

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1417
OFFERED BY MR. MCCAUL OF TEXAS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Border Security Re-
3 sults Act of 2013”.

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

5 Not later than 90 days after the date of the enact-
6 ment of this Act, every 180 days thereafter until the
7 Comptroller General of the United States reports on the
8 results of the review described in section 3(k)(2)(B), and
9 every 365 days after the date of such report, the Secretary
10 of Homeland Security shall submit to the appropriate con-
11 gressional committees a report that assesses and describes
12 the state of situational awareness and operational control.

**13 SEC. 3. STRATEGY TO ACHIEVE SITUATIONAL AWARENESS
14 AND OPERATIONAL CONTROL OF THE BOR-
15 DER.**

16 (a) STRATEGY TO SECURE THE BORDER.—Not later
17 than 180 days after the date of the enactment of this Act,
18 the Secretary of Homeland Security shall submit to the

1 appropriate congressional committees a comprehensive
2 strategy for gaining and maintaining situational aware-
3 ness and operational control by the date that is not later
4 than two years after the date of the submission of the im-
5 plementation plan required under subsection (c).

6 (b) CONTENTS OF STRATEGY.—The strategy re-
7 quired under subsection (a) shall include, at a minimum,
8 a consideration of the following:

9 (1) An assessment of principal border security
10 threats.

11 (2) Efforts to analyze and disseminate border
12 security and border threat information between De-
13 partment of Homeland Security border security com-
14 ponents.

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

18 (A) surveillance capabilities developed or
19 utilized by the Department of Defense, includ-
20 ing any technology determined to be excess by
21 the Department of Defense; and

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

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

4 (5) Efforts to ensure that any new border secu-
5 rity technology can be operationally integrated with
6 existing technologies in use by the Department of
7 Homeland Security.

8 (6) An assessment of existing efforts and tech-
9 nologies used for border security and the effect of
10 the use of such efforts and technologies on civil
11 rights, private property rights, privacy rights, and
12 civil liberties.

13 (7) Technology required to maintain, support,
14 and enhance security and facilitate trade at ports of
15 entry, including nonintrusive detection equipment,
16 radiation detection equipment, biometric technology,
17 surveillance systems, and other sensors and tech-
18 nology that the Secretary of Homeland Security de-
19 termines necessary.

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

22 (9) Cooperative agreements with State, local,
23 tribal, territorial, and other Federal law enforcement
24 agencies that have jurisdiction on the northern or
25 southern borders, or in the maritime environment.

1 (10) Border security information received from
2 consultation with State, local, tribal, and Federal
3 law enforcement agencies that have jurisdiction on
4 the northern or southern border, or the maritime en-
5 vironment, and from border community stake-
6 holders, including representatives from border agri-
7 cultural and ranching organizations and representa-
8 tives from business organizations along the northern
9 or southern border.

10 (11) Agreements with foreign governments that
11 support the border security efforts of the United
12 States.

13 (12) Staffing requirements for all border secu-
14 rity functions.

15 (13) A prioritized list of research and develop-
16 ment objectives to enhance the security of the inter-
17 national land and maritime borders of the United
18 States.

19 (14) Metrics required under subsections (e), (f),
20 and (g).

21 (c) IMPLEMENTATION PLAN.—

22 (1) IN GENERAL.—Not later than 90 days after
23 the submission of the strategy required under sub-
24 section (a), the Secretary of Homeland Security
25 shall submit to the appropriate congressional com-

1 mittees and the Government Accountability Office
2 an implementation plan for each of the Department
3 of Homeland Security border security components to
4 carry out such strategy. Such implementation plan
5 shall include, at a minimum, a comprehensive border
6 security technology plan to improve surveillance ca-
7 pabilities. Such comprehensive border security tech-
8 nology plan shall include—

9 (A) a documented justification and ration-
10 ale for technology choices;

11 (B) deployment locations;

12 (C) fixed versus mobile assets;

13 (D) a timetable for procurement and de-
14 ployment;

15 (E) estimates of operation and mainte-
16 nance costs; and

17 (F) an identification of any impediments to
18 the deployment of such technologies.

19 (2) GOVERNMENT ACCOUNTABILITY OFFICE RE-
20 VIEW.—Not later than 90 days after receiving the
21 implementation plan in accordance with paragraph
22 (1), the Comptroller General of the United States
23 shall submit to the appropriate congressional com-
24 mittees a report on such plan.

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

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

11 (e) METRICS FOR SECURING THE BORDER BETWEEN
12 PORTS OF ENTRY.—Not later than 120 days after the
13 date of the enactment of this Act, the Secretary of Home-
14 land Security shall implement metrics, informed by situa-
15 tional awareness, to measure the effectiveness of security
16 between ports of entry, which shall include, at a minimum,
17 the following:

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

20 (2) An illicit drugs seizure rate which measures
21 the amount of illicit drugs seized by the Border Pa-
22 trol in any fiscal year compared to an average of the
23 amount of illicit drugs seized by the Border Patrol
24 for the immediately preceding five fiscal years.

