

113TH CONGRESS
1ST SESSION

S. 683

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.

IN THE SENATE OF THE UNITED STATES

APRIL 9, 2013

Mr. CORNYN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

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.

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 “Border Security Re-

5 sults Act of 2013”.

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

7 Not later than 60 days after the date of the enact-

8 ment of this Act and every 180 days thereafter, the Sec-

1 retary of Homeland Security shall submit to the appro-
2 priate congressional committees a report that assesses and
3 describes, as of such date, the state of operational control
4 of the international borders of the United States.

5 **SEC. 3. STRATEGY TO ACHIEVE OPERATIONAL CONTROL**
6 **OF THE BORDER.**

7 (a) STRATEGY TO SECURE THE BORDER.—Not later
8 than 120 days after the date of the enactment of this Act,
9 the Secretary of Homeland Security shall submit to the
10 appropriate congressional committees a comprehensive
11 strategy for gaining and maintaining operational control
12 of all sectors of the international borders of the United
13 States by the date that is not later than two years after
14 the date of the submission of the implementation plan re-
15 quired under subsection (b). The strategy shall include,
16 at a minimum, a consideration of the following:

17 (1) An assessment of principal border security
18 threats.

19 (2) Efforts to analyze and disseminate border
20 security and border threat information between De-
21 partment of Homeland Security border security com-
22 ponents.

23 (3) Efforts to increase situational awareness.

24 (4) A comprehensive border security technology
25 plan for detection technology capabilities, including a

1 documented justification and rationale for tech-
2 nology choices, deployment locations, fixed versus
3 mobile assets, and a timetable for procurement and
4 deployment.

5 (5) Surveillance capabilities developed or uti-
6 lized by the Department of Defense, including any
7 technology determined to be excess by the Depart-
8 ment of Defense.

9 (6) Use of manned aircraft and unmanned aer-
10 ial systems, including the camera and sensor tech-
11 nology deployed on such assets.

12 (7) Technology required to enhance security at
13 ports of entry, including the installation of nonintru-
14 sive detection equipment, radiation portal monitors,
15 biometric technology, and other sensors and tech-
16 nology that the Secretary determines necessary.

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

19 (9) Cooperative agreements with State, local,
20 tribal, and other Federal law enforcement agencies
21 that have jurisdiction on the northern border, south-
22 ern border, and in the maritime environment.

23 (10) Agreements with foreign governments that
24 support the border security efforts of the United
25 States.

1 (11) Staffing requirements for all border secu-
2 rity functions.

3 (12) Resources and other measures necessary to
4 achieve a 50-percent reduction in the average wait
5 times of commercial and passenger vehicles at inter-
6 national land ports of entry along the international
7 borders of the United States.

8 (13) Metrics required under subsections (e), (f),
9 and (g).

10 (b) IMPLEMENTATION PLAN.—Not later than 60
11 days after the submission of the strategy under subsection
12 (a), the Secretary of Homeland Security shall submit to
13 the appropriate congressional committees an implementa-
14 tion plan for each of the Department of Homeland Secu-
15 rity border security components to carry out such strat-
16 egy.

17 (c) SITUATIONAL AWARENESS.—Not later than two
18 years after the date of the enactment of this Act, the Sec-
19 retary of Homeland Security shall achieve situational
20 awareness of the international borders of the United
21 States.

22 (d) PERIODIC UPDATES.—Not later than 180 days
23 after the submission of each Quadrennial Homeland Secu-
24 rity Review required under section 707 of the Homeland
25 Security Act of 2002 (6 U.S.C. 347) beginning with the

1 first such Review that is due after the implementation
2 plan is submitted under subsection (b), the Secretary of
3 Homeland Security shall submit to the appropriate con-
4 gressional committees an updated—

5 (1) strategy under subsection (a); and

6 (2) implementation plan under subsection (b).

7 (e) METRICS FOR SECURING THE BORDER BETWEEN
8 PORTS OF ENTRY.—Not later than 90 days after the date
9 of the enactment of this Act, the Secretary of Homeland
10 Security shall implement metrics to measure the effective-
11 ness of security between ports of entry, which shall in-
12 clude, at a minimum, the following:

13 (1) An effectiveness rate which measures the
14 number of illegal border crossers who are turned
15 back, and the amount of narcotics seized, against
16 the total estimated number of illegal border crossers
17 and amount of narcotics the Department of Home-
18 land Security's border security components fail to
19 apprehend or seize, as the case may be.

20 (2) Estimates, using alternate methodologies,
21 including recidivism and survey data, of total at-
22 tempted illegal border crossings, the rate of appre-
23 hension of attempted illegal border crossings, and
24 the inflow into the United States of illegal border
25 crossers who evade apprehension.

1 (3) Estimates of the impacts of the Border Pa-
2 trol's Consequence Delivery System on the rate of
3 recidivism of illegal border crossers.

4 (4) An understanding of the current level of sit-
5 uational awareness.

6 (5) Amount of narcotics seized between ports of
7 entry.

8 (f) METRICS FOR SECURING THE BORDER AT PORTS
9 OF ENTRY.—Not later than 90 days after the date of the
10 enactment of this Act, the Secretary of Homeland Security
11 shall implement metrics to measure the effectiveness of se-
12 curity at ports of entry, which shall include, at a min-
13 imum, the following:

14 (1) An effectiveness rate which measures the
15 number of illegal border crossers who are turned
16 back, and the amount of narcotics seized, against
17 the total estimated number of illegal border crossers
18 and amount of narcotics the Department of Home-
19 land Security's border security components fail to
20 apprehend or seize, as the case may be.

