuals referred to in  
23 subsection (c)(3) shall have a minimum of five years pro-  
24 fessional experience in law enforcement and border secu-  
25 rity.

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

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

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

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

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

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

24 (l) PUBLIC HEARINGS.—



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

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

9           (m) QUORUM.—Four members of the BSVC shall  
10          constitute a quorum to conduct business, but the BSVC  
11          may establish a lesser quorum for conducting hearings  
12          scheduled by the BSVC.

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

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

19          (p) PERSONNEL MATTERS.—

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

1       their homes or regular places of business in the per-  
2       formance of service for the BSVC.

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

11          (3) OFFICE SPACE AND ASSISTANCE.—Upon  
12      the request of the BSVC, the Secretary of Homeland  
13      Security shall provide reasonable and appropriate of-  
14      fice space, supplies, and administrative assistance.

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

18      **SEC. 5. REQUIRED CONSEQUENCE.**

19          The Chief of the Border Patrol shall impose a con-  
20      sequence for each alien apprehended pursuant to the Bor-  
21      der Patrol's Consequence Delivery System.

22      **SEC. 6. PATROL BY THE BORDER PATROL OF PHYSICAL**  
23                      **LAND BORDER.**

24          (a) IN GENERAL.—The Chief of the Border Patrol  
25      shall direct agents of the Border Patrol to patrol as close

1 to the physical land border as possible, consistent with the  
2 accessibility to such areas.

3 (b) FORWARD OPERATING BASE PERSONNEL.—The  
4 Chief of the Border Patrol shall deploy the maximum  
5 practicable number of Border Patrol agents to forward op-  
6 erating bases along the southern land border of the United  
7 States to meet the requirements of this section.

8 **SEC. 7. TACTICAL FLEXIBILITY.**

9 (a) SOUTHERN BORDER.—The Chief of the Border  
10 Patrol may alter the capability deployment referred to in  
11 subsection (b) of section 3 if the Chief determines, after  
12 consultation with the appropriate congressional commit-  
13 tees, that the principal border security threats referred to  
14 in subsection (f)(2)(A) of such section require such alter-  
15 ation.

16 (b) NORTHERN BORDER.—The Chief of the Border  
17 Patrol may alter the capability deployment referred to in  
18 subsection (c) of section 15 if the Chief determines, after  
19 consultation with the appropriate congressional commit-  
20 tees, that the threat analysis referred to in subsection (a)  
21 of such section requires such alteration.

22 **SEC. 8. DEPLOYMENT OF CERTAIN AVIATION ASSETS TO**  
23 **THE SOUTHERN LAND BORDER.**

24 (a) IN GENERAL.—The Secretary of Defense, in col-  
25 laboration with the Secretary of Homeland Security, may

1 allocate additional aviation assets of the Department of  
2 Defense to the southern land border of the United States  
3 to assist the Secretary of Homeland Security in achieving  
4 situational awareness and operational control in accord-  
5 ance with section 3(a).

6 (b) ADDITIONAL REQUIREMENTS.—

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

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

21 **SEC. 9. U.S. CUSTOMS AND BORDER PROTECTION OFFICER**  
22 **AND AGENT AUTHORIZATION.**

23 (a) BORDER PATROL.—The Border Patrol shall  
24 maintain an active duty presence of not fewer than 21,370  
25 full time equivalent agents.

1 (b) OFFICE OF FIELD OPERATIONS.—The Office of  
2 Field Operations of U.S. Customs and Border Protection  
3 shall maintain not fewer than 23,775 full time equivalent  
4 officers.

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

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

9 (a) INCREASED FLIGHT HOURS.—The Secretary of  
10 Homeland Security shall ensure not fewer than 130,000  
11 annual flight hours of the Office of Air and Marine of U.S.  
12 Customs and Border Protection.

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

17 (c) UNMANNED AERIAL SYSTEMS REPORT.—The Of-  
18 fice of Air and Marine of U.S. Customs and Border Pro-  
19 tection shall annually submit to the appropriate congres-  
20 sional committees a report regarding the requirement re-  
21 ferred to in subsection (b). Such report shall describe the  
22 number of hours the Office of Air and Marine operated  
23 unmanned aerial systems—

24 (1) in a transit zone;

25 (2) on a land border;

1           (3) on a maritime border; and  
2           (4) to assist other Federal, State, local, and  
3       tribal law enforcement agencies.

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

5       The Assistant Commissioner for the Office of Air and  
6   Marine of U.S. Customs and Border Protection shall as-  
7   sign the greatest prioritization to support requests from  
8   the Chief of the Border Patrol to carry out the require-  
9   ments of section 3(a).

