

118TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
118-103

PROTECTING THE BORDER FROM  
UNMANNED AIRCRAFT SYSTEMS ACT

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 1443

TO REQUIRE AN INTERAGENCY STRATEGY FOR  
CREATING A UNIFIED POSTURE ON  
COUNTER-UNMANNED AIRCRAFT SYSTEMS (C-UAS)  
CAPABILITIES AND PROTECTIONS AT INTERNATIONAL  
BORDERS OF THE UNITED STATES



OCTOBER 3, 2023.—Ordered to be printed

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**Calendar No. 219**

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PROTECTING THE BORDER FROM UNMANNED AIRCRAFT  
SYSTEMS ACT

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

**R E P O R T**

[To accompany S. 1443]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1443), to require an interagency strategy for creating a unified posture on counter-unmanned aircraft systems (C-UAS) capabilities and protections at international borders of the United States, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose and Summary .....	1
II. Background and Need for the Legislation .....	2
III. Legislative History .....	3
IV. Section-by-Section Analysis of the Bill, as Reported .....	3
V. Evaluation of Regulatory Impact .....	4
VI. Congressional Budget Office Cost Estimate .....	5
VII. Changes in Existing Law Made by the Bill, as Reported .....	5

I. PURPOSE AND SUMMARY

S. 1443, the *Protecting the Border from Unmanned Aircraft Systems Act*, requires the Department of Homeland Security (DHS) to work with the Department of Justice (DOJ), the Federal Aviation Administration (FAA), the Department of State, the Department of Energy, the Office of the Director of National Intelligence (ODNI), and the Department of Defense (DOD) to develop a strategy to guide a unified posture on counter-unmanned aircraft systems (C-UAS) capabilities and protections along the international borders of

the United States. Among other items, the strategy must examine C-UAS capabilities along the borders, including covered facilities and assets, and efforts to protect civil rights and civil liberties during the operation of C-UAS capabilities. The strategy must also contain assessments of the training required for the successful operation of C-UAS detection and mitigation technologies at U.S. borders and the interagency research and development efforts of C-UAS technologies, as well as recommendations for additional authorities and resources needed to protect against illicit unmanned aircraft systems (UAS). The strategy must be submitted to Congress no later than one year after the enactment of the bill and a report must be submitted no later than two years and annually until seven years after enactment that describes the resources necessary to carry out the strategy and any significant developments relating to the required elements of the strategy. The bill also requires that elements of the strategy be included under the semi-annual briefings provided to Congress under section 210G of the Homeland Security Act of 2002.

## II. BACKGROUND AND NEED FOR THE LEGISLATION

The FAA estimates that by 2027, as many as 1.89 million small drones could be registered to fly in the U.S.<sup>1</sup> UAS bring substantial benefits to our society and economy, but their low barrier to entry in the national airspace system, wide availability, and ease of operation allows them to be potentially misused. As a result, nefarious actors could exploit vulnerabilities in traditional security measures.<sup>2</sup>

In July 2022, this Committee held a hearing to examine the threats posed by UAS to our homeland security, including the impacts malicious UAS could have on manned aircraft operations, airports, critical infrastructure facilities, and high-profile events.<sup>3</sup> During that hearing, the Committee heard about the challenges DHS faces in carrying out its C-UAS mission, including protecting our international borders from malicious drones.<sup>4</sup>

According to DHS, transnational criminal organizations (TCOs) use UAS to transport narcotics and contraband across U.S. borders and conduct hostile surveillance of law enforcement. According to U.S. Customs and Border Protection (CBP), the agency detected more than 8,000 illegal cross-border UAS flights between August 2021 and May 2022 at the southern border, which is an average of 900 incursions per month. As UAS technologies evolve, this threat will continue to develop and CBP further assesses that TCOs will pursue larger UAS with increased speed, range, and payload capacity in an effort to evade CBP and other law enforce-

<sup>1</sup>Federal Aviation Administration, *FAA Aerospace Forecast Fiscal Years 2023–2043* ([www.faa.gov/dataresearch/aviation/aerospaceforecasts/faa-aerospace-forecast-fy-2023-2043](http://www.faa.gov/dataresearch/aviation/aerospaceforecasts/faa-aerospace-forecast-fy-2023-2043)) at 54.

<sup>2</sup>Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Deputy Associate Administrator for Security and Hazardous Safety Tonya Coultas, Federal Aviation Administration, *Hearing on Protecting the Homeland from Unmanned Aircraft Systems*, 117th Cong. (July 14, 2022) (S. Hrg. 117–XX).

<sup>3</sup>Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Protecting the Homeland from Unmanned Aircraft Systems*, 117th Cong. (July 14, 2022) (S. Hrg. 117–XX).

