

Floor Amendment No. 1632 (1463) to HR 1735

McCAIN AMENDMENT SA 1632

TEXT OF AMENDMENT

SA 1632. Mr. MCCAIN (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 1463 proposed by Mr. MCCAIN to the bill H.R. 1735, to authorize appropriations for fiscal year 2016 for military activities of the Department of Defense and for military construction, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SUBTITLE __—BORDER SECURITY EFFECTIVENESS METRICS

SEC. __1. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

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

(B) the Committee on Homeland Security of the House of Representatives.

(2) COCAINE REMOVAL EFFECTIVENESS RATE.—The term “cocaine removal effectiveness rate” means the percentage that results from dividing—

(A) the amount of cocaine removed by the Department of Homeland Security’s maritime security components inside or outside a transit zone, as the case may be; by

(B) the total documented cocaine flow rate, as contained in Federal drug databases.

(3) CONSEQUENCE DELIVERY SYSTEM.—The term “Consequence Delivery System” means the series of consequences applied by the Border Patrol to persons unlawfully entering the United States to prevent unlawful border crossing recidivism.

(4) FEDERAL LANDS.—The term “Federal lands” includes all land under the control of the Secretary of Defense, the Secretary of Agriculture, or the Secretary of the Interior along the international border between the United States and Mexico.

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

(6) MAJOR VIOLATOR.—The term “major violator” means a person or entity that has engaged in serious criminal activities at any land, air, or sea port of entry, including—

(A) possession of illicit drugs;

(B) smuggling of prohibited products;

(C) human smuggling;

(D) weapons possession;

(E) use of fraudulent United States documents; or

(F) other offenses serious enough to result in arrest.

(7) SITUATIONAL AWARENESS.—The term “situational awareness” means knowledge and unified understanding of current unlawful cross-border activity, including—

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

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

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

(D) the operational capability to conduct continuous and integrated surveillance of the international borders of the United States.

(8) TRANSIT ZONE.—The term “transit zone” means the sea corridors of the western Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and the eastern Pacific Ocean through which undocumented migrants and illicit drugs transit, either directly or indirectly, to the United States.

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

(10) UNLAWFUL BORDER CROSSING EFFECTIVENESS RATE.—

(A) IN GENERAL.—The term “unlawful border crossing effectiveness rate” means the percentage that results from dividing—

(i) the number of apprehensions and turn backs; by

(ii) the number of apprehensions, turn backs, and got aways.

(B) MANNER OF COLLECTION.—The data used by the Secretary of Homeland Security to determine the unlawful border crossing effectiveness rate shall be collected and reported in a consistent and standardized manner across all Border Patrol sectors, informed by situational awareness.

SEC. __2. METRICS FOR SECURING THE BORDER BETWEEN PORTS OF ENTRY.

(a) In General.—Not later than 120 days after the date of the enactment of this Act and annually thereafter, the Chief of the Border Patrol shall develop metrics, informed by situational awareness, to measure the effectiveness of security between ports of entry. The metrics developed under this subsection shall include—

(1) an unlawful border crossing effectiveness rate, which is informed by situational awareness;

(2) a probability of detection, which compares the estimated total unlawful border crossing attempts not detected by the Border Patrol to the unlawful border crossing effectiveness rate;

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

(4) a situational awareness achievement metric, which measures the amount of situational awareness achieved in each Border Patrol sector;

(5) an illicit drugs seizure rate, which compares the amount and type of illicit drugs seized by the Border Patrol in any fiscal year to an average of the amount and type of illicit drugs seized by the Border Patrol in the immediately preceding 5 fiscal years;

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

(A) the amount of cocaine seized by the Border Patrol; by

(B) the total documented cocaine flow rate between ports of entry along the Southern land border;

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

(A) total attempted unlawful border crossings;

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

(C) the inflow into the United States of unlawful border crossers who evade apprehension; and

(8) estimates of the impact of the Border Patrol's Consequence Delivery System on the rate of recidivism of unlawful border crossers over multiple fiscal years and an examination of each consequence, including—

(A) voluntary return;

(B) warrant of arrest or notice to appear;

(C) expedited removal;

(D) reinstatement of removal;

(E) alien transfer exit program;

(F) streamline;

(G) standard prosecution; and

(H) Operation Against Smugglers Initiative on Safety and Security.