10   **SEC. 12. BORDER PATROL FLEXIBILITY.**

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

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

21       (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
22   authorized to be appropriated to carry out this section  
23   \$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 INTE-  
4   RIOR AND AGRICULTURE.—The Secretary of the Interior  
5   or the Secretary of Agriculture shall not impede, prohibit,  
6   or restrict activities of U.S. Customs and Border Protec-  
7   tion on Federal land located within 100 miles of the  
8   United States border with Mexico and the United States  
9   border with Canada that is under the jurisdiction of the  
10   Secretary of the Interior or the Secretary of Agriculture,  
11   to execute search and rescue operations, and to prevent  
12   all unlawful entries into the United States, including en-  
13   tries by terrorists, other unlawful aliens, instruments of  
14   terrorism, narcotics, and other contraband through such  
15   international borders. These authorities of U.S. Customs  
16   and Border Protection on such Federal land apply wheth-  
17   er or not a state of emergency exists.

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

1 terrorism, narcotics, and other contraband through such  
2 international 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 infra-  
11 structure.

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),  
17 the waiver by the Secretary of Homeland Security  
18 on April 1, 2008, under section 102(c)(1) of the Ille-  
19 gal Immigration Reform and Immigrant Responsi-  
20 bility Act of 1996 (8 U.S.C. 1103 note; Public Law  
21 104–208) of the laws described in paragraph (2)  
22 with respect to certain sections of the international  
23 borders between the United States and Mexico and  
24 the United States and Canada shall be considered to  
25 apply to all Federal land under the jurisdiction of



1 the Secretary of the Interior or the Secretary of Ag-  
2 riculture within 100 miles of such international bor-  
3 ders for the activities of U.S. Customs and Border  
4 Protection described 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  
8 Environmental Policy Act of 1969 (42 U.S.C. 4321  
9 et seq.), the Endangered Species Act of 1973 (16  
10 U.S.C. 1531 et seq.), the National Historic Preser-  
11 vation Act (16 U.S.C. 470 et seq.), Public Law 86–  
12 523 (16 U.S.C. 469 et seq.), the Act of June 8,  
13 1906 (commonly known as the “Antiquities Act of  
14 1906”; 16 U.S.C. 431 et seq.), the Wild and Scenic  
15 Rivers Act (16 U.S.C. 1271 et seq.), the Federal  
16 Land Policy and Management Act of 1976 (43  
17 U.S.C. 1701 et seq.), the National Wildlife Refuge  
18 System Administration Act of 1966 (16 U.S.C.  
19 668dd et seq.), the Fish and Wildlife Act of 1956  
20 (16 U.S.C. 742a et seq.), the Fish and Wildlife Co-  
21 ordination Act (16 U.S.C. 661 et seq.), subchapter  
22 II of chapter 5, and chapter 7, of title 5, United  
23 States Code (commonly known as the “Administra-  
24 tive Procedure Act”), the National Park Service Or-  
25 ganic Act (16 U.S.C. 1 et seq.), the General Au-

1       thorities Act of 1970 (Public Law 91–383) (16  
2       U.S.C. 1a–1 et seq.), sections 401(7), 403, and 404  
3       of the National Parks and Recreation Act of 1978  
4       (Public Law 95–625, 92 Stat. 3467), and the Ari-  
5       zona Desert Wilderness Act of 1990 (16 U.S.C.  
6       1132 note; Public Law 101–628).

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

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

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

16       (e) EFFECT ON STATE AND PRIVATE LAND.—This  
17       section shall—

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

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

22       (f) TRIBAL SOVEREIGNTY.—Nothing in this section  
23       supersedes, replaces, negates, or diminishes treaties or  
24       other agreements between the United States and Indian  
25       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  
5 the enactment of this Act, submit to the Committee  
6 on Homeland Security and the Committee on the  
7 Judiciary of the House of Representatives and the  
8 Committee on Homeland Security and Governmental  
9 Affairs and the Committee on the Judiciary of the  
10 Senate an implementation plan to establish a bio-  
11 metric exit data system to complete the integrated  
12 biometric entry and exit data system required under  
13 section 7208 of the Intelligence Reform and Ter-  
14 rorism Prevention Act of 2004 (8 U.S.C. 1365b), in-  
15 cluding—

16 (A) an integrated master schedule and cost  
17 estimate, including requirements and design,  
18 development, operational, and maintenance  
19 costs, of such a system that takes into account  
20 prior reports on such matters issued by the  
21 Government Accountability Office and the De-  
22 partment of Homeland Security;

