

BORDER SECURITY RESULTS ACT OF 2013

MAY 20, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1417]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1417) to require the Secretary of Homeland Security to develop a comprehensive strategy to gain and maintain operational control of the international borders of the United States, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary .....	7
Background and Need for Legislation .....	7
Hearings .....	8
Committee Consideration .....	10
Committee Votes .....	15
Committee Oversight Findings .....	17
New Budget Authority, Entitlement Authority, and Tax Expenditures .....	17
Congressional Budget Office Estimate .....	17
Statement of General Performance Goals and Objectives .....	18
Duplicative Federal Programs .....	18
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	18
Federal Mandates Statement .....	19
Preemption Clarification .....	19
Disclosure of Directed Rule Makings .....	19
Advisory Committee Statement .....	19
Applicability to Legislative Branch .....	19

Section-by-Section Analysis of the Legislation .....	19
Additional Views .....	31

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Border Security Results Act of 2013”.

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

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, every 180 days thereafter until the Comptroller General of the United States reports on the results of the review described in section 3(k)(2)(B), and every 365 days after the date of such report, the Secretary of Homeland Security shall submit to the appropriate congressional committees and the Government Accountability Office a report that assesses and describes the state of situational awareness and operational control. Such reports shall include an identification of the high traffic areas and the illegal border crossing effectiveness rate for each sector along the northern and southern borders of the United States that are within the responsibility of the Border Patrol.

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

**SEC. 3. STRATEGY TO ACHIEVE SITUATIONAL AWARENESS AND OPERATIONAL CONTROL OF THE BORDER.**

(a) **STRATEGY TO SECURE THE BORDER.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a comprehensive strategy for gaining and maintaining situational awareness, and operational control of high traffic areas, by the date that is not later than two years after the date of the submission of the implementation plan required under subsection (c), and operational control along the southwest border of the United States by the date that is not later than five years after such date of submission.

(b) **CONTENTS OF STRATEGY.**—The strategy required under subsection (a) shall include, at a minimum, a consideration of the following:

(1) An assessment of principal border security threats, including threats relating to the smuggling and trafficking of humans, weapons, and illicit drugs.

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

(3) Efforts to increase situational awareness, in accordance with privacy, civil liberties, and civil rights protections, including—

(A) surveillance capabilities developed or utilized by the Department of Defense, including any technology determined to be excess by the Department of Defense; and

(B) use of manned aircraft and unmanned aerial systems, including camera and sensor technology deployed on such assets.

(4) Efforts to detect and prevent terrorists and instruments of terrorism from entering the United States.

(5) Efforts to ensure that any new border security technology can be operationally integrated with existing technologies in use by the Department of Homeland Security.

(6) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, private property rights, privacy rights, and civil liberties.

(7) Technology required to maintain, support, and enhance security and facilitate trade at ports of entry, including nonintrusive detection equipment, radiation detection equipment, biometric technology, surveillance systems, and other sensors and technology that the Secretary of Homeland Security determines necessary.

(8) Operational coordination of Department of Homeland Security border security components.

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

(10) Cooperative agreements and information sharing with State, local, tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the northern or southern borders, or in the maritime environment.

(11) Border security information received from consultation with State, local, tribal, and Federal law enforcement agencies that have jurisdiction on the northern or southern border, or in the maritime environment, and from border community stakeholders (including through public meetings with such stakeholders), including representatives from border agricultural and ranching organizations and representatives from business and civic organizations along the northern or southern border.

(12) Agreements with foreign governments that support the border security efforts of the United States, including coordinated installation of standardized land border inspection technology, such as license plate readers and RFID readers.

(13) Staffing requirements for all border security functions.

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

(15) An assessment of training programs, including training programs regarding—

- (A) identifying and detecting fraudulent documents;
- (B) protecting the civil, constitutional, human, and privacy rights of individuals;
- (C) understanding the scope of enforcement authorities and the use of force policies;
- (D) screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking; and
- (E) social and cultural sensitivity toward border communities.

(16) Local crime indices of municipalities and counties along the Southern border.

(17) An assessment of how border security operations affect crossing times.

(18) Metrics required under subsections (e), (f), and (g).

(c) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—Not later than 90 days after the submission of the strategy required under subsection (a), the Secretary of Homeland Security shall submit to the appropriate congressional committees and the Government Accountability Office an implementation plan for each of the Department of Homeland Security border security components to carry out such strategy. Such implementation plan shall, at a minimum—

(A) specify what protections will be put in place to ensure that staffing and resources necessary for the maintenance of operations at ports of entry are not diverted to the detriment of such operations in favor of operations between ports of entry; and

(B) include—

- (i) an integrated master schedule and cost estimate, including lifecycle costs, for the activities contained in such implementation plan; and
- (ii) a comprehensive border security technology plan to improve surveillance capabilities that includes—

- (I) a documented justification and rationale for technology choices;
- (II) deployment locations;
- (III) fixed versus mobile assets;
- (IV) a timetable for procurement and deployment;
- (V) estimates of operation and maintenance costs;
- (VI) an identification of any impediments to the deployment of such technologies; and
- (VII) estimates of the relative cost effectiveness of various border security strategies and operations, including deployment of personnel and technology, and construction of new physical and virtual barriers.

(2) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.—Not later than 90 days after receiving the implementation plan in accordance with paragraph (1), the Comptroller General of the United States shall submit to the appropriate congressional committees a report on such plan.

(d) PERIODIC UPDATES.—Not later than 180 days after the submission of each Quadrennial Homeland Security Review required under section 707 of the Homeland Security Act of 2002 (6 U.S.C. 347) beginning with the first such Review that is due after the implementation plan is submitted under subsection (c), the Secretary of Homeland Security shall submit to the appropriate congressional committees an updated—

- (1) strategy under subsection (a); and
- (2) implementation plan under subsection (c).

(e) METRICS FOR SECURING THE BORDER BETWEEN PORTS OF ENTRY.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall implement metrics, informed by situational awareness, to measure the effectiveness of security between ports of entry, which shall include, at a minimum, the following:

(1) An illegal border crossing effectiveness rate, informed by situational awareness.

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

(3) A cocaine seizure effectiveness rate measured as a percentage that results from dividing the amount of cocaine seized by the Border Patrol by the total documented cocaine flow rate as contained in Federal drug databases.

(4) Estimates, using alternative methodologies, including recidivism data, survey data, known-flow data, and technologically-measured data, of total attempted illegal border crossings, total deaths and injuries resulting from such attempted illegal border crossings, the rate of apprehension of attempted illegal border crossers, and the inflow into the United States of illegal border crossers who evade apprehension.

(5) Estimates of the impact of the Border Patrol's Consequence Delivery System on the rate of recidivism of illegal border crossers.

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

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall implement metrics, informed by situational awareness, to measure the effectiveness of security at ports of entry, which shall include, at a minimum, the following:

(A) An inadmissible border crossing rate which measures the number of known inadmissible border crossers who are apprehended, excluding those border crossers who voluntarily withdraw their applications for admission, against the total estimated number of inadmissible border crossers U.S. Customs and Border Protection fails to apprehend.

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

(C) A cocaine seizure effectiveness rate measured as a percentage that results from dividing the amount of cocaine seized by U.S. Customs and Border Protection by the total documented cocaine flow rate as contained in Federal drug databases.

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

(E) The number of infractions related to personnel and cargo committed by major violators who are apprehended by U.S. Customs and Border Protection at ports of entry, and the estimated number of such infractions committed by major violators who are not so apprehended.

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

(2) COVERT TESTING.—The Inspector General of the Department of Homeland Security shall carry out covert testing at ports of entry and submit to the Secretary of Homeland Security and the appropriate congressional committees a report that contains the results of such testing. The Secretary shall use such results to inform activities under this subsection.

(g) METRICS FOR SECURING THE MARITIME BORDER.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall implement metrics, informed by situational awareness, to measure the effectiveness of security in the maritime environment, which shall include, at a minimum, the following:

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

(2) An undocumented migrant interdiction rate which measures the number of undocumented migrants interdicted against the total estimated number of undocumented migrants the Department of Homeland Security's maritime security components fail to interdict.

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

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

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

(6) A cocaine removal effectiveness rate outside a transit zone.

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

(h) COLLABORATION.—The Secretary of Homeland Security shall collaborate with the head of a national laboratory within the Department of Homeland Security laboratory network with prior expertise in border security and the head of a border security university-based center within the Department of Homeland Security centers of excellence network to develop the metrics required under subsections (e), (f), and (g) to ensure the suitability and statistical validity of each such metric. Such collaboration shall also include consultation by the Secretary with the Governors of every border State and representatives of the Border Patrol and U.S. Customs and Border Protection.

