

[Discussion Draft]

AMENDMENT TO H.R. _____, AS

REPORTED

OFFERED BY M. _____

Add, at the appropriate place in the bill, the following:

1 **DIVISION _____—IMMIGRATION**
2 **PROVISIONS**
3 **TITLE I—ASYLUM REFORM**

4 **SEC. 101. CLARIFICATION OF INTENT REGARDING TAX-**
5 **PAYER-PROVIDED COUNSEL.**

6 Section 292 of the Immigration and Nationality Act
7 (8 U.S.C. 1362) is amended—

8 (1) by striking “In any removal proceedings be-
9 fore an immigration judge and in any appeal pro-
10 ceedings before the Attorney General from any such
11 removal proceedings” and inserting “In any removal
12 proceedings before an immigration judge, or any
13 other immigration proceedings before the Attorney
14 General, the Secretary of Homeland Security, or any
15 appeal of such a proceeding”.

16 (2) by striking “(at no expense to the Govern-
17 ment)”; and

1 (3) by adding at the end the following “Not-
2 withstanding any other provision of law, in no in-
3 stance shall the Government bear any expense for
4 counsel for any person in proceedings described in
5 this section.”.

6 **SEC. 102. CREDIBLE FEAR INTERVIEWS.**

7 Section 235(b)(1)(B)(v) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
9 striking “claim” and all that follows, and inserting “claim,
10 as determined pursuant to section 208(b)(1)(B)(iii), and
11 such other facts as are known to the officer, that the alien
12 could establish eligibility for asylum under section 1158
13 of this title, and it is more probable than not that the
14 statements made by, and on behalf of, the alien in support
15 of the alien’s claim are true.”.

16 **SEC. 103. RECORDING EXPEDITED REMOVAL AND CRED-**
17 **IBLE FEAR INTERVIEWS.**

18 (a) IN GENERAL.—The Secretary of Homeland Secu-
19 rity shall establish quality assurance procedures and take
20 steps to effectively ensure that questions by employees of
21 the Department of Homeland Security exercising expe-
22 dited removal authority under section 235(b) of the Immi-
23 gration and Nationality Act (8 U.S.C. 1225(b)) are asked
24 in a uniform manner, to the extent possible, and that both

1 these questions and the answers provided in response to
2 them are recorded in a uniform fashion.

3 (b) FACTORS RELATING TO SWORN STATEMENTS.—

4 Where practicable, any sworn or signed written statement
5 taken of an alien as part of the record of a proceeding
6 under section 235(b)(1)(A) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
8 panied by a recording of the interview which served as the
9 basis for that sworn statement.

10 (c) INTERPRETERS.—The Secretary shall ensure that

11 a competent interpreter, not affiliated with the govern-
12 ment of the country from which the alien may claim asy-
13 lum, is used when the interviewing officer does not speak
14 a language understood by the alien.

15 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—

16 There shall be an audio or audio visual recording of inter-
17 views of aliens subject to expedited removal. The recording
18 shall be included in the record of proceeding and shall be
19 considered as evidence in any further proceedings involv-
20 ing the alien.

21 (e) NO PRIVATE RIGHT OF ACTION.—Nothing in this

22 section shall be construed to create any right, benefit,
23 trust, or responsibility, whether substantive or procedural,
24 enforceable in law or equity by a party against the United
25 States, its departments, agencies, instrumentalities, enti-

1 ties, officers, employees, or agents, or any person, nor does
2 this section create any right of review in any administra-
3 tive, judicial, or other proceeding.

4 **SEC. 104. SAFE THIRD COUNTRY.**

5 Section 208(a)(2)(A) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

7 (1) by striking “Attorney General” each place
8 it appears and inserting “Secretary of Homeland Se-
9 curity”; and

10 (2) by striking “removed, pursuant to a bilat-
11 eral or multilateral agreement, to” and inserting
12 “removed to”.

