

HR 3401 -- Redline

Engrossed Amendment to Chaptered -- Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act, 2019

Deletions ~~struck~~ · Insertions underlined

~~[Congressional~~[116th Bills~~Congress~~ 116thPublic Congress]Law 26] [From the U.S. Government Publishing Office] ~~[H.R.~~[Page 1017]] EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR HUMANITARIAN ASSISTANCE AND SECURITY AT THE SOUTHERN BORDER ACT, 2019 ~~[Page 133 STAT.~~

~~34011018]]~~ EngrossedPublic AmendmentLaw Senate116-26 (EAS)]116th <DOC>Congress InAn theAct SenateMaking ofemergency supplemental appropriations for the Unitedfiscal States,year Juneending 26,September 2019-30, 2019, and for other purposes.

~~Resolved,<NOTE: That the bill from the House of Representatives (H.R.~~

~~3401)July entitled1, ``An- Act[H.R. making emergency supplemental appropriations for the fiscal year ending September 30, 2019, and for other purposes.'', do pass with the following AMENDMENT:~~

~~Strike3401]>> outBe allit afterenacted by the enactingSenate clause and insert:House of Representatives of the United States of America in Congress assembled, That <NOTE:~~

~~ThatEmergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act, 2019.>>~~ the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2019, and for other purposes, namely:

~~TITLE[[Page II133 DEPARTMENTSTAT.-OF DEFENSEOperation and Maintenance operation and maintenance, army For an additional amount for ``Operation and Maintenance, Army'', \$92,800,000, for necessary expenses to respond to the significant rise in unaccompanied minors and family unit aliens at the southwest border and related activities:~~

1019]] TITLE II DEPARTMENT OF DEFENSE Operation and Maintenance operation and maintenance, army For an additional amount for ``Operation and Maintenance, Army'', \$92,800,000, for necessary expenses to respond to the significant rise in unaccompanied minors and family unit aliens at the southwest border and related activities:

~~Provided,[[Page That133 ofSTAT.-the amounts provided under this heading, \$708,000,000 is for establishing and operating migrant care and processing facilities, \$111,950,000 is for consumables and medical care, \$35,000,000 is for transportation, \$110,481,000 is for temporary duty and overtime costs including reimbursements, and \$50,000,000 is for mission support data systems and analysis:~~

1020]] Provided, That of the amounts provided under this heading, \$708,000,000 is for establishing and operating migrant care and processing facilities, \$111,950,000 is for consumables and medical care, \$35,000,000 is for transportation, \$110,481,000 is for temporary duty and overtime costs including reimbursements, and \$50,000,000 is for mission support data systems and analysis:

~~Provided, That notwithstanding<NOTE: -sections 315 and 316(b) of such Act, funds made available under this section shall be disbursed by the Emergency Food and Shelter Program National Board not later than 30 days after the date on which such funds become available:~~

~~ProvidedDeadline.>> further,notwithstanding Thatsections the315 Emergencyand Food316(b) andof Shelter such ProgramAct, Nationalfunds Boardmade available under this section shall distributebe suchdisbursed fundsby onlythe toEmergency jurisdictionsFood orand localShelter recipientProgram organizationsNational servingBoard communitiesnot thatlater have than experienced30 adays significantafter influxthe ofdate on which such aliens:funds become available:~~

~~Provided further, That suchthe funds[[Page may133 beSTAT.-used to reimburse such jurisdictions or local recipient organizations for costs incurred in providing services to such aliens on or after January 1, 2019:~~

1021]] Emergency Food and Shelter Program National Board shall distribute such funds only to jurisdictions or local recipient organizations serving communities that have experienced a significant influx of such aliens:

Provided further, That <NOTE:

Reimbursement.

Effective date.>> such funds may be used to reimburse such jurisdictions or local recipient organizations for costs incurred in providing services to such aliens on or after January 1, 2019:

~~Division A of the Consolidated Appropriations Act, 2019 (Public Law 116-6) is<NOTE: -amended by adding after section 540 the following:~~

Ante, p.

