

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To improve national security by developing metrics to measure the effectiveness of security between ports of entry, at points of entry, and along the maritime border.

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IN THE SENATE OF THE UNITED STATES

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Mr. JOHNSON (for himself and Mr. McCAIN) introduced the following bill; which was read twice and referred to the Committee on

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## A BILL

To improve national security by developing metrics to measure the effectiveness of security between ports of entry, at points of entry, and along the maritime border.

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 “Department of Home-  
5 land Security Border Security Metrics Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
2           TEES.—The term “appropriate congressional com-  
3           mittees” means—

4                   (A) the Committee on Homeland Security  
5                   and Governmental Affairs of the Senate;

6                   (B) the Committee on Homeland Security  
7                   of the House of Representatives;

8                   (C) the Committee on Judiciary of the  
9                   Senate; and

10                  (D) the Committee on Judiciary of the  
11                  House of Representatives;

12           (2) CONSEQUENCE DELIVERY SYSTEM.—The  
13           term “Consequence Delivery System” means the se-  
14           ries of consequences applied by the Border Patrol to  
15           persons unlawfully entering the United States to  
16           prevent unlawful border crossing recidivism.

17           (3) GOT AWAY.—The term “got away” means  
18           an unlawful border crosser who—

19                   (A) is directly or indirectly observed mak-  
20                   ing an unlawful entry into the United States;  
21                   and

22                   (B) is not a turn back and is not appre-  
23                   hended.

1           (4) KNOWN MIGRANT FLOW.—The term  
2           “known migrant flow” means the sum of the num-  
3           ber of undocumented migrants—

4                   (A) interdicted at sea;

5                   (B) identified at sea, but not interdicted;

6                   (C) that successfully entered the United  
7           States through the maritime border; or

8                   (D) not described in subparagraphs (A),  
9           (B), or (C), which were otherwise reported, with  
10          a significant degree of certainty, as having en-  
11          tered, or attempted to enter, the United States  
12          through the maritime border.

13          (5) MAJOR VIOLATOR.—The term “major viola-  
14          tor” means a person or entity that has engaged in  
15          serious criminal activities at any land, air, or sea  
16          port of entry, including—

17                   (A) possession of illicit drugs;

18                   (B) smuggling of prohibited products;

19                   (C) human smuggling;

20                   (D) weapons possession;

21                   (E) use of fraudulent United States docu-  
22          ments; or

23                   (F) other offenses that are serious enough  
24          to result in arrest.

1           (6) SITUATIONAL AWARENESS.—The term “sit-  
2           uational awareness” means knowledge and unified  
3           understanding of current unlawful cross-border ac-  
4           tivity, including—

5                   (A) threats and trends concerning illicit  
6                   trafficking and unlawful crossings;

7                   (B) the ability to forecast future shifts in  
8                   such threats and trends;

9                   (C) the ability to evaluate such threats and  
10                  trends at a level sufficient to create actionable  
11                  plans; and

12                  (D) the operational capability to conduct  
13                  persistent and integrated surveillance of the  
14                  international borders of the United States.

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

21           (8) TURN BACK.—The term “turn back” means  
22           an unlawful border crosser who, after making an un-  
23           lawful entry into the United States, promptly re-  
24           turns to the country from which such crosser en-  
25           tered.

1           (9) UNLAWFUL BORDER CROSSING EFFECTIVE-  
2           NESS RATE.—The term “unlawful border crossing  
3           effectiveness rate” means the percentage that results  
4           from dividing—

5                   (A) the number of apprehensions and turn  
6           backs; and

7                   (B) the number of apprehensions, esti-  
8           mated unlawful entries, turn backs, and got  
9           aways.

10           (10) UNLAWFUL ENTRY.—The term “unlawful  
11           entry” means an unlawful border crosser who enters  
12           the United States and is not apprehended by a bor-  
13           der security component of the Department of Home-  
14           land Security.

