

116TH CONGRESS
1ST SESSION

H. R. 3401

AN ACT

Making emergency supplemental appropriations for the fiscal year ending September 30, 2019, 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 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated,

1 for the fiscal year ending September 30, 2019, and for
2 other purposes, namely:

3 TITLE I

4 DEPARTMENT OF JUSTICE

5 GENERAL ADMINISTRATION

6 EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

7 For an additional amount for “Executive Office for
8 Immigration Review”, \$17,000,000 to be used only for
9 services and activities provided by the Legal Access Pro-
10 grams, of which not less than \$2,000,000 shall be for the
11 continued operation of the Immigration Court Helpdesk
12 Program: *Provided*, That such amount is designated by
13 the Congress as being for an emergency requirement pur-
14 suant to section 251(b)(2)(A)(i) of the Balanced Budget
15 and Emergency Deficit Control Act of 1985.

16 UNITED STATES MARSHALS SERVICE

17 FEDERAL PRISONER DETENTION

18 For an additional amount for “Federal Prisoner De-
19 tention”, \$155,000,000 to be used only for the necessary
20 expenses related to United States prisoners in the custody
21 of the United States Marshals Service as authorized by
22 section 4013 of title 18, United States Code: *Provided*,
23 That such amount is designated by the Congress as being
24 for an emergency requirement pursuant to section

1 251(b)(2)(A)(i) of the Balanced Budget and Emergency
2 Deficit Control Act of 1985.

3 TITLE II

4 DEPARTMENT OF HOMELAND SECURITY

5 SECURITY, ENFORCEMENT, AND BORDER PROTECTION

6 U.S. CUSTOMS AND BORDER PROTECTION

7 OPERATIONS AND SUPPORT

8 For an additional amount for “Operations and Sup-
9 port” for necessary expenses to respond to the significant
10 rise in aliens at the southwest border and related activi-
11 ties, \$1,217,931,000, to remain available until September
12 30, 2020; of which \$702,500,000 is for migrant processing
13 facilities; of which \$92,000,000 is for consumables; of
14 which \$19,950,000 is for medical assets and high risk sup-
15 port; of which \$8,000,000 is for Federal Protective Service
16 support; of which \$35,000,000 is for transportation; of
17 which \$90,636,000 is for temporary duty and overtime
18 costs; of which \$19,845,000 is for reimbursements for
19 temporary duty and overtime costs; and of which
20 \$50,000,000 is for mission support data systems and anal-
21 ysis: *Provided*, That such amount is designated by the
22 Congress as being for an emergency requirement pursuant
23 to section 251(b)(2)(A)(i) of the Balanced Budget and
24 Emergency Deficit Control Act of 1985.

1 PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

2 For an additional amount for “Procurement, Con-
3 struction, and Improvements” for migrant processing fa-
4 cilities, \$85,000,000, to remain available until September
5 30, 2023: *Provided*, That such amount is designated by
6 the Congress as being for an emergency requirement pur-
7 suant to section 251(b)(2)(A)(i) of the Balanced Budget
8 and Emergency Deficit Control Act of 1985.

9 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

10 OPERATIONS AND SUPPORT

11 For an additional amount for “Operations and Sup-
12 port” for necessary expenses to respond to the significant
13 rise in aliens at the southwest border and related activi-
14 ties, \$128,238,000; of which \$35,943,000 is for transpor-
15 tation of unaccompanied alien children; of which
16 \$11,981,000 is for detainee transportation for medical
17 needs, court proceedings, or relocation to and from U.S.
18 Customs and Border Protection custody; of which
19 \$5,114,000 is for reimbursements for overtime and tem-
20 porary duty costs; of which \$20,000,000 is for alternatives
21 to detention; of which \$45,000,000 is for detainee medical
22 care; and of which \$10,200,000 is for the Office of Profes-
23 sional Responsibility for background investigations and fa-
24 cility inspections: *Provided*, That such amount is des-
25 ignated by the Congress as being for an emergency re-

1 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-
2 anced Budget and Emergency Deficit Control Act of 1985.

