

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 7450

To remove legal impediments preventing construction of a border barrier along the international border between the United States and Mexico, improve the construction requirements for such barrier, make previously appropriated funds available for constructing such barrier until expended, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2022

Mr. BUDD (for himself, Mr. DUNCAN, Mr. POSEY, Mr. MOONEY, Mr. HARRIS, Mr. WEBER of Texas, Ms. MACE, Mr. NORMAN, Mr. CAWTHORN, Mr. BISHOP of North Carolina, Mr. TIFFANY, Mr. TIMMONS, and Mr. MCKINLEY) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Natural Resources, Energy and Commerce, Transportation and Infrastructure, Armed Services, Agriculture, Small Business, the Judiciary, and Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To remove legal impediments preventing construction of a border barrier along the international border between the United States and Mexico, improve the construction requirements for such barrier, make previously appropriated funds available for constructing such barrier until expended, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Build the Wall Now  
3 Act”.

4 **SEC. 2. RESUME CONSTRUCTION OF BARRIERS AND ROADS**  
5 **ALONG UNITED STATES AND MEXICO BOR-**  
6 **DER.**

7 (a) IN GENERAL.—

8 (1) IMMEDIATE RESUMPTION OF BORDER BAR-  
9 RIER CONSTRUCTION.—Not later than 24 hours  
10 after the date of the enactment of this Act, the Sec-  
11 retary of Homeland Security shall resume any  
12 project relating to the construction of physical bar-  
13 riers, tactical infrastructure, and technology along  
14 the international border between the United States  
15 and Mexico that were underway, or being planned  
16 for, prior to January 20, 2021.

17 (2) NO CANCELLATIONS.—The Secretary may  
18 not cancel any contract for activities related to the  
19 construction of the border barrier system that was  
20 entered into on or before January 20, 2021.

21 (3) USE OF FUNDS.—To carry out this section,  
22 the Secretary shall expend all funds appropriated or  
23 explicitly obligated for the construction of the border  
24 barrier system that were appropriated or obligated,  
25 as the case may be, for use beginning October 1,  
26 2016.

1 (b) UPHOLD NEGOTIATED AGREEMENTS.—The Sec-  
2 retary shall ensure that all agreements executed in writing  
3 between the Department and private citizens, State, local,  
4 or Tribal governments, or other stakeholders are honored  
5 by the Department relating to current and future con-  
6 struction of the border barrier system as required by such  
7 agreements.

8 (c) AVAILABILITY OF FUNDS.—Notwithstanding any  
9 other provision of law, each amount appropriated or other-  
10 wise made available for any project relating to the con-  
11 struction of such physical barriers, tactical infrastructure,  
12 and technology for fiscal year 2018, 2019, 2020, or 2021  
13 shall remain available until expended.

14 (d) USE OF FUNDS.—The amounts made available  
15 under subsection (c) for fiscal year 2021 shall only be  
16 available for barriers, technology, or roads that—

17 (1) use—

18 (A) operationally effective designs deployed  
19 as of the date of enactment of the Consolidated  
20 Appropriations Act, 2017 (Public Law 115–31),  
21 such as currently deployed steel bollard designs,  
22 that prioritize agent safety; or

23 (B) operationally effective adaptations of  
24 such designs that help mitigate community or  
25 environmental impacts of barrier system con-

1 construction, including adaptations based on con-  
2 sultation with jurisdictions within which barrier  
3 system will be constructed; and

4 (2) are constructed in the highest priority loca-  
5 tions as identified in the Border Security Improve-  
6 ment Plan.

7 (e) DEFINITIONS.—In this section:

8 (1) PHYSICAL BARRIERS.—The term “physical  
9 barriers” includes reinforced fencing, border barrier  
10 system, and levee walls.

11 (2) TACTICAL INFRASTRUCTURE.—The term  
12 “tactical infrastructure” includes boat ramps, access  
13 gates, checkpoints, lighting, and roads.

14 (3) TECHNOLOGY.—The term “technology”  
15 means border surveillance and detection technology,  
16 and includes the following:

17 (A) Tower-based surveillance technology.