13 **SEC. 105. RENUNCIATION OF ASYLUM STATUS PURSUANT**
14 **TO RETURN TO HOME COUNTRY.**

15 (a) IN GENERAL.—Section 208(c) of the Immigration
16 and Nationality Act (8 U.S.C. 1158(c)) is amended by
17 adding at the end the following new paragraph:

18 “(4) RENUNCIATION OF STATUS PURSUANT TO
19 RETURN TO HOME COUNTRY.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraphs (B) and (C), any alien who is
22 granted asylum status under this Act, who, ab-
23 sent changed country conditions, subsequently
24 returns to the country of such alien’s nation-
25 ality or, in the case of an alien having no na-

1 tionality, returns to any country in which such
2 alien last habitually resided, and who applied
3 for such status because of persecution or a well-
4 founded fear of persecution in that country on
5 account of race, religion, nationality, member-
6 ship in a particular social group, or political
7 opinion, shall have his or her status terminated.

8 “(B) WAIVER.—The Secretary has discre-
9 tion to waive subparagraph (A) if it is estab-
10 lished to the satisfaction of the Secretary that
11 the alien had a compelling reason for the re-
12 turn. The waiver may be sought prior to depar-
13 ture from the United States or upon return.

14 “(C) EXCEPTION FOR CERTAIN ALIENS
15 FROM CUBA.—Subparagraph (A) shall not
16 apply to an alien who is eligible for adjustment
17 to that of an alien lawfully admitted for perma-
18 nent residence pursuant to the Cuban Adjust-
19 ment Act of 1966 (Public Law 89–732).”.

20 (b) CONFORMING AMENDMENT.—Section 208(c)(3)
21 of the Immigration and Nationality Act (8 U.S.C.
22 1158(c)(3)) is amended by inserting after “paragraph
23 (2)” the following: “or (4)”.

1 **SEC. 106. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-**
2 **PLICATIONS.**

3 (a) IN GENERAL.—Section 208(d)(4) of the Immi-
4 gration and Nationality Act (8 U.S.C. 1158(d)(4)) is
5 amended—

6 (1) in the matter preceding subparagraph (A),
7 by inserting “the Secretary of Homeland Security
8 or” before “the Attorney General”;

9 (2) in subparagraph (A), by striking “and of
10 the consequences, under paragraph (6), of knowingly
11 filing a frivolous application for asylum; and” and
12 inserting a semicolon;

13 (3) in subparagraph (B), by striking the period
14 and inserting “; and”; and

15 (4) by adding at the end the following:

16 “(C) ensure that a written warning ap-
17 pears on the asylum application advising the
18 alien of the consequences of filing a frivolous
19 application and serving as notice to the alien of
20 the consequence of filing a frivolous applica-
21 tion.”.

22 (b) CONFORMING AMENDMENT.—Section 208(d)(6)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1158(d)(6)) is amended by striking “If the” and all that
25 follows and inserting:

1 “(A) If the Secretary of Homeland Secu-
2 rity or the Attorney General determines that an
3 alien has knowingly made a frivolous applica-
4 tion for asylum and the alien has received the
5 notice under paragraph (4)(C), the alien shall
6 be permanently ineligible for any benefits under
7 this chapter, effective as the date of the final
8 determination of such an application;

9 “(B) An application is frivolous if the Sec-
10 retary of Homeland Security or the Attorney
11 General determines, consistent with subpara-
12 graph (C), that—

13 “(i) it is so insufficient in substance
14 that it is clear that the applicant know-
15 ingly filed the application solely or in part
16 to delay removal from the United States,
17 to seek employment authorization as an
18 applicant for asylum pursuant to regula-
19 tions issued pursuant to paragraph (2), or
20 to seek issuance of a Notice to Appeal in
21 order to pursue Cancellation of Removal
22 under section 240A(b); or

23 “(ii) any of its material elements are
24 deliberately fabricated.