23 (B) cost-effective staffing and personnel  
24 requirements of such a system that leverages  
25 existing resources of the Department of Home-  
26 land Security that takes into account prior re-

1 ports on such matters issued by the Govern-  
2 ment Accountability Office and the Department  
3 of Homeland Security;

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

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

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

16 (i) the trucking industry;

17 (ii) the airport industry;

18 (iii) the airline industry;

19 (iv) the seaport industry;

20 (v) the travel industry; and

21 (vi) the biometric technology industry;

22 (F) a consideration of how trusted traveler  
23 programs in existence as of the date of the en-  
24 actment of this Act may be impacted by, or in-  
25 corporated 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  
9 the enactment of this Act, establish a biometric exit  
10 data system at—

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

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

19 (C) the 15 United States land ports of  
20 entry that support the highest volume of pedes-  
21 trian crossings, as determined by available Fed-  
22 eral 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  
2 of this Act, the Secretary of Homeland Security, in  
3 collaboration with industry stakeholders, shall estab-  
4 lish a six-month pilot program to test the biometric  
5 exit data system referred to in subsection (a)(2) on  
6 non-pedestrian outbound traffic at not fewer than  
7 three land ports of entry with significant cross-bor-  
8 der traffic, including at not fewer than two land  
9 ports of entry on the southern border and at least  
10 one land port of entry on the northern border. Such  
11 pilot program may include a consideration of more  
12 than one biometric mode, and shall be implemented  
13 to 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  
18 out subparagraph (A).

19 (C) The effects of such pilot program on  
20 legitimate 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 ter-  
25 rorism.

1 (F) Its effectiveness in identifying visa  
2 holders who violate the terms of their visas.

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

5 (A) IN GENERAL.—Not later than five  
6 years after the date of the enactment of this  
7 Act, the Secretary of Homeland Security shall  
8 expand the biometric exit data system referred  
9 to in subsection (a)(2) to all land ports of  
10 entry, and such system shall apply only in the  
11 case of non-pedestrian 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 appropriate con-  
16 gressional committees that the 15 land ports of  
17 entry that support the highest volume of pas-  
18 senger vehicles, as determined by available Fed-  
19 eral data, do not have the physical infrastruc-  
20 ture or characteristics to install the systems  
21 necessary to implement a biometric exit data  
22 system.

23 (3) AT AIR AND SEA PORTS OF ENTRY.—Not  
24 later than five years after the date of the enactment  
25 of this Act, the Secretary of Homeland Security

1       shall expand the biometric exit data system referred  
2       to in subsection (a)(2) to all air and sea ports of  
3       entry.

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

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

20      (d) TERMINATION OF PROCEEDING.—Notwith-  
21    standing any other provision of law, the Secretary of  
22    Homeland Security shall, on the date of the enactment  
23    of this Act, terminate the proceeding entitled “Collection  
24    of Alien Biometric Data Upon Exit From the United  
25    States at Air and Sea Ports of Departure”, issued on



1 April 24, 2008 (73 C.F.R. 22065; DHS Docket No. 2008–  
2 0039).

3 (e) DATA-MATCHING.—The biometric exit data sys-  
4 tem established under this section shall—

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

9 (2) leverage the infrastructure and databases of  
10 the current entry system established pursuant to  
11 section 7208 of the Intelligence Reform and Ter-  
12 rorism Prevention Act of 2004 (8 U.S.C. 1365b) for  
13 the purpose described in paragraph (1); and

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

18 (f) SCOPE.—

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

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

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

6 (h) MULTI-MODAL COLLECTION.—In carrying out  
7 subsections (a)(1) and (b), the Secretary of Homeland Se-  
8 curity shall make every effort to collect biometric data  
9 using additional modes of biometric technology.

10 (i) PENALTIES FOR FAILURE TO MEET DEAD-  
11 LINES.—

12 (1) BIOMETRIC EXIT DATA SYSTEM.—If the  
13 Secretary fails to meet any of the following require-  
14 ments by the applicable deadline, no political ap-  
15 pointee of the Department of Homeland Security  
16 may perform any function described in paragraph  
17 (2) until the Secretary has complied with the re-  
18 quirement:

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  
14 days after the date of the enactment of this Act, the Sec-  
15 retary of Homeland Security shall submit to the Com-  
16 mittee on Homeland Security and the Committee on the  
17 Judiciary of the House of Representatives and the Com-  
18 mittee on Homeland Security and Governmental Affairs  
19 and the Committee on the Judiciary of the Senate reports  
20 and recommendations of the Department of Homeland Se-  
21 curity Science and Technology Directorate's Air Entry  
22 and Exit Re-Engineering Program and the reports and  
23 recommendations of the U.S. Customs and Border Protec-  
24 tion entry and exit mobility program demonstrations.

