

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

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.**

**S. 4294**

To direct the Secretary of Homeland Security to negotiate with the Government of Canada regarding an agreement for integrated cross border aerial law enforcement operations, 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 Ms. HASSAN

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 “Cross Border Aerial  
5 Law Enforcement Operations Act”.

6 **SEC. 2. INTEGRATED CROSS BORDER AERIAL LAW EN-  
7 FORCEMENT OPERATIONS PROGRAM.**

8 (a) AUTHORIZATION.—The Secretary of Homeland  
9 Security may establish, pursuant to a bilateral agreement  
10 with the Government of Canada, an integrated cross bor-  
11 der aerial law enforcement program (referred to in this

1 section as the “Program”) along the international border  
2 between the United States and Canada, which may be  
3 modeled off the Framework Agreement on Integrated  
4 Cross-Border Maritime Law Enforcement Operations Be-  
5 tween the Government of the United States of America  
6 and the Government of Canada, done at Detroit May 26,  
7 2009.

8 (b) PROGRAM ELEMENTS.—

9 (1) PARTICIPANTS.—The Program may be  
10 staffed by approved law enforcement officers from—

11 (A) U.S. Customs and Border Protection;

12 (B) the United States Coast Guard;

13 (C) Homeland Security Investigations;

14 (D) any other Federal law enforcement  
15 agency, as appropriate, designated by the Sec-  
16 retary of Homeland Security; and

17 (E) appropriate law enforcement agencies  
18 of the Government of Canada.

19 (2) SCOPE.—The jurisdiction of the Program  
20 shall be limited to the territory located within 50  
21 miles of either side of the international border be-  
22 tween the United States and Canada unless—

23 (A) a situation within such territory re-  
24 quires an aircraft to leave from or return to an

1           airport, heliport, or base of operations located  
2           outside such territory; or

3                   (B) there are exigent circumstances relat-  
4           ing to authorized Program activities, as defined  
5           in the underlying bilateral agreement, including  
6           an emergency on an aircraft or an emergency  
7           on the ground.

8           (3) CIVIL RIGHTS.—The Program shall ensure  
9           that the civil rights, civil liberties, and privacy of all  
10          individuals within the jurisdiction of the United  
11          States are guaranteed in accordance with Federal  
12          law.

13          (4) NOTIFICATION REQUIREMENTS.—

14                   (A) BILATERAL AGREEMENT.—Not later  
15          than 30 days after receiving a copy of a bilat-  
16          eral agreement described in subsection (a), the  
17          Secretary of Homeland Security shall submit a  
18          signed copy of such agreement to the Com-  
19          mittee on Homeland Security and Govern-  
20          mental Affairs of the Senate, the Committee on  
21          Foreign Relations of the Senate, the Committee  
22          on Homeland Security of the House of Rep-  
23          resentatives, and the Committee on Foreign Af-  
24          fairs of the House of Representatives.

1 (B) PROGRAM ELEMENTS AND SCOPE.—

2 Not later than 30 days after the implementa-  
3 tion of the Program, the Secretary of Homeland  
4 Security shall submit a written description of  
5 the elements and scope of the Program to the  
6 congressional committees listed under subpara-  
7 graph (A).

8 (5) PRIVACY, CIVIL RIGHTS, AND CIVIL LIB-  
9 ERTIES TRAINING.—

10 (A) IN GENERAL.—Any agreement de-  
11 scribed in subsection (a) shall include specific  
12 provisions that—

13 (i) are intended to protect the privacy  
14 and civil liberties of United States citizens;  
15 and

16 (ii) ensure that cross border aerial law  
17 enforcement operations are conducted in a  
18 manner that—

19 (I) respects individual rights; and

20 (II) complies with applicable  
21 United States laws.

22 (B) TRAINING.—Any officer of the United  
23 States or of Canada, before participating in the  
24 Program, shall complete sufficient training to  
25 ensure they understand their responsibilities to

1 protect the privacy, civil liberties, and civil  
2 rights of United States citizens.

3 (c) COMMUNICATIONS.—Each of the agencies re-  
4 ferred to in subsection (b)(1) are authorized to establish  
5 necessary communication protocols for the safety of cross  
6 border aerial law enforcement operations.

7 (d) FAILURE TO FINALIZE PROGRAM REPORT.—If  
8 the Program is not established on or before the date that  
9 is 2 years after the date of the enactment of this Act,  
10 the Secretary of Homeland Security shall submit a report  
11 to the congressional committees referred to in subsection  
12 (b)(4)(A) that includes—

13 (1) a description of any unresolved issues that  
14 are preventing the establishment of the Program;

15 (2) any actions that Congress could take to fa-  
16 cilitate the establishment of such Program;

17 (3) any potential concerns relating to civil  
18 rights, civil liberties, or privacy that have impacted  
19 the establishment of the Program; and

20 (4) a recommendation regarding whether—

21 (A) the Secretary should continue trying to  
22 establish such Program; or

23 (B) such Program is not needed.

1 **SEC. 3. UNMANNED AIRCRAFT SYSTEM REPORT.**

2 Not later than 1 year after the date of the enactment  
3 of this Act, the Secretary of Homeland Security shall sub-  
4 mit an unclassified report, with a classified annex, if nec-  
5 essary, to the congressional committees referred to in sec-  
6 tion 2(b)(4)(A) that describes the use of unmanned air-  
7 craft systems (referred to in this section as “UAS”) along  
8 the northern international border of the United States, in-  
9 cluding—

10 (1) interagency coordination to mitigate incur-  
11 sions from unauthorized UAS;

12 (2) any jurisdictional issues that would prevent  
13 the mitigation of unauthorized UAS;

14 (3) the use of UAS by malign actors—

15 (A) to collect intelligence or surveil law en-  
16 forcement operations;

17 (B) to move contraband, persons, or pay-  
18 loads across the international border; or

19 (C) to conduct espionage;

20 (4) an assessment of the feasibility for joint,  
21 cross-border law enforcement operations involving  
22 UAS or counter-unmanned aircraft systems; and

23 (5) the potential risks to civil rights, civil lib-  
24 erties, and privacy resulting from the Department of  
25 Homeland Security operating UAS and counter-un-

1       manned aircraft systems along the northern border  
2       of the United States.

3       **SEC. 4. NO ADDITIONAL FUNDS.**

4       No additional funds are authorized to be appro-  
5       priated for the purpose of carrying out this Act.