(i) RECOMMENDATIONS RELATING TO CERTAIN OTHER METRICS.—In carrying out subsection (h), the head of the national laboratory and the head of a border security university-based center referred to in such subsection shall make recommendations to the Secretary of Homeland Security for other suitable metrics that may be used to measure the effectiveness of border security.

(j) EVALUATION BY THE GOVERNMENT ACCOUNTABILITY OFFICE.—

(1) IN GENERAL.—The Secretary of Homeland Security shall make available to the Government Accountability Office the data and methodology used to develop the metrics implemented under subsections (e), (f), and (g).

(2) REPORT.—Not later than 270 days after receiving the data and methodology referred to in paragraph (1), the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the suitability and statistical validity of such data and methodology.

(k) CERTIFICATIONS AND REPORTS RELATING TO OPERATIONAL CONTROL.—

(1) BY THE SECRETARY OF HOMELAND SECURITY.—

(A) TWO YEARS.—If the Secretary of Homeland Security determines that situational awareness and operational control of high traffic areas have been achieved by the date that is not later than two years after the date of the submission of the implementation plan required under subsection (c), the Secretary shall submit to the appropriate congressional committees and the Comptroller General of the United States a certification that so attests.

(B) FIVE YEARS.—If the Secretary of Homeland Security determines that operational control along the southwest border of the United States has been achieved by the date that is not later than five years after the date of the submission of the implementation plan required under subsection (c), the Secretary shall submit to the appropriate congressional committees and the Comptroller General of the United States a certification that so attests.

(C) ANNUAL UPDATES.—Every year beginning with the year after the Secretary of Homeland Security submits the certification under subparagraph (B), if the Secretary determines that operational control along the southwest border of the United States is being maintained, the Secretary shall submit to the appropriate congressional committees and the Comptroller General of the United States a certification that so attests.

(2) BY THE COMPTROLLER GENERAL.—

(A) REVIEWS.—The Comptroller General of the United States shall review the certifications of the Secretary of Homeland Security under subparagraphs (A), (B), and (C) of paragraph (1) to assess the certifications of the Secretary relating to the achievement of situational awareness, operational control, or both, as the case may be, in accordance with such subparagraphs.

(B) REPORTS.—Not later than 120 days after conducting the reviews described in subparagraph (A), the Comptroller General of the United States

shall submit to the appropriate congressional committees a report on the results of each such review.

(l) FAILURE TO ACHIEVE SITUATIONAL AWARENESS OR OPERATIONAL CONTROL.—If the Secretary of Homeland Security determines that situational awareness, operational control, or both, as the case may be, has not been achieved by the dates referred to in subparagraphs (A) and (B) of subsection (k)(1), as the case may be, or if the Secretary determines that operational control is not being annually maintained pursuant to subparagraph (C) of such subsection, the Secretary shall, not later than 60 days after such dates, submit to the appropriate congressional committees a report that describes why situational awareness or operational control, or both, as the case may be, was not achieved. Such report shall include, at a minimum, impediments incurred, potential remedies, and recommendations to achieve situational awareness, operational control, or both, as the case may be.

(m) GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON BORDER SECURITY DUPLICATION AND COST EFFECTIVENESS.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report addressing areas of overlap in responsibilities within the border security functions of the Department of Homeland Security and the relative cost effectiveness of border security strategies, including deployment of additional personnel and technology, and construction of virtual and physical barriers.

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

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

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

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

(4) Detailed information that examines both the security impacts and competitive impacts of entering into a reimbursement agreement with foreign governments for U.S. Customs and Border Protection preclearance facilities.

(o) DEFINITIONS.—In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

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

(3) CONSEQUENCE DELIVERY SYSTEM.—The term “Consequence Delivery System” means the series of consequences applied to persons illegally entering the United States by the Border Patrol to prevent illegal border crossing recidivism.

(4) GOT AWAY.—The term “got away” means an illegal border crosser who, after making an illegal entry into the United States, is not turned back or apprehended.

(5) HIGH TRAFFIC AREAS.—The term “high traffic areas” means sectors along the northern and southern borders of the United States that are within the responsibility of the Border Patrol that have the most illicit cross-border activity, informed through situational awareness.

(6) ILLEGAL BORDER CROSSING EFFECTIVENESS RATE.—The term “illegal border crossing effectiveness rate” means the percentage that results from dividing the number of apprehensions and turn backs by the number of apprehensions, turn backs, and got aways. The data used by the Secretary of Homeland Security to determine such rate shall be collected and reported in a consistent and standardized manner across all Border Patrol sectors.

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

(8) **OPERATIONAL CONTROL.**—The term “operational control” means a condition in which there is a not lower than 90 percent illegal border crossing effectiveness rate, informed by situational awareness, and a significant reduction in the movement of illicit drugs and other contraband through such areas is being achieved.

(9) **SITUATIONAL AWARENESS.**—The term “situational awareness” means knowledge and an understanding of current illicit cross-border activity, including cross-border threats and trends concerning illicit trafficking and unlawful crossings along the international borders of the United States and in the maritime environment, and the ability to forecast future shifts in such threats and trends.

(10) **TRANSIT ZONE.**—The term “transit zone” means the sea corridors of the western Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and the eastern Pacific Ocean through which undocumented migrants and illicit drugs transit, either directly or indirectly, to the United States.

(11) **TURN BACK.**—The term “turn back” means an illegal border crosser who, after making an illegal entry into the United States, returns to the country from which such crosser entered.

#### **SEC. 4. US-VISIT IMPLEMENTATION.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a plan to implement immediately a biometric exit capability at ports of entry under the US-VISIT program, in accordance with the Enhanced Security and Visa Entry Reform Act of 2002 (Public Law 107–173). If the Secretary determines that development of such a system is not feasible, the Secretary shall, not later than 180 days after the date of the enactment of this Act, submit to the appropriate congressional committees a plan to implement, not later than two years after such date of enactment, an alternative program to provide the same level of security.

#### **SEC. 5. PROHIBITION ON LAND BORDER CROSSING FEE STUDY.**

The Secretary of Homeland Security may not conduct any study relating to the imposition of a border crossing fee for pedestrians or passenger vehicles at land ports of entry along the southern border or the northern border of the United States.

### **PURPOSE AND SUMMARY**

The purpose of H.R. 1417 is to require the Secretary of Homeland Security to develop a comprehensive strategy to gain and maintain operational control of the international borders of the United States, and for other purposes.

### **BACKGROUND AND NEED FOR LEGISLATION**

Our homeland security hinges in part on how well we control who and what comes into this country. A porous border is a conduit for not only drug smugglers and human traffickers, but is also a vulnerability that terrorists may exploit. Supporting and overseeing the Department of Homeland Security’s efforts to secure the Nation’s borders is one of the principal responsibilities of the Congress.

Over ten years after the creation of the Department of Homeland Security (DHS), the Department still does not have a National strategy to secure the borders or reliable metrics to measure border security progress. Since the attacks of September 11th, 2001, Congress has appropriated billions of dollars to enhance border security, primarily through new investments in personnel, technology, and infrastructure. However, because those investments were made without the benefit of a national border security strategy, the funds were often expended in an ad hoc way, without well-defined goals in mind.

The Committee believes that border security spending must be informed by a strategic plan and assessed using robust border secu-

rity performance measures. The Border Security Results Act (BSRA) requires a national strategy and implementation plan to inform the Nation's border security spending. The required implementation plan should be a roadmap to enable the Department to achieve the 90 percent effectiveness rate standard set forth in the legislation.

Achieving this standard must be based on a solid understanding of the border landscape, particularly as relates to illegal border crossings and trafficking of contraband. Increases in situational awareness through the use of sophisticated technologies and other means should give the Department an ability to predict and identify changes in illegal activity and respond accordingly. Gaining situational awareness over the vast areas of the southern border will also increase confidence in the effectiveness standard we expect the Department to achieve.

The Committee believes that situational awareness of illicit border activity is required before making a final determination on the status of border security progress. Situational awareness can help identify and account for the level of "unknown border crossers" to refine effectiveness rates. Achieving situational awareness can better inform resource allocation, and provide a more comprehensive and accurate measurement of the scope and magnitude of illicit border crossing activity.

In the past, the Department has relied on incomplete or inconsistent measures of border security progress, such as the resources sent to the border or the number of people apprehended. The Committee believes that, going forward, progress must be assessed based on verifiable data, to the extent possible. The development of border security metrics at—and between—the ports of entry, and in the maritime environment will increase confidence that the Nation's border security efforts are based on measurable data.

