

114TH CONGRESS
1ST SESSION

H. R. 4034

To require fencing along and operational control of the southwest border,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2015

Mr. FLEMING introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Natural Resources and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require fencing along and operational control of the
southwest border, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secure Fence Restora-
5 tion Act of 2015”.

1 **SEC. 2. FENCING ALONG AND OPERATIONAL CONTROL OF**
2 **THE SOUTHWEST BORDER.**

3 (a) FENCING.—Paragraph (1) of section 102(b) of
4 the Illegal Immigration Reform and Immigrant Responsi-
5 bility Act of 1996 (8 U.S.C. 1103 note) is amended—

6 (1) in subparagraph (A), by inserting “, not
7 later than December 31, 2017,” before “construct”;

8 (2) in subparagraph (B)—

9 (A) in clause (i), by striking “370 miles, or
10 other mileage determined by the Secretary,
11 whose authority to determine other mileage
12 shall expire on December 31, 2008,” and in-
13 serting “areas”; and

14 (B) in clause (ii), by striking “2008” and
15 inserting “2017”; and

16 (3) by striking subparagraph (D).

17 (b) OPERATIONAL CONTROL.—Subsection (a) of sec-
18 tion 2 of the Secure Fence Act of 2006 (8 U.S.C. 1701
19 note; Public Law 109–367) is amended, in the matter pre-
20 ceding paragraph (1)—

21 (1) by striking “18 months after the date of the
22 enactment of this Act,” and inserting “December
23 31, 2017,”; and

24 (2) by inserting “, in consultation with State
25 and local officials along the international border be-
26 tween the United States and Mexico, including gov-

1 ernors of border States, mayors of border towns and
2 cities, and border sheriffs,” before “shall”.

3 **SEC. 3. PROHIBITION ON ACTIONS THAT IMPEDE BORDER**
4 **SECURITY ON CERTAIN FEDERAL LAND.**

5 (a) SHORT TITLE.—This section may be cited as the
6 “National Security and Federal Lands Protection Act”.

7 (b) PROHIBITION ON SECRETARIES OF THE INTE-
8 RIOR AND AGRICULTURE.—Neither the Secretary of the
9 Interior or the Secretary of Agriculture may impede, pro-
10 hibit, or restrict activities of U.S. Customs and Border
11 Protection on Federal land located within 100 miles of an
12 international land border that is under the jurisdiction of
13 the Secretary of the Interior or the Secretary of Agri-
14 culture, as the case may be, to execute search and rescue
15 operations and to prevent all unlawful entries into the
16 United States, including entries by terrorists, other unlaw-
17 ful aliens, instruments of terrorism, narcotics, and other
18 contraband through such border.

19 (c) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
20 BORDER PROTECTION.—U.S. Customs and Border Pro-
21 tection shall have immediate access to Federal land within
22 100 miles of the international land border under the juris-
23 diction of the Secretary of the Interior or the Secretary
24 of Agriculture for purposes of conducting the following ac-
25 tivities on such land that prevent all unlawful entries into

1 the United States, including entries by terrorists, other
2 unlawful aliens, instruments of terrorism, narcotics, or
3 other contraband through such border:

4 (1) Construction and maintenance of roads.

5 (2) Construction and maintenance of barriers.

6 (3) Use of vehicles to patrol, apprehend, or res-
7 cue.

8 (4) Installation, maintenance, and operation of
9 communications and surveillance equipment and sen-
10 sors.

11 (5) Deployment of temporary tactical infra-
12 structure.

13 (d) CLARIFICATION RELATING TO WAIVER AUTHOR-
14 ITY.—

15 (1) IN GENERAL.—Notwithstanding any other
16 provision of law (including any termination date re-
17 lating to the waiver referred to in this subsection),
18 the waiver by the Secretary of Homeland Security
19 on April 1, 2008, under section 102(c)(1) of the Ille-
20 gal Immigration Reform and Immigrant Responsi-
21 bility Act of 1996 (8 U.S.C. 1103 note; Public Law
22 104–208) of the laws referred to in paragraph (2)
23 of this subsection with respect to certain sections of
24 the international border between the United States
25 and Mexico and between the United States and Can-

1 shall be considered to apply to all Federal land
2 under the jurisdiction of the Secretary of the Inte-
3 rior or the Secretary of Agriculture within 100 miles
4 of the international land borders of the United
5 States for the activities of U.S. Customs and Border
6 Protection specified in subsection (c) of this section.

7 (2) DESCRIPTION OF LAWS WAIVED.—The laws
8 referred to in paragraph (1) are the Wilderness Act
9 (16 U.S.C. 1131 et seq.), the National Environ-
10 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
11 the Endangered Species Act of 1973 (16 U.S.C.
12 1531 et seq.), the National Historic Preservation
13 Act (16 U.S.C. 470 et seq.), Public Law 86–523 (16
14 U.S.C. 469 et seq.), the Act of June 8, 1906 (com-
15 monly known as the “Antiquities Act of 1906”; 16
16 U.S.C. 431 et seq.), the Wild and Scenic Rivers Act
17 (16 U.S.C. 1271 et seq.), the Federal Land Policy
18 and Management Act of 1976 (43 U.S.C. 1701 et
19 seq.), the National Wildlife Refuge System Adminis-
20 tration Act of 1966 (16 U.S.C. 668dd et seq.), the
21 Fish and Wildlife Act of 1956 (16 U.S.C. 742a et
22 seq.), the Fish and Wildlife Coordination Act (16
23 U.S.C. 661 et seq.), subchapter II of chapter 5, and
24 chapter 7, of title 5, United States Code (commonly
25 known as the “Administrative Procedure Act”), the

1 National Park Service Organic Act (16 U.S.C. 1 et
2 seq.), the General Authorities Act of 1970 (Public
3 Law 91–383) (16 U.S.C. 1a–1 et seq.), sections
4 401(7), 403, and 404 of the National Parks and
5 Recreation Act of 1978 (Public Law 95–625, 92
6 Stat. 3467), and the Arizona Desert Wilderness Act
7 of 1990 (16 U.S.C. 1132 note; Public Law 101–
8 628).

9 (e) PROTECTION OF LEGAL USES.—This section may
10 not be construed to provide—

11 (1) authority to restrict legal uses, such as
12 grazing, hunting, mining, or public-use recreational
13 and backcountry airstrips on land under the jurisdic-
14 tion of the Secretary of the Interior or the Secretary
15 of Agriculture; or

16 (2) any additional authority to restrict legal ac-
17 cess to such land.

18 (f) EFFECT ON STATE AND PRIVATE LAND.—This
19 Act shall—

20 (1) have no force or effect on State or private
21 lands; and

22 (2) not provide authority on or access to State
23 or private lands.

24 (g) TRIBAL SOVEREIGNTY.—Nothing in this section
25 supersedes, replaces, negates, or diminishes treaties or

- 1 other agreements between the United States and Indian
- 2 tribes.

