

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for
other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. LEE

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

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-
9 retary of Homeland Security shall submit to the appro-
10 priate congressional committees a report that assesses and
11 describes, as of such date, the state of operational control
12 of the international borders of the United States.

1 **SEC. 3. STRATEGY TO ACHIEVE OPERATIONAL CONTROL**
2 **OF THE BORDER.**

3 (a) STRATEGY TO SECURE THE BORDER.—Not later
4 than 120 days after the date of the enactment of this Act,
5 the Secretary of Homeland Security shall submit to the
6 appropriate congressional committees a comprehensive
7 strategy for gaining and maintaining operational control
8 of all sectors of the international borders of the United
9 States by the date that is not later than 2 years after
10 the date of the submission of the implementation plan re-
11 quired under subsection (b). The strategy shall include,
12 at a minimum, a consideration of the following:

13 (1) An assessment of principal border security
14 threats.

15 (2) Efforts to analyze and disseminate border
16 security and border threat information between De-
17 partment of Homeland Security border security com-
18 ponents.

19 (3) Efforts to increase situational awareness.

20 (4) A comprehensive border security technology
21 plan for detection technology capabilities, including a
22 documented justification and rationale for tech-
23 nology choices, deployment locations, fixed versus
24 mobile assets, and a timetable for procurement and
25 deployment.

1 (5) Surveillance capabilities developed or uti-
2 lized by the Department of Defense, including any
3 technology determined to be excess by the Depart-
4 ment of Defense.

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

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

13 (8) Operational coordination of Department of
14 Homeland Security border security components.

15 (9) Cooperative agreements with State, local,
16 tribal, and other Federal law enforcement agencies
17 that have jurisdiction on the northern border, south-
18 ern border, and in the maritime environment.

19 (10) Agreements with foreign governments that
20 support the border security efforts of the United
21 States.

22 (11) Staffing requirements for all border secu-
23 rity functions.

24 (12) Resources and other measures necessary to
25 achieve a 50-percent reduction in the average wait

1 times of commercial and passenger vehicles at inter-
2 national land ports of entry along the international
3 borders of the United States.

4 (13) Metrics required under subsections (e), (f),
5 and (g).

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

13 (c) SITUATIONAL AWARENESS.—Not later than 2
14 years after the date of the enactment of this Act, the Sec-
15 retary of Homeland Security shall achieve situational
16 awareness of the international borders of the United
17 States.

18 (d) PERIODIC UPDATES.—Not later than 180 days
19 after the submission of each Quadrennial Homeland Secu-
20 rity Review required under section 707 of the Homeland
21 Security Act of 2002 (6 U.S.C. 347) beginning with the
22 first such Review that is due after the implementation
23 plan is submitted under subsection (b), the Secretary of
24 Homeland Security shall submit to the appropriate con-
25 gressional committees an updated—

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

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

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

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

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

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

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

3 (5) Amount of narcotics seized between ports of
4 entry.

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

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

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

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

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

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

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

20 (2) An understanding of the current level of sit-
21 uational awareness.

22 (3) A response rate which measures the Depart-
23 ment's ability to respond to known maritime threats
24 by placing assets on-scene, compared to the total

1 number of events with respect to which the Depart-
2 ment has known threat information.

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

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

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

16 (2) make recommendations for other suitable
17 metrics that may be used to measure the effective-
18 ness of border security.

19 (i) EVALUATION BY THE GOVERNMENT ACCOUNT-
20 ABILITY OFFICE.—

21 (1) IN GENERAL.—The Secretary of Homeland
22 Security shall make available to the Government Ac-
23 countability Office the data and methodology used to
24 develop the metrics implemented under subsections

1 (e), (f), and (g) and the independent assessment de-
2 scribed under subsection (h).

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

9 (j) CERTIFICATIONS RELATING TO OPERATIONAL
10 CONTROL.—

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

18 (2) BY THE COMPTROLLER GENERAL.—

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

24 (B) VERIFICATION AND SUBMISSION.—If
25 the Comptroller General of the United States

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

7 (k) GAO REPORT ON BORDER SECURITY DUPLICA-
8 TION.—Not later than 1 year after the date of the enact-
9 ment of this Act, the Comptroller General of the United
10 States shall submit to the appropriate congressional com-
11 mittees a report addressing areas of overlap in responsibil-
12 ities within the border security functions of the Depart-
13 ment of Homeland Security.

14 (l) 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 a report to
17 the appropriate congressional committee that contains the
18 following:

19 (1) A resource allocation model for current and
20 future year staffing requirements that includes opti-
21 mal staffing levels at all land, air, and sea ports of
22 entry, and an explanation of U.S. Customs and Bor-
23 der Protection methodology for aligning staffing lev-
24 els and workload to threats and vulnerabilities
25 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 officers 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 (m) DEFINITIONS.—In this Act:

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

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

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

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