

Union Calendar No. 184

112TH CONGRESS
1ST SESSION

H. R. 1299

[Report No. 112-274]

To achieve operational control of and improve security at the international land borders of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 2011

Mrs. MILLER of Michigan (for herself, Mr. KING of New York, Mrs. BLACKBURN, Mr. FRANKS of Arizona, Mr. BURTON of Indiana, Mr. WALBERG, Mr. QUAYLE, Mr. ROGERS of Alabama, Mr. LONG, Mr. McCAUL, Mr. WALSH of Illinois, Mr. POE of Texas, Mr. BILIRAKIS, Mr. WESTMORELAND, Mr. DUNCAN of South Carolina, Mr. CANSECO, Mr. DANIEL E. LUNGREN of California, Mr. COFFMAN of Colorado, and Mrs. MCMORRIS RODGERS) introduced the following bill; which was referred to the Committee on Homeland Security

NOVEMBER 10, 2011

Additional sponsors: Mr. GOHMERT, Mrs. MYRICK, Mr. SCOTT of South Carolina, Mr. BARTLETT, Mr. OLSON, Mr. FORBES, Mr. GINGREY of Georgia, Mr. BARLETTA, Mr. YOUNG of Indiana, Mr. KLINE, Mr. TIBERI, Mr. BRADY of Texas, Mr. HUNTER, and Mr. GOSAR

NOVEMBER 10, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To achieve operational control of and improve security at the international land 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 “Secure Border Act of
5 2011”.

6 **SEC. 2. STRATEGY TO ACHIEVE OPERATIONAL CONTROL**
7 **OF THE BORDER.**

8 (a) FINDINGS.—Congress finds the following:

9 (1) The border shared by the United States and
10 Mexico, and numerous Mexican towns in close prox-
11 imity to that border, have experienced a dramatic
12 surge in crime and violence to ongoing activity
13 among rival Mexican drug cartels and criminal
14 smuggling organizations that employ predatory tac-
15 tics to realize their profits.

16 (2) In August 2005, the States of New Mexico
17 and Arizona declared states of emergency in order to
18 provide local law enforcement immediate assistance
19 in addressing criminal activity along the Southwest
20 border.

21 (3) A recent Government Accountability Office
22 report found that only 44 percent of the Southwest
23 border was under operational control, and less than
24 two percent of the Northern border is under oper-
25 ational control.

1 (4) It is the obligation of the Federal Govern-
2 ment to adequately secure the borders of the United
3 States and prevent the flow into the United States
4 of undocumented persons, unlawful drugs, and other
5 contraband.

6 (b) STRATEGY.—Not later than 180 days after the
7 date of the enactment of this Act, the Secretary of Home-
8 land Security shall submit to the Committee on Homeland
9 Security of the House of Representatives and the Com-
10 mittee on Homeland Security and Governmental Affairs
11 Committee of the Senate a comprehensive strategy for
12 gaining operational control of the international borders of
13 the United States within five years. The strategy shall in-
14 clude an analysis of the following:

15 (1) Staffing requirements for all border security
16 functions.

17 (2) Investment in infrastructure, including pe-
18 destrian fencing, vehicle barriers, and roads.

19 (3) The use of unmanned aerial vehicles, cam-
20 era technology, and sensors.

21 (4) Cooperation agreements with international,
22 State, local, tribal, and other Federal law enforce-
23 ment agencies that have jurisdiction on the border.

1 (5) Other means designed to detect, respond to,
2 and interdict cross-border unlawful activity and to
3 reduce the level of violence.

4 (6) A schedule for implementing security meas-
5 ures, including a prioritization for future invest-
6 ments.

7 (7) Considerations of risks to border commu-
8 nities and law enforcement.

9 (c) **OPERATIONAL CONTROL DEFINED.**—In this Act,
10 the term “operational control” has the meaning given such
11 term in section 2(b) of the Secure Fence Act of 2006 (8
12 U.S.C. 1701 note; Public Law 109–367).

13 **SECTION 1. SHORT TITLE.**

14 *This Act may be cited as the “Secure Border Act of*
15 *2011”.*

16 **SEC. 2. STRATEGY TO ACHIEVE OPERATIONAL CONTROL OF**
17 **THE BORDER.**

18 (a) *STRATEGY TO SECURE THE BORDER BETWEEN*
19 *THE PORTS OF ENTRY.*—Not later than 180 days after the
20 *date of the enactment of this Act, the Secretary of Homeland*
21 *Security shall submit to the appropriate congressional com-*
22 *mittees a comprehensive strategy for gaining, within five*
23 *years, operational control of the international borders be-*
24 *tween the ports of entry of the United States. The strategy*
25 *shall include an analysis of the following:*

1 (1) *Staffing requirements for all border security*
2 *functions.*

3 (2) *Investment in infrastructure, including pe-*
4 *destrian fencing, vehicle barriers, and roads.*

5 (3) *The use of unmanned aerial vehicles, camera*
6 *technology, sensors, and other innovative technology*
7 *as the Secretary may determine.*

8 (4) *Cooperative agreements with international,*
9 *State, local, tribal, and other Federal law enforcement*
10 *agencies that have jurisdiction on the northern border*
11 *and southern border.*

