

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To address the management by certain Federal land management agencies over Federal land along the southern border and northern border, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. LEE (for himself, Mrs. BLACKBURN, Mr. BARRASSO, Ms. LUMMIS, and Mrs. HYDE-SMITH) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To address the management by certain Federal land management agencies over Federal land along the southern border and northern 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 “Border Lands Con-  
5       servation Act”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
2           TEES.—The term “appropriate congressional com-  
3           mittees” means—

4                   (A) the Committee on Natural Resources  
5                   of the House of Representatives; and

6                   (B) the Committee on Energy and Natural  
7                   Resources of the Senate.

8           (2) BORDER STATE.—The term “Border State”  
9           means a State that abuts the southern border or  
10          northern border.

11          (3) COVERED FEDERAL LAND.—

12                   (A) IN GENERAL.—The term “covered  
13                   Federal land” means land—

14                           (i) owned by the United States;

15                           (ii) located in a unit, or in a portion  
16                           of a unit, or within 1 or more parcels of  
17                           land that shares an exterior boundary with  
18                           the southern border or northern border;  
19                           and

20                           (iii) administered by a Federal land  
21                           management agency.

22                   (B) EXCLUSION.—The term “covered Fed-  
23                   eral land” does not include Federal land held in  
24                   trust for Indian Tribes.

1           (4) FEDERAL LAND MANAGEMENT AGENCY.—  
2       The term “Federal land management agency” has  
3       the meaning given the term in section 802 of the  
4       Federal Lands Recreation Enhancement Act (16  
5       U.S.C. 6801).

6           (5) INITIATIVE.—The term “Initiative” means  
7       the Border Fuels Management Initiative established  
8       under section 8(a).

9           (6) NORTHERN BORDER.—The term “northern  
10      border” means the international border between the  
11      United States and Canada.

12          (7) OPERATIONAL CONTROL.—The term “oper-  
13      ational control” has the meaning given the term in  
14      section 2(b) of the Secure Fence Act of 2006 (8  
15      U.S.C. 1701 note; Public Law 109–367).

16          (8) SECRETARIES.—The term “Secretaries”  
17      means the Secretary of the Interior and the Sec-  
18      retary of Agriculture.

19          (9) SECRETARY CONCERNED.—The term “Sec-  
20      retary concerned” means—

21               (A) the Secretary of the Interior, with re-  
22               spect to covered Federal land under the juris-  
23               diction of the Secretary of the Interior; and

1 (B) the Secretary of Agriculture, acting  
2 through the Chief of the Forest Service, with  
3 respect to National Forest System land.

4 (10) SOUTHERN BORDER.—The term “southern  
5 border” means the international border between the  
6 United States and Mexico.

7 (11) TACTICAL INFRASTRUCTURE.—The term  
8 “tactical infrastructure” means infrastructure for  
9 the detection of illegal southern border and northern  
10 border crossings, including observation points, re-  
11 mote video surveillance systems, motion sensors, ve-  
12 hicle barriers, fences, roads, bridges, drainage, and  
13 detection devices.

14 **SEC. 3. NAVIGABLE ROAD INFRASTRUCTURE ALONG COV-**  
15 **ERED FEDERAL LAND.**

16 (a) IN GENERAL.—The Secretaries, in consultation  
17 with the Secretary of Homeland Security, shall inventory  
18 existing roads and install navigable roads on covered Fed-  
19 eral land—

20 (1) to deter illegal southern border and north-  
21 ern border crossings;

22 (2) to gain operational control of the southern  
23 border and northern border; and

24 (3) to increase Department of Homeland Secu-  
25 rity access to covered Federal land.

1 (b) ADMINISTRATION.—The Secretaries shall—

2 (1) administer and maintain the roads installed  
3 under subsection (a); and

4 (2) ensure access to the roads installed under  
5 subsection (a) by the Department of Defense, De-  
6 partment of Homeland Security, local law enforce-  
7 ment, emergency personnel, and any other personnel  
8 that the Secretary concerned determines to be nec-  
9 essary to carry out the purposes described in that  
10 subsection.