<sup>4</sup>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) at 3–4.

ment agencies.<sup>5</sup> While the volume of UAS incursions at the U.S. southern border highlights the challenges DHS faces in combatting the cross-border UAS threat, much remains unknown about the volume of UAS incursions our nation faces at its northern and maritime borders. As DHS works to implement the Northern Border Strategy, released in 2018, its objectives include utilizing detection assets and resources to monitor and, if necessary, counter the UAS threat.<sup>6</sup>

To ensure DHS can effectively counter the UAS threat posed at all U.S. borders, this bill requires DHS to work with DOJ, the FAA, the Departments of State and Energy, ODNI, and DOD to develop an interagency strategy to combat unauthorized UAS along U.S. international borders. This strategy would include assessments of the federal government’s C-UAS capabilities, privacy protections, intelligence tools, training programs, resources, and research efforts along U.S. international borders. The bill also includes provisions to increase transparency regarding UAS-related threats along the border, encourage more robust interagency research and development efforts, and help ensure the federal government protects the privacy and civil liberties of individuals lawfully operating drones along our international borders.

### III. LEGISLATIVE HISTORY

Senator James Lankford (R-OK) introduced S. 1443, the *Protecting the Border from Unmanned Aircraft Systems Act*, on May 4, 2023, with original cosponsor Senator Kyrsten Sinema (I-AZ). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1443 at a business meeting on May 17, 2023. At the business meeting, the bill was ordered reported favorably by roll call vote of 9 yeas to 1 nay, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Lankford, and Romney voting in the affirmative, and Senator Paul voting in the negative. Senators Carper, Johnson, Scott, Hawley, and Marshall 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 “Protecting the Border from Unmanned Aircraft Systems Act.”

#### *Section 2. Interagency strategy for creating a unified posture on counter-unmanned aircraft systems capabilities and protections at international borders of the United States*

Subsection (a) defines the terms “appropriate congressional committees,” “covered facility or asset,” “C-UAS,” “national airspace system,” and “unmanned aircraft system.”

Subsection (b) requires the Secretary of Homeland Security to work with the Attorney General, FAA Administrator, Secretary of State, Secretary of Energy, Director of National Intelligence, and

<sup>5</sup> *Id.*

<sup>6</sup> U.S. Department of Homeland Security, *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](http://www.dhs.gov/sites/default/files/publications/18_0612_PLCY_DHS-Northern-Border-Strategy.pdf)).

Secretary of Defense to develop a strategy for creating a unified posture on C-UAS capabilities and protections at U.S. international borders and border-adjacent facilities or assets where capabilities may be used under federal law. The strategy required by this section must be developed no later than 180 days after the enactment of this legislation.

Subsection (c) requires that the strategy outlined in subsection (b): (1) examine C-UAS capabilities at covered facilities or assets along U.S. international borders and border-adjacent facilities or assets, and the usage of these capabilities to detect or mitigate credible threats; (2) examine efforts to protect privacy and civil liberties in the context of C-UAS operations; (3) examine UAS tactics, techniques, and procedures being used in the border environment by malign actors, including how they can be acquired, modified, and utilized to conduct malicious activity; (4) assess the C-UAS systems necessary to identify illicit activity and protect against UAS threats at U.S. international borders; (5) assess the training required for successful operation of C-UAS technology and how that training fits into broader training standards and norms and relates to the protection of privacy and civil liberties; (6) recommend additional authorities and resources to protect against illicit UAS, including those necessary to detect UAS activity and mitigate credible UAS threats along international U.S. borders; and (7) an assessment of interagency research and development efforts.

Subsection (d) requires the Secretary of Homeland Security to submit the strategy developed as outlined in subsection (b) to Congress no later than one year after this bill's enactment.

Subsection (e) requires the Secretary of Homeland Security, in coordination with the Attorney General, FAA Administrator, Secretary of State, Secretary of Energy, Director of National Intelligence, and Secretary of Defense, to produce a report that describes the resources necessary to carry out the strategy developed pursuant to subsection (b) and any significant developments related to the elements described in subsection (c). The report must be submitted to Congress no later than two years after the passage of the bill and annually thereafter for the following seven years. The elements of the report must also be included in the semiannual briefings required under section 210G of the Homeland Security Act of 2002 beginning one year after the enactment of this legislation.

#### 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

<b>S. 1443, Protecting the Border from Unmanned Aircraft Systems Act</b>			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 17, 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	*	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
		<b>Mandate Effects</b>	
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
* = between zero and \$500,000.			

S. 1443 would require the Department of Homeland Security, in coordination with several federal agencies, including the Departments of Defense and Justice, to develop a unified strategy to combat threats from unmanned aircraft systems. The bill would require the agencies to submit the strategy to the Congress within one year of enactment and provide an annual update for the following seven years.

Based on the costs of similar activities, CBO estimates that implementing S. 1443 would cost less than \$500,000 over the 2024–2028 period. Such spending would be subject to the availability of appropriated funds.

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.