12 (5) *Other means designed to detect, respond to,*
13 *and interdict unlawful cross-border activity and to*
14 *reduce the level of violence.*

15 (6) *A schedule for implementing security meas-*
16 *ures, including a prioritization for future invest-*
17 *ments.*

18 (7) *A comprehensive technology plan for major*
19 *surveillance and detection technology programs, in-*
20 *cluding a justification and rationale for technology*
21 *choices and deployment locations.*

22 (8) *The recommendations made in the December*
23 *2010 Government Accountability Office report enti-*
24 *tled “Enhanced DHS Oversight and Assessment of*

1 *Interagency Coordination is Needed for the Northern*
2 *Border”.*

3 *(b) SECURING THE BORDER AT PORTS OF ENTRY.—*

4 *Not later than 180 days after the date of the enactment of*
5 *this Act, the Secretary of Homeland Security shall develop*
6 *metrics to measure the effectiveness of security at ports of*
7 *entry, which shall consider, at minimum, the following:*

8 *(1) The number of infractions related to per-*
9 *sonnel and cargo committed by major violators who*
10 *are apprehended by U.S. Customs and Border Protec-*
11 *tion at such ports of entry.*

12 *(2) The estimated number of such infractions*
13 *committed by major violators who are not so appre-*
14 *hended.*

15 *(3) The required number of U.S. Customs and*
16 *Border Protection Officers, Agricultural Specialists,*
17 *and Canine Enforcement Officers necessary to achieve*
18 *operational control at such ports of entry.*

19 *(4) Infrastructure improvements required to*
20 *achieve operational control at such ports of entry, in-*
21 *cluding the installation of nonintrusive detection*
22 *equipment, radiation portal monitors, biometrics, and*
23 *other sensors and technology that the Secretary deter-*
24 *mines necessary.*

1 (5) *The deployment of resources based on the*
2 *overall commercial and passenger traffic, cargo vol-*
3 *ume, and threat environment at such ports of entry.*

4 (6) *The recommendations made in the December*
5 *2010 Government Accountability Office report enti-*
6 *tled “Enhanced DHS Oversight and Assessment of*
7 *Interagency Coordination is Needed for the Northern*
8 *Border”.*

9 (c) *EVALUATION BY DEPARTMENT OF ENERGY NA-*
10 *TIONAL LABORATORY.—The Secretary of Homeland Secu-*
11 *rity shall request the head of an appropriate Department*
12 *of Energy National Laboratory with prior expertise in bor-*
13 *der security to evaluate the measurement system required*
14 *under subsection (b) to ensure its suitability and statistical*
15 *validity for analyzing progress for the interdiction of illegal*
16 *crossing and contraband at ports of entry.*

17 (d) *CONSIDERATION OF ALTERNATIVE BORDER SECU-*
18 *RITY STANDARDS.—If in developing the strategic plan re-*
19 *quired under subsection (a) the Secretary of Homeland Se-*
20 *curity makes a determination to measure security between*
21 *border ports of entry by a standard other than operational*
22 *control, the Secretary shall request the head of an appro-*
23 *priate Department of Energy National Laboratory with*
24 *prior expertise in border security to evaluate such alter-*
25 *native standard to ensure the suitability and statistical va-*

1 lidity of such standard with respect to measuring the
2 progress for the interdiction of illegal crossings and contra-
3 band that pass between such ports of entry.

4 (e) *REPORTS.*—Not later than 60 days after the date
5 of the enactment of this Act and annually thereafter, the
6 Secretary of Homeland Security shall submit the appro-
7 priate congressional committee a report on the following:

8 (1) *A resource allocation model for current and*
9 *future year staffing requirements that includes opti-*
10 *mal staffing levels at all land, air, and sea ports of*
11 *entry and an explanation of U.S. Customs and Bor-*
12 *der Protection methodology for aligning staffing levels*
13 *and workload to threats and vulnerabilities across all*
14 *mission areas.*

15 (2) *Detailed information on the level of man-*
16 *power data available at all land, air, and sea ports*
17 *of entry, including the number of canine and agricul-*
18 *tural officers assigned to each such port of entry.*

19 (f) *DEFINITIONS.*—*In this Act:*

20 (1) *APPROPRIATE CONGRESSIONAL COM-*
21 *MITTEE.*—*The term “appropriate congressional com-*
22 *mittee” means the Committee on Homeland Security*
23 *of the House of Representatives and the Committee on*
24 *Homeland Security and Governmental Affairs of the*
25 *Senate.*

1 (2) *MAJOR VIOLATOR.*—*The term “major viola-*
2 *tor” means a person or entity that is or has engaged*
3 *in serious criminal activities at any land, air, or sea*
4 *port of entry, including possession of narcotics, smug-*
5 *gling of prohibited products, human smuggling, weap-*
6 *ons possession, use of fraudulent United States docu-*
7 *ments, and other offenses serious enough to result in*
8 *arrest.*

9 (3) *OPERATIONAL CONTROL.*—*The term “oper-*
10 *ational control” has the meaning given such term in*
11 *section 2(b) of the Secure Fence Act of 2006 (8 U.S.C.*
12 *1701 note; Public Law 109–367).*

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