11 (c) COOPERATIVE AGREEMENTS.—The Secretaries  
12 shall enter into cooperative agreements with the Secretary  
13 of Homeland Security—

14 (1) to install technology on covered Federal  
15 land that the Secretaries, in consultation with the  
16 Secretary of Homeland Security, determine to be  
17 necessary to deter illegal entry into the United  
18 States; and

19 (2) to gain operational control of the southern  
20 border and northern border.

21 **SEC. 4. ACCESS TO WILDERNESS AREAS.**

22 Section 4(d) of the Wilderness Act (16 U.S.C.  
23 1133(d)) is amended by adding at the end the following:

24 “(8) Notwithstanding any other provision of  
25 this Act, the Secretary of Homeland Security may

1       conduct the following activities within a wilderness  
2       area for the purpose of securing the international  
3       land borders of the United States:

4               “(A) Access structures, installations, and  
5       roads.

6               “(B) Execute search and rescue oper-  
7       ations.

8               “(C) Use motor vehicles, motorboats, and  
9       motorized equipment.

10              “(D) Conduct patrols on foot and on  
11       horseback.

12              “(E) Notwithstanding any other law, in-  
13       cluding regulations, relating specifically to the  
14       use of aircraft in a wilderness area or in the  
15       airspace above a wilderness area, use aircraft,  
16       including approach, landing, and takeoff.

17              “(F) Deploy tactical infrastructure (as de-  
18       fined in section 2 of the Border Lands Con-  
19       servation Act) and technology.

20              “(G) Construct and maintain roads and  
21       physical barriers.”.

22   **SEC. 5. SEARCH AND RESCUE OPERATIONS.**

23       The Secretary of the Interior or the Secretary of Ag-  
24       riculture may not impede, prohibit, or restrict activities  
25       of the Department of Homeland Security on covered Fed-

1 eral land located within 100 miles of the southern border  
2 or northern border—

3 (1) to execute search and rescue operations; or

4 (2) to prevent unlawful entries into the United  
5 States, including entries through the southern bor-  
6 der or northern border—

7 (A) by terrorists and other unlawful aliens;

8 and

9 (B) of instruments of terrorism, narcotics,  
10 and other contraband.

11 **SEC. 6. INTERAGENCY COOPERATIVE AGREEMENT.**

12 The Secretary concerned shall enter into a coopera-  
13 tive agreement with the Secretary of Homeland Security  
14 to fulfill the commitments under—

15 (1) the memorandum of understanding entitled  
16 “Memorandum of Understanding Among U.S. De-  
17 partment of Homeland Security and U.S. Depart-  
18 ment of the Interior and U.S. Department of Agri-  
19 culture Regarding Cooperative National Security  
20 and Counterterrorism Efforts on Federal Lands  
21 along the United States’ Borders” and signed March  
22 2006; or

23 (2) any successor to the memorandum of under-  
24 standing described in paragraph (1).

1 **SEC. 7. INVENTORY OF ROADS AND TRAILS ON COVERED**  
2 **FEDERAL LAND HARMED BY ILLEGAL**  
3 **ALIENS.**

4 (a) IN GENERAL.—Not later than 1 year after the  
5 date of enactment of this Act, the Secretary concerned  
6 shall inventory all previously unauthorized roads and trails  
7 on covered Federal land that have been created by illegal  
8 southern border or northern border crossings.

9 (b) DETERMINATION REQUIRED.—Not later than 2  
10 years after the date on which the inventory is completed  
11 under subsection (a), the Secretary concerned shall deter-  
12 mine whether each previously unauthorized road or trail  
13 inventoried under that subsection has been damaged in  
14 such a manner that—

15 (1) the applicable road or trail has permanently  
16 altered the original characteristics of the applicable  
17 covered Federal land; and

18 (2) significant environmental degradation to the  
19 applicable road or trail has been identified.

20 (c) MAINTENANCE AND ADMINISTRATION.—If the  
21 Secretary concerned makes an affirmative determination  
22 under subsection (b) with respect to a previously unau-  
23 thorized road or trail inventoried under subsection (a), the  
24 Secretary concerned shall enter into a cooperative agree-  
25 ment with the Secretary of Homeland Security to use and  
26 maintain the applicable road or trail—



1           (1) to deter illegal entry into the United States;  
2           and

3           (2) to gain operational control of the southern  
4           border or northern border, as applicable.