1 (3) A cocaine seizure effectiveness rate meas-
2 ured as a percentage that results from dividing the
3 amount of cocaine seized by the Border Patrol by
4 the total documented cocaine flow rate as contained
5 in Federal drug databases.

6 (4) Estimates, using alternative methodologies,
7 including recidivism data, survey data, known-flow
8 data, and technologically-measured data, of total at-
9 tempted illegal border crossings, the rate of appre-
10 hension of attempted illegal border crossers, and the
11 inflow into the United States of illegal border cross-
12 ers who evade apprehension.

13 (5) Estimates of the impact of the Border Pa-
14 trol's Consequence Delivery System on the rate of
15 recidivism of illegal border crossers.

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

18 (1) IN GENERAL.—Not later than 120 days
19 after the date of the enactment of this Act, the Sec-
20 retary of Homeland Security shall implement
21 metrics, informed by situational awareness, to meas-
22 ure the effectiveness of security at ports of entry,
23 which shall include, at a minimum, the following:

24 (A) An inadmissible border crossing rate
25 which measures the number of known inadmis-

1 sible border crossers who are apprehended, ex-
2 cluding those border crossers who voluntarily
3 withdraw their applications for admission,
4 against the total estimated number of inadmis-
5 sible border crossers U.S. Customs and Border
6 Protection fails to apprehend.

7 (B) An illicit drugs seizure rate which
8 measures the amount of illicit drugs seized by
9 U.S. Customs and Border Protection in any fis-
10 cal year compared to an average of the amount
11 of illicit drugs seized by U.S. Customs and Bor-
12 der Protection for the immediately preceding
13 five fiscal years.

14 (C) A cocaine seizure effectiveness rate
15 measured as a percentage that results from di-
16 viding the amount of cocaine seized by U.S.
17 Customs and Border Protection by the total
18 documented cocaine flow rate as contained in
19 Federal drug databases.

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

1 States of inadmissible border crossers who
2 evade apprehension.

3 (E) The number of infractions related to
4 personnel and cargo committed by major viola-
5 tors who are apprehended by U.S. Customs and
6 Border Protection at ports of entry, and the es-
7 timated number of such infractions committed
8 by major violators who are not so apprehended.

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

11 (2) COVERT TESTING.—The Inspector General
12 of the Department of Homeland Security shall carry
13 out covert testing at ports of entry and submit to
14 the Secretary of Homeland Security and the appro-
15 priate congressional committees a report that con-
16 tains the results of such testing. The Secretary shall
17 use such results to inform activities under this sub-
18 section.

19 (g) METRICS FOR SECURING THE MARITIME BOR-
20 DER.—Not later than 120 days after the date of the enact-
21 ment of this Act, the Secretary of Homeland Security shall
22 implement metrics, informed by situational awareness, to
23 measure the effectiveness of security in the maritime envi-
24 ronment, which shall include, at a minimum, the following:

1 (1) An estimate of the total number of undocu-
2 mented migrants the Department of Homeland Se-
3 curity's maritime security components fail to inter-
4 dict.

5 (2) An undocumented migrant interdiction rate
6 which measures the number of undocumented mi-
7 grants interdicted against the total estimated num-
8 ber of undocumented migrants the Department of
9 Homeland Security's maritime security components
10 fail to interdict.

11 (3) An illicit drugs removal rate which meas-
12 ures the amount of illicit drugs removed by the De-
13 partment of Homeland Security's maritime security
14 components inside a transit zone in any fiscal year
15 compared to an average of the amount of illicit
16 drugs removed by the Department of Homeland Se-
17 curity's maritime security components inside a tran-
18 sit zone for the immediately preceding five fiscal
19 years.

20 (4) An illicit drugs removal rate which meas-
21 ures the amount of illicit drugs removed by the De-
22 partment of Homeland Security's maritime security
23 components outside a transit zone in any fiscal year
24 compared to an average of the amount of illicit
25 drugs removed by the Department of Homeland Se-

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

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

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

8 (7) A response rate which measures the Depart-
9 ment of Homeland Security's ability to respond to
10 and resolve known maritime threats, both inside and
11 outside a transit zone, by placing assets on-scene,
12 compared to the total number of events with respect
13 to which the Department has known threat informa-
14 tion.

15 (h) COLLABORATION.—The Secretary of Homeland
16 Security shall collaborate with the head of a national lab-
17 oratory within the Department of Homeland Security lab-
18 oratory network with prior expertise in border security
19 and the head of a border security university-based center
20 within the Department of Homeland Security centers of
21 excellence network to develop the metrics required under
22 subsections (e), (f), and (g) to ensure the suitability and
23 statistical validity of each such metric.

24 (i) RECOMMENDATIONS RELATING TO CERTAIN
25 OTHER METRICS.—In carrying out subsection (h), the

1 head of the national laboratory and the head of a border
2 security university-based center referred to in such sub-
3 section shall make recommendations to the Secretary of
4 Homeland Security for other suitable metrics that may be
5 used to measure the effectiveness of border security.