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

2 (a) IN GENERAL.—Not later than six months after  
3 the date of the enactment of this Act, the Secretary of  
4 Homeland Security shall submit to the appropriate con-  
5 gressional committees a northern border threat analysis.  
6 Such analysis, 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  
11 ports of entry along the northern border to prevent  
12 terrorists and instruments of terror from entering  
13 the United States.

14 (3) An analysis of gaps in law, policy, inter-  
15 national agreements, or tribal agreements that  
16 hinder the border security and counter-terrorism ef-  
17 forts along 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  
22 analysis required under subsection (a) may be submitted  
23 in classified form, if the Secretary of Homeland Security  
24 determines that such is appropriate.

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

1 the enactment of this Act, the Secretary of Homeland Se-  
2 curity, acting through the appropriate component of the  
3 Department of Homeland Security, shall, at a minimum,  
4 deploy to each sector of the northern border, in a  
5 prioritized, risk-based manner, the following additional ca-  
6 pabilities:

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

9 (A) Coastal radar surveillance systems.

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

12 (C) Advanced unattended surveillance sen-  
13 sors.

14 (D) Improved agent communications capa-  
15 bilities.

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

19 (F) Man-portable unmanned aerial vehi-  
20 cles.

21 (G) Ultralight aircraft detection capability.

22 (H) Modernized port of entry surveillance  
23 capabilities.

24 (I) Increased maritime interdiction capa-  
25 bilities.

1           (2) SPOKANE SECTOR.—For the Spokane sec-  
2       tor, 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 vehi-  
13      cles.

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

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

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

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

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

24          (B) Advanced unattended surveillance sen-  
25      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 vehi-  
7 cles.

8 (F) Ultralight aircraft detection capabili-  
9 ties.

10 (G) Modernized port of entry surveillance  
11 capabilities.

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

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

16 (B) Advanced unattended surveillance sen-  
17 sors.

18 (C) Improved agent communications capa-  
19 bilities.

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

23 (E) Man-portable unmanned aerial vehi-  
24 cles.

1 (F) Ultralight aircraft detection capabili-  
2 ties.

3 (G) Modernized port of entry surveillance  
4 capabilities.

5 (5) DETROIT SECTOR.—For the Detroit sector,  
6 the following:

7 (A) Coastal radar surveillance systems.

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

10 (C) Advanced unattended surveillance sen-  
11 sors.

12 (D) Improved agent communications capa-  
13 bilities.

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

17 (F) Man-portable unmanned aerial vehi-  
18 cles.

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           (6) BUFFALO SECTOR.—For the Buffalo sector,  
2           the following:

3                   (A) Coastal radar surveillance systems.

4                   (B) Mobile vehicle-mounted and man-port-  
5           able surveillance systems.

6                   (C) Advanced unattended surveillance sen-  
7           sors.

8                   (D) Improved agent communications capa-  
9           bilities.

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

13                  (F) Man-portable unmanned aerial vehi-  
14           cles.

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

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

19                  (I) Increased maritime interdiction capa-  
20           bilities.

21           (7) SWANTON SECTOR.—For the Swanton sec-  
22           tor, the following:

23                   (A) Mobile vehicle-mounted and man-port-  
24           able surveillance systems.

1 (B) Advanced unattended surveillance sen-  
2 sors.

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

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

8 (E) Man-portable unmanned aerial vehi-  
9 cles.

10 (F) Ultralight aircraft detection capabili-  
11 ties.

12 (G) Modernized port of entry surveillance  
13 capabilities.

14 (8) HOULTON SECTOR.—For the Houlton sec-  
15 tor, the following:

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

18 (B) Advanced unattended surveillance sen-  
19 sors.

20 (C) Improved agent communications capa-  
21 bilities.

22 (D) Increased flight hours for aerial detec-  
23 tion, interdiction, and monitoring operations ca-  
24 pability.

1 (E) Man-portable unmanned aerial vehi-  
2 cles.

3 (F) Ultralight aircraft detection capabili-  
4 ties.

5 (G) Modernized port of entry surveillance  
6 capabilities.

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

19 **SEC. 16. OPERATION STONEGARDEN PROGRAM.**

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

## 1 **“Subtitle C—Other Grant Programs**

### 2 **“SEC. 2031. OPERATION STONEGARDEN.**

3       “(a) ESTABLISHMENT.—There is established in the  
4 Department a program to be known as ‘Operation  
5 Stonegarden’. Under such program, the Secretary, acting  
6 through the Administrator, shall make grants to eligible  
7 law enforcement agencies to enhance border security in ac-  
8 cordance with this section.

