

116TH CONGRESS
2D SESSION

H. R. 5793

To ensure operational control of the southwest border, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2020

Mr. ROY (for himself and Mr. MCCLINTOCK) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on the Judiciary, 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 ensure operational control of the southwest border, 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 Visibility and
5 Security Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) COMMISSIONER.—The term “Commis-
 2 sioner” means the Commissioner of U.S. Customs
 3 and Border Protection.

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

8 (3) SECRETARY.—The term “Secretary” means
 9 the Secretary of Homeland Security.

10 (4) SITUATIONAL AWARENESS.—The term “sit-
 11 uational awareness” has the meaning given such
 12 term in section 1092(a)(7) of the National Defense
 13 Authorization Act for Fiscal Year 2017 (Public Law
 14 114–328).

15 **SEC. 3. STRENGTHENING THE REQUIREMENTS FOR BOR-**
 16 **DER SECURITY TECHNOLOGY ALONG THE**
 17 **SOUTHERN BORDER.**

18 Section 102 of the Illegal Immigration Reform and
 19 Immigrant Responsibility Act of 1996 (division C of Pub-
 20 lic Law 104–208; 8 U.S.C. 1103 note) is amended—

21 (1) in subsection (a)—

22 (A) by inserting “and border technology”
 23 before “in the vicinity of”; and

24 (B) by striking “illegal crossings in areas
 25 of high illegal entry into the United States” and

inserting “, impede, and detect illegal activity and entry into the United States”;

(2) in subsection (b)—

(A) in the heading by striking “ROAD IMPROVEMENTS” and inserting “NAVIGABLE ROADS”; and

(B) by adding at the end the following new paragraph:

“(5) ADDITIONAL NAVIGABLE ROADS ALONG THE SOUTHWEST BORDER.—

“(A) NAVIGABLE ROAD DEFINED.—In this subsection, the term ‘navigable road’ means a contiguous, navigable road.

“(B) NAVIGABLE ROADS.—In carrying out subsection (a), the Secretary of Homeland Security shall construct a navigable road along not less than 700 miles of the southwest border where most practical and effective to gain operational control of the southwest border.

“(C) PRIORITY AREAS.—In carrying out this paragraph, the Secretary of Homeland Security shall—

“(i) identify the 700 miles, or other mileage determined by the Secretary, along the southwest border where a navigable

1 road would be most practical and effective
2 in deterring smugglers and aliens attempt-
3 ing to gain illegal entry into the United
4 States; and

5 “(ii) not later than December 31,
6 2020, complete construction of a navigable
7 road along the miles identified under
8 clause (i).

9 “(D) CONSULTATION.—

10 “(i) IN GENERAL.—In carrying out
11 this paragraph, the Secretary of Homeland
12 Security shall consult with the Secretary of
13 the Interior, the Secretary of Agriculture,
14 States, local governments, Indian Tribes,
15 and property owners in the United States
16 to minimize the impact on the environ-
17 ment, culture, commerce, and quality of
18 life for the communities and residents lo-
19 cated near the sites at which navigable
20 roads are to be constructed.

21 “(ii) SAVINGS PROVISION.—Nothing
22 in this subparagraph may be construed
23 to—

24 “(I) create or negate any right of
25 action for a State, local government,

1 Indian Tribe, or other person or enti-
2 ty affected by this subsection; or

3 “(II) affect the eminent domain
4 laws of the United States or of any
5 State.”;

6 (3) in subsection (c)(1), by inserting “and, pur-
7 suant to subsection (d), the installation, operation,
8 and maintenance of technology,” after “barriers and
9 roads”; and

10 (4) by adding at the end the following new sub-
11 sections:

12 “(e) INSTALLATION, OPERATION, AND MAINTENANCE OF TECHNOLOGY.—

13
14 “(1) IN GENERAL.—Not later than January 20,
15 2021, the Secretary of Homeland Security, in car-
16 rying out subsection (a), shall deploy the most prac-
17 tical and effective technology available along the
18 United States border for achieving situational
19 awareness and operational control of the border.

20 “(2) TECHNOLOGY DEFINED.—In this subpara-
21 graph, the term ‘technology’ includes border surveil-
22 lance and detection technology, including—

23 “(A) radar surveillance systems;

24 “(B) Vehicle and Dismount Exploitation
25 Radars (VADER);

1 “(C) 3-dimensional, seismic acoustic detec-
 2 tion and ranging border tunneling detection
 3 technology;

4 “(D) sensors;

5 “(E) unmanned cameras;

6 “(F) man-portable and mobile vehicle-
 7 mounted unmanned aerial vehicles; and

8 “(G) any other devices, tools, or systems
 9 found to be more effective or advanced than
 10 those specified in subparagraphs (A) through
 11 (F).