(b) Metrics Consultation.—In developing the metrics required under subsection (a), the Chief of the Border Patrol shall consult with staff members of the Office of Policy of the Department of Homeland Security and staff members of the Office of the Chief Financial Officer of the Department of Homeland Security.

SEC. __3. METRICS FOR SECURING THE BORDER AT PORTS OF ENTRY.

(a) In General.—Not later than 120 days after the date of the enactment of this Act, and annually thereafter, the Assistant Commissioner for the Office of Field Operations in U.S. Customs and Border Protection shall develop metrics, informed by situational awareness, to measure the effectiveness of security at ports of entry. The metrics developed under this subsection shall include—

(1) an inadmissible border crossing rate, which is measured by dividing—

(A) the number of known inadmissible border crossers who are denied entry, excluding those border crossers who voluntarily withdraw their applications for admission; by

(B) the total estimated number of inadmissible border crossers who attempt entry;

(2) an illicit drugs seizure rate, which compares the amount and type of illicit drugs seized by the Office of Field Operations of U.S. Customs and Border Protection in any fiscal year to an average of the amount and type of illicit drugs seized by U.S. Customs and Border Protection for the immediately preceding 5 fiscal years;

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

(A) the amount of cocaine seized by the Office of Field Operations of U.S. Customs and Border Protection; by

(B) the total documented cocaine flow rate at ports of entry along the Southern land border;

(4) estimates, using alternative methodologies, including survey data and randomized secondary screening data, of—

(A) total attempted inadmissible border crossers;

(B) the rate of apprehension of attempted inadmissible border crossers; and

(C) the inflow into the United States of inadmissible border crossers who evade apprehension;

(5) the number of infractions related to personnel and cargo committed by major violators who are apprehended by the Office of Field Operations of U.S. Customs and Border Protection at ports of entry, and the estimated number of such infractions committed by major violators who are not apprehended;

(6) a measurement of how border security operations affect border crossing times;

(7) the amount and type of illicit drugs seized by the Office of Field Operations of U.S. Customs and Border Protection at United States seaports during the previous fiscal year; and

(8) a cargo scanning rate, which compares the number of cargo containers scanned by the Office of Field Operations of U.S. Customs and Border Protection at each United States seaport during the previous fiscal year to the total number of cargo containers entering the United States at each seaport during the previous fiscal year.

(b) Metrics Consultation.—In developing the metrics required under subsection (a), the Assistant Commissioner for the Office of Field Operations shall consult with staff members of the Office of Policy at the Department of Homeland Security and staff members of the Office of the Chief Financial Officer of the Department of Homeland Security.

SEC. __4. METRICS FOR SECURING THE MARITIME BORDER.

(a) In General.—Not later than 120 days after the date of the enactment of this Act and annually thereafter, the Commandant of the United States Coast Guard and the Assistant Commissioner for the Office of Air and Marine for U.S. Customs and Border Protection shall jointly implement metrics, informed by situational awareness, to measure the effectiveness of security in the maritime environment. The metrics developed under this subsection shall include—

(1) an estimate of the total number of undocumented migrants who were not interdicted by the Department of Homeland Security’s maritime security components;

(2) an undocumented migrant interdiction rate, which compares the flow of undocumented migrants interdicted against the total estimated number of undocumented migrants who were not interdicted by the Department of Homeland Security’s maritime security components;

(3) an illicit drugs removal rate, which compares the amount and type of illicit drugs removed by the Department of Homeland Security’s maritime security components inside a transit zone in any fiscal year to an average of the amount and type of illicit drugs removed by the Department of Homeland Security’s maritime security components inside a transit zone for the immediately preceding 5 fiscal years;

(4) an illicit drugs removal rate, which compares the amount and type of illicit drugs removed by the Department of Homeland Security’s maritime security components outside a transit zone in any fiscal year to an average of the amount and type of illicit drugs removed by the Department of Homeland Security’s maritime security components outside a transit zone for the immediately preceding 5 fiscal years;

(5) a cocaine removal effectiveness rate inside a transit zone and outside a transit zone; and

(6) a response rate, which compares the ability of the maritime security components of the Department of Homeland Security to respond to and resolve known maritime threats, whether inside and outside a transit zone, by placing assets on-scene, to the total number of events with respect to which the Department has known threat information.