3 FEDERAL EMERGENCY MANAGEMENT AGENCY

4 FEDERAL ASSISTANCE

5 For an additional amount for “Federal Assistance”,
6 \$60,000,000, to remain available until September 30,
7 2020, for the emergency food and shelter program under
8 Title III of the McKinney-Vento Homeless Assistance Act
9 (42 U.S.C. 11331 et seq.) for the purposes of providing
10 assistance to aliens released from the custody of the De-
11 partment of Homeland Security: *Provided*, That notwith-
12 standing Sections 315 and 316(b) of such Act, funds made
13 available under this section shall be disbursed by the
14 Emergency Food and Shelter Program National Board
15 not later than 30 days after the date on which such funds
16 becomes available: *Provided further*, That the Emergency
17 Food and Shelter Program National Board shall distribute
18 such funds only to jurisdictions or local recipient organiza-
19 tions serving communities that have experienced a signifi-
20 cant influx of such aliens: *Provided further*, That such
21 funds may be used to reimburse such jurisdictions or local
22 recipient organizations for costs incurred in providing
23 services to such aliens on or after January 1, 2019: *Pro-*
24 *vided further*, That such amount is designated by the Con-
25 gress as being for an emergency requirement pursuant to

1 section 251(b)(2)(A)(i) of the Balanced Budget and
2 Emergency Deficit Control Act of 1985.

3 GENERAL PROVISIONS—THIS TITLE

4 SEC. 201. Notwithstanding any other provision of
5 law, funds made available under each heading in this title
6 shall only be used for the purposes specifically described
7 under that heading.

8 SEC. 202. Division A of the Consolidated Appropria-
9 tions Act, 2019 (Public Law 116–6) is amended by adding
10 after section 540 the following:

11 “SEC. 541. (a) Section 831 of the Homeland Security
12 Act of 2002 (6 U.S.C. 391) shall be applied—

13 “(1) in subsection (a), by substituting ‘Sep-
14 tember 30, 2019,’ for ‘September 30, 2017,’; and

15 “(2) in subsection (c)(1), by substituting ‘Sep-
16 tember 30, 2019,’ for ‘September 30, 2017’.

17 “(b) The Secretary of Homeland Security, under the
18 authority of section 831 of the Homeland Security Act of
19 2002 (6 U.S.C. 391(a)), may carry out prototype projects
20 under section 2371b of title 10, United States Code, and
21 the Secretary shall perform the functions of the Secretary
22 of Defense as prescribed.

23 “(c) The Secretary of Homeland Security under sec-
24 tion 831 of the Homeland Security Act of 2002 (6 U.S.C.
25 391(d)) may use the definition of nontraditional govern-

1 ment contractor as defined in section 2371b(e) of title 10,
2 United States Code.”.

3 SEC. 203. (a) The Secretary of the Department of
4 Homeland Security shall establish policies and distribute
5 written personnel guidance, as appropriate, not later than
6 60 days after the date of enactment of this Act on the
7 following:

8 (1) Providing private meeting space and video
9 teleconferencing access for individuals returned to
10 Mexico under the Migrant Protection Protocols to
11 consult with legal counsel, including prior to initial
12 immigration court hearings.

13 (2) Efforts, in consultation with the Depart-
14 ment of State, to address the housing, transpor-
15 tation, and security needs of such individuals.

16 (3) Efforts, in consultation with the Depart-
17 ment of Justice, to ensure that such individuals are
18 briefed, in their primary spoken language to the
19 greatest extent possible, on their legal rights and ob-
20 ligations prior to being returned to Mexico.

21 (4) Efforts, in consultation with the Depart-
22 ment of Justice, to prioritize the immigration pro-
23 ceedings of such individuals.

1 (5) The establishment of written policies defin-
2 ing categories of vulnerable individuals who should
3 not be so returned.

4 (b) For purposes of this section, the term “Migrant
5 Protection Protocols” means the actions taken by the Sec-
6 retary to implement the memorandum dated January 25,
7 2019 entitled “Policy Guidance for the Implementation of
8 the Migrant Protection Protocols”.

9 (c) The amounts provided by this section are des-
10 ignated by the Congress as being for an emergency re-
11 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-
12 anced Budget and Emergency Deficit Control Act of 1985.

13 SEC. 204. None of the funds provided in this Act
14 under “U.S. Customs and Border Protection—Operations
15 and Support” for facilities shall be available until U.S.
16 Customs and Border Protection establishes policies (via
17 directive, procedures, guidance, and/or memorandum) and
18 training programs to ensure that such facilities adhere to
19 the National Standards on Transport, Escort, Detention,
20 and Search, published in October of 2015: *Provided*, That
21 not later than 90 days after the date of enactment of this
22 Act, U.S. Customs and Border Protection shall provide
23 a detailed report to the Committees on Appropriations of
24 the Senate and the House of Representatives, the Com-
25 mittee on the Judiciary of the Senate, and the House Ju-

1 diciary Committee regarding the establishment and imple-
2 mentation of such policies and training programs.

