

110TH CONGRESS
1ST SESSION

H. R. 3469

To assist the Secretary of Homeland Security in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 2007

Mr. RUPPERSBERGER introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To assist the Secretary of Homeland Security in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “America’s Border Se-
5 curity Act of 2007”.

1 **SEC. 2. TECHNOLOGICAL ASSETS.**

2 (a) INCREASED AVAILABILITY OF EQUIPMENT.—The
3 Secretary of Homeland Security and the Secretary of De-
4 fense shall develop and implement a plan to use authori-
5 ties provided to the Secretary of Defense under chapter
6 18 of title 10, United States Code, to increase the avail-
7 ability and use of Department of Defense equipment, in-
8 cluding unmanned aerial vehicles, tethered aerostat ra-
9 dars, and other surveillance equipment, to assist the Sec-
10 retary of Homeland Security in carrying out surveillance
11 activities conducted at or near the international land bor-
12 ders of the United States to prevent illegal immigration.

13 (b) REPORT.—Not later than 6 months after the date
14 of enactment of this Act, the Secretary of Homeland Secu-
15 rity and the Secretary of Defense shall submit to Congress
16 a report that contains—

17 (1) a description of the current use of Depart-
18 ment of Defense equipment to assist the Secretary
19 of Homeland Security in carrying out surveillance of
20 the international land borders of the United States
21 and assessment of the risks to citizens of the United
22 States and foreign policy interests associated with
23 the use of such equipment;

24 (2) the plan developed under subsection (b) to
25 increase the use of Department of Defense equip-
26 ment to assist such surveillance activities; and

1 (3) a description of the types of equipment and
2 other support to be provided by the Secretary of De-
3 fense under such plan during the 1-year period be-
4 ginning on the date of the submission of the report.

5 (c) UNMANNED AERIAL VEHICLE PILOT PRO-
6 GRAM.—During the 1-year period beginning on the date
7 on which the report is submitted under subsection (b), the
8 Secretary of Homeland Security shall conduct a pilot pro-
9 gram to test unmanned aerial vehicles for border surveil-
10 lance along the international border between Canada and
11 the United States.

12 (d) CONSTRUCTION.—Nothing in this section may be
13 construed as altering or amending the prohibition on the
14 use of any part of the Army or the Air Force as a posse
15 comitatus under section 1385 of title 18, United States
16 Code.

17 (e) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Secretary of
19 Homeland Security such sums as may be necessary for
20 each of the fiscal years 2008 through 2012 to carry out
21 subsection (a).

22 **SEC. 3. INFRASTRUCTURE.**

23 (a) CONSTRUCTION OF BORDER CONTROL FACILI-
24 TIES.—Subject to the availability of appropriations, the
25 Secretary of Homeland Security shall construct all-weath-

1 er roads and acquire additional vehicle barriers and facili-
2 ties necessary to achieve operational control of the inter-
3 national borders of the United States.

4 (b) REPORTS.—The Secretary of Homeland Security
5 shall submit quarterly reports to the Congress on the
6 progress made in carrying out subsection (a).

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Secretary of
9 Homeland Security such sums as may be necessary for
10 each of the fiscal years 2008 through 2012 to carry out
11 subsection (a).

12 **SEC. 4. PORTS OF ENTRY.**

13 The Secretary of Homeland Security is authorized
14 to—

15 (1) construct additional ports of entry along the
16 international land borders of the United States, at
17 locations to be determined by the Secretary of
18 Homeland Security; and

19 (2) make necessary improvements to the ports
20 of entry in existence on the date of enactment of this
21 Act.

22 **SEC. 5. SECURE COMMUNICATION.**

23 The Secretary of Homeland Security shall, as expedi-
24 tiously as practicable, develop and implement a plan to
25 improve the use of satellite communications and other

1 technologies to ensure clear and secure 2-way communica-
2 tion capabilities—

3 (1) among all Border Patrol agents conducting
4 operations between ports of entry;

5 (2) between Border Patrol agents and their re-
6 spective Border Patrol stations;

7 (3) between Border Patrol agents and residents
8 in remote areas along the international land borders
9 of the United States; and

10 (4) between all appropriate border security
11 agencies of the Department and State, local, and
12 tribal law enforcement agencies.

13 **SEC. 6. UNMANNED AERIAL VEHICLES.**

14 (a) UNMANNED AERIAL VEHICLES AND ASSOCIATED
15 INFRASTRUCTURE.—The Secretary of Homeland Security
16 shall acquire and maintain not fewer than 5 unmanned
17 aerial vehicles and related equipment for use to patrol the
18 international borders of the United States, including
19 equipment such as—

20 (1) additional sensors;

21 (2) critical spares;

22 (3) satellite command and control; and

23 (4) other necessary equipment for operational
24 support.