1 “(C) In determining that an application is
2 frivolous, the Secretary or the Attorney Gen-
3 eral, must be satisfied that the applicant, dur-
4 ing the course of the proceedings, has had suffi-
5 cient opportunity to clarify any discrepancies or
6 implausible aspects of the claim.

7 “(D) For purposes of this section, a find-
8 ing that an alien filed a frivolous asylum appli-
9 cation shall not preclude the alien from seeking
10 withholding of removal under section
11 241(b)(3).) or protection pursuant to the Con-
12 vention Against Torture.”.

13 **SEC. 107. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.**

14 (a) **ASYLUM CREDIBILITY DETERMINATIONS.**—Sec-
15 tion 208(b)(1)(B)(iii) of the Immigration and Nationality
16 Act (8 U.S.C. 1158(b)(1)(B)(iii)) is amended by inserting
17 after “all relevant factors” the following: “, including
18 statements made to, and investigative reports prepared by,
19 immigration authorities and other government officials”.

20 (b) **RELIEF FOR REMOVAL CREDIBILITY DETER-**
21 **MINATIONS.**—Section 240(c)(4)(C) of the Immigration
22 and Nationality Act (8 U.S.C. 1229a(c)(4)(C)) is amended
23 by inserting after “all relevant factors” the following: “,
24 including statements made to, and investigative reports

1 prepared by, immigration authorities and other govern-
2 ment officials”.

3 **SEC. 108. PENALTIES FOR ASYLUM FRAUD.**

4 Section 1001 of title 18 is amended by inserting at
5 the end of the paragraph—

6 “(d) Whoever, in any matter before the Secretary of
7 Homeland Security or the Attorney General pertaining to
8 asylum under section 208 of the Immigration and Nation-
9 ality Act or withholding of removal under section
10 241(b)(3) of such Act, knowingly and willfully—

11 “(1) makes any materially false, fictitious, or
12 fraudulent statement or representation; or

13 “(2) makes or uses any false writings or docu-
14 ment knowing the same to contain any materially
15 false, fictitious, or fraudulent statement or entry;

16 shall be fined under this title or imprisoned not more than
17 10 years, or both.”.

18 **SEC. 109. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.**

19 Section 3291 of title 18 is amended—

20 (1) by striking “1544,” and inserting “1544
21 and 1546,”;

22 (2) by striking “offense.” and inserting “of-
23 fense or within 10 years after the fraud is discov-
24 ered.”.

1 **SEC. 110. LIMITATION ON APPLICATION FOR ASYLUM.**

2 The Immigration and Nationality Act (8 U.S.C. 1101
3 et seq.) is amended—

4 (1) in section 208(a) (8 U.S.C. 1158(a))—

5 (A) in paragraph (1)—

6 (i) by striking “is physically present
7 in the United States or who arrives in the
8 United States (whether or not at a des-
9 ignated port of arrival and including an
10 alien who is brought to the United States
11 after having been interdicted in inter-
12 national or United States waters), irrespec-
13 tive of such alien’s status,” and inserting
14 “who arrives in the United States at a des-
15 ignated port of arrival”; and

16 (ii) by inserting before the period at
17 the end the following: “only if the alien ap-
18 plies for asylum at a designated port of ar-
19 rival”; and

20 (B) in paragraph (2)(B), by striking
21 “within 1 year after the date of” and inserting
22 “immediately upon”; and

23 (2) in section 235(b)(1)(A)(ii) (8 U.S.C.
24 1225(b)(1)(A)(ii)), by striking “or is described in
25 clause (iii)”.