9       “(b) ELIGIBLE RECIPIENTS.—To be eligible to re-  
10 ceive a grant under this section, a law enforcement agency  
11 shall—

12               “(1) be located in—

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

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

17               “(2) be involved in an active ongoing U.S. Cus-  
18 toms and Border Protection operation coordinated  
19 through a sector office.

20       “(c) PERMITTED USES.—The recipient of a grant  
21 under this section may use the grant for any of the fol-  
22 lowing activities:

23               “(1) Equipment, including maintenance and  
24 sustainment costs.

1           “(2) Personnel, including overtime and backfill,  
2           in support of enhanced border law enforcement ac-  
3           tivities.

4           “(3) Any activity permitted under the Depart-  
5           ment of Homeland Security’s Fiscal Year 2014  
6           Funding Opportunity Announcement for Operation  
7           Stonegarden.

8           “(4) Any other appropriate activity, as deter-  
9           mined by the Administrator.

10          “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
11       is authorized to be appropriated \$110,000,000 for each  
12       of fiscal years 2015 through 2019 for grants under this  
13       section.

14          “(e) REPORT.—The Administrator shall annually  
15       submit to the Committee on Homeland Security and Gov-  
16       ernmental Affairs of the Senate and the Committee on  
17       Homeland Security of the House of Representatives a re-  
18       port containing information on the expenditure of grants  
19       made under this section by each grant recipient.”.

20          (b) CLERICAL AMENDMENT.—The table of contents  
21       in section 1(b) of such Act is amended by inserting after  
22       the items relating to subtitle B of title XX the following  
23       new items:

                  “Subtitle C—Other Grant Programs

                  “Sec. 2031. Operation Stonegarden.”.

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

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

5           (1) in subsection (a)—

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

10                   (B) in paragraph (2), by striking “the At-  
11                   torney General and the Director of National  
12                   Drug Control Policy” and inserting “the Attor-  
13                   ney General, the Director of National Drug  
14                   Control Policy, and the Secretary of Homeland  
15                   Security, as appropriate.”; and

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

20   **SEC. 18. REIMBURSEMENT OF STATES FOR DEPLOYMENT**  
21                   **OF NATIONAL GUARD TO THE SOUTHERN**  
22                   **BORDER.**

23           Of the amounts authorized to be appropriate pursu-  
24 ant to section 21, not more than \$35,000,000 may be used  
25 for any fiscal year to reimburse States for the cost of the  
26 deployment of any units or personnel of the National

1 Guard to perform operations and missions under State Ac-  
2 tive Duty status in support of a southern land border mis-  
3 sion.

4 **SEC. 19. DEFINITIONS.**

5 In this Act:

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

12 (2) **APPROPRIATE CONGRESSIONAL COMMIT-**  
13 **TEES.**—The term “appropriate congressional com-  
14 mittees” means the Committee on Homeland Secu-  
15 rity of the House of Representatives and the Com-  
16 mittee on Homeland Security and Governmental Af-  
17 fairs of the Senate.

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

1           (4) CONSEQUENCE DELIVERY SYSTEM.—The  
2           term “Consequence Delivery System” means the se-  
3           ries of consequences applied to persons unlawfully  
4           entering the United States by the Border Patrol to  
5           prevent unlawful border crossing recidivism.

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

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

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



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

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

13          (10) SITUATIONAL AWARENESS.—The term  
14          “situational awareness” means knowledge and an  
15          understanding of current unlawful cross-border ac-  
16          tivity, including cross-border threats and trends con-  
17          cerning illicit trafficking and unlawful crossings  
18          along the international borders of the United States,  
19          the ability to forecast future shifts in such threats  
20          and trends, and the operational capability to conduct  
21          continuous and integrated surveillance of the inter-  
22          national borders of the United States.

23          (11) TRANSIT ZONE.—The term “transit zone”  
24          means the sea corridors of the western Atlantic  
25          Ocean, the Gulf of Mexico, the Caribbean Sea, and

1 the eastern Pacific Ocean through which undocu-  
2 mented migrants and illicit drugs transit, either di-  
3 rectly or indirectly, to the United States.

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

8 **SEC. 20. OPERATION OF THE BORDER PATROL.**

9 The Border Patrol shall operate using intelligence-  
10 based operations to combat terrorist and transnational  
11 criminal threats along the international borders of the  
12 United States. In carrying out this section, the Border Pa-  
13 trol shall coordinate with international, Federal, State,  
14 local, and tribal law enforcement partners.

15 **SEC. 21. AUTHORIZATION OF APPROPRIATIONS.**

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