3 SEC. 205. No later than 30 days after the date of
4 enactment of this Act, the Secretary of Homeland Security
5 shall provide a report on the number of U.S. Customs and
6 Border Protection Officers assigned to Northern Border
7 land ports of entry and temporarily assigned to the ongoing
8 humanitarian crisis: *Provided*, That the report shall
9 outline what resources and conditions would allow a return
10 to northern border staffing levels that are no less than
11 the number committed in the June 12, 2018 Department
12 of Homeland Security Northern Border Strategy: *Pro-*
13 *vided further*, That the report shall include the number
14 of officers temporarily assigned to the southwest border
15 in response to the ongoing humanitarian crisis, the number
16 of days the officers will be away from their northern
17 border assignment, the northern border ports from which
18 officers are being assigned to the southwest border, and
19 efforts being made to limit the impact on operations at
20 each northern border land port of entry where officers
21 have been temporarily assigned to the southwest border.

22 SEC. 206. None of the funds appropriated or otherwise
23 made available by this Act or division A of the Consolidated
24 Appropriations Act, 2019 (Public Law 116–6)
25 for the Department of Homeland Security may be used

1 to relocate to the National Targeting Center the vetting
2 of Trusted Traveler Program applications and operations
3 currently carried out at existing locations unless specifi-
4 cally authorized by a statute enacted after the date of en-
5 actment of this Act.

6 SEC. 207. (a) Of the additional amount provided
7 under “U.S. Customs and Border Protection—Operations
8 and Support”, \$200,000,000 is for a multi-agency, inte-
9 grated, migrant processing center pilot program for family
10 units and unaccompanied alien children, including the fol-
11 lowing:

12 (1) Ongoing assessment and treatment efforts
13 for physical or mental health conditions, including
14 development of a support plan and services for each
15 member of a vulnerable population.

16 (2) Assessments of child protection and welfare
17 needs.

18 (3) Food, shelter, hygiene services and supplies,
19 clothing, and activities appropriate for the non-
20 penal, civil detention of families.

21 (4) Personnel with appropriate training on car-
22 ing for families and vulnerable populations in a civil
23 detention environment.

24 (5) Free telephonic communication access, in-
25 cluding support for contacting family members.

1 (6) Direct access to legal orientation, legal rep-
2 resentation, and case management in private areas
3 of the center.

4 (7) Credible fear and reasonable fear interviews
5 conducted by U.S. Citizenship and Immigration
6 Services asylum officers in private areas of the cen-
7 ter.

8 (8) Granting of asylum directly by U.S. Citizen-
9 ship and Immigration Services for manifestly well-
10 founded or clearly meritorious cases.

11 (9) For family units not found removable prior
12 to departure from the center—

13 (A) release on own recognizance or place-
14 ment in alternatives to detention with case
15 management; and

16 (B) coordinated transport to a respite shel-
17 ter or city of final destination.

18 (10) For family units found removable prior to
19 departure from the center, safe return planning sup-
20 port by an immigration case manager, including a
21 consular visit to assist with reintegration.

22 (11) On-site operational support by non-govern-
23 mental organizations for the identification and pro-
24 tection of vulnerable populations.

1 (b) The Secretary shall notify the Committees on Ap-
2 propriations of the Senate and the House of Representa-
3 tives within 24 hours of any—

4 (1) unaccompanied child placed in the pilot pro-
5 gram whose time in Department of Homeland Secu-
6 rity custody exceeds 72 hours; and

7 (2) family unit placed in the pilot program
8 whose time in such custody exceed exceeds 9 days.

9 (c) Prior to the obligation of the amount identified
10 in subsection (a), but not later than 30 days after the date
11 of enactment of this Act, the Secretary shall submit a plan
12 for the implementation of the pilot program to the Com-
13 mittees on Appropriations of the Senate and the House
14 of Representatives which shall include a definition of vul-
15 nerable populations.

16 SEC. 208. Not later than 30 days after the date of
17 enactment of this Act, the Secretary of Homeland Security
18 shall establish final plans, standards, and protocols to pro-
19 tect the health and safety of individuals in the custody
20 of U.S. Customs and Border Protection, which shall in-
21 clude—

22 (1) standards and response protocols for med-
23 ical assessments and medical emergencies;

1 (2) requirements for ensuring the provision of
2 water, appropriate nutrition, hygiene, and sanitation
3 needs;

4 (3) standards for temporary holding facilities
5 that adhere to best practices for the care of children,
6 which shall be in compliance with the relevant rec-
7 ommendations in the Policy Statement of the Amer-
8 ican Academy of Pediatrics entitled, “Detention of
9 Immigrant Children”;

10 (4) protocols for responding to surges of mi-
11 grants crossing the southern border or arriving at
12 land ports of entry; and

13 (5) required training for all Federal and con-
14 tract personnel who interact with migrants on the
15 care and treatment of individuals in civil detention.

