

118TH CONGRESS }
1st Session

SENATE

{ REPORT
118-119

NORTHERN BORDER COORDINATION ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2291

TO ESTABLISH THE NORTHERN BORDER COORDINATION
CENTER, AND FOR OTHER PURPOSES



NOVEMBER 30, 2023.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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NORTHERN BORDER COORDINATION ACT

NOVEMBER 30, 2023.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2291]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2291) to establish the Northern Border Coordination Center, and for other purposes, having considered the same, reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 2291, the *Northern Border Coordination Act*, will address the security challenges of the northern border by directing the Secretary of Homeland Security to establish a Northern Border Coordination Center. The Center will serve as the Department of Homeland Security’s (DHS) forward deployed, centralized, coordination center for operations, domain awareness, information sharing, intelligence, training, and stakeholder engagement along the northern border. This legislation also supports the implementation of DHS’s Northern Border Strategy.

The Center will collocate additional DHS personnel and activities with existing Department resources. The Center will serve as a site to support testing and development of technology that can operate in the northern border and maritime environment, enhance domain awareness, and respond to the increasing threat of cross-border unmanned aircraft system (UAS) incursions. The bill will also ensure additional air and maritime domain awareness along the northern border by requiring dedicated monitoring of northern border systems and requiring that U.S. Customs and Border Protection's (CBP) Air and Marine Operations (AMO) establish and maintain quick reaction capabilities. The Center will also track border security metrics, serve as a training location for DHS personnel and other government partners, operate as a testing ground and demonstration location for the testing of border security technology. Finally, this bill includes reporting requirements to Congress regarding the Center's activities and the temporary duty assignments of U.S. Border Patrol agents.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The northern border of the United States with Canada spans 5,525 miles, making it the longest international boundary between two countries in the world.¹ In addition to its significant span, the varying geographic, environmental, and demographic attributes along the northern border make it a complex operational environment for DHS.²

In carrying out its border security mission, the Department must adapt to evolving threats and operational challenges, such as illicit cross-border UAS activity and transnational criminal organization activities, like the smuggling or trafficking of humans and drugs.³ Specifically, along the northern border there have been instances of the cross-border use of drones to smuggle firearms as well as the use of submersible vessels and scuba equipment to smuggle drugs and bulk cash.⁴ Consistent with increased migration trends around the world, some sectors along the northern border have seen record high numbers of apprehensions and encounters of migrants.⁵ To address new threats and challenges and gain additional domain awareness, DHS utilizes various forms of technology, which in some cases, need to be adapted to withstand the conditions along the northern border.⁶ In a 2019 report, the Government Account-

¹ Department of Homeland Security, *Northern Border Strategy* (June 12, 2018) (www.dhs.gov/sites/default/files/publications/18_0612_PLCY_DHS-Northern-Border-Strategy.pdf).

² Department of Homeland Security, *Northern Border Strategy* (June 2012) (www.dhs.gov/sites/default/files/publications/dhs-northern-border-strategy.pdf).

³ Department of Homeland Security, *The Third Quadrennial Homeland Security Review* (Apr. 2023) (www.dhs.gov/sites/default/files/2023-04/23_0420_plcy_2023-qhsr.pdf); Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Acting Assistant Secretary for Counterterrorism, Threat Prevention, and Law Enforcement Samantha Vinograd, Department of Homeland Security, *Hearing on Protecting the Homeland from Unmanned Aircraft Systems*, 117th Cong. (July 14, 2022) (S. Hrg. 117-XX).

⁴ *Drone Carrying 11 Illegal Handguns Over Border Foiled By Tree*, Newsweek (May 3, 2022) (www.newsweek.com/drone-carrying-11-illegal-handguns-over-border-foiled-tree-1703099); United States Attorney's Office, Eastern District of Michigan: *Canadian Man Sentenced on Drug and Immigration Offenses* (Mar. 3, 2021).

⁵ U.S. Customs and Border Protection: *Border Patrol's Swanton Sector Apprehensions & Encounters Reach Historic High* (Feb. 13, 2023).

⁶ Senate Committee on Appropriations, Questions for the Record to Secretary Alejandro N. Mayorkas, Department of Homeland Security, *Hearing on Domestic Violent Extremism in America*, 117th Cong. (May 12, 2021) (S. Hrg. 117-490).

ability Office noted gaps in technology and capabilities along the northern border.⁷

In 2018, DHS issued the most-recent version of a *Northern Border Strategy*, to improve the Department's efforts to carry out its missions, including securing the northern border from threats and identifying and address capability gaps.⁸ Congress has acknowledged the importance of the strategy and its implementation by requiring the Department to report on its implementation, including cases where specific milestones have not been achieved.⁹ The 2018 *Northern Border Strategy* specified the need to strengthen coordination between federal, state, local, tribal, and international partners, improve air and maritime domain awareness, and increase the integration of operations and collocation of capabilities.¹⁰ Accordingly, the *Northern Border Coordination Act* requires the Secretary of Homeland Security to establish the Northern Border Coordination Center. The bill directs the Center to serve as DHS's forward deployed centralized coordination center for operations, domain awareness, information sharing, intelligence, training, and stakeholder engagement for the northern border.