(b) Metrics Consultation.—In developing the metrics required under subsection (a), the Commandant of the Coast Guard and the Assistant Commissioner for Air and Marine shall consult with staff members of the Office of Policy at the Department of Homeland Security and staff members of the Office of the Chief Financial Officer of the Department of Homeland Security.

SEC. __5. AIR AND MARINE SECURITY METRICS IN THE LAND DOMAIN.

(a) In General.—Not later than 120 days after the date of the enactment of this Act and annually thereafter, the Assistant Commissioner for the Office of Air and Marine for U.S. Customs and Border Protection shall implement metrics, informed by situational awareness, to measure the effectiveness of security in the aviation environment. The metrics developed under this subsection shall include—

(1) a requirement effectiveness rate, which compares U.S. Customs and Border Protection’s Office of Air and Marine flight hours requirements to the number of flight hours actually flown by such Office;

(2) a funded flight hours effectiveness rate, which compares the number of funded flight hours appropriated to U.S. Customs and Border Protection’s Office of Air and Marine to the number of actual flight hours flown by such Office;

(3) a readiness rate, which compares the number of aviation missions flown by U.S. Customs and Border Protection’s Office of Air and Marine to the number of aviation missions cancelled by such Office due to weather, maintenance, operations, or other causes;

(4) the number of subjects detected by U.S. Customs and Border Protection's Office of Air and Marine through the use of unmanned aerial systems;

(5) the number of apprehensions assisted by U.S. Customs and Border Protection's Office of Air and Marine through the use of unmanned aerial systems;

(6) the number and quantity of illicit drug seizures assisted by U.S. Customs and Border Protection's Office of Air and Marine through the use of unmanned aerial systems; and

(7) a detailed description of how, where, and for how long data and images collected through the use of unmanned aerial systems by U.S. Customs and Border Protection is collected and stored.

(b) Metrics Consultation.—In developing the metrics required under subsection (a), the Assistant Commissioner for Air and Marine shall consult with staff members of the Office of Policy at the Department of Homeland Security and staff members of the Office of the Chief Financial Officer of the Department of Homeland Security.

SEC. __6. METRICS FOR SECURING THE BORDER ON FEDERAL LANDS.

(a) In General.—Not later than 120 days after the date of the enactment of this Act and annually thereafter, the Chief of the Border Patrol shall develop metrics, informed by situational awareness, to measure the effectiveness of security between ports of entry on Federal lands. The metrics developed under this subsection shall include—

(1) an unlawful border crossing effectiveness rate, which is informed by situational awareness;

(2) a probability of detection, which compares the estimated total unlawful border crossing attempts not detected by the Border Patrol to the unlawful border crossing effectiveness rate;

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

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(4) a situational awareness achievement metric, which measures the amount of situational awareness achieved in each Border Patrol sector;

(5) an illicit drugs seizure rate, which compares the amount and type of illicit drugs seized by the Border Patrol in any fiscal year to an average of the amount and type of illicit drugs seized by the Border Patrol in the immediately preceding 5 fiscal years;

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

(A) the amount of cocaine seized by the Border Patrol; by

(B) the total documented cocaine flow rate between ports of entry on Federal lands along the Southern land border;

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

(A) total attempted unlawful border crossings;

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

(C) the inflow into the United States of unlawful border crossers who evade apprehension.

(b) Metrics Consultation.—In developing the metrics required under subsection (a), the Chief of the Border Patrol shall consult with the Office of Policy of the Department of Homeland Security and the Office of the Chief Financial Officer of the Department of Homeland Security.

SEC. __7. EVALUATION BY THE GOVERNMENT ACCOUNTABILITY OFFICE.

(a) In General.—The metrics required under sections __2 through __6, and the data and methodology used to develop such metrics, shall be provided annually to—

(1) the appropriate congressional committees;

(2) the Comptroller General of the United States; and

(3) the head of a national laboratory within the Department of Homeland Security laboratory network with prior experience in border security, who shall be selected by the Secretary of Homeland Security.

(b) Report.—Not later than 270 days after receiving the data and methodology referred to in subsection (a), and annually thereafter for the following 10 years, the Comptroller General of the

United States, in consultation with the individual selected under subsection (a)(3), shall submit a report to the appropriate congressional committees that—

(1) analyzes the suitability and statistical validity of such data and methodology; and

(2) includes recommendations to the Secretary of Homeland Security for other suitable metrics that may be used to measure the effectiveness of border security.