18 (B) Deployable, lighter-than-air ground  
19 surveillance equipment.

20 (C) Vehicle and Dismount Exploitation Ra-  
21 dars (VADER).

22 (D) 3-dimensional, seismic acoustic detec-  
23 tion and ranging border tunneling detection  
24 technology.

1 (E) Advanced unattended surveillance sen-  
2 sors.

3 (F) Mobile vehicle-mounted and man-port-  
4 able surveillance capabilities.

5 (G) Unmanned aircraft systems.

6 (H) Other border detection, communica-  
7 tion, and surveillance technology.

8 **SEC. 3. IMPROVING THE REQUIREMENTS FOR BARRIERS**  
9 **ALONG THE SOUTHERN BORDER.**

10 Section 102 of the Illegal Immigration Reform and  
11 Immigrant Responsibility Act of 1996 (division C of Pub-  
12 lic Law 104–208; 8 U.S.C. 1103 note) is amended—

13 (1) by amending subsection (a) to read as fol-  
14 lows:

15 “(a) IN GENERAL.—The Secretary of Homeland Se-  
16 curity shall take such actions as may be necessary (includ-  
17 ing the removal of obstacles to detection of illegal en-  
18 trants) to design, test, construct, install, deploy, integrate,  
19 and operate physical barriers, tactical infrastructure, and  
20 technology in the vicinity of the United States border to  
21 achieve situational awareness and operational control of  
22 the border and deter, impede, and detect illegal activity  
23 in high traffic areas.”;

24 (2) in subsection (b)—

1 (A) in the subsection heading, by striking  
2 “FENCING AND ROAD IMPROVEMENTS” and in-  
3 serting “PHYSICAL BARRIERS”;

4 (B) in paragraph (1)—

5 (i) in subparagraph (A)—

6 (I) by striking “subsection (a)”  
7 and inserting “this section”;

8 (II) by striking “roads, lighting,  
9 cameras, and sensors” and inserting  
10 “tactical infrastructure, and tech-  
11 nology”; and

12 (III) by striking “gain” and in-  
13 serting “achieve situational awareness  
14 and”;

15 (ii) by amending subparagraph (B) to  
16 read as follows:

17 “(B) PHYSICAL BARRIERS AND TACTICAL  
18 INFRASTRUCTURE.—The Secretary, in carrying  
19 out this section, shall deploy along the United  
20 States border the most practical and effective  
21 physical barriers and tactical infrastructure  
22 available for achieving situational awareness  
23 and operational control of the border.”;

24 (iii) in subparagraph (C)—

1 (I) by amending clause (i) to  
2 read as follows:

3 “(i) IN GENERAL.—In carrying out  
4 this section, the Secretary shall consult  
5 with appropriate Federal agency partners,  
6 appropriate representatives of Federal,  
7 State, Tribal, and local governments, and  
8 appropriate private property owners in the  
9 United States to minimize the impact on  
10 the environment, culture, commerce, and  
11 quality of life for the communities and  
12 residents located near the sites at which  
13 such physical barriers are to be con-  
14 structed.”; and

15 (II) in clause (ii)—

16 (aa) in subclause (I), by  
17 striking “or” after the semicolon  
18 at the end;

19 (bb) by amending subclause  
20 (II) to read as follows:

21 “(II) delay the transfer to the  
22 United States of the possession of  
23 property or affect the validity of any  
24 property acquisition by the United  
25 States by purchase or eminent do-

1 main, or to otherwise affect the emi-  
2 nent domain laws of the United States  
3 or of any State; or”; and

4 (cc) by adding at the end  
5 the following new subclause:

6 “(III) create any right or liability  
7 for any party.”; and

8 (iv) by striking subparagraph (D);

9 (C) in paragraph (2)—

10 (i) by striking “Attorney General”  
11 and inserting “Secretary of Homeland Se-  
12 curity”;

13 (ii) by striking “this subsection” and  
14 inserting “this section”; and

15 (iii) by striking “construction of  
16 fences” and inserting “the construction of  
17 physical barriers”;