The Committee believes that the reliability and suitability of such metrics will be assured only after consultation with a National Laboratory and DHS Centers of Excellence that specializes in border security. Third-party verification of the border security metrics and implementation plan required by this bill will ensure that Congress is getting an independent assessment of the state of border security.

Rather than continue the flawed approaches of the past, this bill's emphasis on planning, measuring, and achieving results will help ensure the Department is on the path to gaining operational control of the borders.

#### HEARINGS

No hearings were held on H.R. 1417. However, the Committee held oversight hearings relating to programs contained within H.R. 1417, these hearings are listed below.

##### *112th Congress*

On February 15, 2011, the Subcommittee on Border and Maritime Security held a hearing entitled "Securing Our Borders—Operational Control and the Path Forward." The Subcommittee received testimony from Mr. Michael J. Fisher, Chief, Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security; Mr. Richard M. Stana, Director, Homeland Security and



Justice, Government Accountability Office; and Hon. Raul G. Salinas, Mayor, City of Laredo, Texas.

On March 15, 2011, the Subcommittee on Border and Maritime Security held a hearing entitled “Strengthening the Border—Finding the Right Mix of Personnel, Infrastructure, and Technology.” The Subcommittee received testimony from Mr. Michael J. Fisher, Chief of the Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security; Mr. Mark Borkowski, Assistant Commissioner, Office of Technology Innovation and Acquisition, U.S. Customs and Border Protection, Department of Homeland Security; Mr. Michael C. Kostelnik, (Maj. Gen. Ret.) Assistant Commissioner, Office of CBP Air & Marine, U.S. Customs and Border Protection, Department of Homeland Security; Major General Hugo E. Salazar, Adjutant General, Arizona National Guard; and Mr. Richard M. Stana, Director, Homeland Security and Justice, Government Accountability Office.

On April 5, 2011, the Subcommittee on Border and Maritime Security held a hearing entitled “Using Resources Effectively to Secure Our Border at Ports of Entry—Stopping the Illicit Flow of Money, Guns, and Drugs.” The Subcommittee received testimony from Mr. Thomas Winkowski, Assistant Commissioner, U.S. Customs and Border Protection, Department of Homeland Security; Mr. Stan Korosec, Vice President, Operations, Blue Water Bridge Canada; Mr. Timothy J. Koerner, Vice President & Chief Security Officer, Canadian National Railway Company; and Hon. Richard F. Cortez, Mayor, City of McAllen, Texas.

On November 15, 2011, the Subcommittee on Border and Maritime Security held a hearing entitled “Protecting the Homeland: How can DHS use DOD Technology to Secure the Border?” The Subcommittee received testimony from Hon. Paul N. Stockton, Assistant Secretary of Defense for Homeland Defense and Americas’ Security Affairs, Office of Undersecretary of Defense for Policy, Department of Defense; Mr. Mark Borkowski, Assistant Commissioner, Office of Technology Innovation and Acquisition, Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security; Dr. Adam Cox, Acting Deputy Director, Homeland Security Advanced Research Projects Agency, Department of Homeland Security; and Mr. Michael Tangora, Deputy Assistant Commandant & Director of Acquisition Services, United States Coast Guard, Department of Homeland Security.

On April 17, 2012, the Subcommittee held a hearing entitled “Boots on the Ground or Eyes in the Sky: How Best to Utilize the National Guard to Achieve Operational Control.” The Subcommittee received testimony from Hon. Paul N. Stockton, Assistant Secretary of Defense for Homeland Defense and Americas’ Security Affairs, Office of Undersecretary of Defense for Policy, Department of Defense; Mr. Ronald D. Vitiello, Deputy Chief of Border Patrol, U.S. Customs & Border Protection, Department of Homeland Security; Mr. Martin Vaughan, Executive Director, Southwest Region, Office of Air and Marine, U.S. Customs & Border Protection, Department of Homeland Security; Maj. Gen. John Nichols, Adjutant General, Texas National Guard; and Mr. Brian J. Lepore, Director, Defense Capabilities and Management, U.S. Government Accountability Office.

*113th Congress*

On February 26, 2013, the Subcommittee on Border and Maritime Security held a hearing entitled “What Does a Secure Border Look Like?” The Subcommittee received testimony from Mr. Michael J. Fisher, Chief, Border Patrol, Department of Homeland Security; Mr. Kevin McAleenan, Acting Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection, Department of Homeland Security; RAdm William D. Lee, Deputy For Operations Policy and Capabilities, U.S. Coast Guard, Department of Homeland Security; Ms. Rebecca Gambler, Acting Director, Homeland Security and Justice, Government Accountability Office; and Marc R. Rosenblum, PhD, Specialist in Immigration Policy, Congressional Research Service, The Library of Congress.

On March 20, 2013, the Subcommittee held a hearing entitled “Measuring Outcomes to Understand the State of Border Security.” The Subcommittee received testimony from Mr. Michael J. Fisher, Chief, Border Patrol, Department of Homeland Security; Mr. Kevin McAleenan, Acting Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection, Department of Homeland Security; Mr. Mark Borkowski, Assistant Commissioner, Office of Technology Innovation and Acquisition, U.S. Customs and Border Protection, Department of Homeland Security; and Hon. Veronica Escobar, El Paso County Judge, El Paso, Texas.

## COMMITTEE CONSIDERATION

The Committee met on May 15, 2013, to consider H.R. 1417, and ordered the measure to be reported to the House with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

The Committee adopted H.R. 1417, as amended, by voice vote.

The following amendments were offered:

An Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. MCCAUL (#1); was AGREED TO, as amended, by voice vote.

A unanimous consent request by MR. MCCAUL to consider the Amendment in the Nature of a Substitute as base text for purposes of amendment was not objected to.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. THOMPSON (#1A); was NOT AGREED TO by a record vote of 14 yeas and 15 nays (Roll Call 1).

At the end of the bill add a new section entitled “Sec. 4. Authorization of Appropriations.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. THOMPSON (#1B); was AGREED TO by voice vote.

In paragraph (1) of subsection (c) of section 3, in the matter preceding subparagraph (A), insert after the first sentence the following: “Such implementation plan shall include, at a minimum, an integrated master schedule and cost estimate, including lifecycle costs, for the activities contained in such plan.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. SMITH (#1C); was AGREED TO, as amended, by voice vote.

In subsection (a) of section 3, strike “situational awareness and operational control by the date that is not later than two years after the date of the submission of the implementation plan required under subsection (c)” and insert “situational awareness, and operational control of high traffic areas, by the date that is not later than two years after the date of the submission of the implementa-

tion plan required under subsection (c) and operational control along the southwest border of the United States by the date that is not less than five years after such date of submission.”

Amend paragraphs (1) and (2) of subsection (k) of section 3 to new sections entitled:

(1) By The Secretary of Homeland Security.”

(2) By The Comptroller General.”

In subsection (l) of section 3, strike If the Secretary of Homeland Security determines that situational awareness or operational control, or both, has not been achieved by the date referred to in subsection (a), the Secretary shall, not later than 60 days after such date,” and insert If the Secretary of Homeland Security determines that situational awareness, operational control, or both, as the case may be, has not been achieved by the dates referred to in subparagraphs (A) and (B) of subsection (k)(1), as the case may be, the Secretary shall, not later than 60 days after such dates.”

Amend paragraph (8) of subsection (o) of section 3, strike in high traffic areas”.

**An amendment to the amendment offered by MR. SMITH to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. JACKSON LEE (#1C1); was AGREED TO by voice vote.**

Page 2, beginning line 17, insert a new section (C) Annual Updates.”

Page 2, line 21, strike subparagraphs (A) and (B)” and insert subparagraphs (A), (B), and (C)”.

Page 3, in the matter proposed to be inserted in subsection (l) of section 3, insert or if the Secretary determined that operational control is not being annually maintained pursuant to subparagraph (C) of such subsection,’” before “the Secretary shall,’”.

**An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. SMITH (#1D); was AGREED TO by voice vote.**

In paragraph (6) of subsection (o) of section 3, add at the end the following: The data used by the Secretary of Homeland Security to determine such rate shall be collected and reported in a consistent and standardized manner across all Border Patrol sectors.”

**A unanimous consent request that MR. BARBER be listed as a co-sponsor of the amendment offered by MR. SMITH (#1D), was not objected to.**

**An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. SANCHEZ (#1E); was AGREED TO by voice vote.**

Consisting of the following amendments:

In paragraph (4) of subsection (e) of section 3, insert total deaths and injuries resulting from such attempted illegal border crossings,” before the rate of apprehension .