25 (b) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated to the Secretary of Homeland Security
3 for each of the fiscal years 2008 and 2009 such
4 sums as may be necessary to carry out subsection
5 (a).

6 (2) AVAILABILITY OF FUNDS.—Amounts appro-
7 priated pursuant to the authorization of appropria-
8 tions in paragraph (1) are authorized to remain
9 available until expended.

10 **SEC. 7. SURVEILLANCE TECHNOLOGIES PROGRAMS.**

11 (a) AERIAL SURVEILLANCE PROGRAM.—

12 (1) IN GENERAL.—In conjunction with the bor-
13 der surveillance plan developed under section 5201
14 of the Intelligence Reform and Terrorism Prevention
15 Act of 2004 (Public Law 108–458; 8 U.S.C. 1701
16 note), the Secretary of Homeland Security, not later
17 than 90 days after the date of enactment of this
18 Act, shall develop and implement a program to fully
19 integrate and utilize aerial surveillance technologies,
20 including unmanned aerial vehicles, to enhance the
21 security of the international border between the
22 United States and Canada and the international
23 border between the United States and Mexico. The
24 goal of the program shall be to ensure continuous
25 monitoring of each mile of each such border.

1 (2) ASSESSMENT AND CONSULTATION REQUIRE-
2 MENTS.—In developing the program under this sub-
3 section, the Secretary of Homeland Security shall—

4 (A) consider current and proposed aerial
5 surveillance technologies;

6 (B) assess the feasibility and advisability
7 of utilizing such technologies to address border
8 threats, including an assessment of the tech-
9 nologies considered best suited to address re-
10 spective threats;

11 (C) consult with the Secretary of Defense
12 regarding any technologies or equipment, which
13 the Secretary of Homeland Security may deploy
14 along an international border of the United
15 States; and

16 (D) consult with the Administrator of the
17 Federal Aviation Administration regarding safe-
18 ty, airspace coordination and regulation, and
19 any other issues necessary for implementation
20 of the program.

21 (3) ADDITIONAL REQUIREMENTS.—

22 (A) IN GENERAL.—The program developed
23 under this subsection shall include the use of a
24 variety of aerial surveillance technologies in a
25 variety of topographies and areas, including

1 populated and unpopulated areas located on or
2 near an international border of the United
3 States, in order to evaluate, for a range of cir-
4 cumstances—

5 (i) the significance of previous experi-
6 ences with such technologies in border se-
7 curity or critical infrastructure protection;

8 (ii) the cost and effectiveness of var-
9 ious technologies for border security, in-
10 cluding varying levels of technical com-
11 plexity; and

12 (iii) liability, safety, and privacy con-
13 cerns relating to the utilization of such
14 technologies for border security.

15 (4) CONTINUED USE OF AERIAL SURVEILLANCE
16 TECHNOLOGIES.—The Secretary of Homeland Secu-
17 rity may continue the operation of aerial surveillance
18 technologies while assessing the effectiveness of the
19 utilization of such technologies.

20 (5) REPORT TO CONGRESS.—Not later than
21 180 days after implementing the program under this
22 subsection, the Secretary of Homeland Security shall
23 submit to Congress a report regarding such pro-
24 gram. The Secretary of Homeland Security shall in-
25 clude in the report a description of such program to-

1 gether with any recommendations that the Secretary
2 finds appropriate for enhancing the program.

3 (6) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated such sums
5 as may be necessary to carry out this subsection.

6 (b) INTEGRATED AND AUTOMATED SURVEILLANCE
7 PROGRAM.—

8 (1) REQUIREMENT FOR PROGRAM.—Subject to
9 the availability of appropriations, the Secretary of
10 Homeland Security shall establish a program to pro-
11 cure additional unmanned aerial vehicles, cameras,
12 poles, sensors, satellites, radar coverage, and other
13 technologies necessary to achieve operational control
14 of the international borders of the United States and
15 to establish a security perimeter known as a “virtual
16 fence” along such international borders to provide a
17 barrier to illegal immigration. Such program shall be
18 known as the Integrated and Automated Surveil-
19 lance Program.