44.>> is amended by adding after section 540 the following:

~~(a) Section<NOTE: -831 of the Homeland Security Act of 2002 (6 U.S.C.~~

6 USC 391 note.>> Section 831 of the Homeland Security Act of 2002 (6 U.S.C.

None of ~~<<NOTE: the funds provided in this Act under ``U.S. Policies.>> of the funds provided in this Act under ``U.S.~~

Provided, That ~~not <<NOTE: later than 90 days after the date of enactment of this Act, U.S. Reports.>> not later than 90 days after the date of enactment of this Act, U.S.~~

No ~~later <<NOTE: than 30 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide a report on the number of U.S.~~

~~Reports.>> later than 30 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide a report on the number of U.S.~~

Provided further, That the report shall include the number of officers temporarily assigned to ~~to~~ ~~the 133 southwest STAT. border in response to the ongoing humanitarian crisis, the number of days the officers will be away from their northern border assignment, the northern border ports from which officers are being assigned to the southwest border, and efforts being made to limit the impact on operations at each northern border land port of entry where officers have been temporarily assigned to the southwest border.~~

~~1022]] to the southwest border in response to the ongoing humanitarian crisis, the number of days the officers will be away from their northern border assignment, the northern border ports from which officers are being assigned to the southwest border, and efforts being made to limit the impact on operations at each northern border land port of entry where officers have been temporarily assigned to the southwest border.~~

~~Provided <<NOTE: further, That ORR shall notify the Committees on Appropriations of the House of Representatives and the Senate within 72 hours of conducting a formal assessment of a facility for possible lease or acquisition and within 7 days of any acquisition or lease of real property:~~

~~Provided Notification. further, That not less than \$866,000,000 of amounts provided under this heading shall be used for the provision of care in licensed shelters and for expanding the supply of shelters for which State licensure will be sought, of which not less than \$27,000,000 shall be available for the purposes of adding shelter beds in State-licensed facilities in response to funding opportunity HHS-2017-ACF-ORR-ZU-1132, and of which not less than \$185,000,000 shall be available for expansion grants to add beds in State-licensed facilities and open new State-licensed facilities, and for contract costs to acquire, activate, and operate facilities that will include small- and medium-scale hard-sided facilities for which the Secretary intends to seek State licensure in an effort to phase out the need for shelter beds in unlicensed facilities:~~

~~Deadlines.~~

~~Assessment.>> Provided further, That ORR shall notify the Committees on Appropriations of the House of Representatives and the Senate within 72 hours of conducting a formal assessment of a facility for possible lease or acquisition and within 7 days of any acquisition or lease of real property:~~

~~Provided further, That not less than \$866,000,000 of amounts provided under this heading shall be used for the provision of care in licensed shelters and for expanding the supply of shelters for which State licensure will be sought, of which not less than \$27,000,000 shall be available for the purposes of adding shelter~~ ~~[[Page 133 STAT.~~

~~1023]] beds in State-licensed facilities in response to funding opportunity HHS-2017-ACF-ORR-ZU-1132, and of which not less than \$185,000,000 shall be available for expansion grants to add beds in State-licensed facilities and open new State-licensed facilities, and for contract costs to acquire, activate, and operate facilities that will include small- and medium-scale hard-sided facilities for which the Secretary intends to seek State licensure in an effort to phase out the need for shelter beds in unlicensed facilities:~~

~~(b) Notwithstanding <<NOTE: subsection (a), the Secretary may make changes to such operational directives upon making a determination that such changes are necessary to prevent unaccompanied alien children from being placed in danger, and the Secretary shall provide a written justification to Congress and the Inspector General of the Department of Health and Human Services in advance of implementing such changes-~~

~~(c) Determination.>> Within Notwithstanding 15 subsection days (a), of the Secretary's Secretary communication may of make the changes justification, to the such Inspector operational General directives of upon the making Department a of determination Health that and such Human changes Services are shall necessary provide an assessment, in writing, to the prevent Secretary unaccompanied and alien to children Committees from on being Appropriations placed of in the danger, House of Representatives and the Senate Secretary of shall whether provide such a changes written to justification operational directives are necessary to prevent Congress unaccompanied and children the from Inspector being General placed~~ ~~[[Page in 133 danger- STAT.~~

~~1024]] of the Department of Health and Human Services in advance of implementing such changes.~~

~~(c) <<NOTE:~~

~~Deadline.~~

~~Assessment.>> Within 15 days of the Secretary's communication of the justification, the Inspector~~

General of the Department of Health and Human Services shall provide an assessment, in writing, to the Secretary and to Committees on Appropriations of the House of Representatives and the Senate of whether such changes to operational directives are necessary to prevent unaccompanied children from being placed in danger.

~~None of~~<<NOTE: the funds made available in this Act under the heading ``Department of Health and Human Services--Administration for Children and Families--Refugee and Entrant Assistance'' may be obligated to a grantee or contractor to house unaccompanied alien children (as such term is defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C.