1 **SEC. 111. TECHNICAL AMENDMENTS.**

2 Section 208 of the Immigration and Nationality Act
3 (8 U.S.C. 1158) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (2)(D), by inserting
6 “Secretary of Homeland Security or the” before
7 “Attorney General”; and

8 (B) in paragraph (3), by inserting “Sec-
9 retary of Homeland Security or the” before
10 “Attorney General”;

11 (2) in subsection (b)(2), by inserting “Secretary
12 of Homeland Security or the” before “Attorney Gen-
13 eral” each place such term appears;

14 (3) in subsection (c)—

15 (A) in paragraph (1), by striking “Attor-
16 ney General” each place such term appears and
17 inserting “Secretary of Homeland Security”;
18 and

19 (B) in paragraph (3), by inserting “Sec-
20 retary of Homeland Security or the” before
21 “Attorney General”; and

22 (4) in subsection (d)—

23 (A) in paragraph (1), by inserting “Sec-
24 retary of Homeland Security or the” before
25 “Attorney General” each place such term ap-
26 pears;

1 (B) in paragraph (2), by striking “Attor-
2 ney General” and inserting “Secretary of
3 Homeland Security”; and

4 (C) in paragraph (5)—

5 (i) in subparagraph (A), by striking
6 “Attorney General” and inserting “Sec-
7 retary of Homeland Security”; and

8 (ii) in subparagraph (B), by inserting
9 “Secretary of Homeland Security or the”
10 before “Attorney General”.

11 **SEC. 112. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated for each of
13 fiscal years 2019, 2020, and 2021 such sums as may be
14 necessary to carry out this title and the amendments made
15 by this title.

16 **TITLE II—UNACCOMPANIED AND**
17 **ACCOMPANIED ALIEN MI-**
18 **NORS APPREHENDED ALONG**
19 **THE BORDER**

20 **SEC. 201. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
21 **DREN.**

22 (a) IN GENERAL.—Section 235 of the William Wil-
23 berforce Trafficking Victims Protection Reauthorization
24 Act of 2008 (8 U.S.C. 1232) is amended—

25 (1) in subsection (a)—

1 (A) in paragraph (2)—

2 (i) by amending the heading to read
3 as follows: “RULES FOR UNACCOMPANIED
4 ALIEN CHILDREN.—”;

5 (ii) in subparagraph (A)—

6 (I) in the matter preceding clause
7 (i), by striking “who is a national or
8 habitual resident of a country that is
9 contiguous with the United States”;

10 (II) in clause (i), by inserting
11 “and” at the end;

12 (III) in clause (ii), by striking “;
13 and” and inserting a period; and

14 (IV) by striking clause (iii);

15 (iii) in subparagraph (B)—

16 (I) in the matter preceding clause
17 (i), by striking “(8 U.S.C. 1101 et
18 seq.) may—” and inserting “(8
19 U.S.C. 1101 et seq.)—”;

20 (II) in clause (i), by inserting be-
21 fore “permit such child to withdraw”
22 the following: “may”; and

23 (III) in clause (ii), by inserting
24 before “return such child” the fol-
25 lowing: “shall”; and

1 (iv) in subparagraph (C)—

2 (I) by amending the heading to
3 read as follows: “AGREEMENTS WITH
4 FOREIGN COUNTRIES.—”; and

5 (II) in the matter preceding
6 clause (i), by striking “The Secretary
7 of State shall negotiate agreements
8 between the United States and coun-
9 tries contiguous to the United States”
10 and inserting “The Secretary of State
11 may negotiate agreements between the
12 United States and any foreign country
13 that the Secretary determines appro-
14 priate”;

15 (B) by redesignating paragraphs (3)
16 through (5) as paragraphs (4) through (6), re-
17 spectively, and inserting after paragraph (2) the
18 following:

19 “(3) SPECIAL RULES FOR INTERVIEWING UNAC-
20 COMPANIED ALIEN CHILDREN.—An unaccompanied
21 alien child shall be interviewed by a dedicated U.S.
22 Citizenship and Immigration Services immigration
23 officer with specialized training in interviewing child
24 trafficking victims. Such officer shall be in plain

1 clothes and shall not carry a weapon. The interview
2 shall occur in a private room.”; and