20 (2) PROGRAM COMPONENTS.—The Secretary
21 shall ensure, to the maximum extent feasible, that—

22 (A) the technologies utilized in the Inte-
23 grated and Automated Surveillance Program
24 are integrated and function cohesively in an
25 automated fashion, including the integration of

1 motion sensor alerts and cameras in a manner
2 where a sensor alert automatically activates a
3 corresponding camera to pan and tilt in the di-
4 rection of the triggered sensor;

5 (B) cameras utilized in the Program do
6 not have to be manually operated;

7 (C) such camera views and positions are
8 not fixed;

9 (D) surveillance video taken by such cam-
10 eras is able to be viewed at multiple designated
11 communications centers;

12 (E) a standard process is used to collect,
13 catalog, and report intrusion and response data
14 collected under the Program;

15 (F) future remote surveillance technology
16 investments and upgrades for the Program can
17 be integrated with existing systems;

18 (G) performance measures are developed
19 and applied that can evaluate whether the Pro-
20 gram is providing desired results and increasing
21 response effectiveness in monitoring and detect-
22 ing illegal intrusions along the international
23 borders of the United States;

24 (H) plans are developed under the Pro-
25 gram to streamline site selection, site valida-

tion, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of non-permanent or mobile surveillance platforms that will increase the Secretary's mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary of Homeland Security shall submit to Congress a report regarding the Program. The Secretary shall include in the report a description of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary of Homeland Security shall develop

1 appropriate standards to evaluate the perform-
2 ance of any contractor providing goods or serv-
3 ices to carry out the Integrated and Automated
4 Surveillance Program.

5 (B) REVIEW BY THE INSPECTOR GEN-
6 ERAL.—

7 (i) IN GENERAL.—The Inspector Gen-
8 eral of the Department shall review each
9 new contract related to the Program that
10 has a value of more than \$5,000,000 in a
11 timely manner, to determine whether such
12 contract fully complies with applicable cost
13 requirements, performance objectives, pro-
14 gram milestones, and schedules.

15 (ii) REPORTS.—The Inspector General
16 shall report the findings of each review
17 carried out under clause (i) to the Sec-
18 retary of Homeland Security in a timely
19 manner. Not later than 30 days after the
20 date the Secretary receives a report of
21 findings from the Inspector General, the
22 Secretary shall submit to the Committee
23 on Homeland Security and Governmental
24 Affairs of the Senate and the Committee
25 on Homeland Security of the House of

1 Representatives a report of such findings
2 and a description of any the steps that the
3 Secretary has taken or plans to take in re-
4 sponse to such findings.

5 (5) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated such sums
7 as may be necessary to carry out this subsection.

8 **SEC. 8. HIRING AND TRAINING OF BORDER AND TRANS-**
9 **PORTATION SECURITY PERSONNEL.**

10 (a) INSPECTORS AND AGENTS.—

11 (1) INCREASE IN INSPECTORS AND AGENTS.—

12 During fiscal year 2008, the Secretary of Homeland
13 Security shall—

14 (A) increase the number of full-time agents
15 and associated support staff in the Bureau of
16 Immigration and Customs Enforcement of the
17 Department of Homeland Security by 400; and

18 (B) increase the number of full-time in-
19 spectors and associated support staff in the Bu-
20 reau of Customs and Border Protection by 600.

21 (2) WAIVER OF FTE LIMITATION.—The Sec-
22 retary is authorized to waive any limitation on the
23 number of full-time equivalent personnel assigned to
24 the Department of Homeland Security to fulfill the
25 requirements of paragraph (1).

1 (b) TRAINING.—The Secretary shall provide appro-
2 priate training for agents, inspectors, and associated sup-
3 port staff of the Department of Homeland Security on an
4 ongoing basis to utilize new technologies and to ensure
5 that the proficiency levels of such personnel are acceptable
6 to protect the borders of the United States.

7 **SEC. 9. NATIONAL BORDER SECURITY PLAN.**

8 (a) REQUIREMENT FOR PLAN.—Not later than Janu-
9 ary 31 of each year, the Secretary of Homeland Security
10 shall prepare a National Border Security Plan and submit
11 such plan to the Congress.

12 (b) CONSULTATION.—In preparing the plan required
13 in subsection (a), the Secretary shall consult with the
14 Under Secretary for Information Analysis and Infrastruc-
15 ture Protection and the Federal, State, and local law en-
16 forcement agencies and private entities that are involved
17 in international trade across the northern border or the
18 southern border.

19 (c) VULNERABILITY ASSESSMENT.—

20 (1) IN GENERAL.—The plan required in sub-
21 section (a) shall include a vulnerability assessment
22 of each port of entry located on the northern border
23 or the southern border.

24 (2) PORT SECURITY COORDINATORS.—The Sec-
25 retary may establish 1 or more port security coordi-

1 nators at each port of entry located on the northern
2 border or the southern border—

3 (A) to assist in conducting a vulnerability
4 assessment at such port; and

5 (B) to provide other assistance with the
6 preparation of the plan required in subsection
7 (a).

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