15 **SEC. 3. METRICS FOR SECURING THE BORDER BETWEEN**  
16 **PORTS OF ENTRY.**

17           (a) IN GENERAL.—Not later than 120 days after the  
18           date of the enactment of this Act, the Secretary of Home-  
19           land Security shall develop metrics, informed by situa-  
20           tional awareness, to measure the effectiveness of security  
21           between ports of entry. The Secretary shall annually im-  
22           plement the metrics developed under this subsection,  
23           which shall include—

1           (1) estimates, using alternative methodologies,  
2 including recidivism data, survey data, known-flow  
3 data, and technologically measured data, of—

4           (A) total attempted unlawful border cross-  
5 ings;

6           (B) the rate of apprehension of attempted  
7 unlawful border crossers; and

8           (C) the number of unlawful entries;

9           (2) a situational awareness achievement metric,  
10 which measures situational awareness achieved in  
11 each Border Patrol sector;

12           (3) an unlawful border crossing effectiveness  
13 rate;

14           (4) a probability of detection, which compares  
15 the estimated total unlawful border crossing at-  
16 tempts not detected by the Border Patrol to the un-  
17 lawful border crossing effectiveness rate, as informed  
18 by paragraph (1);

19           (5) an illicit drugs seizure rate for drugs seized  
20 by the Border Patrol, which compares the ratio of  
21 the amount and type of illicit drugs seized by the  
22 Border Patrol in any fiscal year to the average of  
23 the amount and type of illicit drugs seized by the  
24 Border Patrol in the immediately preceding 5 fiscal  
25 years;

1           (6) a weight-to-frequency rate, which compares  
2           the average weight of marijuana seized per seizure  
3           by the Border Patrol in any fiscal year to such  
4           weight-to-frequency rate for the immediately pre-  
5           ceding 5 fiscal years;

6           (7) estimates of the impact of the Consequence  
7           Delivery System on the rate of recidivism of unlaw-  
8           ful border crossers over multiple fiscal years; and

9           (8) an examination of each consequence re-  
10          ferred to in paragraph (7), including—

11                   (A) voluntary return;

12                   (B) warrant of arrest or notice to appear;

13                   (C) expedited removal;

14                   (D) reinstatement of removal;

15                   (E) alien transfer exit program;

16                   (F) Operation Streamline;

17                   (G) standard prosecution; and

18                   (H) Operation Against Smugglers Initia-  
19          tive on Safety and Security.

20          (b) METRICS CONSULTATION.—In developing the  
21          metrics required under subsection (a), the Secretary  
22          shall—

23                   (1) consult with the appropriate components of  
24          the Department of Homeland Security; and

1           (2) as appropriate, work with other agencies,  
2 including the Office of Refugee Resettlement of the  
3 Department of Health and Human Services and the  
4 Executive Office for Immigration Review of the De-  
5 partment of Justice, to ensure that authoritative  
6 data sources are utilized.

7           (c) MANNER OF COLLECTION.—The data used by the  
8 Secretary of Homeland Security shall be collected and re-  
9 ported in a consistent and standardized manner across all  
10 Border Patrol sectors, informed by situational awareness.

11 **SEC. 4. METRICS FOR SECURING THE BORDER AT PORTS**  
12 **OF ENTRY.**

13           (a) IN GENERAL.—Not later than 120 days after the  
14 date of the enactment of this Act, the Secretary of Home-  
15 land Security shall develop metrics, informed by situa-  
16 tional awareness, to measure the effectiveness of security  
17 at ports of entry. The Secretary shall annually implement  
18 the metrics developed under this subsection, which shall  
19 include—

20           (1) estimates, using alternative methodologies,  
21 including survey data and randomized secondary  
22 screening data, of—

23           (A) total attempted inadmissible border  
24 crossings;

1 (B) the rate of apprehension of attempted  
2 inadmissible border crossings; and

3 (C) the number of unlawful entries;

4 (2) the amount and type of illicit drugs seized  
5 by the Office of Field Operations of U.S. Customs  
6 and Border Protection at United States land, air,  
7 and sea ports during the previous fiscal year;