3 (C) in paragraph (6)(D) (as so redesign-
4 nated)—

5 (i) in the matter preceding clause (i),
6 by striking “, except for an unaccompanied
7 alien child from a contiguous country sub-
8 ject to exceptions under subsection (a)(2),”
9 and inserting “who does not meet the cri-
10 teria listed in paragraph (2)(A)”;

11 (ii) in clause (i), by inserting before
12 the semicolon at the end the following: “,
13 which shall include a hearing before an im-
14 migration judge not later than 14 days
15 after being screened under paragraph (4)”;

16 (2) in subsection (b)—

17 (A) in paragraph (2)—

18 (i) in subparagraph (A), by inserting
19 before the semicolon the following: “be-
20 lieved not to meet the criteria listed in sub-
21 section (a)(2)(A)”;

22 (ii) in subparagraph (B), by inserting
23 before the period the following: “and does
24 not meet the criteria listed in subsection
25 (a)(2)(A)”;

1 (B) in paragraph (3), by striking “an un-
2 accompanied alien child in custody shall” and
3 all that follows, and inserting the following: “an
4 unaccompanied alien child in custody—

5 “(A) in the case of a child who does not
6 meet the criteria listed in subsection (a)(2)(A),
7 shall transfer the custody of such child to the
8 Secretary of Health and Human Services not
9 later than 30 days after determining that such
10 child is an unaccompanied alien child who does
11 not meet such criteria; or

12 “(B) in the case of child who meets the
13 criteria listed in subsection (a)(2)(A), may
14 transfer the custody of such child to the Sec-
15 retary of Health and Human Services after de-
16 termining that such child is an unaccompanied
17 alien child who meets such criteria.”; and

18 (3) in subsection (c)—

19 (A) in paragraph (3), by inserting at the
20 end the following:

21 “(D) INFORMATION ABOUT INDIVIDUALS
22 WITH WHOM CHILDREN ARE PLACED.—

23 “(i) INFORMATION TO BE PROVIDED
24 TO HOMELAND SECURITY.—Before placing
25 a child with an individual, the Secretary of

1 Health and Human Services shall provide
2 to the Secretary of Homeland Security, re-
3 garding the individual with whom the child
4 will be placed, the following information:

5 “(I) The name of the individual.

6 “(II) The social security number
7 of the individual.

8 “(III) The date of birth of the in-
9 dividual.

10 “(IV) The location of the individ-
11 ual’s residence where the child will be
12 placed.

13 “(V) The immigration status of
14 the individual, if known.

15 “(VI) Contact information for
16 the individual.

17 “(ii) SPECIAL RULE.—In the case of a
18 child who was apprehended on or after
19 June 15, 2012, and before the date of the
20 enactment of this subparagraph, who the
21 Secretary of Health and Human Services
22 placed with an individual, the Secretary
23 shall provide the information listed in
24 clause (i) to the Secretary of Homeland

1 Security not later than 90 days after such
2 date of enactment.

3 “(iii) ACTIVITIES OF THE SECRETARY
4 OF HOMELAND SECURITY.—Not later than
5 30 days after receiving the information
6 listed in clause (i), the Secretary of Home-
7 land Security shall—

8 “(I) in the case that the immi-
9 gration status of an individual with
10 whom a child is placed is unknown,
11 investigate the immigration status of
12 that individual; and

13 “(II) upon determining that an
14 individual with whom a child is placed
15 is unlawfully present in the United
16 States, initiate removal proceedings
17 pursuant to chapter 4 of title II of the
18 Immigration and Nationality Act (8
19 U.S.C. 1221 et seq.)”; and

20 (B) in paragraph (5)—

21 (i) by inserting after “to the greatest
22 extent practicable” the following: “(at no
23 expense to the Government)”; and

1 (ii) by striking “have counsel to rep-
2 resent them” and inserting “have access to
3 counsel to represent them”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to any unauthorized alien child ap-
6 prehended on or after June 15, 2012.