16 SEC. 209. Not later than 120 days after the date of
17 enactment of this Act, the Secretary of Homeland Security
18 shall submit to the House of Representatives and the Sen-
19 ate a plan for ensuring access to appropriate translation
20 services for all individuals encountered by U.S. Customs
21 and Border Protection, U.S. Immigration and Customs
22 Enforcement, and U.S. Citizenship and Immigration Serv-
23 ices, including an estimate of related resource require-
24 ments and the feasibility and potential benefit of these
25 components jointly procuring such services.

1 TITLE III
2 DEPARTMENT OF HEALTH AND HUMAN
3 SERVICES
4 ADMINISTRATION FOR CHILDREN AND FAMILIES
5 REFUGEE AND ENTRANT ASSISTANCE
6 (INCLUDING TRANSFER OF FUNDS)

7 For an additional amount for “Refugee and Entrant
8 Assistance” \$2,881,552,000, to be merged with and avail-
9 able for the same period as funds appropriated in division
10 B of Public Law 115–245 and made available through fis-
11 cal year 2021 under this heading, and to be made available
12 for any purpose funded under such heading in such law:
13 *Provided*, That if any part of the reprogramming described
14 in the notification submitted by the Secretary of Health
15 and Human Services (the “Secretary”) to the Committees
16 on Appropriations of the House of Representatives and the
17 Senate on May 16, 2019, has been executed as of the date
18 of the enactment of this Act, such amounts provided by
19 this Act as are necessary shall be used to reverse such
20 reprogramming: *Provided further*, That of the amounts
21 provided under this heading, the amount allocated by the
22 Secretary for costs of leases of property that include facili-
23 ties to be used as hard-sided dormitories for which the
24 Secretary intends to seek State licensure for the care of
25 unaccompanied alien children, and that are executed

1 under authorities transferred to the Director of the Office
2 of Refugee Resettlement (ORR) under section 462 of the
3 Homeland Security Act of 2002, shall remain available
4 until expended: *Provided further*, That ORR shall notify
5 the Committees on Appropriations of the House of Rep-
6 resentatives and the Senate within 72 hours of conducting
7 a formal assessment of a facility for possible lease or ac-
8 quisition and within 7 days of any lease or acquisition of
9 real property: *Provided further*, That not less than
10 \$866,000,000 of the amounts provided under this heading
11 shall be used for the provision of care in licensed shelters
12 and for expanding the supply of shelters for which State
13 licensure will be sought, of which not less than
14 \$27,000,000 shall be available for the purposes of adding
15 shelter beds in State-licensed facilities in response to fund-
16 ing opportunity HHS-2017-ACF-ORR-ZU-1132, and of
17 which not less than \$185,000,000 shall be available for
18 expansion grants to add beds in State-licensed facilities
19 and open new State-licensed facilities, and for contract
20 costs to acquire, activate, and operate facilities that in-
21 clude small- and medium-scale hard-sided facilities for
22 which the Secretary intends to seek State licensure in an
23 effort to phase out the need for shelter beds in unlicensed
24 facilities: *Provided further*, That not less than
25 \$100,000,000 of the amounts provided under this heading

1 shall be used for post-release services, child advocates, and
2 legal services: *Provided further*, That the amount made
3 available for legal services in the preceding proviso shall
4 be made available for the same purposes for which
5 amounts were provided for such services in fiscal year
6 2017: *Provided further*, That not less than \$8,000,000 of
7 the amounts provided under this heading shall be used for
8 the purposes of hiring additional Federal Field Specialists
9 and for increasing case management and case coordination
10 services, with the goal of more expeditiously placing unac-
11 companied alien children with sponsors and reducing the
12 length of stay in ORR custody: *Provided further*, That not
13 less than \$1,000,000 of amounts provided under this
14 heading shall be used for the purposes of hiring project
15 officers and program monitor staff dedicated to pursuing
16 strategic improvements to the Unaccompanied Alien Chil-
17 dren program and for the development of a discharge rate
18 improvement plan which shall be submitted to the Com-
19 mittees on Appropriations of the House of Representatives
20 and the Senate within 120 days of the date of enactment
21 of this Act: *Provided further*, That of the amounts pro-
22 vided under this heading, \$5,000,000 shall be transferred
23 to “Office of the Secretary—Office of Inspector General”
24 and shall remain available until expended for oversight of
25 activities supported with funds appropriated under this

1 heading: *Provided further*, That none of the funds made
 2 available under this heading may be transferred pursuant
 3 to the authority in section 205 of division B of Public Law
 4 115–245: *Provided further*, That the amount provided
 5 under this heading is designated by the Congress as being
 6 for an emergency requirement pursuant to section
 7 251(b)(2)(A)(i) of the Balanced Budget and Emergency
 8 Deficit Control Act of 1985.