In paragraph (11) of section 3(b), insert before the period at the end the following: including coordinated installation of standardized land border inspection technology, such as license plate readers and RFID readers”.

In subsection (b) of section 3, add at the end the following: (15) An assessment of how border security operations affect crossing times.

**An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. SANCHEZ (#1F); was AGREED TO by a record vote of 29 yeas and 0 nays (Rollcall 2).**

At the end of the bill, add a new section entitled Sec. 4. US—VISIT Implementation.”

**An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. SANCHEZ (#1G); was WITHDRAWN.**

Consisting of the following amendments: In paragraph (7) of section 3(b), insert “under carriage cameras, high resolution license plate readers,” “after surveillance systems,”

In subparagraph (E) of section 3(c)(1), strike and” at the end.

In Subparagraph (F) of section 3(c)(1), strike the period at the end and insert ; and”.

In section 3(c)(1), add at the end the following:

(G) a description on how the Secretary shall consult with border communities in the development of such plan;

(H) an assessment of existing and proposed new surveillance technology and infrastructure used for land and maritime security to evaluate and analyze the environmental, social, economic, and cultural impacts; and (I) a detailed estimate of personnel needed to operate and maintain such technologies.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. SANCHEZ (#1H); was WITHDRAWN.

Add at the end of the bill a new section entitled Sec. 4. Department of Homeland Security Border Oversight Task Force.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. MARINO (#1I); was AGREED TO by voice vote.

In section (l) of section 3, add at the end the following: Such report shall include, at a minimum, impediments incurred, potential remedies, and recommendations to achieve situational awareness, operational control, or both, as the case may be.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. JACKSON LEE (#1J); was AGREED TO by voice vote.

In paragraph (2) of section 3(b), insert before the period at the end the following: and with other appropriate Federal departments and agencies with missions associated with the border”. In paragraph (9) of section 3(b), insert and information sharing” after Cooperative agreements”.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. JACKSON LEE (#1K); was AGREED TO by a record vote of 28 yeas and 0 nays (Roll Call 3).

In paragraph (1) of section 3(b), insert before the period at the end the following: , including threats relating to the smuggling and trafficking of humans, weapons, and illicit drugs”.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. HIGGINS (#1L); was AGREED TO by voice vote.

At the end of the bill add a new section entitled Sec. 4. Prohibition on Land Border Crossing Fee Study.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. PALAZZO (#1M); was AGREED TO by voice vote.

In subsection (b) of section 3, redesignate paragraphs (9) through (14) as paragraphs (10) through (15), respectively.

In subsection (b) of section 3, insert after paragraph (8) the following:  
(9) Lessons learned from operation Jumpstart and Operation Phalanx.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. BARBER (#1N); was AGREED TO by voice vote.

In paragraph (10) of section 3(b), insert (including through public meetings with such stakeholders)” after border community stakeholders”.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. STEWART (#1O); was AGREED TO by voice vote.

Amend section 2, insert a new section entitled Sec. 2. Reports on Current Border Security Status.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. PAYNE (#1P); was AGREED TO by voice vote.

In paragraph (1) of subsection (c) of section 3, in the matter preceding subparagraph (A), insert after the first sentence the following: “Such implementation

plan shall specify what protections will be put in place to ensure that staffing and resources necessary for the maintenance of operations at ports of entry are not diverted to the detriment of such operations in favor of operations between ports of entry.”

**An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. O’ROURKE (#1Q); was AGREED TO by voice vote.**

In paragraph (10) of section 3(b), insert “and civic” after “business”.

In paragraph (2) of section 3(e), insert “and type” after “the amount” each place it appears.

In subparagraph (B) of section 3(f)(1), insert “and type” after “the amount” each place it appears.

In paragraph (3) of section 3(g), insert “and type” after “the amount” each place it appears.

In subparagraph (E) of section 3(c)(1), strike “and” at the end.

In subparagraph (F) of section 3(c)(1), strike the period at the end and insert “; and”.

In subsection (c) of section 3, add at the end the following: (G) estimates of the relative cost effectiveness of various border security strategies and operations, including deployment of personnel and technology, and construction of new physical and virtual barriers.

In subsection (m) of section 3, in the heading, add at the end the following: “and Cost Effectiveness”.

In subsection (m) of section 3, insert before the period at the end the following: “and the relative cost effectiveness of border security strategies, including deployment of additional personnel and technology, and construction of virtual and physical barriers”.

**An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. O’ROURKE (#1R); was AGREED TO by voice vote.**

In subsection (b) of section 3, add at the end the following:

(15) An assessment of training programs, including training programs regarding—

(A) identifying and detecting fraudulent documents;

(B) protecting the civil, constitutional, human, and privacy rights of individuals;

(C) understanding the scope of enforcement authorities and the use of force policies;

(D) screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking; and

(E) social and cultural sensitivity toward border communities.

**An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. O’ROURKE (#1S); was AGREED TO by voice vote.**

In subsection (b) of section 3, add at the end the following: (15) Local crime indices of municipalities and counties along the Southern border.

**An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. MEEHAN (#1T); was AGREED TO by voice vote.**

In subsection (n) of section 3, add at the end the following: (4) Detailed information that examines both the security impacts and competitive impacts of entering into a reimbursement agreement with foreign governments for U.S. Customs and Border Protection preclearance facilities.

**An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. BARLETTA (#1U); was AGREED TO by voice vote.**

In subsection (h) of section 3, add at the end the following: “Such collaboration shall also include consultation by the Secretary with the Governors of every border State and representatives of the Border Patrol and U.S. Customs and Border Protection.”

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. BARLETTA (#1V); was WITHDRAWN.

In paragraph (2) of section 3(k), add at the end a new subparagraph "(C) Congressional Resolution of Approval." In subsection (l) of section 3, insert ", in consultation with the Comptroller General of the United States," after "Secretary of Homeland Security".

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. PERRY (#1W); was WITHDRAWN.

In paragraph (8) of section 3(o), insert ", with a goal of a 100 percent illegal border crossing effectiveness rate" before ", informed by situational awareness".

#### *Subcommittee consideration*

The Subcommittee on Border and Maritime Security met on April 24 2013, to consider H.R. 1417, and ordered the measure reported to the Full Committee with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

The Subcommittee agreed to H.R. 1417, as amended, by voice vote.

The following amendments were offered:

An Amendment in the Nature of a Substitute to H.R. 1417 offered by MRS. MILLER (#1); was AGREED TO, as amended, by voice vote.

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. JACKSON LEE (#1A); was AGREED TO by voice vote.

In section 3(b)(3), in the matter preceding subparagraph (A), insert "in accordance with privacy, civil liberties, and civil rights protections," before "including";

In section 3(b), redesignate paragraphs (7) through (9) as paragraphs (8) through (10), respectively.

In section 3(b), insert after paragraph (6) a new paragraph (7); and

In section 3, insert a new subsection (h) entitled "(h) Collaboration".

In section 3(i)(1), strike "and the independent assessment under subsection (h)".

In section 3(i)(2), Strike "and the independent assessment".

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. DUNCAN (#1B); was AGREED TO by voice vote.

In subsection (f), redesignate paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and move such subparagraphs, as so redesignated, two ems to the right.

In subsection (f), strike "Not later than 120 days" and insert the following new paragraph:

"(1) In General."

In subsection (f), add at the end the following: "(2) Covert Testing."

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. SANCHEZ (#1C); was AGREED TO by voice vote.

In section 3(c)(1), strike "detection technology capabilities" and insert "for continuous and systematic surveillance of the international borders of the United States."

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. SANCHEZ (#1D); was AGREED TO by voice vote.

Add at the end of section 3(b) the following: (10) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, private property rights, privacy rights, and civil liberties. (11) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. SANCHEZ (#1E); was WITHDRAWN.

Add at the end of the bill a new section entitled "Sec. 4. Border Community Liaison."

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. MARINO (#1F); was AGREED TO by voice vote.

In section 3, redesignate subsections (k), (l), and (m) as subsections (1), (m), and (n), respectively. In section 3, insert after subsection (j) a new subsection entitled "(k) Failure to Achieve Situational Awareness or Operational Control."

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. O'ROURKE (#1G); was AGREED TO by voice vote.

In section 3(b)(4), insert strike "enhanced security" and insert "both enhance security and facilitate trade";

In section 3(f), add at the end the following: (5) A measurement system of how the border security apparatus affects crossing times.

In section 3(l)(1), insert "and their effect on cross-border trade and passenger travel" after "vulnerabilities".

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. PALAZZO (#1H); was AGREED TO by voice vote.

