

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO THE RULES COMMITTEE PRINT FOR H.R. 399
OFFERED BY MS. JACKSON LEE 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 2015”.

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

5 (a) IN GENERAL.—Not later than 90 days after the
6 date of the enactment of this Act, every 180 days there-
7 after until the Comptroller General of the United States
8 reports on the results of the review described in section
9 3(k)(2)(B), and every 365 days after the date of such re-
10 port, the Secretary of Homeland Security shall submit to
11 the appropriate congressional committees and the Govern-
12 ment Accountability Office a report that assesses and de-
13 scribes the state of situational awareness and operational
14 control. Such reports shall include an identification of the
15 high traffic areas and the illegal border crossing effective-
16 ness rate for each sector along the northern and southern
17 borders of the United States that are within the responsi-
18 bility of the Border Patrol.

1 (b) GAO REPORT.—Not later than 90 days after re-
2 ceiving the initial report required under subsection (a), the
3 Comptroller General of the United States shall report to
4 the appropriate congressional committees regarding the
5 verification of the data and methodology used to determine
6 high traffic areas and the illegal border crossing effective-
7 ness rate.

8 **SEC. 3. STRATEGY TO ACHIEVE SITUATIONAL AWARENESS**
9 **AND OPERATIONAL CONTROL OF THE BOR-**
10 **DER.**

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

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

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

5 (2) Efforts to analyze and disseminate border
6 security and border threat information between De-
7 partment of Homeland Security border security com-
8 ponents and with other appropriate Federal depart-
9 ments and agencies with missions associated with
10 the border.

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

14 (A) surveillance capabilities developed or
15 utilized by the Department of Defense, includ-
16 ing any technology determined to be excess by
17 the Department of Defense; and

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

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

24 (5) Efforts to ensure that any new border secu-
25 rity technology can be operationally integrated with

1 existing technologies in use by the Department of
2 Homeland Security.

3 (6) An assessment of existing efforts and tech-
4 nologies used for border security and the effect of
5 the use of such efforts and technologies on civil
6 rights, private property rights, privacy rights, and
7 civil liberties.

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

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

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

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

24 (11) Border security information received from
25 consultation with State, local, tribal, and Federal

1 law enforcement agencies that have jurisdiction on
2 the northern or southern border, or in the maritime
3 environment, and from border community stake-
4 holders (including through public meetings with such
5 stakeholders), including representatives from border
6 agricultural and ranching organizations and rep-
7 resentatives from business and civic organizations
8 along the northern or southern border.

9 (12) Agreements with foreign governments that
10 support the border security efforts of the United
11 States, including coordinated installation of stand-
12 ardized land border inspection technology, such as li-
13 cense plate readers and RFID readers.

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

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

20 (15) An assessment of training programs, in-
21 cluding training programs regarding—

22 (A) identifying and detecting fraudulent
23 documents;

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

1 (C) understanding the scope of enforce-
2 ment authorities and the use of force policies;

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

6 (E) social and cultural sensitivity toward
7 border communities.

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

10 (17) An assessment of how border security op-
11 erations affect crossing times.

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

14 (c) IMPLEMENTATION PLAN.—

15 (1) IN GENERAL.—Not later than 90 days after
16 the submission of the strategy required under sub-
17 section (a), the Secretary of Homeland Security
18 shall submit to the appropriate congressional com-
19 mittees and the Government Accountability Office
20 an implementation plan for each of the Department
21 of Homeland Security border security components to
22 carry out such strategy. Such implementation plan
23 shall, at a minimum—

24 (A) specify what protections will be put in
25 place to ensure that staffing and resources nec-

1 essary for the maintenance of operations at
2 ports of entry are not diverted to the detriment
3 of such operations in favor of operations be-
4 tween ports of entry; and

5 (B) include—

6 (i) an integrated master schedule and
7 cost estimate, including lifecycle costs, for
8 the activities contained in such implemen-
9 tation plan; and

10 (ii) a comprehensive border security
11 technology plan to improve surveillance ca-
12 pabilities that includes—

13 (I) a documented justification
14 and rationale for technology choices;

15 (II) deployment locations;

16 (III) fixed versus mobile assets;

17 (IV) a timetable for procurement
18 and deployment;

19 (V) estimates of operation and
20 maintenance costs;

21 (VI) an identification of any im-
22 pediments to the deployment of such
23 technologies; and

24 (VII) estimates of the relative
25 cost effectiveness of various border se-

1 security strategies and operations, in-
2 cluding deployment of personnel and
3 technology, and construction of new
4 physical and virtual barriers.