18 (D) by amending paragraph (3) to read as

19 follows:

20 “(3) AGENT SAFETY.—In carrying out this sec-  
21 tion, the Secretary of Homeland Security, when de-  
22 signing, constructing, and deploying physical bar-  
23 riers, tactical infrastructure, or technology, shall in-  
24 corporate such safety features into such design, con-  
25 struction, or deployment of such physical barriers,



1 tactical infrastructure, or technology, as the case  
2 may be, that the Secretary determines are necessary  
3 to maximize the safety and effectiveness of officers  
4 or agents of the Department of Homeland Security  
5 or of any other Federal agency deployed in the vicin-  
6 ity of such physical barriers, tactical infrastructure,  
7 or technology.”; and

8 (E) in paragraph (4), by striking “this  
9 subsection” and inserting “this section”;

10 (3) in subsection (c)—

11 (A) by amending paragraph (1) to read as  
12 follows:

13 “(1) IN GENERAL.—Notwithstanding any other  
14 provision of law, the Secretary of Homeland Security  
15 shall have the authority to waive all legal require-  
16 ments the Secretary determines necessary to ensure  
17 the expeditious design, testing, construction, instal-  
18 lation, deployment, integration, and operation of the  
19 physical barriers, tactical infrastructure, and tech-  
20 nology under this section. Such waiver authority  
21 shall also apply with respect to any maintenance car-  
22 ried out on such physical barriers, tactical infra-  
23 structure, or technology. Any such decision by the  
24 Secretary shall be effective upon publication in the  
25 Federal Register.”;

1 (B) by redesignating paragraph (2) as  
2 paragraph (3); and

3 (C) by inserting after paragraph (1) the  
4 following new paragraph:

5 “(2) NOTIFICATION.—Not later than 7 days  
6 after the date on which the Secretary of Homeland  
7 Security exercises the waiver authority under para-  
8 graph (1), the Secretary shall notify the Committee  
9 on Homeland Security of the House of Representa-  
10 tives and the Committee on Homeland Security and  
11 Governmental Affairs of the Senate of such waiver.”;  
12 and

13 (4) by adding at the end the following new sub-  
14 sections:

15 “(e) TECHNOLOGY.—The Secretary of Homeland Se-  
16 curity, in carrying out this section, shall deploy along the  
17 United States border the most practical and effective tech-  
18 nology available for achieving situational awareness and  
19 operational control of the border.

20 “(f) DEFINITIONS.—In this section:

21 “(1) ADVANCED UNATTENDED SURVEILLANCE  
22 SENSORS.—The term ‘advanced unattended surveil-  
23 lance sensors’ means sensors that utilize an onboard  
24 computer to analyze detections in an effort to dis-

1 cern between vehicles, humans, and animals, and ul-  
2 timately filter false positives prior to transmission.

3 “(2) HIGH TRAFFIC AREAS.—The term ‘high  
4 traffic areas’ means areas in the vicinity of the  
5 United States border that—

6 “(A) are within the responsibility of U.S.  
7 Customs and Border Protection; and

8 “(B) have significant unlawful cross-border  
9 activity, as determined by the Secretary of  
10 Homeland Security.

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

15 “(4) PHYSICAL BARRIERS.—The term ‘physical  
16 barriers’ includes reinforced fencing, border barrier  
17 system, and levee walls.

18 “(5) SITUATIONAL AWARENESS.—The term ‘sit-  
19 uational awareness’ has the meaning given such  
20 term in section 1092(a)(7) of the National Defense  
21 Authorization Act for Fiscal Year 2017 (Public Law  
22 114–328; 6 U.S.C. 223(a)(7)).

23 “(6) TACTICAL INFRASTRUCTURE.—The term  
24 ‘tactical infrastructure’ includes boat ramps, access  
25 gates, checkpoints, lighting, and roads.

1           “(7) TECHNOLOGY.—The term ‘technology’  
2 means border surveillance and detection technology,  
3 and includes the following:

4                   “(A) Tower-based surveillance technology.

