

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.**

**H. R. 5273**

To require the Secretary of Homeland Security to develop a plan to increase to 100 percent the rates of scanning of commercial and passenger vehicles entering the United States at land ports of entry along the border using large-scale non-intrusive inspection systems to enhance border security, 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. JOHNSON (for himself and Ms.  
SINEMA)

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 “Securing America’s  
5       Ports Act”.

6       **SEC. 2. LARGE-SCALE NON-INTRUSIVE INSPECTION SCAN-**  
7       **NING PLAN.**

8       (a) DEFINITIONS.—In this section:

1           (1) LARGE-SCALE NON-INTRUSIVE INSPECTION  
2           SYSTEM.—The term “large-scale, non-intrusive in-  
3           spection system” means a technology, including x-  
4           ray, gamma-ray, and passive imaging systems, capa-  
5           ble of producing an image of the contents of a com-  
6           mercial or passenger vehicle or freight rail car in 1  
7           pass of such vehicle or car.

8           (2) SCANNING.—The term “scanning” means  
9           utilizing nonintrusive imaging equipment, radiation  
10          detection equipment, or both, to capture data, in-  
11          cluding images of a commercial or passenger vehicle  
12          or freight rail car.

13          (b) IN GENERAL.—Not later than 180 days after the  
14          date of the enactment of this Act, the Secretary of Home-  
15          land Security shall submit a plan to the Committee on  
16          Homeland Security and Governmental Affairs of the Sen-  
17          ate and the Committee on Homeland Security of the  
18          House of Representatives for increasing to 100 percent  
19          the rate of high-throughput scanning of commercial and  
20          passenger vehicles and freight rail traffic entering the  
21          United States at land ports of entry and rail-border cross-  
22          ings along the border using large-scale non-intrusive in-  
23          spection systems or similar technology to enhance border  
24          security.

1           (c) BASELINE INFORMATION.—The plan under sub-  
2 section (b) shall include, at a minimum, the following in-  
3 formation regarding large-scale non-intrusive inspection  
4 systems or similar technology operated by U.S. Customs  
5 and Border Protection at land ports of entry and rail-bor-  
6 der crossings as of the date of the enactment of this Act:

7           (1) An inventory of large-scale non-intrusive in-  
8 spection systems or similar technology in use at each  
9 land port of entry.

10           (2) For each system or technology identified in  
11 the inventory under paragraph (1)—

12           (A) the scanning method of such system or  
13 technology;

14           (B) the location of such system or tech-  
15 nology at each land port of entry that specifies  
16 whether in use in pre-primary, primary, or sec-  
17 ondary inspection area, or some combination of  
18 such areas;

19           (C) the percentage of commercial and pas-  
20 senger vehicles and freight rail traffic scanned  
21 by such system or technology;

22           (D) seizure data directly attributed to  
23 scanned commercial and passenger vehicles and  
24 freight rail traffic; and

1                   (E) the number of personnel required to  
2                   operate each system or technology.

3                   (3) Information regarding the continued use of  
4                   other technology and tactics used for scanning, such  
5                   as canines and human intelligence in conjunction  
6                   with large scale, nonintrusive inspection systems.

7                   (d) ELEMENTS.—The plan under subsection (b) shall  
8                   include the following information:

9                   (1) Benchmarks for achieving incremental  
10                  progress towards 100 percent high-throughput scan-  
11                  ning within the next 6 years of commercial and pas-  
12                  senger vehicles and freight rail traffic entering the  
13                  United States at land ports of entry and rail-border  
14                  crossings along the border with corresponding pro-  
15                  jected incremental improvements in scanning rates  
16                  by fiscal year and rationales for the specified time-  
17                  frames for each land port of entry.

18                  (2) Estimated costs, together with an acquisi-  
19                  tion plan, for achieving the 100 percent high-  
20                  throughput scanning rate within the timeframes  
21                  specified in paragraph (1), including acquisition, op-  
22                  erations, and maintenance costs for large-scale, non-  
23                  intrusive inspection systems or similar technology,  
24                  and associated costs for any necessary infrastructure  
25                  enhancements or configuration changes at each port

1 of entry. Such acquisition plan shall promote, to the  
2 extent practicable, opportunities for entities that  
3 qualify as small business concerns (as defined under  
4 section 3(a) of the Small Business Act (15 U.S.C.  
5 632(a)).

6 (3) Any projected impacts, as identified by the  
7 Commissioner of U.S. Customs and Border Protec-  
8 tion, on the total number of commercial and pas-  
9 senger vehicles and freight rail traffic entering at  
10 land ports of entry and rail-border crossings where  
11 such systems are in use, and average wait times at  
12 peak and non-peak travel times, by lane type if ap-  
13 plicable, as scanning rates are increased.

14 (4) Any projected impacts, as identified by the  
15 Commissioner of U.S. Customs and Border Protec-  
16 tion, on land ports of entry and rail-border crossings  
17 border security operations as a result of implementa-  
18 tion actions, including any changes to the number of  
19 U.S. Customs and Border Protection officers or  
20 their duties and assignments.

21 (e) ANNUAL REPORT.—Not later than 1 year after  
22 the submission of the plan under subsection (b), and bien-  
23 nially thereafter for the following 6 years, the Secretary  
24 of Homeland Security shall submit a report to the Com-  
25 mittee on Homeland Security and Governmental Affairs

1 of the Senate and the Committee on Homeland Security  
2 of the House of Representatives that describes the  
3 progress implementing the plan and includes—

4 (1) an inventory of large-scale, nonintrusive in-  
5 spection systems or similar technology operated by  
6 U.S. Customs and Border Protection at each land  
7 port of entry;

8 (2) for each system or technology identified in  
9 the inventory required under paragraph (1)—

10 (A) the scanning method of such system or  
11 technology;

12 (B) the location of such system or tech-  
13 nology at each land port of entry that specifies  
14 whether in use in pre-primary, primary, or sec-  
15 ondary inspection area, or some combination of  
16 such areas;

17 (C) the percentage of commercial and pas-  
18 senger vehicles and freight rail traffic scanned  
19 by such system or technology; and

20 (D) seizure data directly attributed to  
21 scanned commercial and passenger vehicles and  
22 freight rail traffic;

23 (3) the total number of commercial and pas-  
24 senger vehicles and freight rail traffic entering at  
25 each land port of entry at which each system or

1 technology is in use, and information on average  
2 wait times at peak and non-peak travel times, by  
3 lane type if applicable;

4 (4) a description of the progress towards reach-  
5 ing the benchmarks referred to in subsection (d)(1),  
6 and an explanation if any of such benchmarks are  
7 not achieved as planned;

8 (5) a comparison of actual costs (including in-  
9 formation on any awards of associated contracts) to  
10 estimated costs set forth in subsection (d)(2);

11 (6) any realized impacts, as identified by the  
12 Commissioner of U.S. Customs and Border Protec-  
13 tion, on land ports of entry and rail-border crossings  
14 operations as a result of implementation actions, in-  
15 cluding any changes to the number of U.S. Customs  
16 and Border Protection officers or their duties and  
17 assignments;

18 (7) any proposed changes to the plan and an  
19 explanation for such changes, including changes  
20 made in response to any Department of Homeland  
21 Security research and development findings or  
22 changes in terrorist or transnational criminal organi-  
23 zations tactics, techniques, or procedures; and

- 1 (8) any challenges to implementing the plan or
- 2 meeting the benchmarks, and plans to mitigate any
- 3 such challenges.