5 (2) GOVERNMENT ACCOUNTABILITY OFFICE RE-
6 VIEW.—Not later than 90 days after receiving the
7 implementation plan in accordance with paragraph
8 (1), the Comptroller General of the United States
9 shall submit to the appropriate congressional com-
10 mittees a report on such plan.

11 (d) PERIODIC UPDATES.—Not later than 180 days
12 after the submission of each Quadrennial Homeland Secu-
13 rity Review required under section 707 of the Homeland
14 Security Act of 2002 (6 U.S.C. 347) beginning with the
15 first such Review that is due after the implementation
16 plan is submitted under subsection (c), the Secretary of
17 Homeland Security shall submit to the appropriate con-
18 gressional committees an updated—

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

20 (2) implementation plan under subsection (c).

21 (e) METRICS FOR SECURING THE BORDER BETWEEN
22 PORTS OF ENTRY.—Not later than 120 days after the
23 date of the enactment of this Act, the Secretary of Home-
24 land Security shall implement metrics, informed by situa-
25 tional awareness, to measure the effectiveness of security

1 between ports of entry, which shall include, at a minimum,
2 the following:

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

5 (2) An illicit drugs seizure rate which measures
6 the amount and type of illicit drugs seized by the
7 Border Patrol in any fiscal year compared to an av-
8 erage of the amount and type of illicit drugs seized
9 by the Border Patrol for the immediately preceding
10 five fiscal years.

11 (3) A cocaine seizure effectiveness rate meas-
12 ured as a percentage that results from dividing the
13 amount of cocaine seized by the Border Patrol by
14 the total documented cocaine flow rate as contained
15 in Federal drug databases.

16 (4) Estimates, using alternative methodologies,
17 including recidivism data, survey data, known-flow
18 data, and technologically-measured data, of total at-
19 tempted illegal border crossings, total deaths and in-
20 juries resulting from such attempted illegal border
21 crossings, the rate of apprehension of attempted ille-
22 gal border crossers, and the inflow into the United
23 States of illegal border crossers who evade apprehen-
24 sion.

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

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

6 (1) IN GENERAL.—Not later than 120 days
7 after the date of the enactment of this Act, the Sec-
8 retary of Homeland Security shall implement
9 metrics, informed by situational awareness, to meas-
10 ure the effectiveness of security at ports of entry,
11 which shall include, at a minimum, the following:

12 (A) An inadmissible border crossing rate
13 which measures the number of known inadmis-
14 sible border crossers who are apprehended, ex-
15 cluding those border crossers who voluntarily
16 withdraw their applications for admission,
17 against the total estimated number of inadmis-
18 sible border crossers U.S. Customs and Border
19 Protection fails to apprehend.

20 (B) An illicit drugs seizure rate which
21 measures the amount and type of illicit drugs
22 seized by U.S. Customs and Border Protection
23 in any fiscal year compared to an average of
24 the amount and type of illicit drugs seized by

1 U.S. Customs and Border Protection for the
2 immediately preceding five fiscal years.

3 (C) A cocaine seizure effectiveness rate
4 measured as a percentage that results from di-
5 viding the amount of cocaine seized by U.S.
6 Customs and Border Protection by the total
7 documented cocaine flow rate as contained in
8 Federal drug databases.

9 (D) Estimates, using alternative meth-
10 odologies, including survey data and random-
11 ized secondary screening data, of total at-
12 tempted inadmissible border crossers, the rate
13 of apprehension of attempted inadmissible bor-
14 der crossers, and the inflow into the United
15 States of inadmissible border crossers who
16 evade apprehension.

