

To the office of U.S. Senator Pete Ricketts

Re: S 4714 (119th Congress), FENCE Act • Latest action (2026-06-09): Read twice and referred to the Committee on Agriculture, Nutrition, and Forestry.
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Office of record (Congress.gov): 139 Russell Senate Office Building Washington, DC 20510, Washington, DC • (202) 224-4224

Voluntary Federal-State Fencing Modernization Grant Program Act of 2025

The measure, as described from the official record: Provide federal cost-sharing to farmers and ranchers who upgrade fencing to modern technologies (e.g., GPS-guided virtual fencing, sensor grids) for conservation purposes under the existing emergency conservation program.

THE PROPOSAL

This Act establishes a voluntary, competitive grant program administered by the Secretary of Agriculture, in coordination with state departments of agriculture, to provide cost-share assistance for the purchase and installation of advanced fencing technology on agricultural lands. Eligible technologies include virtual fencing, GPS-based herding systems, and automated gates that demonstrably reduce soil erosion, protect riparian buffers, or improve wildlife corridor connectivity.

Grants shall require a 50% non-federal match from the applicant or from a state cost-share program. No land-use restrictions beyond the duration of the grant agreement (maximum 5 years) may be imposed. Participation is entirely voluntary; no landowner shall lose eligibility for other USDA programs by opting not to participate.

Funding is limited to \$50 million per fiscal year, offset by reducing mandatory spending on direct cash payments to non-operating landowners under Title I of the Agricultural Act of 2014. The program expires at the end of fiscal year 2030 unless reauthorized.

Oversight is assigned to the USDA Office of Inspector General, which shall submit an annual report to Congress on environmental outcomes, cost per acre enrolled, and any instances of grant diversion or fraud. Enforcement is limited to clawback of funds if the landowner materially violates the grant agreement; no private right of action is created.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	Reduction in Title I direct payments to non-operating landowners (Agricultural Act of 2014).
Funding Amount	\$50 million per fiscal year, capped.
Sunset Years	5 years
Oversight Body	USDA Office of Inspector General (annual report to Congress).

Enforcement Mechanism	Clawback of grant funds for material breach of agreement; no private right of action or criminal penalties.
Effective Date	90 days after enactment

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 1 (General Welfare / spending power — tied to interstate commerce in agriculture and conservation of water/soil affecting multiple states).
- Tenth Amendment — preserves state control over land use; program is cooperative, not coercive.
- Fifth Amendment Due Process — voluntary opt-in with matching requirement, no taking without consent.

Concerns with the measure as written:

- Emergency conservation program may not be a proper exercise of the spending power (Article I, Section 8, Clause 1) if used for non-emergency, routine equipment upgrades.
 - Federal regulation of fencing on private land could infringe on state police powers reserved by the Tenth Amendment unless tied to a clear federal interest (e.g., interstate water quality or endangered species on federal lands).
 - If mandatory or coercive, could violate Fifth Amendment Due Process by impinging on property rights without clear compensation.
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WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Honors Democratic priorities: targeted conservation funding tied to measurable environmental outcomes, limited to \$50M, with OIG oversight. Honors Republican priorities: voluntary participation, state cost-share match, no land-use restrictions beyond grant term, offset by cutting direct payments to non-farming owners, sunset provision, no private right of action.

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