8 (3) an illicit drugs seizure rate for drugs seized  
9 by the Office of Field Operations, which compares  
10 the ratio of the amount and type of illicit drugs  
11 seized by the Office of Field Operations in any fiscal  
12 year to the average of the amount and type of illicit  
13 drugs seized by the Office of Field Operations in the  
14 immediately preceding 5 fiscal years;

15 (4) in consultation with the Office of National  
16 Drug Control Policy and the United States Southern  
17 Command, a cocaine seizure effectiveness rate,  
18 which is the percentage resulting from dividing—

19 (A) the amount of cocaine seized by the  
20 Office of Field Operations; and

21 (B) the total estimated cocaine flow rate at  
22 ports of entry along the land border;

23 (5) the number of infractions related to trav-  
24 elers and cargo committed by major violators who  
25 are apprehended by the Office of Field Operations at

1 ports of entry, and the estimated number of such in-  
2 fractions committed by major violators who are not  
3 apprehended;

4 (6) a measurement of how border security oper-  
5 ations affect crossing times, including—

6 (A) a wait time ratio that compares the av-  
7 erage wait times to total commercial and pri-  
8 vate vehicular traffic volumes at each port of  
9 entry;

10 (B) an infrastructure capacity utilization  
11 rate that measures traffic volume against the  
12 physical and staffing capacity at each port of  
13 entry;

14 (C) a secondary examination rate that  
15 measures the frequency of secondary examina-  
16 tions at each port of entry; and

17 (D) an enforcement rate that measures the  
18 effectiveness of secondary examinations at de-  
19 tecting major violators;

20 (7) a cargo scanning rate that includes—

21 (A) a comparison of the number of high  
22 risk cargo containers scanned by the Office of  
23 Field Operations at each United States seaport  
24 during the fiscal year to the total number of  
25 high risk cargo containers entering the United

1 States at each seaport during the previous fis-  
2 cal year;

3 (B) the percentage of all cargo that is con-  
4 sidered “high risk” cargo;

5 (C) the percentage of high-risk cargo  
6 scanned—

7 (i) upon arrival at a United States  
8 seaport before entering United States com-  
9 merce; and

10 (ii) before being laden on a vessel des-  
11 tined for the United States.

12 (b) METRICS CONSULTATION.—In developing the  
13 metrics required under subsection (a), the Secretary  
14 shall—

15 (1) consult with the appropriate components of  
16 the Department of Homeland Security; and

17 (2) as appropriate, work with other agencies,  
18 including the Office of Refugee Resettlement of the  
19 Department of Health and Human Services and the  
20 Executive Office for Immigration Review of the De-  
21 partment of Justice, to ensure that authoritative  
22 data sources are utilized.

23 (c) MANNER OF COLLECTION.—The data used by the  
24 Secretary of Homeland Security shall be collected and re-

1 ported in a consistent and standardized manner across all  
2 field offices, informed by situational awareness.

3 **SEC. 5. METRICS FOR SECURING THE MARITIME BORDER.**

4 (a) IN GENERAL.—Not later than 120 days after the  
5 date of the enactment of this Act, the Secretary of Home-  
6 land Security shall develop metrics, informed by situa-  
7 tional awareness, to measure the effectiveness of security  
8 in the maritime environment. The Secretary shall annually  
9 implement the metrics developed under this subsection,  
10 which shall include—

11 (1) situational awareness achieved in the mari-  
12 time environment;

13 (2) an undocumented migrant interdiction rate,  
14 which compares the migrants interdicted at sea to  
15 the total known migrant flow;

16 (3) an illicit drugs removal rate, for drugs re-  
17 moved inside and outside of a transit zone, which  
18 compares the amount and type of illicit drugs re-  
19 moved, including drugs abandoned at sea, by the  
20 Department of Homeland Security’s maritime secu-  
21 rity components in any fiscal year to the average of  
22 the amount and type of illicit drugs removed by the  
23 Department of Homeland Security’s maritime com-  
24 ponents for the immediately preceding 5 fiscal years;