5                   “(B) Deployable, lighter-than-air ground  
6 surveillance equipment.

7                   “(C) Vehicle and Dismount Exploitation  
8 Radars (VADER).

9                   “(D) 3-dimensional, seismic acoustic detec-  
10 tion and ranging border tunneling detection  
11 technology.

12                   “(E) Advanced unattended surveillance  
13 sensors.

14                   “(F) Mobile vehicle-mounted and man-  
15 portable surveillance capabilities.

16                   “(G) Unmanned aircraft systems.

17                   “(H) Other border detection, communica-  
18 tion, and surveillance technology.

19           “(8) UNMANNED AIRCRAFT SYSTEM.—The term  
20 ‘unmanned aircraft system’ has the meaning given  
21 such term in section 44801 of title 49, United  
22 States Code.”.

1 **SEC. 4. CODIFYING PREVIOUSLY WAIVED LEGAL REQUIRE-**  
2 **MENTS.**

3 Section 102(c) of the Illegal Immigration Reform and  
4 Immigrant Responsibility Act of 1996 (division C of Pub-  
5 lic Law 104–208; 8 U.S.C. 1103 note) is amended by add-  
6 ing at the end the following new paragraph:

7 “(4) PREVIOUSLY WAIVED LEGAL REQUIRE-  
8 MENTS.—

9 “(A) IN GENERAL.—Any project relating  
10 to the construction of physical barriers, tactical  
11 infrastructure, and technology along the inter-  
12 national border between the United States and  
13 Mexico shall be exempt from any law or regula-  
14 tion described in subparagraph (B).

15 “(B) ELEMENTS.—The laws or regulations  
16 described in this subparagraph are the fol-  
17 lowing:

18 “(i) An Act to facilitate the work of  
19 the Forest Service (Public Law 87–869).

20 “(ii) The Administrative Procedure  
21 Act (5 U.S.C. 500 et seq.).

22 “(iii) The American Indian Religious  
23 Freedom Act of 1978 (42 U.S.C. 1996 et  
24 seq.).

25 “(iv) The Arizona Desert Wilderness  
26 Act (6 U.S.C. 460ddd et seq.).

1 “(v) The Arizona-Idaho Conservation  
2 Act of 1988 (Public Law 100–696).

3 “(vi) The Bald and Golden Eagle Pro-  
4 tection Act (16 U.S.C. 668 et seq.).

5 “(vii) The Clean Air Act (42 U.S.C.  
6 7401 et seq.).

7 “(viii) The Clean Water Act (33  
8 U.S.C. 1151 et seq.).

9 “(ix) The Coastal Zone Management  
10 Act (16 U.S.C. 1451 et seq.).

11 “(x) The Comprehensive Environ-  
12 mental Response, Compensation, and Li-  
13 ability Act of 1980 (42 U.S.C. 9601 et  
14 seq.).

15 “(xi) The Endangered Species Act (16  
16 U.S.C. 1531 et seq.).

17 “(xii) The Farmland Protection Policy  
18 Act (7 U.S.C. 4201 et seq.).

19 “(xiii) The Federal Cave Resources  
20 Protection Act of 1988 (16 U.S.C. 4301 et  
21 seq.).

22 “(xiv) The Federal Grant and Cooper-  
23 ative Agreement Act of 1977 (31 U.S.C.  
24 6301 et seq.).

1           “(xv) The Federal Land Policy and  
2 Management Act of 1976 (43 U.S.C. 1701  
3 et seq.).

4           “(xvi) The Fish and Wildlife Coordi-  
5 nation Act (16 U.S.C. 662 et seq.).

6           “(xvii) The Migratory Bird Conserva-  
7 tion Act of 1929 (16 U.S.C. 715 et seq.).

8           “(xviii) The Migratory Bird Treaty  
9 Act (16 U.S.C. 703 et seq.).

10           “(xix) The Military Lands Withdrawal  
11 Act of 1999 (Public Law 106–65).