12 “(f) DEFINITIONS.—In this section, the term ‘situa-
 13 tional awareness’ has the meaning given the term in sec-
 14 tion 1092(a)(7) of the National Defense Authorization Act
 15 for Fiscal Year 2017 (Public Law 114–328).”.

16 **SEC. 4. COMPREHENSIVE SOUTHERN BORDER STRATEGY.**

17 (a) IN GENERAL.—Not later than 12 months after
 18 the date of the enactment of this section, the Secretary
 19 shall submit to the Committee on Homeland Security of
 20 the House of Representatives and the Committee on
 21 Homeland Security and Governmental Affairs of the Sen-
 22 ate a comprehensive Southern border strategy.

23 (b) CONTENTS.—The strategy submitted under sub-
 24 section (a) shall include—

1 (1) a list of known physical barriers, tech-
2 nologies, tools, and other devices that can be used to
3 achieve and maintain situational awareness and
4 operational control along the southern border;

5 (2) a projected per mile cost estimate for each
6 physical barrier, technology, tool, and other device
7 included on the list required under paragraph (1);

8 (3) a detailed account of which type of physical
9 barrier, technology, tool, or other device the Depart-
10 ment believes is necessary to achieve and maintain
11 situational awareness and operational control for
12 each linear mile of the southern border;

13 (4) an explanation for why such physical bar-
14 rier, technology, tool, or other device was chosen to
15 achieve and maintain situational awareness and
16 operational control for each linear mile of the south-
17 ern border, including—

18 (A) the methodology used to determine
19 which type of physical barrier, technology, tool,
20 or other device was chosen for such linear mile;

21 (B) an examination of existing manmade
22 and natural barriers for each linear mile of the
23 southern border; and

24 (C) the information collected and evaluated
25 from—

- 1 (i) the appropriate U.S. Customs and
- 2 Border Protection Sector Chief;
- 3 (ii) the Joint Task Force Commander;
- 4 (iii) the appropriate State Governor;
- 5 (iv) local law enforcement officials;
- 6 (v) private property owners; and
- 7 (vi) other affected stakeholders;

8 (5) a per mile cost calculation for each linear
9 mile of the southern border given the type of phys-
10 ical barrier, technology, tool, or other device chosen
11 to achieve and maintain operational control for each
12 linear mile; and

13 (6) a cost justification for each time a more ex-
14 pensive physical barrier, technology, tool, or other
15 device is chosen over a less expensive option, as es-
16 tablished by the per mile cost estimates required in
17 paragraph (2).

18 **SEC. 5. ERADICATION OF CANE ALONG THE RIO GRANDE**
19 **RIVER.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity shall take such actions as may be necessary, including
22 through cooperation with appropriate Federal and State
23 agencies, to permanently eradicate the cane, or *Arundo*
24 *donax*, that grows along the Rio Grande river.

1 (b) PROHIBITION ON ADDITIONAL FUNDING.—No
2 additional funds are authorized to be appropriated to
3 carry out this section. This section shall be carried out
4 using amounts otherwise authorized.

5 **SEC. 6. FUNDING.**

6 (a) USE OF CERTAIN FORFEITED CRIMINAL PRO-
7 CEEDS FOR BORDER SECURITY MEASURES.—Notwith-
8 standing any other provision of law, any illegally obtained
9 profits resulting from any criminal drug trafficking enter-
10 prise led by Joaquin Archivaldo Guzman Loera (commonly
11 known as “El Chapo”), which are criminally forfeited to
12 the United States Government as a result of the conviction
13 of Mr. Guzman Loera in Federal district court, shall be
14 reserved for security measures along the border between
15 the United States and Mexico, including to carry out this
16 Act and the amendments made by this Act, for the pur-
17 pose of furthering the Nation’s security.

18 (b) USE OF FORFEITED CRIMINAL PROCEEDS OF
19 OTHER CONVICTED CARTEL MEMBERS.—Notwith-
20 standing any other provision of law, any funds that are
21 criminally forfeited to the United States Government as
22 the result of a felony conviction in a Federal district court
23 of a member of a drug cartel—an individual engaging in
24 a continuing criminal enterprise involving knowingly and
25 intentionally distributing a controlled substance, intending

1 and knowing that such substance would be unlawfully im-
2 ported into the United States from a place outside of the
3 United States—shall be reserved for security measures
4 along the border between the United States and Mexico,
5 including to carry out this Act and the amendments made
6 by this Act, for the purpose of furthering the Nation’s se-
7 curity.

○