1           (4) in consultation with the Office of National  
2 Drug Control Policy and the United States Southern  
3 Command, a cocaine removal effectiveness rate, for  
4 cocaine removed inside a transit zone and outside a  
5 transit zone; which compares the amount of cocaine  
6 removed by the Department of Homeland Security's  
7 maritime security components by the total docu-  
8 mented cocaine flow rate, as contained in Federal  
9 drug databases;

10           (5) a response rate, which compares the ability  
11 of the maritime security components of the Depart-  
12 ment of Homeland Security to respond to and re-  
13 solve known maritime threats, whether inside and  
14 outside a transit zone, by placing assets on-scene, to  
15 the total number of events with respect to which the  
16 Department has known threat information; and

17           (6) an intergovernmental response rate, which  
18 compares the ability of the maritime security compo-  
19 nents of the Department of Homeland Security or  
20 other United States Government entities to respond  
21 to and resolve actionable maritime threats, whether  
22 inside or outside the Western Hemisphere transit  
23 zone, by targeting maritime threats in order to de-  
24 tect them, and of those threats detected, the total  
25 number of maritime threats interdicted or disrupted.

1 (b) METRICS CONSULTATION.—In developing the  
2 metrics required under subsection (a), the Secretary  
3 shall—

4 (1) consult with the appropriate components of  
5 the Department of Homeland Security; and

6 (2) as appropriate, work with other agencies,  
7 including the Drug Enforcement Agency, the De-  
8 partment of Defense, and the Department of Jus-  
9 tice, to ensure that authoritative data sources are  
10 utilized.

11 (c) MANNER OF COLLECTION.—The data used by the  
12 Secretary of Homeland Security shall be collected and re-  
13 ported in a consistent and standardized manner, informed  
14 by situational awareness.

15 **SEC. 6. AIR AND MARINE SECURITY METRICS IN THE LAND**  
16 **DOMAIN.**

17 (a) IN GENERAL.—Not later than 120 days after the  
18 date of the enactment of this Act, the Secretary of Home-  
19 land Security shall develop metrics, informed by situa-  
20 tional awareness, to measure the effectiveness of the avia-  
21 tion assets and operations of the Office of Air and Marine  
22 of U.S. Customs and Border Enforcement. The Secretary  
23 shall annually implement the metrics developed under this  
24 subsection, which shall include—

1           (1) an effectiveness rate, which compares Office  
2 of Air and Marine flight hours requirements to the  
3 number of flight hours flown by such Office;

4           (2) a funded flight hour effectiveness rate,  
5 which compares the number of funded flight hours  
6 appropriated to the Office of Air and Marine to the  
7 number of actual flight hours flown by such Office;

8           (3) a readiness rate, which compares the num-  
9 ber of aviation missions flown by the Office of Air  
10 and Marine to the number of aviation missions can-  
11 celled by such Office due to maintenance, operations,  
12 or other causes;

13           (4) the number of missions cancelled by such  
14 Office due to weather compared to the total planned  
15 missions.

16           (5) the number of subjects detected by the Of-  
17 fice of Air and Marine through the use of unmanned  
18 aerial systems and manned aircrafts;

19           (6) the number of apprehensions assisted by the  
20 Office of Air and Marine through the use of un-  
21 manned aerial systems and manned aircrafts;

22           (7) the number and quantity of illicit drug sei-  
23 zures assisted by the Office of Air and Marine  
24 through the use of unmanned aerial systems and  
25 manned aircrafts; and

1           (8) the number of times that useable intel-  
2           ligence related to border security was obtained  
3           through the use of unmanned aerial systems and  
4           manned aircraft.

5           (b) METRICS CONSULTATION.—In developing the  
6           metrics required under subsection (a), the Secretary  
7           shall—

8           (1) consult with the appropriate components of  
9           the Department of Homeland Security; and

10          (2) as appropriate, work with other agencies,  
11          including the Department of Justice, to ensure that  
12          authoritative data sources are utilized.