12           “(xx) The Multiple-Use and Sus-  
13 tained-Yield Act of 1960 (16 U.S.C. 583 et  
14 seq.).

15           “(xxi) The National Environmental  
16 Policy Act (Public Law 91–190).

17           “(xxii) The National Fish and Wildlife  
18 Act of 1956 (16 U.S.C. 742a et seq.).

19           “(xxiii) The National Forest Manage-  
20 ment Act of 1976 (16 U.S.C. 472a et  
21 seq.).

22           “(xxiv) The National Historic Preser-  
23 vation Act (Public Law 89–665).

24           “(xxv) The National Parks and Recre-  
25 ation Act of 1978 (Public Law 95–625).

1           “(xxvi) The National Trails System  
2 Act (16 U.S.C. 1241 et seq.).

3           “(xxvii) The National Wildlife Refuge  
4 System Administration Act (16 U.S.C.  
5 668dd et seq.).

6           “(xxviii) The Native American Graves  
7 Protection and Repatriation Act (25  
8 U.S.C. 3001 et seq.).

9           “(xxix) The Noise Control Act (42  
10 U.S.C. 4901 et seq.).

11           “(xxx) The Otay Mountain Wilderness  
12 Act of 1990 (Public Law 106–145).

13           “(xxxi) The Paleontological Resources  
14 Preservation Act (16 U.S.C. 470aaa et  
15 seq.).

16           “(xxxii) Section 10 of the Reclamation  
17 Project Act of 1939 (43 U.S.C. 387).

18           “(xxxiii) The Religious Freedom Res-  
19 toration Act (42 U.S.C. 2000bb–4 et seq.).

20           “(xxxiv) The Resource Conservation  
21 and Recovery Act (42 U.S.C. 6901 et  
22 seq.).

23           “(xxxv) The Rivers and Harbors Act  
24 of 1899 (33 U.S.C. 403 et seq.).



1 “(xxxvi) The Safe Drinking Water Act  
2 (42 U.S.C. 300f et seq.).

3 “(xxxvii) The Sikes Act (16 U.S.C.  
4 670a et seq.).

5 “(xxxviii) The Small Business Act (15  
6 U.S.C. 631 et seq.).

7 “(xxxix) The Solid Waste Disposal  
8 Act (42 U.S.C. 6901 et seq.).

9 “(xl) The Wild and Scenic Rivers Act  
10 (16 U.S.C. 1281 et seq.).

11 “(xli) The Wild Horse and Burro Act  
12 (16 U.S.C. 1331 et seq.).

13 “(xlii) The Wilderness Act (16 U.S.C.  
14 1131 et seq.).

15 “(xliii) Part 125 of title 13, Code of  
16 Federal Regulations.

17 “(xliv) Sections 16.504, 16.505,  
18 17.205, 17.207, 22.404, 22.404–5, and  
19 28.102–1 of title 48, Code of Federal Reg-  
20 ulations.

21 “(xlv) Section 550 of title 40, United  
22 States Code.

23 “(xlvi) Chapters 1003, 1005, 1007,  
24 1009, 1021, 3125, 3201, and 3203 of title  
25 54, United States Code.

1                   “(xlvii) Division A of subtitle III of  
2                   title 54, United States Code.

3                   “(xlviii)       Sections       100101(a),  
4                   100751(a), 102101 of title 54, United  
5                   States Code.

6                   “(xlix) Sections 2304, 2304e, 2305,  
7                   2505a, and 2306a of title 10, United  
8                   States Code.

9                   “(l) Title 41, United States Code.”.

10 **SEC. 5. PROHIBITION AGAINST USE OF FUNDS TO IMPLE-**  
11 **MENT OR ENFORCE PRESIDENTIAL PROCLA-**  
12 **MATION 10142.**

13       No funds, resources, or fees made available to the  
14 Secretary of Homeland Security, or to any other official  
15 of a Federal agency by any Act of Congress for any fiscal  
16 year, may be used to implement or enforce Presidential  
17 Proclamation 10142, issued on January 20, 2021.

○