Further, the *Northern Border Coordination Act* directs the Center to support DHS's operational components for the implementation, evaluation, and updating of the *Northern Border Strategy* as well as the development and tracking of northern border security metrics. To address technology challenges, including the suitability and performance of technology in the northern border environment, the bill directs the Center to identify technological needs or challenges and serve as testing ground and demonstration location for the testing of border security technology. The *Northern Border Coordination Act* also requires CBP's AMO to establish and maintain capabilities available for quick deployment in support of northern border missions and other CBP and Department activities. Additionally, the bill requires AMO's Air and Marine Operations Center to dedicate personnel and resources to support air and maritime domain awareness and information sharing efforts along the northern border, ensure dedicated monitoring of northern border systems, and lead the Center's efforts to track and monitor legitimate cross-border UAS traffic. The bill establishes the Center as an entity that is distinct but complementary to the Secretary's existing authorities to coordinate department activities across components.

III. LEGISLATIVE HISTORY

Senator Gary Peters (D-MI) introduced S. 2291, the *Northern Border Coordination Act*, on July 13, 2023, with original cosponsor Senator Susan Collins (R-ME). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

⁷ Government Accountability Office, *Northern Border Security: CBP Identified Resource Challenges but Needs Performance Measures to Assess Security Between Ports of Entry* (GAO-19-470) (June 2019).

⁸ Department of Homeland Security, Publication Library, *Northern Border Strategy* (www.dhs.gov/archive/publication/northern-border-strategy#:~:text=The%20Northern%20Border%20Strategy%20establishes,strengthen%20cross%2Dborder%20community%20resilience) (accessed Aug. 7, 2023).

⁹ Explanatory Statement Submitted by Senator Patrick Leahy, Chair of the Senate Committee on Appropriations, Regarding H.R. 2618, Consolidated Appropriations Act, 2023, *Division F—Department of Homeland Security Appropriations Act, 2023, Northern Border Strategy Implementation Plan*, Congressional Record, S8557 (Dec. 20, 2022).

¹⁰ Department of Homeland Security, *Northern Border Strategy* (June 12, 2018) (www.dhs.gov/sites/default/files/publications/18_0612_PLCY_DHS-Northern-Border-Strategy.pdf).

The Committee considered S. 2291 at a business meeting on July 26, 2023. At the business meeting, Senator Peters offered a substitute amendment to the bill as well as a modification to the substitute amendment. The Peters substitute amendment as modified made technical changes, incorporated DHS feedback, and added a requirement for quarterly reports to Congress regarding temporary duty assignments. The Committee adopted the modification to the Peters substitute amendment by unanimous consent, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Paul, Romney, Scott, Hawley, and Marshall present. The Peters substitute amendment, as modified, was adopted by unanimous consent with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Paul, Romney, Scott, Hawley, and Marshall present.

Senator Paul offered an amendment to the bill prohibiting additional funds from being authorized to be appropriated to carry out the legislation. The Committee did not adopt the Paul amendment by a roll call vote of 6 yeas and 9 nays, with Senators Paul, Romney, Scott, and Hawley voting in the affirmative, and Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, and Marshall voting in the negative. Senators Johnson and Lankford voted yea by proxy, and Senator Carper voted nay by proxy.

Senator Paul offered an amendment to the bill imposing a 2-year sunset date. The Committee did not adopt the Paul amendment by a roll call vote of 5 yeas and 10 nays, with Senators Paul, Scott, and Hawley voting in the affirmative, and Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Romney, and Marshall voting in the negative. Senators Johnson and Lankford voted yea by proxy and Senator Carper voted nay by proxy.

Senator Paul offered an amendment to the bill requiring the DHS Secretary, CBP Commissioner, and Administrator of the Drug Enforcement Administration to submit to an annual hearing before the Committee and the House Committee on Homeland Security regarding the status of border security in the United States. The Committee did not adopt the Paul amendment by a roll call vote of 7 yeas and 8 nays, with Senators Paul, Lankford, Romney, Scott, Hawley, and Marshall voting in the affirmative, and Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, and Blumenthal voting in the negative. Senator Johnson voted yea by proxy and Senator Carper voted nay by proxy.

Senator Scott offered an amendment to the bill requiring that, prior to a Border Patrol agent being detailed to the Northern Border Coordination Center, the CBP Commissioner must certify to the Committee and the House Committee on Homeland Security that such action will not negatively impact the ability of Border Patrol to maintain operational control of the southern border. The Committee did not adopt the Scott amendment by a roll call vote of 7 yeas and 8 nays, with Senators Paul, Romney, Scott, Hawley, and Marshall voting in the affirmative, and Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, and Blumenthal voting in the negative. Senators Johnson and Lankford voted yea by proxy and Senator Carper voted nay by proxy.

The bill, as amended by the Peters substitute amendment as modified, was ordered reported favorably by roll call vote of 12 yeas and 1 nay, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Paul, Lankford, Romney, Hawley, and Mar-

shall voting in the affirmative, and Senator Scott voting in the negative. Senators Carper and Johnson voted yea by proxy, for the record only.