In section (b) of section (3), redesignate paragraphs (8) and (9) as paragraphs (9) and (10), respectively, and insert after paragraph (7) a new paragraph (8). In section 3(m)(5), insert "not lower than" before "90 percent".

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MR. BARLETTA (#1I); was AGREED TO by voice vote.

In section 3(b)(6), insert "territorial," after "tribal,".

An amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. GABBARD (#1J); was AGREED TO by voice vote.

In section 3(b)(5), insert before the period at the end the following: ", including efforts to ensure that a new border security technology can be operationally integrated with existing technologies in use by the Department".

COMMITTEE VOTES

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

COMMITTEE ON HOMELAND SECURITY

ROLL CALL 1

H.R. 1417

Amendment offered by Mr. Thompson of Mississippi (#1A), on agreeing to the amendment

Not Agreed to: 14 yeas and 15 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chairman .....		X	Mr. Thompson of Mississippi, Ranking Member.	X	
Mr. Smith of Texas .....			Ms. Loretta Sanchez of California .....	X	
Mr. King of New York .....	X		Ms. Jackson Lee .....	X	
Mr. Rogers of Alabama .....	X		Ms. Clarke .....	X	
Mr. Broun of Georgia .....		X	Mr. Higgins .....	X	

Representative	Yea	Nay	Representative	Yea	Nay
Mrs. Miller of Michigan .....		X	Mr. Richmond .....	X	
Mr. Meehan .....		X	Mr. Keating .....	X	
Mr. Duncan of South Carolina .....		X	Mr. Barber .....	X	
Mr. Marino .....			Mr. Payne .....	X	
Mr. Chaffetz .....		X	Mr. O'Rourke .....	X	
Mr. Palazzo .....		X	Ms. Gabbard .....	X	
Mr. Barletta .....		X	Mr. Vela .....	X	
Mr. Stewart .....		X	Mr. Horsford .....	X	
Mr. Hudson .....		X	Mr. Swalwell of California .....	X	
Mr. Daines .....		X			
Mrs. Brooks of Indiana .....		X			
Mr. Perry .....		X			
Vote Total: .....				14	15

COMMITTEE ON HOMELAND SECURITY

ROLL CALL 2

H.R. 1417

Amendment offered by Ms. Loretta Sanchez of California (#1F),  
on agreeing to the amendment.  
Agreed to: 29 yeas and 0 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chairman .....	X		Mr. Thompson of Mississippi, Ranking Member .....	X	
Mr. Smith of Texas .....			Ms. Loretta Sanchez of California .....	X	
Mr. King of New York .....	X		Ms. Jackson Lee .....	X	
Mr. Rogers of Alabama .....	X		Ms. Clarke .....	X	
Mr. Broun of Georgia .....	X		Mr. Higgins .....	X	
Mrs. Miller of Michigan .....	X		Mr. Richmond .....	X	
Mr. Meehan .....	X		Mr. Keating .....	X	
Mr. Duncan of South Carolina .....	X		Mr. Barber .....	X	
Mr. Marino .....			Mr. Payne .....	X	
Mr. Chaffetz .....	X		Mr. O'Rourke .....	X	
Mr. Palazzo .....	X		Ms. Gabbard .....	X	
Mr. Barletta .....	X		Mr. Vela .....	X	
Mr. Stewart .....	X		Mr. Horsford .....	X	
Mr. Hudson .....	X		Mr. Swalwell of California .....	X	
Mr. Daines .....	X				
Mrs. Brooks of Indiana .....	X				
Mr. Perry .....	X				
Vote Total: .....				29	0

COMMITTEE ON HOMELAND SECURITY

ROLL CALL 3

H.R. 1417

Amendment offered by Ms. Jackson Lee (#1K), on agreeing to the amendment.  
Agreed to: 28 yeas and 0 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chairman .....	X		Mr. Thompson of Mississippi, Ranking Member .....	X	
Mr. Smith of Texas .....			Ms. Loretta Sanchez of California .....	X	
Mr. King of New York .....	X		Ms. Jackson Lee .....	X	
Mr. Rogers of Alabama .....	X		Ms. Clarke .....	X	
Mr. Broun of Georgia .....	X		Mr. Higgins .....	X	



Representative	Yea	Nay	Representative	Yea	Nay
Mrs. Miller of Michigan .....	X	.....	Mr. Richmond .....	X	
Mr. Meehan .....	X	.....	Mr. Keating .....	X	
Mr. Duncan of South Carolina .....	.....	.....	Mr. Barber .....	X	
Mr. Marino .....	.....	.....	Mr. Payne .....	X	
Mr. Chaffetz .....	X	.....	Mr. O'Rourke .....	X	
Mr. Palazzo .....	X	.....	Ms. Gabbard .....	X	
Mr. Barletta .....	X	.....	Mr. Vela .....	X	
Mr. Stewart .....	X	.....	Mr. Horsford .....	X	
Mr. Hudson .....	X	.....	Mr. Swalwell of California .....	X	
Mr. Daines .....	X				
Mrs. Brooks of Indiana .....	X				
Mr. Perry .....	X				
Vote Total: .....				28	0

COMMITTEE OVERSIGHT FINDINGS

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

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1417, the Border Security Results Act of 2013, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee believes that the de minimis costs associated with development of a strategy, implementation plan, and metrics required by H.R. 1417 should be supported using existing funds appropriated for border security.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 20, 2013.*

Hon. MICHAEL MCCAUL,  
*Chairman, Committee on Homeland Security,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1417, the Border Security Results Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

DOUGLAS W. ELMENDORF,  
*Director.*

Enclosure.

*H.R. 1417—Border Security Results Act of 2013*

H.R. 1417 would require the Department of Homeland Security (DHS) to measure the effectiveness of the department's border security strategy at U.S. ports of entry and along U.S. borders (including maritime borders). The legislation would direct the Inspector General of DHS to carry out covert testing of security at ports of entry and report the results to the Congress. In addition, H.R. 1417 would require DHS and the Government Accountability Office to prepare several reports on various aspects of the DHS border security program.

Based on information from the affected agencies and the costs of similar activities, CBO estimates that implementing H.R. 1417 would cost about \$5 million from appropriated funds over the 2014–2018 period. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1417 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contacts for this estimate are Mark Grabowicz and Matthew Pickford. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 1417 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

The performance goals and objectives of H.R. 1417 are the development of a National strategy and implementation plan to secure the Nation's borders to a standard where the Department is able to identify, apprehend, or turn back 90 percent of individuals who illegally attempt to cross our southern land border.

Additionally, the development of associated measurements or metrics both at and between the ports of entry and in the maritime environment will inform and guide future investments in border security and allow the Congress to hold the Department accountable for the success or failure of border security operations.

## DUPLICATIVE FEDERAL PROGRAMS

The Committee finds that H.R. 1417 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

## CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

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

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

## PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 1417 does not preempt any State, local, or Tribal law.

## DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 1417 would require no directed rule makings.

## ADVISORY COMMITTEE STATEMENT

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

## APPLICABILITY TO LEGISLATIVE BRANCH

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

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

This section provides that the bill may be cited as the Border Security Results Act of 2013.”

*Sec. 2. Reports on current border security status**(a) In general*

This subsection requires the Secretary of Homeland Security to issue a baseline report describing the current state of situational awareness and operational control of the border not later than 90 days of enactment. The Secretary is also required to update this report every 180 days until the border is deemed to be under operational control as defined in the act, and annually thereafter. The report must be submitted to the appropriate Congressional committees and the Government Accountability Office (GAO). This section also requires the report to include an identification of all Border Patrol sectors the Secretary deems to be a “high traffic area” and the illegal border crossing effectiveness rate for each Border Patrol sector along the Northern and Southern Borders.

*(b) GAO report*

This subsection requires the GAO to review the report required under subsection (a) and verify the data and methodology used by the Secretary of Homeland Security to determine high traffic areas and the illegal border crossing effectiveness rate. While the Com-

mittee understands the challenges inherent in calculating an accurate number of individuals who are "turn backs" and "got aways," the Committee expects these metrics to be informed by situational awareness to help ensure accuracy in calculating the illegal border crossing effectiveness rate.

The Committee expects the Secretary's determination of high traffic area may not be limited to only one area along the Northern or Southern Border, and may consist of multiple areas along each border. The Committee also believes that the GAO review of data and methodology used to calculate the illegal border crossing effectiveness rate is necessary to increase transparency and confidence in the illegal border crossing effectiveness rates reported by the Department.