9 GENERAL PROVISIONS—THIS TITLE

10 SEC. 301. The Secretary of Health and Human Serv-
 11 ices (the “Secretary”) shall prioritize use of community-
 12 based residential care (including long-term and transi-
 13 tional foster care and small group homes) and shelter care
 14 other than large-scale institutional shelter facilities to
 15 house unaccompanied alien children in the custody of the
 16 Department of Health and Human Services. The Sec-
 17 retary shall prioritize State-licensed, hard-sided dor-
 18 mitories.

19 SEC. 302. Funds made available in this Act under
 20 the heading “Department of Health and Human Serv-
 21 ices—Administration for Children and Families—Refugee
 22 and Entrant Assistance” shall remain available for obliga-
 23 tion only if the operational directives issued by the Office
 24 of Refugee Resettlement between December 1, 2018, and

1 June 15, 2019, to accelerate the identification and ap-
2 proval of sponsors, remain in effect.

3 SEC. 303. Funds made available in this Act under
4 the heading “Department of Health and Human Serv-
5 ices—Administration for Children and Families—Refugee
6 and Entrant Assistance” shall be subject to the authorities
7 and conditions of section 224 of division A of the Consoli-
8 dated Appropriations Act, 2019 (Public Law 116–6).

9 SEC. 304. None of the funds made available in this
10 Act under the heading “Department of Health and
11 Human Services—Administration for Children and Fami-
12 lies—Refugee and Entrant Assistance” may be obligated
13 to a grantee or contractor to house unaccompanied alien
14 children (as such term is defined in section 462(g)(2) of
15 the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)))
16 in any facility that is not State-licensed for the care of
17 unaccompanied alien children, except in the case that the
18 Secretary of Health and Human Services (the “Sec-
19 retary”) determines that housing unaccompanied alien
20 children in such a facility is necessary on a temporary
21 basis due to an influx of such children or an emergency:
22 *Provided*, That—

23 (1) the terms of the grant or contract for the
24 operations of any such facility that remains in oper-

1 ation for more than six consecutive months shall re-
2 quire compliance with—

3 (A) the same requirements as licensed
4 placements, as listed in Exhibit 1 of the Flores
5 Settlement Agreement, regardless of the status
6 of the underlying settlement agreement;

7 (B) staffing ratios of 1 on-duty Youth
8 Care Worker for every 8 children or youth dur-
9 ing waking hours, 1 on-duty Youth Care Work-
10 er for every 16 children or youth during sleep-
11 ing hours, and clinician ratios to children (in-
12 cluding mental health providers) as required in
13 grantee cooperative agreements; and

14 (C) access provided to legal services;

15 (2) the Secretary may grant a 60-day waiver
16 for a contractor's or grantee's non-compliance with
17 paragraph (1) if the Secretary certifies and provides
18 a report to Congress on the contractor's or grantee's
19 good-faith efforts and progress towards compliance
20 and the report specifies each requirement referenced
21 in paragraph (1) that is being waived for 60 days;

22 (3) the Secretary shall not waive requirements
23 for grantees or contractors to provide or arrange for
24 the following services—

1 (A) proper physical care and maintenance,
2 including suitable living accommodations, food,
3 appropriate clothing, and personal grooming
4 items;

5 (B) a complete medical examination (in-
6 cluding screening for infectious diseases) within
7 48 hours of admission, unless the minor was re-
8 cently examined at another facility;

9 (C) appropriate routine medical and dental
10 care;

11 (D) at least one individual counseling ses-
12 sion per week conducted by trained social work
13 staff with the specific objectives of reviewing a
14 minor's progress, establishing new short term
15 objectives, and addressing both the develop-
16 mental and crisis-related needs of each minor;

17 (E) educational services appropriate to the
18 minor's level of development, and communica-
19 tion skills in a structured classroom setting,
20 Monday through Friday, which concentrates
21 primarily on the development of basic academic
22 competencies and secondarily on English Lan-
23 guage Training;

24 (F) activities according to a leisure time
25 plan which shall include daily outdoor activity,

1 weather permitting, at least one hour per day
2 of large muscle activity and one hour per day
3 of structured leisure time activities (this should
4 not include time spent watching television). Ac-
5 tivities should be increased to three hours on
6 days when school is not in session;

7 (G) whenever possible, access to religious
8 services of the minor's choice;

9 (H) visitation and contact with family
10 members (regardless of their immigration sta-
11 tus) which is structured to encourage such visi-
12 tation. The staff shall respect the minor's pri-
13 vacy while reasonably preventing the unauthor-
14 ized release of the minor;