17 (E) The number of infractions related to
18 personnel and cargo committed by major viola-
19 tors who are apprehended by U.S. Customs and
20 Border Protection at ports of entry, and the es-
21 timated number of such infractions committed
22 by major violators who are not so apprehended.

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

1 (2) COVERT TESTING.—The Inspector General
2 of the Department of Homeland Security shall carry
3 out covert testing at ports of entry and submit to
4 the Secretary of Homeland Security and the appro-
5 priate congressional committees a report that con-
6 tains the results of such testing. The Secretary shall
7 use such results to inform activities under this sub-
8 section.

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

15 (1) An estimate of the total number of undocu-
16 mented migrants the Department of Homeland Se-
17 curity’s maritime security components fail to inter-
18 dict.

19 (2) An undocumented migrant interdiction rate
20 which measures the number of undocumented mi-
21 grants interdicted against the total estimated num-
22 ber of undocumented migrants the Department of
23 Homeland Security’s maritime security components
24 fail to interdict.

1 (3) An illicit drugs removal rate which meas-
2 ures the amount and type of illicit drugs removed by
3 the Department of Homeland Security's maritime
4 security components inside a transit zone in any fis-
5 cal year compared to an average of the amount and
6 type of illicit drugs removed by the Department of
7 Homeland Security's maritime security components
8 inside a transit zone for the immediately preceding
9 five fiscal years.

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

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

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

23 (7) A response rate which measures the Depart-
24 ment of Homeland Security's ability to respond to
25 and resolve known maritime threats, both inside and

1 outside a transit zone, by placing assets on-scene,
2 compared to the total number of events with respect
3 to which the Department has known threat informa-
4 tion.

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

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

24 (j) EVALUATION BY THE GOVERNMENT ACCOUNT-
25 ABILITY OFFICE.—

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

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

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

14 (1) BY THE SECRETARY OF HOMELAND SECUR-
15 RITY.—

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

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

11 (C) ANNUAL UPDATES.—Every year begin-
12 ning with the year after the Secretary of Home-
13 land Security submits the certification under
14 subparagraph (B), if the Secretary determines
15 that operational control along the southwest
16 border of the United States is being main-
17 tained, the Secretary shall submit to the appro-
18 priate congressional committees and the Comp-
19 troller General of the United States a certifi-
20 cation that so attests.

21 (2) BY THE COMPTROLLER GENERAL.—

22 (A) REVIEWS.—The Comptroller General
23 of the United States shall review the certifi-
24 cations of the Secretary of Homeland Security
25 under subparagraphs (A), (B), and (C) of para-

1 graph (1) to assess the certifications of the Sec-
2 retary relating to the achievement of situational
3 awareness, operational control, or both, as the
4 case may be, in accordance with such subpara-
5 graphs.

6 (B) REPORTS.—Not later than 120 days
7 after conducting the reviews described in sub-
8 paragraph (A), the Comptroller General of the
9 United States shall submit to the appropriate
10 congressional committees a report on the re-
11 sults of each such review.

12 (I) FAILURE TO ACHIEVE SITUATIONAL AWARENESS
13 OR OPERATIONAL CONTROL.—If the Secretary of Home-
14 land Security determines that situational awareness, oper-
15 ational control, or both, as the case may be, has not been
16 achieved by the dates referred to in subparagraphs (A)
17 and (B) of subsection (k)(1), as the case may be, or if
18 the Secretary determines that operational control is not
19 being annually maintained pursuant to subparagraph (C)
20 of such subsection, the Secretary shall, not later than 60
21 days after such dates, submit to the appropriate congres-
22 sional committees a report that describes why situational
23 awareness or operational control, or both, as the case may
24 be, was not achieved. Such report shall include, at a min-
25 imum, impediments incurred, potential remedies, and rec-

1 ommendations to achieve situational awareness, oper-
2 ational control, or both, as the case may be.