13          (c) MANNER OF COLLECTION.—The data used by the  
14          Secretary of Homeland Security shall be collected and re-  
15          ported in a consistent and standardized manner, informed  
16          by situational awareness.

17          **SEC. 7. DATA TRANSPARENCY.**

18          The Secretary of Homeland Security shall—

19          (1) in accordance with applicable privacy laws,  
20          make data related to apprehensions, inadmissible  
21          aliens, drug seizures, and other enforcement actions  
22          available to the public, academic research, and law  
23          enforcement communities; and

1           (2) provide the Office of Immigration Statistics  
2           of the Department of Homeland Security with unfet-  
3           tered access to the data described in paragraph (1).

4 **SEC. 8. EVALUATION BY THE GOVERNMENT ACCOUNT-**  
5                   **ABILITY OFFICE AND THE SECRETARY OF**  
6                   **HOMELAND SECURITY.**

7           (a) METRICS REPORT.—

8           (1) MANDATORY DISCLOSURES.—The Secretary  
9           of Homeland Security shall submit an annual report  
10          containing the metrics required under sections 3  
11          through 6 and the data and methodology used to de-  
12          velop such metrics to—

13                   (A) the appropriate congressional commit-  
14                   tees; and

15                   (B) the Comptroller General of the United  
16                   States.

17          (2) PERMISSIBLE DISCLOSURES.—The Sec-  
18          retary of Homeland Security, for the purpose of vali-  
19          dation and verification, may submit the annual re-  
20          port described in paragraph (1) to—

21                   (A) the National Center for Border Secu-  
22                   rity and Immigration;

23                   (B) the head of a national laboratory with-  
24                   in the Department of Homeland Security lab-

1 oratory network with prior expertise in border  
2 security; and

3 (C) a Federally Funded Research and De-  
4 velopment Center sponsored by the Department  
5 of Homeland Security.

6 (b) GAO REPORT.—Not later than 270 days after  
7 receiving the first report under subsection (a)(1), and bi-  
8 annually thereafter for the following 10 years, the Comp-  
9 troller General of the United States, shall submit a report  
10 to the appropriate congressional committees that—

11 (1) analyzes the suitability and statistical valid-  
12 ity of the data and methodology contained in such  
13 report; and

14 (2) includes recommendations to Congress on—

15 (A) the feasibility of other suitable metrics  
16 that may be used to measure the effectiveness  
17 of border security; and

18 (B) improvements that need to be made to  
19 the metrics being used to measure the effective-  
20 ness of border security.

21 (c) STATE OF THE BORDER REPORT.—Not later  
22 than 60 days after the end of each fiscal year through  
23 fiscal year 2025, the Secretary of Homeland Security shall  
24 submit a “State of the Border” report to the appropriate  
25 congressional committees that—

1           (1) provides trends for each metric under sec-  
2           tions 3 through 6 for the last 10 years, to the extent  
3           possible;

4           (2) provides selected analysis into related as-  
5           pects of illegal flow rates, including legal flows and  
6           stock estimation techniques; and

7           (3) includes any other information that the Sec-  
8           retary determines appropriate.

9           (d) METRICS UPDATE.—

10           (1) IN GENERAL.—After submitting the final  
11           report to the Comptroller General under subsection  
12           (a), the Secretary of Homeland Security may re-  
13           evaluate and update any of the metrics required  
14           under sections 3 through 6 to ensure that such  
15           metrics—

16                   (A) meet the Department of Homeland Se-  
17                   curity's performance management needs; and

18                   (B) are suitable to measure the effective-  
19                   ness of border security.

20           (2) CONGRESSIONAL NOTIFICATION.—Not later  
21           than 30 days before updating the metrics under  
22           paragraph (1), the Secretary shall notify the appro-  
23           priate congressional committees of such updates.