15 (I) family reunification services designed to
16 identify relatives in the United States as well as
17 in foreign countries and assistance in obtaining
18 legal guardianship when necessary for the re-
19 lease of the minor; and

20 (J) legal services information regarding the
21 availability of free legal assistance, the right to
22 be represented by counsel at no expense to the
23 government, the right to a deportation or exclu-
24 sion hearing before an immigration judge, the

1 right to apply for political asylum or to request
2 voluntary departure in lieu of deportation;

3 (4) if the Secretary determines that a con-
4 tractor or grantee is not in compliance with any of
5 the requirements set forth in paragraph (3), the Sec-
6 retary shall not permit such contractor or grantee to
7 continue to provide services beyond a reasonable pe-
8 riod, not to exceed 60 days, needed to award a con-
9 tract or grant to a new service provider, and the in-
10 cumbent contractor or grantee shall not be eligible
11 to compete for the new contract or grant;

12 (5) not more than three consecutive waivers
13 under paragraph (2) may be granted to a contractor
14 or grantee with respect to a specific facility;

15 (6) ORR shall ensure full adherence to the
16 monitoring requirements set forth in section 5.5 of
17 its Policies and Procedures Guide as of June 15,
18 2019;

19 (7) for any such unlicensed facility in operation
20 for more than three consecutive months, ORR shall
21 conduct a minimum of one comprehensive moni-
22 toring visit during the first three months of oper-
23 ation, with quarterly monitoring visits thereafter;

24 (8) not later than 60 days after the date of en-
25 actment of this Act, ORR shall brief the Committees

1 on Appropriations of the House of Representatives
2 and the Senate outlining the requirements of ORR
3 for influx facilities; and

4 (9) the amounts provided by this section are
5 designated by the Congress as being for an emer-
6 gency requirement pursuant to section
7 251(b)(2)(A)(i) of the Balanced Budget and Emer-
8 gency Deficit Control Act of 1985.

9 SEC. 305. In addition to the existing Congressional
10 notification requirements for formal site assessments of
11 potential influx facilities, the Secretary shall notify the
12 Committees on Appropriations of the House of Represent-
13 atives and the Senate at least 15 days before
14 operationalizing an unlicensed facility, and shall (1) speci-
15 fy whether the facility is hard-sided or soft-sided, and (2)
16 provide analysis that indicates that, in the absence of the
17 influx facility, the likely outcome is that unaccompanied
18 alien children will remain in the custody of the Depart-
19 ment of Homeland Security for longer than 72 hours or
20 that unaccompanied alien children will be otherwise placed
21 in danger. Within 60 days of bringing such a facility on-
22 line, and monthly thereafter, the Secretary shall provide
23 to the Committees on Appropriations of the House of Rep-
24 resentatives and the Senate a report detailing the total
25 number of children in care at the facility, the average

1 length of stay and average length of care of children at
2 the facility, and, for any child that has been at the facility
3 for more than 60 days, their length of stay and reason
4 for delay in release.

5 SEC. 306. (a) The Secretary shall ensure that, when
6 feasible, no unaccompanied alien child is at an unlicensed
7 facility if the child is not expected to be placed with a
8 sponsor within 30 days.

9 (b) The Secretary shall ensure that no unaccom-
10 panied alien child is at an unlicensed facility if the child—

11 (1) is under the age of 13;

12 (2) does not speak English or Spanish as his or
13 her preferred language;

14 (3) has known special needs, behavioral health
15 issues, or medical issues that would be better served
16 at an alternative facility;

17 (4) is a pregnant or parenting teen; or

18 (5) would have a diminution of legal services as
19 a result of the transfer to such an unlicensed facil-
20 ity.

21 (c) ORR shall notify a child's attorney of record in
22 advance of any transfer, where applicable.

23 SEC. 307. None of the funds made available in this
24 Act may be used to prevent a United States Senator or
25 Member of the House of Representatives from entering,

1 for the purpose of conducting oversight, any facility in the
2 United States used for the purpose of maintaining custody
3 of, or otherwise housing, unaccompanied alien children (as
4 defined in section 462(g)(2) of the Homeland Security Act
5 of 2002 (6 U.S.C. 279(g)(2))): *Provided*, That nothing in
6 this section shall be construed to require such a Senator
7 or Member to provide prior notice of the intent to enter
8 such a facility for such purpose.

