

116TH CONGRESS  
1ST SESSION

# H. R. 1292

To amend the Homeland Security Act of 2002 to require border community stakeholder consultation before the Secretary of Homeland Security may construct, install, deploy, operate, or maintain additional physical barriers, tactical infrastructure, or technology between ports of entry along the land border with Mexico, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2019

Mr. VELA (for himself and Mr. THOMPSON of Mississippi) introduced the following bill; which was referred to the Committee on Homeland Security

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## A BILL

To amend the Homeland Security Act of 2002 to require border community stakeholder consultation before the Secretary of Homeland Security may construct, install, deploy, operate, or maintain additional physical barriers, tactical infrastructure, or technology between ports of entry along the land border with Mexico, 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 Community  
5 Input in Border Security Act”.

1 **SEC. 2. BORDER COMMUNITY STAKEHOLDER CONSULTA-**  
2 **TION.**

3 (a) IN GENERAL.—Subtitle H of title VIII of the  
4 Homeland Security Act of 2002 (6 U.S.C. 451 et seq.)  
5 is amended by adding at the end the following:

6 **“SEC. 890B. BORDER COMMUNITY STAKEHOLDER CON-**  
7 **SULTATION.**

8 “(a) IN GENERAL.—Notwithstanding section 102 of  
9 the Illegal Immigration Reform and Immigrant Responsi-  
10 bility Act of 1996, the Secretary may not construct, in-  
11 stall, deploy, operate, or maintain additional physical bar-  
12 riers, tactical infrastructure, or technology (including the  
13 removal of obstacles for such purpose) between ports of  
14 entry in a Border Patrol sector along the land border with  
15 Mexico until the Secretary publishes in the Federal Reg-  
16 ister a final mitigation plan with respect to such sector  
17 to minimize in such sector the impact on the economic,  
18 environmental, ecological, historical, cultural, commercial,  
19 or other quality of life factors for the communities and  
20 residents located near the sites at which any such physical  
21 barriers, tactical infrastructure, or technology are to be  
22 constructed, installed, deployed, operated, or maintained  
23 (or obstacles are to be removed), as the case may be. Such  
24 final mitigation plan shall be developed in accordance with  
25 this section.

1       “(b) INITIAL MITIGATION PLAN.—The Secretary  
2 shall publish on a publicly available website of the Depart-  
3 ment an announcement regarding any removal, construc-  
4 tion, installation, deployment, operation, or maintenance  
5 described in subsection (a). Such announcement shall—

6               “(1) explain the basis for the Secretary’s deter-  
7 mination that any such removal, construction, instal-  
8 lation, deployment, operation, or maintenance, as  
9 the case may be, is the most practical and effective  
10 method to achieve situational awareness and oper-  
11 ational control at the site in the Border Patrol sec-  
12 tor at issue along such border;

13              “(2) include, with respect to any such removal,  
14 construction, installation, deployment, operation, or  
15 maintenance, an initial mitigation plan to minimize  
16 the impact on the economic, environmental, ecologi-  
17 cal, historical, cultural, commercial, or other quality  
18 of life factors for border community stakeholders;

19              “(3) provide an opportunity for written feed-  
20 back and input from border community stake-  
21 holders; and

22              “(4) include the dates, times, and places for at  
23 least two public meetings in locations within 20  
24 miles of each site for which the Secretary makes a  
25 determination pursuant to paragraph (1) for the

1        purpose of soliciting feedback and input from border  
2        community stakeholders regarding such initial miti-  
3        gation plan.

4        “(c) FINAL MITIGATION PLAN.—After receiving feed-  
5        back and input under subsection (b) regarding an initial  
6        mitigation plan, the Secretary shall develop a final mitiga-  
7        tion plan taking into consideration such feedback and  
8        input. The Secretary shall publish in the Federal Register  
9        such final mitigation plan.

10       “(d) UPDATES TO FINAL MITIGATION PLAN.—The  
11       Secretary shall update a final mitigation plan under this  
12       section if significant construction, installation, deploy-  
13       ment, operation, or maintenance of additional physical  
14       barriers, tactical infrastructure, or technology (including  
15       the removal of obstacles for such purpose) is determined  
16       necessary. Any such update shall—

17                “(1) be published on a publicly available website  
18        of the Department;

19                “(2) meet the requirement described in sub-  
20        section (b)(1); and

21                “(3) provide an opportunity for written feed-  
22        back and input from border community stake-  
23        holders.

24        “(e) NOTIFICATION.—Not more than 90 days before  
25        commencing any construction, installation, deployment,

1 operation, or maintenance of additional physical barriers,  
2 tactical infrastructure, or technology (including removal of  
3 obstacles for such purpose) at a site in a Border Patrol  
4 sector in accordance with this section, the Secretary shall  
5 provide the Comptroller General of the United States, the  
6 Committee on Homeland Security of the House of Rep-  
7 resentatives, and the Committee on Homeland Security  
8 and Governmental Affairs of the Senate with the fol-  
9 lowing:

10           “(1) The final mitigation plan under subsection  
11           (c) or an updated final mitigation plan under sub-  
12           section (d), together with information relating to the  
13           feedback and input received in accordance with sub-  
14           section (b) or subsection (d), respectively.

15           “(2) Information on the following:

16                   “(A) The type of additional physical bar-  
17                   riers, tactical infrastructure, or technology the  
18                   Secretary has determined is most practical and  
19                   effective to achieve situational awareness and  
20                   operational control at such site.

21                   “(B) The associated timeline for the con-  
22                   struction, installation, deployment, operation, or  
23                   maintenance of such additional physical bar-  
24                   riers, tactical infrastructure, or technology (in-  
25                   cluding removal of obstacles for such purpose).

“(C) Projected costs, analysis of alternatives, and plans for such removal, construction, installation, deployment, operation, or maintenance or such additional physical barriers, tactical infrastructure, or technology, together with specific information on how much of such site is privately owned and may be subject to eminent domain.

“(f) DEFINITIONS.—In this section:

“(1) BORDER COMMUNITY STAKEHOLDERS.—

The term ‘border community stakeholders’ means, with respect to sites in Border Patrol sectors at which construction, installation, deployment, operation, or maintenance of additional physical barriers, tactical infrastructure, or technology (including removal of obstacles for such purpose) is the subject of an initial, final, or updated final mitigation plan under this section—

“(A) private property owners of such sites;

“(B) State or local governments or Indian tribes that own, manage, or administer such sites or the use of resources of such sites; and

“(C) other individuals who could be impacted by such departmental action, as determined by the Secretary.

1           “(2) OPERATIONAL CONTROL.—The term ‘oper-  
2           ational control’ has the meaning given such term in  
3           section 2 of the Secure Fence Act of 2006 (Public  
4           Law 109–367; 8 U.S.C. 1701 note).

5           “(3) PROPERTY.—The term ‘property’ means  
6           land, including an estate or interest in land, includ-  
7           ing an easement or right of way in land.”.

8           (b) CLERICAL AMENDMENT.—The table of contents  
9           in section 1(b) of the Homeland Security Act of 2002 is  
10          amended by inserting after the item relating to section  
11          890A the following new item:

          “Sec. 890B. Border community stakeholder consultation.”.