7 **SEC. 202. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-**
8 **MIGRANTS UNABLE TO REUNITE WITH EI-**
9 **THER PARENT.**

10 Section 101(a)(27)(J)(i) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by
12 striking “1 or both of the immigrant’s parents” and in-
13 serting “either of the immigrant’s parents”.

14 **SEC. 203. JURISDICTION OF ASYLUM APPLICATIONS.**

15 Section 208(b)(3) of the Immigration and Nationality
16 Act (8 U.S.C. 1158) is amended by striking subparagraph
17 (C).

18 **SEC. 204. QUARTERLY REPORT TO CONGRESS.**

19 Not later than January 5, 2019, and every 3 months
20 thereafter—

21 (1) the Attorney General shall submit a report
22 on—

23 (A) the total number of asylum cases filed
24 by unaccompanied alien children and completed
25 by an immigration judge during the 3-month

1 period preceding the date of the report, and the
2 percentage of those cases in which asylum was
3 granted; and

4 (B) the number of unaccompanied alien
5 children who failed to appear for any pro-
6 ceeding before an immigration judge during the
7 3-month period preceding the date of the re-
8 port; and

9 (2) the Secretary of Homeland Security shall
10 submit a report on the total number of applications
11 for asylum, filed by unaccompanied alien children,
12 that were adjudicated during the 3-month period
13 preceding the date of the report and the percentage
14 of those applications that were granted.

15 **SEC. 205. BIENNIAL REPORT TO CONGRESS.**

16 Not later than January 5, 2019, and every 6 months
17 thereafter, the Attorney General shall submit a report to
18 Congress on each crime for which an unaccompanied alien
19 child is charged or convicted during the previous 6-month
20 period following their release from the custody of the Sec-
21 retary of Homeland Security pursuant to section 235 of
22 the William Wilberforce Trafficking Victims Protection
23 Reauthorization Act of 2008 (8 U.S.C. 1232).

1 **SEC. 206. CLARIFICATION OF STANDARDS FOR FAMILY DE-**
2 **TENTION.**

3 (a) IN GENERAL.—Section 235 of the William Wil-
4 berforce Trafficking Victims Protection Reauthorization
5 Act of 2008 (8 U.S.C. 1232) is amended by adding at
6 the end the following:

7 “(j) CONSTRUCTION.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law, judicial determination, consent de-
10 cree, or settlement agreement, the detention of any
11 alien child who is not an unaccompanied alien child
12 shall be governed by sections 217, 235, 236, and
13 241 of the Immigration and Nationality Act (8
14 U.S.C. 1187, 1225, 1226, and 1231). There exists
15 no presumption that an alien child who is not an un-
16 accompanied alien child should not be detained, and
17 all such determinations shall be in the discretion of
18 the Secretary of Homeland Security.

19 “(2) RELEASE OF MINORS OTHER THAN UNAC-
20 COMPANIED ALIENS.—In no circumstances shall an
21 alien minor who is not an unaccompanied alien child
22 be released by the Secretary of Homeland Security
23 other than to a parent or legal guardian.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall take effect on the date of the enact-

1 ment of this Act and shall apply to all actions that occur
2 before, on, or after the date of the enactment of this Act.

3 (c) **PREEMPTION OF STATE LICENSING REQUIRE-**
4 **MENTS.**—Notwithstanding any other provision of law, ju-
5 dicial determination, consent decree, or settlement agree-
6 ment, no State may require that an immigration detention
7 facility used to detain children who have not attained 18
8 years of age, or families consisting of one or more of such
9 children and the parents or legal guardians of such chil-
10 dren, that is located in that State, be licensed by the State
11 or any political subdivision thereof.

12 **SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated for each of
14 fiscal years 2019, 2020, and 2021 such sums as may be
15 necessary to carry out this title and the amendments made
16 by this title.