9 SEC. 308. Not later than 14 days after the date of
10 enactment of this Act, and monthly thereafter, the Sec-
11 retary of Health and Human Services shall submit to the
12 Committees on Appropriations of the House of Represent-
13 atives and the Senate, and make publicly available online,
14 a report with respect to children who were separated from
15 their parents or legal guardians by the Department of
16 Homeland Security (DHS) (regardless of whether or not
17 such separation was pursuant to an option selected by the
18 children, parents, or guardians), subsequently classified as
19 unaccompanied alien children, and transferred to the care
20 and custody of ORR during the previous month. Each re-
21 port shall contain the following information:

22 (1) The number and ages of children so sepa-
23 rated subsequent to apprehension at or between
24 ports of entry, to be reported by sector where sepa-
25 ration occurred.

1 (2) The documented cause of separation, as re-
2 ported by DHS when each child was referred.

3 SEC. 309. Not later than 30 days after the date of
4 enactment of this Act, the Secretary of Health and
5 Human Services shall submit to the Committees on Ap-
6 propriations of the House of Representatives and the Sen-
7 ate a detailed spend plan of anticipated uses of funds
8 made available in this account, including the following: a
9 list of existing grants and contracts for both permanent
10 and influx facilities, including their costs, capacity, and
11 timelines; costs for expanding capacity through the use of
12 community-based residential care placements (including
13 long-term and transitional foster care and small group
14 homes) through new or modified grants and contracts;
15 current and planned efforts to expand small-scale shelters
16 and available foster care placements, including collabora-
17 tion with state child welfare providers; influx facilities
18 being assessed for possible use; costs and services to be
19 provided for legal services, child advocates, and post re-
20 lease services; program administration; and the average
21 number of weekly referrals and discharge rate assumed
22 in the spend plan: *Provided*, That such plan shall be up-
23 dated to reflect changes and expenditures and submitted
24 to the Committees on Appropriations of the House of Rep-

1 representatives and the Senate every 60 days until all funds
2 are expended or expire.

3 SEC. 310. The Office of Refugee Resettlement shall
4 ensure that its grantees are aware of current law regard-
5 ing the use of information collected as part of the sponsor
6 vetting process.

7 SEC. 311. The Secretary is directed to report the
8 death of any unaccompanied alien child in Office of Ref-
9 ugee Resettlement (ORR) custody or in the custody of any
10 grantee on behalf of ORR within 24 hours, including rel-
11 evant details regarding the circumstances of the fatality,
12 to the Committees on Appropriations of the House of Rep-
13 resentatives and the Senate.

14 SEC. 312. Notwithstanding any other provision of
15 law, funds made available in this Act under the heading
16 “Department of Health and Human Services—Adminis-
17 tration for Children and Families—Refugee and Entrant
18 Assistance” shall only be used for the purposes specifically
19 described under that heading.

20 SEC. 313. (a) The Secretary of Health and Human
21 Services shall ensure that no unaccompanied alien child
22 (as defined in section 462(g)(2) of the Homeland Security
23 Act of 2002 (6 U.S.C. 279(g)(2))) spends more than 90
24 days, in the aggregate, at an unlicensed facility.

1 (b) Not later than 45 days after the date of enact-
2 ment of this Act, the Secretary shall ensure transfer to
3 a State-licensed facility for any unaccompanied alien child
4 who has been at an unlicensed facility for longer than 90
5 days.

6 (c) Subsections (a) and (b) shall not apply to an un-
7 accompanied alien child when the Secretary determines
8 that a potential sponsor had been identified and the unac-
9 companied alien child is expected to be placed with the
10 sponsor within 30 days.

11 (d) Notwithstanding subsections (a) and (b), if the
12 Secretary determines there is insufficient space available
13 at State-licensed facilities to transfer an unaccompanied
14 alien child who has been at an unlicensed facility for
15 longer than 90 days, the Secretary shall submit a written
16 justification to the Committees on Appropriations of the
17 House of Representatives and the Senate, and shall sub-
18 mit a summary every two weeks, disaggregated by influx
19 facility, on the number of unaccompanied alien children
20 at each influx facility longer than 90 days, with a sum-
21 mary of both the status of placement and the transfer ef-
22 forts for all children who have been in care for longer than
23 90 days.

TITLE IV

GENERAL PROVISIONS—THIS ACT

SEC. 401. (a) FISCAL YEAR 2017.—Funds made available by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2017 (division J of Public Law 115–31) that were initially obligated for assistance for El Salvador, Guatemala, and Honduras may not be reprogrammed after the date of enactment of this Act for assistance for a country other than for which such funds were initially obligated: *Provided*, That if the Secretary of State suspends assistance for the central government of El Salvador, Guatemala, or Honduras pursuant to section 7045(a)(5) of such Act, not less than 75 percent of the funds for such central government shall be reprogrammed for assistance through nongovernmental organizations or local government entities in such country: *Provided further*, That the balance of such funds shall only be reprogrammed for assistance for countries in the Western Hemisphere.