IV. SECTION BY SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Northern Border Coordination Act.”

Section 2: Definitions

This section defines the terms “Center,” “Department,” “northern border,” and “Secretary.”

Section 3: Northern border coordination center

Subsection (a) directs the DHS Secretary to establish the Northern Border Coordination Center no later than one year after the bill’s enactment.

Subsection (b) outlines the purposes of the Center. The subsection directs the Center to serve as DHS’s forward deployed centralized coordination center for operations, domain awareness, information sharing, intelligence, training, and stakeholder engagement. It also specifies that the Center shall be placed along the northern border and collocated with a Border Patrol sector headquarters, an Air and Marine operations branch, a U.S. Coast Guard (USCG) air station, and other existing DHS activities.

Subsection (c) describes the components of the Center. This subsection directs the Center to collocate the personnel and activities of CBP, the USCG, U.S. Immigration and Customs Enforcement’s Homeland Security Investigations, and other DHS components and governmental partners the Secretary deems necessary to support the operations described in this bill.

Subsection (d) describes the functions of the Center. The subsection directs the Center to serve as a coordination mechanism for operational components on the implementation, evaluation, and updating of the Northern Border Strategy and any successive strategy and to support the development of best practices and policies for personnel in implementation of the strategy. It directs the Center to serve as a training location for DHS and other government partner personnel. The subsection also directs the Center to collaborate with relevant components of DHS, to: develop and track border security metrics, identify resource and technological needs affecting border security, and serve as a testing ground and demonstration location for the testing of border security technology.

Additionally, this subsection also requires the CBP’s AMO to support the Center by: establishing and maintaining capability that is collocated with the Center and available for quick deployment in support of northern border missions and DHS components, and evaluating requirements and making recommendations to support the operations of large unmanned aircraft systems. The subsection requires the Air and Marine Operations Center to collocate personnel and resources at the Center to enhance DHS’s capabilities to: support air and maritime domain awareness and information sharing efforts; provide dedicated monitoring of northern border systems; and lead the Center’s efforts to track and monitor le-

gitimate cross-border traffic involving UAS. This subsection also requires the Center to support counter-UAS operations along the northern border to respond to the increased use of UAS.

Finally, this subsection also requires the Center, in collaboration with the Chief Privacy Officer and the Office for Civil Rights and Civil Liberties of the Department, to ensure that operations and practices of the Center comply with the privacy and civil rights policies of DHS and its components.

Subsection (e) requires the Secretary to submit a report to Congress that describes the activities of the Center no later than 180 days after the establishment of the Center and annually thereafter. This report must identify: personnel levels, additional resources that are needed to support the operations of the Center and northern border operations, and any additional assets or authorities that are needed to increase security and domain awareness along the northern border.

Subsection (f) requires the Secretary submit a quarterly report to Congress regarding temporary duty assignments of Border Patrol agents during the reporting period, including: the number of agents on temporary duty assignment, the duration of the temporary duty assignment, and the sectors from which the agents were assigned.

Subsection (g) provides a rule of construction that states the Center shall be established separate and distinct from the Secretary's authorities under section 708 of the *Homeland Security Act of 2002*.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 2291, Northern Border Coordination Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 26, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	84	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? No	
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 2291 would require the Department of Homeland Security (DHS) to establish a Northern Border Coordination Center along the northern border of the United States within one year of enactment. The center would be colocated with its component units, including Customs and Border Protection (CBP), the Coast Guard, and Immigration and Customs Enforcement and would oversee northern border security activities, serve as a training location and testing ground for new technology, and support counter-unmanned aircraft operations. The bill also would require CBP's Air and Marine Operations to maintain quick deployment capabilities and impose various reporting requirements.

In total, CBO estimates that implementing S. 2291 would cost \$84 million over the 2024–2028 period. Such spending would be subject to the availability of appropriated funds. The costs of the legislation, detailed in Table 1, fall within budget function 750 (administration of justice).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 2291

	By fiscal year, millions of dollars—						
	2023	2024	2025	2026	2027	2028	2023–2028
Estimated Authorization	0	19	20	21	22	22	104
Estimated Outlays	40	10	15	18	20	21	84

Based on the costs of similar inter-agency coordination activities across DHS's component units, CBO estimates that DHS would need 40 employees at a cost of \$8 million in 2024. Using information about DHS spending on nonpersonnel costs, such as facilities, transportation, equipment maintenance, and supplies and materials, CBO estimates that the department would incur an additional \$5 million in administrative costs in 2024. Accounting for anticipated inflation, CBO estimates that implementing S. 2291 would cost \$70 million for administrative and personnel costs over the 2024–2028 period.

In addition, CBO anticipates that DHS would need to upgrade existing facilities to accommodate the center and the additional personnel. Based on the timeline and costs of similar projects, CBO estimates that those improvements would cost \$14 million over the 2024–2028 period. Finally, CBO expects the bill’s reporting requirements would cost less than \$500,000 over the 2024–2028 period, based on the costs of similar activities.

The CBO staff contact for this estimate is Jeremy Crimm. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation would make no change in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.