5 **SEC. 8. ESTABLISHMENT OF THE BORDER FUELS MANAGE-**  
6 **MENT INITIATIVE.**

7           (a) ESTABLISHMENT.—Not later than 1 year after  
8 the date of enactment of this Act, the Secretaries shall  
9 establish a program, to be known as the “Border Fuels  
10 Management Initiative”.

11          (b) ACTIVITIES.—In carrying out the Initiative, the  
12 Secretaries shall—

13           (1) reduce hazardous fuels on covered Federal  
14           land;

15           (2) address invasive or nonnative species along  
16 the covered Federal land that contribute to wildland  
17 fire risk or decrease the efficiency of U.S. Border  
18 Patrol operations;

19           (3) install fuel breaks along the covered Federal  
20           land;

21           (4) set targets for acres to treat under the Ini-  
22 tiative for each fiscal year; and

23           (5) in coordination with the Secretary of Home-  
24 land Security, prioritize fuels management on cov-

1       ered Federal land on which navigable roads are in-  
2       stalled under section 3(a).

3       (c) COORDINATION.—In carrying out the Initiative,  
4       the Secretaries shall coordinate and may enter into memo-  
5       randa of understanding with the U.S. Border Patrol and  
6       State, local, and Tribal law enforcement agencies.

7       **SEC. 9. REPORTS ON ENVIRONMENTAL DEGRADATION AND**  
8                   **WILDLAND FIRES CAUSED BY ILLEGAL IMMI-**  
9                   **GRATION.**

10       (a) REPORT TO CONGRESS ON COVERED FEDERAL  
11       LAND.—Not later than 1 year after the date of enactment  
12       of this Act, the Secretary concerned shall submit to the  
13       appropriate congressional committees a report that in-  
14       cludes—

15               (1) a catalog of all reported incidents of envi-  
16       ronmental degradation caused, and wildland fires ig-  
17       nited, by aliens without lawful immigration status on  
18       covered Federal land, including—

19                   (A) the number of acres burned and total  
20       number of fires ignited;

21                   (B) a description of each incident of envi-  
22       ronmental degradation and the total number of  
23       incidents;

24                   (C) the estimated cost of cleaning up or re-  
25       mediating the environmental degradation;

1 (D)(i) the number of aliens without lawful  
2 immigration status connected to each fire; and

3 (ii) whether the aliens without lawful im-  
4 migration status were apprehended; and

5 (E) the areas in which incidents of envi-  
6 ronmental degradation occurred, including  
7 areas congressionally designated for the protec-  
8 tion of natural resources; and

9 (2) a description of additional resources or au-  
10 thorities necessary to mitigate, avoid, or prevent  
11 wildland fires and environmental degradation on cov-  
12 ered Federal land caused by aliens without lawful  
13 immigration status crossing the southern border or  
14 northern border.

15 (b) REPORT TO CONGRESS ON UNITS OF THE NA-  
16 TIONAL PARK SYSTEM.—Not later than 1 year after the  
17 date of enactment of this Act, the Secretary of the Interior  
18 (acting through the Director of the National Park Service)  
19 shall submit to the appropriate congressional committees  
20 a report that includes—

21 (1) a catalog of all reported incidents of envi-  
22 ronmental degradation and impacts on visitor safety  
23 caused by aliens without lawful immigration status  
24 at units of the National Park System, including—

1 (A) a description of each incident relating  
2 to visitor safety and the total number of inci-  
3 dents;

4 (B) a description of each incident of envi-  
5 ronmental degradation and the total number of  
6 incidents;

7 (C) the estimated cost of cleaning up or re-  
8 mediating the environmental degradation;

9 (D)(i) the number of aliens without lawful  
10 immigration status connected to each incident;  
11 and

12 (ii) whether the aliens without lawful im-  
13 migration status were apprehended; and

14 (E) the areas in which incidents of envi-  
15 ronmental degradation occurred; and

16 (2) a description of additional resources or au-  
17 thorities necessary to mitigate or avoid environ-  
18 mental degradation and impacts on visitor safety at  
19 units of the National Park System caused by aliens  
20 without lawful immigration status crossing the  
21 southern border or northern border.