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

8 (1) IN GENERAL.—The Secretary of Homeland
9 Security shall make available to the Government Ac-
10 countability Office the data and methodology used to
11 develop the metrics implemented under subsections
12 (e), (f), and (g).

13 (2) REPORT.—Not later than 270 days after re-
14 ceiving the data and methodology referred to in
15 paragraph (1), the Comptroller General of the
16 United States shall submit to the appropriate con-
17 gressional committees a report on the suitability and
18 statistical validity of such data and methodology.

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

21 (1) BY THE SECRETARY OF HOMELAND SECUR-
22 ITY.—If the Secretary of Homeland Security deter-
23 mines that situational awareness and operational
24 control have been achieved by the date that is not
25 later than two years after the date of the submission

1 of the implementation plan required under sub-
2 section (c), the Secretary shall submit to the appro-
3 priate congressional committees and the Comptroller
4 General of the United States a certification that so
5 attests.

6 (2) BY THE COMPTROLLER GENERAL.—

7 (A) REVIEW.—The Comptroller General of
8 the United States shall review the certification
9 of the Secretary of Homeland Security under
10 paragraph (1) to assess the certification of the
11 Secretary relating to the achievement of situa-
12 tional awareness and operational control in ac-
13 cordance with such paragraph.

14 (B) REPORT.—Not later than 120 days
15 after conducting the review described in sub-
16 paragraph (A), the Comptroller General of the
17 United States shall submit to the appropriate
18 congressional committees a report on the re-
19 sults of such review.

20 (1) FAILURE TO ACHIEVE SITUATIONAL AWARENESS
21 OR OPERATIONAL CONTROL.—If the Secretary of Home-
22 land Security determines that situational awareness or
23 operational control, or both, has not been achieved by the
24 date referred to in subsection (a), the Secretary shall, not
25 later than 60 days after such date, submit to the appro-

1 priate congressional committees a report that describes
2 why situational awareness or operational control, or both,
3 as the case may be, was not achieved.

4 (m) GOVERNMENT ACCOUNTABILITY OFFICE RE-
5 PORT ON BORDER SECURITY DUPLICATION.—Not later
6 than one year after the date of the enactment of this Act,
7 the Comptroller General of the United States shall submit
8 to the appropriate congressional committees a report ad-
9 dressing areas of overlap in responsibilities within the bor-
10 der security functions of the Department of Homeland Se-
11 curity.

12 (n) REPORTS.—Not later than 60 days after the date
13 of the enactment of this Act and annually thereafter, the
14 Secretary of Homeland Security shall submit to the appro-
15 priate congressional committee a report on the following:

16 (1) A resource allocation model for current and
17 future year staffing requirements that includes opti-
18 mal staffing levels at all land, air, and sea ports of
19 entry, and an explanation of U.S. Customs and Bor-
20 der Protection methodology for aligning staffing lev-
21 els and workload to threats and vulnerabilities and
22 their effects on cross border trade and passenger
23 travel across all mission areas.

24 (2) Detailed information on the level of man-
25 power available at all land, air, and sea ports of

1 entry and between ports of entry, including the num-
2 ber of canine and agricultural specialists assigned to
3 each such port of entry.

4 (3) Detailed information that describes the dif-
5 ference between the staffing the model suggests and
6 the actual staffing at each port of entry and between
7 the ports of entry.

8 (o) DEFINITIONS.—In this Act:

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

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

23 (3) CONSEQUENCE DELIVERY SYSTEM.—The
24 term “Consequence Delivery System” means the se-
25 ries of consequences applied to persons illegally en-

1 tering the United States by the Border Patrol to
2 prevent illegal border crossing recidivism.

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

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

13 (6) ILLEGAL BORDER CROSSING EFFECTIVE-
14 NESS RATE.— The term “illegal border crossing ef-
15 fectiveness rate” means the percentage that results
16 from dividing the number of apprehensions and turn
17 backs by the number of apprehensions, turn backs,
18 and got aways.

19 (7) 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 illicit drugs,
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 (8) OPERATIONAL CONTROL.—The term “oper-
4 ational control” means a condition in high traffic
5 areas in which there is a not lower than 90 percent
6 illegal border crossing effectiveness rate, informed by
7 situational awareness, and a significant reduction in
8 the movement of illicit drugs and other contraband
9 through such areas is being achieved.

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

18 (10) TRANSIT ZONE.—The term “transit zone”
19 means the sea corridors of the western Atlantic
20 Ocean, the Gulf of Mexico, the Caribbean Sea, and
21 the eastern Pacific Ocean through which undocu-
22 mented migrants and illicit drugs transit, either di-
23 rectly or indirectly, to the United States.

24 (11) TURN BACK.—The term “turn back”
25 means an illegal border crosser who, after making

- 1 an illegal entry into the United States, returns to
- 2 the country from which such crosser entered.