3 (m) GOVERNMENT ACCOUNTABILITY OFFICE RE-
4 PORT ON BORDER SECURITY DUPLICATION AND COST
5 EFFECTIVENESS.—Not later than one year after the date
6 of the enactment of this Act, the Comptroller General of
7 the United States shall submit to the appropriate congres-
8 sional committees a report addressing areas of overlap in
9 responsibilities within the border security functions of the
10 Department of Homeland Security and the relative cost
11 effectiveness of border security strategies, including de-
12 ployment of additional personnel and technology, and con-
13 struction of virtual and physical barriers.

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

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

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

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

10 (4) Detailed information that examines both the
11 security impacts and competitive impacts of entering
12 into a reimbursement agreement with foreign gov-
13 ernments for U.S. Customs and Border Protection
14 preclearance facilities.

15 (o) DEFINITIONS.—In this Act:

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

22 (2) COCAINE REMOVAL EFFECTIVENESS
23 RATE.—The term “cocaine removal effectiveness
24 rate” means the percentage that results from divid-
25 ing the amount of cocaine removed by the Depart-

1 ment of Homeland Security’s maritime security com-
2 ponents inside or outside a transit zone, as the case
3 may be, by the total documented cocaine flow rate
4 as contained in Federal drug databases.

5 (3) CONSEQUENCE DELIVERY SYSTEM.—The
6 term “Consequence Delivery System” means the se-
7 ries of consequences applied to persons illegally en-
8 tering the United States by the Border Patrol to
9 prevent illegal border crossing recidivism.

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

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

20 (6) ILLEGAL BORDER CROSSING EFFECTIVE-
21 NESS RATE.—The term “illegal border crossing ef-
22 fectiveness rate” means the percentage that results
23 from dividing the number of apprehensions and turn
24 backs by the number of apprehensions, turn backs,
25 and got aways. The data used by the Secretary of

1 Homeland Security to determine such rate shall be
2 collected and reported in a consistent and standard-
3 ized manner across all Border Patrol sectors.

4 (7) MAJOR VIOLATOR.—The term “major viola-
5 tor” means a person or entity that has engaged in
6 serious criminal activities at any land, air, or sea
7 port of entry, including possession of illicit drugs,
8 smuggling of prohibited products, human smuggling,
9 weapons possession, use of fraudulent United States
10 documents, or other offenses serious enough to re-
11 sult in arrest.

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

19 (9) SITUATIONAL AWARENESS.—The term “sit-
20 uational awareness” means knowledge and an under-
21 standing of current illicit cross-border activity, in-
22 cluding cross-border threats and trends concerning
23 illicit trafficking and unlawful crossings along the
24 international borders of the United States and in the

1 maritime environment, and the ability to forecast fu-
2 ture shifts in such threats and trends.

3 (10) TRANSIT ZONE.—The term “transit zone”
4 means the sea corridors of the western Atlantic
5 Ocean, the Gulf of Mexico, the Caribbean Sea, and
6 the eastern Pacific Ocean through which undocu-
7 mented migrants and illicit drugs transit, either di-
8 rectly or indirectly, to the United States.

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

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

14 Not later than 180 days after the date of the enact-
15 ment of this Act, the Secretary of Homeland Security shall
16 submit to the appropriate congressional committees a plan
17 to implement immediately a biometric exit capability at
18 ports of entry under the US-VISIT program, in accord-
19 ance with the Enhanced Security and Visa Entry Reform
20 Act of 2002 (Public Law 107–173). If the Secretary deter-
21 mines that development of such a system is not feasible,
22 the Secretary shall, not later than 180 days after the date
23 of the enactment of this Act, submit to the appropriate
24 congressional committees a plan to implement, not later

1 than two years after such date of enactment, an alter-
2 native program to provide the same level of security.

3 **SEC. 5. PROHIBITION ON LAND BORDER CROSSING FEE**
4 **STUDY.**

5 The Secretary of Homeland Security may not con-
6 duct any study relating to the imposition of a border cross-
7 ing fee for pedestrians or passenger vehicles at land ports
8 of entry along the southern border or the northern border
9 of the United States.

Amend the title so as to read: “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.”.