~~279(g)(2)))~~Determination.>> inof any facility that is not State-licensed for the care of unaccompanied alien children, except in the this case Act that under the Secretary heading determines ``Department of Housing Health unaccompanied and alien Human children Services--Administration infor such Children and facility Families--Refugee is and necessary Entrant on Assistance'' amay temporary be basis obligated due to an influx grantee of such children or an contractor emergency, to provided house that--unaccompanied (1) alien the children terms (as of the grant or contract for the operations of any such facility term that is remains defined in operation section for 462(g)(2) more of than six consecutive months shall require compliance with-- (A) the same Homeland requirements Security as Act licensed placements, as listed in Exhibit 1 of the 2002 Flores (6 Settlement U.S.C. Agreement that the Secretary determines are applicable to non-State licensed facilities;

279(g)(2))) in any facility that is not State-licensed for the care of unaccompanied alien children, except in the case that the Secretary determines that housing unaccompanied alien children in such a facility is necessary on a temporary basis due to an influx of such children or an emergency, provided that-- (1) <<NOTE:

Compliance.>> the terms of the grant or contract for the operations of any such facility that remains in operation for more than six consecutive months shall require compliance with-- (A) the same requirements as licensed placements, as listed in Exhibit 1 of the Flores Settlement Agreement that the Secretary determines are applicable to non- State licensed facilities;

(2) the~~<<NOTE: Secretary may grant a 60-day waiver for a contractor's or grantee's non-compliance with paragraph (1) if the Secretary certifies and provides a report to Congress on the contractor's or grantee's good faith efforts and progress towards compliance;~~

Waiver authority.

Certification.

Reports.>> the Secretary may grant a 60-day waiver for a contractor's or grantee's non-compliance with paragraph (1) if the Secretary certifies and provides a report to Congress on the contractor's or grantee's good-faith efforts and progress towards compliance;

(5) for~~<<NOTE: any such unlicensed facility in operation for more than three consecutive months, ORR shall conduct a minimum of one comprehensive monitoring visit during the first three months of operation, with quarterly monitoring visits thereafter;~~

and Time (6) period.>> not for later any than such 60 unlicensed days facility after in the operation date for of more enactment than of three this consecutive Act, months, ORR shall brief conduct the a Committees minimum on Appropriations of the one House comprehensive of monitoring Representatives visit and during the Senate first outlining three the months requirements of ORR operation, for with influx quarterly facilities monitoring including visits any thereafter; requirement listed in paragraph (1)(A) that the Secretary has determined are not applicable to non-State licensed facilities.

Sec. and (6) <<NOTE:

Deadline.

Briefing.>> not later than 60 days after the date of enactment of this Act, ORR shall brief the Committees on Appropriations of the House of Representatives and the Senate outlining the requirements of ORR for influx facilities including any requirement listed in paragraph (1)(A) that the Secretary has determined are not applicable to non- State licensed facilities.

[[Page 133 STAT.

1025]] Sec.

In addition~~<<NOTE: to the existing Congressional notification for formal site assessments of potential influx facilities, the Secretary shall notify the Committees on Appropriations of the House of Representatives and the Senate at least 15 days before operationalizing an unlicensed facility, and shall (1) specify whether the facility is hard-sided or soft-sided, and (2) provide analysis that indicates that, in the absence of the influx facility, the likely outcome is that unaccompanied alien children will remain in the custody of the Department of Homeland Security for longer than 72 hours or that unaccompanied alien children will be otherwise placed in danger.~~

Within Notification. days of bringing such a facility online, and monthly thereafter, the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report detailing the total number of children in care at the facility, the average length of stay and average length of care of children at the facility, and, for any child that has been at the facility for more

~~than 60 days, their length of stay and reason for delay in release.~~

Time periods.

Analysis.>> addition to the existing Congressional notification for formal site assessments of potential influx facilities, the Secretary shall notify the Committees on Appropriations of the House of Representatives and the Senate at least 15 days before operationalizing an unlicensed facility, and shall (1) specify whether the facility is hard-sided or soft-sided, and (2) provide analysis that indicates that, in the absence of the influx facility, the likely outcome is that unaccompanied alien children will remain in the custody of the Department of Homeland Security for longer than 72 hours or that unaccompanied alien children will be otherwise placed in danger.

~~<<NOTE:~~

Reports.>> Within 60 days of bringing such a facility online, and monthly thereafter, the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report detailing the total number of children in care at the facility, the average length of stay and average length of care of children at the facility, and, for any child that has been at the facility for more than 60 days, their length of stay and reason for delay in release.

(a) The Secretary shall ensure that, when feasible, no unaccompanied alien child is at an unlicensed facility if the child-- (1) ~~is~~~~<<NOTE: not expected to be placed with a sponsor within 30 days;~~

Time period.>> is not expected to be placed with a sponsor within 30 days;

(b) ~~ORR<<NOTE: shall notify a child's attorney of record in advance of any transfer, where applicable.~~
Notification.>> ORR shall notify a child's attorney of record in advance of any transfer, where applicable.