*Sec. 3. Strategy to achieve situational awareness and operational control of the border*

*(a) Strategy to secure the border*

This subsection requires the Secretary of Homeland Security to submit a comprehensive strategy not later than 180 days after enactment to gain and maintain operational control of high traffic areas within two years after submission of the implementation plan described in Section 3(c), and to obtain operational control along the southwest border within five years.

In recent years, the Department has measured border security effectiveness in terms of the number of individuals apprehended as well as the additional resources deployed to the border, including a doubling of the Border Patrol, miles of fence built, Unmanned Aerial Systems, and other border security technologies. Congress provided these resources as a tactical means necessary to achieving a strategic end, but, without objective and reliable metrics, does not know the extent to which our borders are secure. The Committee does not believe that the border is secure simply because there are approximately 21,000 agents on the border, nor is it necessarily secure because apprehensions are the lowest they have been since the 1970s.

In previous Committee hearings, DHS officials have testified that the Department lacks a comprehensive strategy to secure the borders and, as a result of ad hoc efforts to secure the border, illicit cross-border activity shifted from one geographic area to another, adapting and shifting to where detection or interdiction is less likely. The Committee believes that a comprehensive national strategy is needed to better align border security goals, and coordinate efforts with other countries. These actions should be done to promote efficiency and, where practicable, unify, prioritize, and integrate border security efforts.

The Committee believes situational awareness of illicit border activity is required to be used to inform metrics and the data used to calculate illicit border crossing effectiveness rate. An understanding of cross border activity identifies smuggling trends and helps predict future shifts in illicit activity. Situational awareness is required to help refine the scope and magnitude of illicit border crossing activity and will be the basis for: (1) determining high traffic areas; (2) outcome based metrics such as illegal border cross-

ing effectiveness; and (3) developing responsible technology and resource allocation plans.

The Committee believes that regular deployment of technologies, such as the Vehicle Dismount and Exploitation Radar (VADER) system, will be used to refine the effectiveness rate. The Committee believes deploying technologies to increase situational awareness, will be essential to provide greater confidence in the effectiveness rates required by BSRA.

*(b) Contents of strategy*

The strategy required in subsection (a) must include, at a minimum, the following:

- A consideration of efforts to analyze and disseminate border security and border threat information between DHS border security components and with other appropriate Federal departments and agencies with missions associated with the border. The Committee is concerned that information obtained by the various and disparate departments and agencies with border security responsibilities may not be shared and disseminated in a manner that creates a common understanding of border security threats. It is the Committee's belief that accurate and timely sharing of information will increase the efficacy of border security operations, foster efficiency, and reduce risk.
- Efforts to increase situational awareness through the use of surveillance capabilities developed or utilized by the Department of Defense, including any technology determined to be excess by the Department of Defense, and the use of manned aircraft and unmanned aerial systems, including camera and sensor technology.
- Efforts to detect and prevent terrorists and instruments of terrorism from entering the United States. The Committee expects that the strategy will address the changing and evolving nature of all terrorist threats, including but not limited to, improvised nuclear devices, "dirty bombs," and pandemic disease.
- Efforts to ensure that any new border security technology can be operationally integrated with existing technologies in use by the Department of Homeland Security. The Committee expects that resources previously provided by Congress should be leveraged, and that new technologies will, to the extent possible, be developed and integrated into existing border security system networks in a complementary manner.
- An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, private property rights, privacy rights, and civil liberties.
- Technology required to maintain, support, and enhance security and facilitate trade at ports of entry, including nonintrusive detection equipment, radiation detection equipment, biometric technology, surveillance systems, and other sensors and technology that the Secretary of Homeland Security determines necessary.
- Operational coordination of Department of Homeland Security border security components. The Committee believes that enhanced coordination between the Department's border security components could improve efficiency of border security operations. It is expected that the Department's strategy will identify areas for coordination across the Department's components, including but not limited to

information sharing, operations planning and execution, and systems integration.

- A consideration of lessons learned from Operation Jumpstart and Operation Phalanx. Operations Jumpstart and Phalanx were conducted to provide personnel in support of the Department's border security mission to allow the Border Patrol time to recruit, hire, train, and field additional Border Patrol Agents. The Department has achieved that objective. The Committee expects a review of these two operations to include analysis of lessons learned regarding interagency operations planning, identification of the Department of Homeland Security's border security capability gaps, and the long-term plans to close those gaps.

- Cooperative agreements and information sharing with Federal, State, local, Tribal, and territorial, law enforcement agencies that have jurisdiction on the Northern or Southern Borders, or in the maritime environment. Maintaining agreements and sharing border related information with them can be utilized as a significant force multiplier and thus needs to be addressed in the strategy.

- Border security information received from consultation with Federal, State, local, and Tribal law enforcement agencies that have jurisdiction on the Northern or Southern Border, or the maritime environment, and from border community stakeholders (including through public meetings with such stake holders), including representatives from border agricultural and ranching organizations and representatives from business and civic organizations along the Northern or Southern Border. The Committee intends for the consultation to include ongoing, two-way dialogue between border security elements of the Department and the groups listed to better inform all stakeholders of border security developments.

- Agreements with foreign governments that support the border security efforts of the United States, including coordinated installation of standardized land border inspection technology, such as license plate readers and radio-frequency identification (RFID) readers.

- Staffing requirements for all border security functions. The President's Fiscal Year 2014 budget identified significant staffing shortages within CBP's Office of Field Operations. The Committee intends to ensure the staffing requirements identified in the strategy required by this section are adequate to secure our nation's borders and to facilitate legitimate trade and travel.

- A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States. The Committee intends the strategy to address needs not met by existing technology in a prioritized fashion to ensure the Department's research and development needs are incorporated into the strategy.

- An assessment of training programs, including those aimed at identifying and detecting fraudulent documents; protecting the civil, constitutional, human, and privacy rights of individuals; understanding the scope of enforcement authorities and the use of force policies; screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking; and social and cultural sensitivity toward border communities.

- Local crime indices of municipalities and counties along the Southern Border.

- An assessment of how border security operations affect crossing times. The Committee understands that the Nation should ensure border security while recognizing that legitimate trade and travel must continue in order to prevent negative economic impacts both in border areas and across the United States.
- Metrics required under subsections (e), (f), and (g). The Committee believes the Department should be more forthcoming with reporting metrics and expects the metrics developed for each domain to emphasize the importance of outcome-based assessments.

*(c) Implementation plan*

This subsection requires the Secretary of Homeland Security to submit a detailed plan to implement the Strategy required under subsection (a). This plan shall include an implementation plan for each of the border security components and specify what protections will be put in place to ensure that staffing and other resources will not be diverted from the ports of entry to areas between the ports of entry.

Additionally, the implementation plan shall include an integrated master schedule and cost estimates, including lifecycle costs, and a comprehensive border security technology plan that includes the following elements: A justification for technology choices, deployment locations, a timetable for procurement and deployment, estimates of operation and maintenance costs, identification of impediments to deployment of such technology, and estimates of the cost effectiveness of various border security strategies and operations.

This subsection also requires a review of the Secretary's implementation plan by the GAO, which is to submit findings within 90 days after receiving the plan.

The Committee believes that when combined with the strategy in subsection (a), the implementation plan will provide an operational roadmap to achieve both situational awareness and operational control of the border. The Committee expects that the implementation plan will contain subsections for each of the major operational components of the Department with border security responsibilities and that each of those sections will be designed to guide operational planning. The required technology plan should be thorough and detailed to help avoid the costly technology mistakes of the past and provide the Committee with sufficient justification and rationale for the Department's border security technology choices.

The Department, with support from Congress, has made unprecedented investments in border security over the last decade. Many of these investments have included complex acquisitions or initiatives that required significant resources or proved difficult to achieve. While progress has been made, a great deal remains to be done to achieve operational control of our borders; the Committee recognizes that requiring the Department to achieve operational control will require additional resources in terms of border security personnel, technology, and infrastructure.

This will include additional funding for Customs and Border Protection (CBP) and other Department components with a border security mission. This bill does not authorize funding for these new resources.

However, the Committee is prepared to support the resource needs as informed through the development of the strategy and implementation plan required under the bill. The Committee believes that it is imperative that as the legislative and implementation processes move forward, necessary funds be provided to ensure the Department has the appropriate resources necessary to achieve operational control. The Committee recognizes that without such funding, the new requirements set forth in this bill may not be achievable in the mandated timeframe.

*(d) Periodic updates*

This subsection requires the strategy and implementation plans be updated no later than 180 days after the submission of each Quadrennial Homeland Security Review (QHSR).

By requiring the update to follow the delivery of the QHSR, the Committee believes the Department can better coordinate the strategy and implementation plans with other Department-level guidance.