(b) FISCAL YEAR 2018.—Section 7045(a) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018 (division K of Public Law 115–141) is amended by striking paragraph (4)(D) and inserting in lieu of paragraph (1) the following paragraph:

1 “(1) FUNDING.—Subject to the requirements of
2 this subsection, of the funds appropriated under ti-
3 tles III and IV of this Act, not less than
4 \$615,000,000 shall be made available for assistance
5 for countries in Central America, of which not less
6 than \$452,000,000 shall be for assistance for El
7 Salvador, Guatemala, and Honduras to implement
8 the United States Strategy for Engagement in Cen-
9 tral America (the Strategy): *Provided*, That such
10 amounts shall be made available notwithstanding
11 any provision of law permitting deviations below
12 such amounts: *Provided further*, That if the Sec-
13 retary of State cannot make the certifications under
14 paragraph (3), or makes a determination under
15 paragraph (4)(A) or (4)(C) that the central govern-
16 ment of El Salvador, Guatemala, or Honduras is not
17 meeting the requirements of this subsection, not less
18 than 75 percent of the funds for such central gov-
19 ernment shall be reprogrammed for assistance
20 through nongovernmental organizations or local gov-
21 ernment entities in such country: *Provided further*,
22 That the balance of such funds shall only be repro-
23 grammed for assistance for countries in the Western
24 Hemisphere.”.

1 (c) FISCAL YEAR 2019.—Section 7045(a) of the De-
2 partment of State, Foreign Operations, and Related Pro-
3 grams Appropriations Act, 2019 (division F of Public Law
4 116–6) is amended by striking paragraph (2)(C) and in-
5 serting at the end, between paragraph (4)(B) and sub-
6 section (b), the following new paragraph:

7 “(5) FUNDING.—Subject to the requirements of
8 this subsection, of the funds appropriated under ti-
9 tles III and IV of this Act, not less than
10 \$540,850,000 shall be made available for assistance
11 for countries in Central America, of which not less
12 than \$452,000,000 shall be made available for as-
13 sistance for El Salvador, Guatemala, and Honduras
14 to implement the United States Strategy for En-
15 gagement in Central America: *Provided*, That such
16 amounts shall be made available notwithstanding
17 any provision of law permitting deviations below
18 such amounts: *Provided further*, That if the Sec-
19 retary of State cannot make the certification under
20 paragraph (1), or makes a determination under
21 paragraph (2) that the central government of El
22 Salvador, Guatemala, or Honduras is not meeting
23 the requirements of this subsection, not less than 75
24 percent of the funds for such central government
25 shall be reprogrammed for assistance through non-

1 governmental organizations or local government enti-
2 ties in such country: *Provided further*, That the bal-
3 ance of such funds shall only be reprogrammed for
4 assistance for countries in the Western Hemi-
5 sphere.”.

6 SEC. 402. Each amount appropriated or made avail-
7 able by this Act is in addition to amounts otherwise appro-
8 priated for the fiscal year involved.

9 SEC. 403. No part of any appropriation contained in
10 this Act shall remain available for obligation beyond the
11 current fiscal year unless expressly so provided herein.

12 SEC. 404. Unless otherwise provided for by this Act,
13 the additional amounts appropriated by this Act to appro-
14 priations accounts shall be available under the authorities
15 and conditions applicable to such appropriations accounts
16 for fiscal year 2019.

17 SEC. 405. Each amount designated in this Act by the
18 Congress as being for an emergency requirement pursuant
19 to section 251(b)(2)(A)(i) of the Balanced Budget and
20 Emergency Deficit Control Act of 1985 shall be available
21 (or rescinded or transferred, if applicable) only if the
22 President subsequently so designates all such amounts
23 and transmits such designations to the Congress.

24 SEC. 406. Any amount appropriated by this Act, des-
25 ignated by the Congress as being for an emergency re-

1 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-
2 anced Budget and Emergency Deficit Control Act of 1985
3 and subsequently so designated by the President, and
4 transferred pursuant to transfer authorities provided by
5 this Act shall retain such designation.

6 This Act may be cited as the “Emergency Supple-
7 mental Appropriations for Humanitarian Assistance and
8 Security at the Southern Border Act, 2019”.

Passed the House of Representatives June 25, 2019.

Attest:

Clerk.

116TH CONGRESS
1ST SESSION

H. R. 3401

AN ACT

Making emergency supplemental appropriations for
the fiscal year ending September 30, 2019, and
for other purposes.