~~None of<<NOTE: the funds made available in this Act may be used to prevent a United States Senator or Member of the House of Representatives from entering, for the purpose of conducting oversight, any facility in the United States used for the purpose of maintaining custody of, or otherwise housing, unaccompanied alien children (as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C.~~

Time period.>> of the funds made available in this Act may be used to prevent a United States Senator or Member of the House of Representatives from entering, for the purpose of conducting oversight, any facility in the United States used for the purpose of maintaining custody of, or otherwise housing, unaccompanied alien children (as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C.

~~Not later<<NOTE: than 14 days after the date of enactment of this Act, and monthly thereafter, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate, and make publicly available online, a report with respect to children who were separated from their parents or legal guardians by the Department of Homeland Security (DHS) (regardless of whether or not such separation was pursuant to an option selected by the children, parents, or guardians), subsequently classified as unaccompanied alien children, and transferred to the care and custody of ORR during the previous month.~~

Public information.

Reports.>> later than 14 days after the date of enactment of this Act, and monthly thereafter, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate, and make publicly available online, a report with respect to children who were separated from their parents or legal guardians by the Department of Homeland Security (DHS) (regardless of whether or not such separation was pursuant to an option selected by the children, parents, or guardians), subsequently classified as unaccompanied alien children, and transferred to the care and custody of ORR during the previous month.

~~(1)[[Page the133 numberSTAT. and ages of children so separated subsequent to apprehension at or between ports of entry, to be reported by sector where separation occurred;~~

1026]] (1) the number and ages of children so separated subsequent to apprehension at or between ports of entry, to be reported by sector where separation occurred;

~~Not later<<NOTE: than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed spend plan of anticipated uses of funds made available in this account, including the following:~~

~~aDeadline. list of existing grants and contracts for both permanent and influx facilities, including their costs, capacity, and timelines;~~

costsSpend forplan.>> expandinglater capacitythan through30 days after the use date of community-basedenactment residentialof carethis placementsAct, (includingthe long-Secretary termshall andsubmit transitionalto fosterthe careCommittees on Appropriations of the House of Representatives and smallthe groupSenate homes)a throughdetailed newspend orplan modifiedof grantsanticipated anduses contracts;of funds made available in this account, including the following:

~~<<NOTE:~~

Lists.>> a list of existing grants and contracts for both permanent and influx facilities, including

their costs, capacity, and timelines;

<<NOTE:

Costs.>> costs for expanding capacity through the use of community-based residential care placements (including long-term and transitional foster care and small group homes) through new or modified grants and contracts;

~~Provided, <<NOTE: That such plan shall be updated to reflect changes and expenditures and submitted to the Committees on Appropriations of the House of Representatives and the Senate every 60 days until all funds are expended or expired.~~

Time period.>> Provided, That such plan shall be updated to reflect changes and expenditures and submitted to the Committees on Appropriations of the House of Representatives and the Senate every 60 days until all funds are expended or expired.

Any amount appropriated by this Act, designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 and subsequently so designated by the President, ~~and [[Page transferred133 pursuant~~STAT. ~~to transfer authorities provided by this Act shall retain such designation.~~

1027]] and transferred pursuant to transfer authorities provided by this Act shall retain such designation.

~~Not later <<NOTE: than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate on the number of asylum officers and immigration judges, including temporary immigration judges, and the corresponding number of support staff necessary-- (1) to fairly and effectively make credible fear determinations with respect to individuals within family units and unaccompanied alien children;~~

Reports.>> later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate on the number of asylum officers and immigration judges, including temporary immigration judges, and the corresponding number of support staff necessary-- (1) to fairly and effectively make credible fear determinations with respect to individuals within family units and unaccompanied alien children;

In addition, ~~the <<NOTE: report shall determine if there is any physical infrastructure such as hearing or courtroom space needed to achieve these goals.~~

Determination.>> the report shall determine if there is any physical infrastructure such as hearing or courtroom space needed to achieve these goals.

~~Attest:~~ Approved July 1, 2019.

~~Secretary.~~ LEGISLATIVE HISTORY--H.R.

~~116th~~ 3401: CONGRESS 1st Session H.R.

~~3401~~-----

CONGRESSIONAL AMENDMENT RECORD,

Vol.

165 (2019):

June 25, considered and passed House.

June 26, considered and passed Senate, amended.

June 27, House concurred in Senate amendment.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2019):

July 1, Presidential remarks.

<all>