*(e) Metrics for securing the border between ports of entry*

This subsection requires the Secretary of Homeland Security to implement metrics to measure the effectiveness of security between ports of entry within 120 days. These metrics include:

An illegal border crossing effectiveness rate; an illicit drug seizure rate; a cocaine seizure effectiveness rate; estimates using alternative methodologies of inadmissible border crossers attempting to enter the U.S., and their rate of apprehension determined by alternative methodologies such as recidivism data, survey data, and known flow data. This subsection also requires estimates of the impacts of the Border Patrol's Consequence Delivery System on the rate of recidivism of illegal border crossers.

The Committee believes the Department should be more forthcoming and transparent with reporting metrics regarding border security and this provision ensures the Department will be reporting such metrics to the Committee.

Many of the metrics included in subsections (e), (f), and (g), such as the illegal border crossing effectiveness rate, would provide this Committee more informative outcome-based metrics to supplement the Border Patrol's current Government Performance Results Act measurement of apprehensions. The GAO has previously stated that performance metrics, like apprehensions, bear little relationship to effectiveness as such figures cannot be compared to a total amount of undetected illegal activity on the border. In 2010, the GAO warned that the "absence of measures for border security may reduce oversight and DHS accountability."

This section ensures greater accountability and oversight of the Department by requiring robust metrics to be reported to Congress. The Committee believes the reporting of such metrics is necessary since the Administration has failed to replace "Operational Control" with a more "holistic" measurement of border security known as the Border Condition Index (BCI), nearly three years after efforts to develop the BCI were announced.

Furthermore, according to testimony before the Subcommittee in March 2013, CBP Assistant Commissioner Mark Borkowski stated that the BCI, when completed, would not provide the border secu-



rity information in the manner that Members had previously expected as a replacement for Operational Control.

*(f) Metrics for securing the border at ports of entry*

This subsection requires the Secretary of Homeland Security to implement metrics to measure the effectiveness of security at ports of entry within 120 days, including: An inadmissible border crossing rate, an illicit drug seizure rate, a cocaine seizure effectiveness rate, estimates of the total attempted inadmissible border crossers, their rate of apprehension, and the rate of inflow of inadmissible border crossers who evade apprehension.

Unique to this subsection are the required metrics that measure the number of personnel and cargo infractions committed by individuals apprehended at ports of entry, and the estimated number of infractions by major violators not apprehended by CBP. This subsection also requires a measurement of how border security operations affect crossing times at ports of entry.

This subsection also requires the Department's Inspector General to conduct covert testing at ports of entry and use the results to further inform metrics of this section. Covert testing is already used to identify security vulnerabilities at our nation's airports and our federal facilities, and has been used at certain areas between ports of entry.

This section is intended to apply the same principle to enhance our border security efforts at ports of entry by leveraging the Department's Office of Inspector General to probe the security at our ports of entry for any weaknesses.

*(g) Metrics for securing the maritime border*

This subsection requires the Secretary of Homeland Security to implement outcome-based metrics to measure the effectiveness of border security in the maritime environment. These include: An estimate of the total number of undocumented migrants, as identified by the United States Coast Guard and CBP Office of Air and Marine; an undocumented interdiction rate; an illicit drug seizure rate, for both in and out of the transit zone; a cocaine removal effectiveness rate, for both in and out of the transit zone; and a response rate which measures response to known maritime threats by placing assets on scene, compared to the total number of known threats.

The Committee believes the Department should be forthcoming with reporting metrics for the maritime environment. While the Committee understands there is no current estimate of the number of undocumented migrants attempting to enter the country in the maritime environment, we expect the Department to estimate such a number to develop a rate at which undocumented migrants are interdicted.

It is the Committee's intent to have the Department report to the Committee the effectiveness of its maritime components in interdicting illicit drug flow into the United States. The illicit drug seizure rate is meant to better demonstrate the Department's success by comparing annual amounts seized to a five-year rolling average of the total amounts seized. The Committee understands the Consolidated Counterdrug Data Base (CCDB) provides agreed-upon estimates for total cocaine movement toward the United States.

This data should be used as a baseline to compare cocaine seizures to provide a cocaine removal effectiveness rate. The Committee expects as reliability of data for other illicit drug further matures within the CCDB, a similar effectiveness rate can be reported. BSRA is distinct in requiring illicit drug and cocaine metrics for both in and out of the transit zone because the vast majority of cocaine entering the country travels through a known maritime transit zone. The distinction between the two will better illustrate developing trends and better inform resource needs.

The Committee intends that a rate measuring the Department's ability to respond to known maritime threats by placing assets on scene, compared to the total number of known threats, will better demonstrate the effectiveness and capacity of the Department's maritime components.

The Committee has been briefed by the Department's maritime components that there is a significant number of known maritime threats which the Department does not have the capacity to respond. Providing this metric is designed to identify the number and type of resources necessary in the maritime environment to better respond to known threats not previously pursued due to current resource constraints.

*(h) Collaboration*

The Secretary of Homeland Security shall collaborate with the head of a national laboratory within the Department's laboratory network with prior demonstrated border security expertise and the head of a University-based Center of Excellence to evaluate the metrics required under subsections (e), (f), and (g) to ensure their suitability and statistical validity for each metric. The Secretary must also consult with border State Governors and appropriate representatives of the Border Patrol and CBP as part of this collaboration.

The Committee believes that development of metrics for measuring border security should be done in an objective, scientific fashion to provide for the quantifiable, transparent reporting of the border security progress to the extent practicable. Measurements, such as apprehensions, have been used to indicate success when both increasing and decreasing. While this legislation gives the Secretary flexibility in determining which national laboratory to collaborate with, the Committee notes that the national laboratory with expertise in border security include Sandia National Laboratories and Los Alamos National Laboratory.

The Committee also notes that among the Department's Centers of Excellence with expertise in border security are the National Center for Border Security and Immigration (NCBSI), led by the University of Arizona in Tucson and the University of Texas at El Paso and the Center for Maritime, Island and Remote and Extreme Environment Security (MIREES), led by the University of Hawaii and Stevens Institute of Technology.

*(i) Recommendations relating to certain other metrics*

This subsection ensures that the heads of the national lab and the border security center of excellence will make recommendations to the Secretary of Homeland Security on metrics that may be used to measure the effectiveness of border security, as part of the col-

laboration process in subsection (h). While many metrics are prescribed in this legislation, the Committee expects the independent experts involved will offer additional metrics that will help the Department more accurately measure success, or failure.

*(j) Evaluation by the Government Accountability Office*

This subsection requires the Secretary of Homeland Security to provide the Government Accountability Office (GAO) with all data and methodology used to develop the metrics required under subsections (e), (f), and (g). This information shall be utilized by the Comptroller General of the United States to provide a report, within 270 days, on the suitability and statistical validity of such data and methodology.

The Committee believes an independent review of the metrics by the GAO will ensure greater transparency and confidence in the suitability and statistical validity of the metrics created by the Department.

*(k) Certifications and reports relating to operational control*

This subsection requires the Secretary of Homeland Security to submit a report to the Committee and GAO if situational awareness and operational control of high traffic areas is achieved within two years and within five years if the Secretary determines operational control has been achieved along the entire southwest border. Additionally, the Secretary must submit an annual certification once operational control has been achieved along the entire southwest border.

The GAO must then submit a report to Congress assessing the Secretary's certifications.

The Committee believes that the Secretary should certify to the Congress once operational control has been achieved so that the Congress can scrutinize the certification to ensure that operational control, as defined by the text has actually been achieved. The Committee requires a GAO review for the two- and five-year benchmarks to assess the methodology and data certification and because the Committee believes such a third-party verification is necessary to remove politics from the decision to certify operational control of the border.

An independent, non-partisan assessment of whether the data and methodology used to make sure the certification is accurate and in accordance with the bill. Annual updates to the certification ensure that once operational control has been achieved, it is maintained in accordance with the definition in the bill.

*(l) Failure to achieve situational awareness or operational control*

This subsection requires the Secretary of Homeland Security to submit a report to the appropriate Congressional committees if situational awareness and operational control have not been achieved in high traffic areas within two years and along the southwest border in five years. The report must include reasons for failure and recommendations on additional steps needed to achieve situational awareness and operational control.

The Secretary is also required to issue this report if operational control is not annually maintained. This addition is necessary to

ensure that efforts to secure the border continue past the five-year operational control requirement and to further ensure that the Department will maintain operational control once achieved. The Committee intends to hold the Department responsible to meet the requirements of this legislation.