17 **TITLE III—MISCELLANEOUS**
18 **PROVISIONS**

19 **SEC. 301. CONSTRUCTION OF BORDER WALL.**

20 (a) **IMPROVEMENT OF BARRIERS AT BORDER.**—Sec-
21 tion 102 of the Illegal Immigration Reform and Immi-
22 grant Responsibility Act of 1996 (Division C of Public
23 Law 104–208; 8 U.S.C. 1103 note) is amended—

24 (1) by amending subsection (a) to read as fol-
25 lows:

1 “(a) IN GENERAL.—Not later than December 31,
2 2021, the Secretary of Homeland Security shall take such
3 actions as may be necessary (including the removal of ob-
4 stacles to detection of illegal entrants) to design, test, con-
5 struct, and install physical barriers, roads, and technology
6 along the international land border between the United
7 States and Mexico to prevent illegal crossings in all
8 areas.”;

9 (2) in subsection (b)—

10 (A) in paragraph (1)—

11 (i) in the paragraph heading, by strik-
12 ing “ADDITIONAL FENCING” and inserting
13 “FENCING”;

14 (ii) by striking subparagraph (A) and
15 inserting the following:

16 “(A) PHYSICAL BARRIERS.—In carrying
17 out subsection (a), the Secretary of Homeland
18 Security shall construct physical barriers, in-
19 cluding secondary barriers in locations where
20 there is already a fence, along the international
21 land border between the United States and
22 Mexico that will prevent illegal entry and will
23 assist in gaining operational control of the bor-
24 der (as defined in section 2(b) of the Secure

1 Fence Act of 2006 (8 U.S.C. 1701 note; Public
2 Law 109–367)).”;

3 (iii) by striking subparagraph (B) and
4 redesignating subparagraphs (C) and (D)
5 as subparagraphs (B) and (C), respec-
6 tively;

7 (iv) in subparagraph (B), as so redес-
8 igned—

9 (I) by striking clause (i) and in-
10 serring the following:

11 “(i) IN GENERAL.—In carrying out
12 this section, the Secretary of Homeland
13 Security shall, before constructing physical
14 barriers in a specific area or region, con-
15 sult with the Secretary of the Interior, the
16 Secretary of Agriculture, appropriate Fed-
17 eral, State, local, and tribal governments,
18 and appropriate private property owners in
19 the United States to minimize the impact
20 on the environment, culture, commerce,
21 and quality of life for the communities and
22 residents located near the sites at which
23 such physical barriers are to be con-
24 structed. Nothing in this paragraph should
25 be construed to limit the Secretary of

1 Homeland Security’s authority to move
2 forward with construction after consulta-
3 tion.”;

4 (II) by redesignating clause (ii)
5 as clause (iii); and

6 (III) by inserting after clause (i),
7 as amended, the following new clause:

8 “(ii) NOTIFICATION.—Not later than
9 60 days after the consultation required
10 under clause (i), the Secretary of Home-
11 land Security shall notify the Committees
12 on the Judiciary of the House of Rep-
13 resentatives and of the Senate, the Com-
14 mittee on Homeland Security of the House
15 of Representatives, and the Committee on
16 Homeland Security and Governmental Af-
17 fairs of the Senate of the type of physical
18 barriers, tactical infrastructure, or tech-
19 nology the Secretary has determined is
20 most practical and effective to achieve situ-
21 ational awareness and operational control
22 in a specific area or region and the other
23 alternatives the Secretary considered be-
24 fore making such a determination.”; and

1 (v) by striking subparagraph (C), as
2 so redesignated, and inserting the fol-
3 lowing:

4 “(C) LIMITATION ON REQUIREMENTS.—
5 Notwithstanding subparagraph (A), nothing in
6 this paragraph shall require the Secretary of
7 Homeland Security to install fencing, physical
8 barriers, or roads, in a particular location along
9 the international border between the United
10 States and Mexico, if the Secretary determines
11 that there is a pre-existing geographical barrier
12 or pre-constructed, impenetrable wall. The Sec-
13 retary must notify the House and Senate Com-
14 mittees on the Judiciary, the House Committee
15 on Homeland Security, and the Senate Com-
16 mittee on Homeland Security and Govern-
17 mental Affairs of any decision not to install
18 fencing in accordance with this provision within
19 30 days of a determination being made.”;

20 (B) in paragraph (2)—

21 (i) by striking “Attorney General”
22 and inserting “Secretary of Homeland Se-
23 curity”; and

24 (ii) by striking “fences” and inserting
25 “physical barriers and roads”; and

1 (C) in paragraph (3)—

2 (i) by striking “Attorney General”
3 and inserting “Secretary of Homeland Se-
4 curity”; and

5 (ii) by striking “additional fencing”
6 and inserting “physical barriers and
7 roads”; and

8 (3) in subsection (c), by amending paragraph
9 (1) to read as follows:

10 “(1) IN GENERAL.—Notwithstanding any other
11 provision of law, the Secretary of Homeland Security
12 shall have the authority to waive all legal require-
13 ments the Secretary, in the Secretary’s sole discre-
14 tion, determines necessary to ensure the expeditious
15 design, testing, construction, installation, deploy-
16 ment, operation, and maintenance of physical bar-
17 riers, roads, and technology under this section. Any
18 such decision by the Secretary shall be effective
19 upon publication in the Federal Register.”.

20 (b) ACHIEVING OPERATIONAL CONTROL ON THE
21 BORDER.—Subsection (a) of section 2 the Secure Fence
22 Act of 2006 (8 U.S.C. 1701 note) is amended, in the mat-
23 ter preceding paragraph (1), by striking “18 months after
24 the date of the enactment of this Act” and inserting “De-
25 cember 31, 2021”.

1 (c) APPROPRIATIONS.—(1) There is hereby appro-
2 priated \$5,000,000,000 for an additional amount to carry
3 out this section.

4 (2) Section 230 of division F of the Consolidated Ap-
5 propriations Act, 2018 is hereby repealed.

6 **SECTION 302. INCREASING THE NUMBER OF AUTHORIZED**
7 **IMMIGRATION JUDGES.**

8 (a) INCREASE IN IMMIGRATION JUDGES.—The Attor-
9 ney General of the United States shall increase the total
10 number of immigration judges to adjudicate pending cases
11 and efficiently process future cases by 375 judges.

12 (b) NECESSARY SUPPORT STAFF FOR IMMIGRATION
13 JUDGES.—To address the shortage of support staff for
14 immigration judges, the Attorney General shall ensure
15 that each immigration judge has sufficient support staff,
16 adequate technological and security resources, and appro-
17 priate courtroom facilities.

18 (c) INCREASE IN BOARD OF IMMIGRATION APPEALS
19 ATTORNEYS.—The Attorney General shall increase the
20 number of Board of Immigration Appeals staff attorneys
21 by sixty attorneys.

22 (d) NECESSARY SUPPORT STAFF FOR BOARD OF IM-
23 MIGRATION APPEALS.—To address the shortage of sup-
24 port staff for the Board of Immigration appeals, the At-
25 torney General shall ensure that the Board of Immigration

1 Appeals and its staff attorneys has sufficient support staff
2 and adequate technological and security resources.

3 (e) PRIORITIZATION OF ASYLUM APPLICANTS.—Any
4 immigration judges, Board of Immigration Appeals staff
5 attorneys, and support staff hired under the authority of
6 this section shall prioritize asylum applications that are
7 filed by Asylum Applicants.

8 (f) FUNDING.—There are authorized to be appro-
9 priated for each of fiscal years 2019, 2020, and 2021 such
10 sums as may be necessary to carry out this section.