21 (2) The number of infractions related to per-
22 sonnel and cargo committed by major violators who
23 are apprehended by U.S. Customs and Border Pro-
24 tection at such ports of entry.

1 (3) The estimated number of such infractions
2 committed by major violators who are not so appre-
3 hended.

4 (4) Estimates, using alternate methodologies,
5 including recidivism and survey data, of total at-
6 tempted illegal border crossings, the rate of appre-
7 hension of attempted illegal border crossings, and
8 the inflow into the United States of illegal border
9 crossers who evade apprehension.

10 (g) METRICS FOR SECURING THE MARITIME BOR-
11 DER.—Not later than 90 days after the date of the enact-
12 ment of this Act, the Secretary of Homeland Security shall
13 implement metrics to measure the effectiveness of security
14 in the maritime environment, which shall include, at a
15 minimum, the following:

16 (1) An effectiveness rate which measures the
17 number of migrants apprehended, the number of mi-
18 grants turned back, and the amount of narcotics
19 seized, against the total estimated numbers of mi-
20 grants and amount of narcotics the Department of
21 Homeland Security's maritime security components
22 fail to apprehend or seize, as the case may be.

23 (2) An understanding of the current level of sit-
24 uational awareness.

1 (3) A response rate which measures the Depart-
2 ment's ability to respond to known maritime threats
3 by placing assets on-scene, compared to the total
4 number of events with respect to which the Depart-
5 ment has known threat information.

6 (4) Partnerships with international, State, local,
7 tribal, and other Federal law enforcement agencies.

8 (h) INDEPENDENT ASSESSMENT BY A NATIONAL
9 LABORATORY WITHIN THE DEPARTMENT OF HOMELAND
10 SECURITY LABORATORY NETWORK.—The Secretary of
11 Homeland Security shall request the head of a national
12 laboratory within the Department of Homeland Security
13 laboratory network with prior expertise in border security
14 to—

15 (1) provide an independent assessment of the
16 metrics implemented in accordance with subsections
17 (e), (f), and (g) to ensure each such metric's suit-
18 ability and statistical validity; and

19 (2) make recommendations for other suitable
20 metrics that may be used to measure the effective-
21 ness of border security.

22 (i) EVALUATION BY THE GOVERNMENT ACCOUNT-
23 ABILITY OFFICE.—

24 (1) IN GENERAL.—The Secretary of Homeland
25 Security shall make available to the Government Ac-

1 countability Office the data and methodology used to
2 develop the metrics implemented under subsections
3 (e), (f), and (g) and the independent assessment de-
4 scribed under subsection (h).

5 (2) REPORT.—Not later than 270 days after re-
6 ceiving the data and methodology described in para-
7 graph (1), the Comptroller General of the United
8 States shall submit to the appropriate congressional
9 committees a report on the suitability and statistical
10 validity of such data and methodology.

11 (j) CERTIFICATIONS RELATING TO OPERATIONAL
12 CONTROL.—

13 (1) BY THE SECRETARY OF HOMELAND SECU-
14 RITY.—If the Secretary of Homeland Security deter-
15 mines that operational control of the international
16 borders of the United States has been achieved, the
17 Secretary shall submit to the appropriate congres-
18 sional committees and the Comptroller General of
19 the United States a certification that so attests.

20 (2) BY THE COMPTROLLER GENERAL.—

21 (A) REVIEW.—The Comptroller General of
22 the United States shall review the certification
23 of the Secretary of Homeland Security under
24 paragraph (1) to verify if such certification is
25 accurate.

1 (B) VERIFICATION AND SUBMISSION.—If
2 the Comptroller General of the United States
3 verifies the accuracy of the certification of the
4 Secretary of Homeland Security under para-
5 graph (1), the Comptroller General shall, not
6 later than 120 days after such verification, sub-
7 mit to the appropriate congressional committees
8 a certification that so attests.

9 (k) GAO REPORT ON BORDER SECURITY DUPLICA-
10 TION.—Not later than one year after the date of the enact-
11 ment of this Act, the Comptroller General of the United
12 States shall submit to the appropriate congressional com-
13 mittees a report addressing areas of overlap in responsibil-
14 ities within the border security functions of the Depart-
15 ment of Homeland Security.

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

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

1 els and workload to threats and vulnerabilities
2 across all mission areas.

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

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

12 (m) DEFINITIONS.—In this Act:

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

19 (2) MAJOR VIOLATOR.—The term “major viola-
20 tor” means a person or entity that has engaged in
21 serious criminal activities at any land, air, or sea
22 port of entry, including possession of narcotics,
23 smuggling of prohibited products, human smuggling,
24 weapons possession, use of fraudulent United States

1 documents, or other offenses serious enough to re-
2 sult in arrest.

3 (3) OPERATIONAL CONTROL.—The term “oper-
4 ational control” means a condition in which there is
5 a 90 percent probability that illegal border crossers
6 are apprehended and narcotics and other contraband
7 are seized.

8 (4) SITUATIONAL AWARENESS.—The term “sit-
9 uational awareness” means knowledge and an under-
10 standing of current illicit cross-border activity, in-
11 cluding cross-border threats and trends concerning
12 illicit trafficking and unlawful crossings along the
13 international borders of the United States and in the
14 maritime environment, and the ability to predict fu-
15 ture shifts in such threats and trends.