*(m) Government Accountability Office report on border security duplication and cost effectiveness*

This subsection requires the GAO to submit to the appropriate congressional committees a report addressing areas of overlap in responsibilities within the border security functions of the Department.

Additionally, this report must address the cost effectiveness of the various border security strategies. This would include considering the relative cost of strategies such as deploying additional personnel and technology, or the construction of virtual or physical barriers.

The Committee intends for this section to assist the Committee in first identifying and then eliminating unnecessary duplication and overlap.

*(n) Reports*

This subsection requires the Secretary of Homeland Security to submit a report to the appropriate congressional committees on the resource allocation model for current and future year staffing requirements at all land, air, and sea ports of entry and an explanation of the U.S. Customs and Border Patrol (CBP) methodology for aligning staffing levels to workload and threats. Additionally, the Secretary shall submit detailed information on the level of manpower available at all land, air, and sea ports of entry, as well as information describing differences between the staffing model and actual staffing levels. Also, the Secretary must submit detailed information that examines both the security and competitive impacts of entering into reimbursable agreements with foreign governments for preclearance facilities.

The Committee is troubled that CBP has heretofore refused to provide the items contained in paragraphs one through three of this subsection. This is despite the fact that they have been the subject of numerous bipartisan letters over several Congresses.

In the Committee's view these provisions constitute simple oversight requests and CBP's explanation for its failure to provide them thus far to the Committee is unsatisfactory. The Committee expects that CBP provide these documents promptly in accordance with the Act, and that they provide the data requested for each of the 329 current ports of entry.

Additionally, CBP's recent preclearance agreement with Abu Dhabi gives the Committee cause for concern. We are troubled by the prospect that an inherently governmental function—border security—would be paid for, in large measure, by another government.

We expect that the report in this section provide clear and compelling justification for this preclearance operation. Further, the Committee believes that CBP should also describe, in great detail, how this agreement will affect the ability of U.S. companies to fair-

ly compete in the region, as well as its impacts to CBP operations in the continental United States.

*(o) Definitions*

This subsection defines certain terminology used in the legislation, including definitions for appropriate congressional committees, cocaine removal effectiveness rate, consequence delivery system, got away, high traffic areas, illegal border crossing effectiveness rate, major violator, operational control, situational awareness, transit zone, and turn backs.

The Committee believes that high traffic areas may be, at a minimum, several sectors along both the northern and southern border, respectively, and that the use of situational awareness and annual intelligence assessments should inform the locations of such areas. Additionally, the Committee expects that over time, those areas may change based on the volume of illicit cross-border traffic.

Consistent with the Government Accountability Office's report GAO-13-25, "BORDER PATROL Key Elements of New Strategic Plan Not Yet in Place to Inform Border Security Status and Resource Needs," the Committee requires the U.S. Border Patrol to standardize the collection and reporting methods of turn backs and got aways that will enable consistent calculations of the overall effectiveness rate across sectors of the border.

The Committee believes that DHS should be held accountable for no less than 90 percent effectiveness; however, the Committee also believes that 90 percent should not represent the ceiling of our border security efforts. To that end, the Majority believes that striving to stop 100 percent of all illicit cross-border activity should be the attitude of every Department employee with a border security mission.

*Sec. 4. US-VISIT implementation*

This section requires the Secretary of Homeland Security to submit to the appropriate congressional committees, a plan to implement a biometric exit capability at ports of entry under the US-VISIT program, in accordance with the Enhanced Security and Visa Entry Reform Act of 2002. If the Secretary determines that development of such a system is not feasible, the Secretary shall submit a separate plan for implementing, not later than two years after the date of enactment, an alternative program to provide the same level of security.

The Committee believes the Department must seriously address one of the critical remaining recommendations of the 9/11 Commission, that "DHS, properly supported by the Congress, should complete, as quickly as possible, a biometric entry-exit screening system."

While the Committee recognizes the significant challenges to implementation of a biometric exit capability, the Committee believes such a system remains a valuable counterterrorism tool and a strong immigration control mechanism. For example, the 9/11 Commission stated that such a capability could have assisted law enforcement and intelligence officials in August and September 2001 with conducting a search for two of the 9/11 hijackers that were in the U.S. on expired visas.

Congress mandated the creation of a fully functioning biometric entry and exit system in the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. Law 108–458), and the implementation of an integrated entry and exit data system in the Enhanced Security and Visa Entry Reform Act of 2002 (Pub. Law 107–173).

The creation of an automated entry and exit system that would track the arrival and departure of every alien was first established in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. However, 17 years after Congress first passed legislation requiring an entry and exit system, the United States government still does not have a fully functioning exit system, and has failed to implement a functioning biometric exit system.

The Committee understands the Department is making some progress in further automating airline manifest information to serve as a record of exit and matching with entry records, referred to as “enhanced biographic exit,” the Committee does not view this as a substitute for implementing a biometric exit system as required by Congress.

The Committee also supports ongoing efforts associated with the Beyond the Border Agreement with Canada, including the sharing of Canadian entry data to serve as records of exit from the United States. However, absent such biometric capability, DHS lacks sufficient knowledge to know who is in the country at any given time.

*Sec. 5. Prohibition on land border crossing fee study*

This section prohibits the Secretary of Homeland Security from conducting studies relating to imposing a border crossing fee for any passenger vehicles or pedestrian border crossers. This would apply for all land ports of entry on both the southern or northern borders. The President’s Fiscal Year 2014 budget request included a request for funds to conduct this study. The Committee is strongly opposed to this study and to the imposition of such fees.

## ADDITIONAL VIEWS

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### ADDITIONAL VIEWS OF RANKING MEMBER BENNIE G. THOMPSON (D-MS) ON BEHALF OF DEMOCRATIC MEMBERS OF THE COMMITTEE

Democratic Members of the Committee recognize that H.R. 1417 sets forth ambitious border security benchmarks for the Department to achieve in a relatively short timeframe. Specifically, the bill calls for full situational awareness and operational control in high traffic areas in two years, and operational control of the entire southwest border in five years. Democratic Members recognize that significant new investments in border security personnel, technology, and resources will be necessary for DHS to be able to apprehend or turn back 90 percent of the people who illegally cross the border. Indeed, the Secretary of Homeland Security has acknowledged in congressional testimony that to achieve operational control in just high traffic areas, it would cost \$3 billion. This Committee conducted oversight of the SBInet program—a modest initiative compared to gaining operational control of the entire southwest border—that cost approximately \$1 billion and yielded disappointing results. So, the magnitude and potential cost of gaining operational control must not be underestimated. Yet, H.R. 1417 provides no additional funding authorized for DHS to achieve the requirements set forth in the bill.

Democratic Members unanimously supported an amendment I offered to authorize \$3 billion to the Department for activities under the bill. During robust debate of the amendment, which was ultimately defeated in a party-line vote, we were pleased that Chairman McCaul stated that once the implementation plan required under this Act is submitted to Congress, he stands prepared to support a funding request. However, we are concerned that this approach to authorizing necessary resources runs the risk that funding will not be forthcoming in a timely manner to ensure that the ambitious benchmarks in this bill can be achieved on or before schedule. As this legislation moves through the legislative process, we strongly believe that new appropriations will need to be authorized.

We are pleased that during the Full Committee mark up, seventeen amendments authored by Democratic Members were accepted, on a strong bipartisan basis. With respect to the resources question, the Committee approved an amendment, offered by Rep. Brian Higgins (D-NY), that barred the Secretary from pursuing a feasibility study of whether to establish new cross-border transit fees to fund security activities and an amendment, offered by Rep. Donald Payne, Jr., (D-NJ), against allowing the Department to divert staffing and resources to operations between ports of entry

from ports of entry, including airports, if doing so is to the detriment of security at ports of entry.

In general, Democratic Members of the Committee support the substance of the underlying Committee report; however, we do not share the view of the Majority that “striving to stop 100 percent of all illicit cross-border activity should be the attitude of every Department employee with a border security mission.” Democratic Members of the Committee, particularly Democrats who represent border communities, were outspoken in their opposition to a similar proposal submitted by Rep. Scott Perry (R-PA) at the mark up. We are concerned that this language sends the wrong message to the Department about Congress’ expectations. Specifically, we are concerned that asking DHS to interdict 100 percent of illicit cross-border activity between the ports of entry would unduly divert limited resources from other border security efforts, potentially undermining our Nation’s homeland security or economic security. Instead, Democratic Members strongly support a comprehensive, risk-based approach to border security that would maximize our enforcement efforts both at and between the ports of entry, while facilitating the legitimate flow of cross-border trade and travel.

BENNIE G. THOMPSON.

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