22 (c) REPORT TO CONGRESS ON UNITS OF THE NA-  
23 TIONAL WILDLIFE REFUGE SYSTEM.—Not later than 1  
24 year after the date of enactment of this Act, the Secretary  
25 of the Interior (acting through the Director of the United

1 States Fish and Wildlife Service) shall submit to the ap-  
2 propriate congressional committees a report that in-  
3 cludes—

4 (1) a catalog of all reported incidents of envi-  
5 ronmental degradation, impacts on visitor safety,  
6 and limits on access to hunting and fishing caused  
7 by or as a result of aliens without lawful immigra-  
8 tion status at units of the National Wildlife Refuge  
9 System, including—

10 (A) a description of each incident relating  
11 to visitor safety and the total number of inci-  
12 dents;

13 (B) a description of each incident relating  
14 to limiting access to hunting and fishing and  
15 the total number of incidents;

16 (C) a description of each incident of envi-  
17 ronmental degradation and the total number of  
18 incidents;

19 (D) the estimated cost of cleaning up or  
20 remediating the environmental degradation;

21 (E)(i) the number of aliens without lawful  
22 immigration status connected to each incident;  
23 and

24 (ii) whether the aliens without lawful im-  
25 migration status were apprehended; and

1 (F) the areas in which incidents of envi-  
2 ronmental degradation occurred; and

3 (2) a description of additional resources or au-  
4 thorities necessary to mitigate or avoid environ-  
5 mental degradation, impacts on visitor safety, and  
6 limits on access to hunting and fishing at units of  
7 the National Wildlife Refuge System caused by or as  
8 a result of aliens without lawful immigration status  
9 crossing the southern border or northern border.

10 (d) UPDATED REPORT.—

11 (1) IN GENERAL.—Not later than 1 year after  
12 the date of enactment of this Act, the Comptroller  
13 General of the United States shall update the No-  
14 vember 2011 report entitled “Arizona Border Re-  
15 gion: Federal Agencies Could Better Utilize Law  
16 Enforcement Resources in Support of Wildland Fire  
17 Management Activities”.

18 (2) ADDITIONAL STATES CONSIDERED.—In up-  
19 dating the report under paragraph (1), the Comp-  
20 troller General shall include relevant information  
21 with respect to each Border State.

22 (e) REPORT ON IMPACTS OF ILLEGAL IMMIGRATION  
23 ON RANCHING.—Not later than 1 year after the date of  
24 enactment of this Act, the Comptroller General of the

1 United States shall submit to the appropriate congres-  
2 sional committees a report that describes—

3 (1) the effects of illegal immigration on the  
4 ranching and livestock industries; and

5 (2) any recommendations for policies that could  
6 be implemented by the Bureau of Land Management  
7 and the Forest Service to compensate impacted  
8 grazing permit holders for such effects.

9 **SEC. 10. PROHIBITION ON PROVIDING HOUSING TO ALIENS**

10 **ON CERTAIN FEDERAL LAND.**

11 (a) IN GENERAL.—Except as provided in subsection  
12 (b), no Federal funds may be used to provide housing to  
13 aliens without lawful immigration status on any land  
14 under the administrative jurisdiction of the Federal land  
15 management agencies, including through leases, contracts,  
16 or agreements.

17 (b) EXCEPTION.—Subsection (a) shall not apply to  
18 a facility that is used primarily for the custody, detention,  
19 holding, processing, or removal of aliens without lawful  
20 immigration status.

21 **SEC. 11. SAVINGS CLAUSE.**

22 (a) PROTECTION OF LEGAL USES.—Nothing in this  
23 Act provides—

1           (1) authority to restrict legal uses, such as  
2           grazing, timber harvesting, oil and gas development,  
3           mining, or recreation on covered Federal land; or

4           (2) any additional authority to restrict legal ac-  
5           cess to covered Federal land.

6           (b) EFFECT ON STATE OR PRIVATE LAND.—

7           (1) IN GENERAL.—This Act has no force or ef-  
8           fect on State or private land.

9           (2) ACCESS.—Nothing in this Act provides to  
10          the Secretaries authority over, or access to, State or  
11          private land.

12          (c) TRIBAL SOVEREIGNTY.—Nothing in this Act su-  
13          persedes, replaces, negates, or diminishes any treaties or  
14          other agreements between the United States and Indian  
15          Tribes.