



NHCSL

THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS

EMERGENCY RESOLUTION

No. 2019-01

**Rejecting the Construction of a Wall Along the Entire U.S.-
Mexico Border
and
Calling for Dignified Treatment for Asylum-Seeking Legal
Immigrants and Robust Funding for Immigration Courts and
Central American Betterment Initiatives**

Reported to the Caucus by the NHCSL Immigration Task Force
Sen. Richard Martínez (NM), Chair

Sponsored by: Sen. Carmelo Ríos (PR)

Unanimously approved by the NHCSL Executive Committee on behalf of the entire
Caucus on May 7, 2019

1 **WHEREAS**, a broad consensus exists about the need for secure borders and ports of
2 entry to the United States; and,

3 **WHEREAS**, for the reasons explained below, a border wall will not effectively
4 increase our security or decrease illegal immigration, would not fulfill the President's
5 campaign promise regarding Mexico's payment, and will not it solve the true
6 humanitarian asylum crisis at the southern border, which the President has
7 inhumanely tried to conflate with the wall; and,

8 **I. Mexico will not pay for President Trump’s wall, leaving American**
9 **taxpayers as the only source of funding**

10 **WHEREAS**, President Donald Trump’s main proposal as a candidate was to build a
11 physical wall¹ along the entirety of our southern border, promising that he would get
12 Mexico to pay for its construction;² and,

13 **WHEREAS**, the Mexican government has stated that it has no intention of paying for
14 the construction of a physical barrier along the U.S.-Mexico border;³ and,

15 **WHEREAS**, as President, Mr. Trump reneged on his promise that Mexico would
16 directly pay for the wall and instead alleges that Mexico will pay indirectly through
17 the new United States–Mexico–Canada Agreement (USMCA), which would replace
18 NAFTA, although there is no evidence for this claim;⁴ and,

19 **WHEREAS**, instead, the President’s new policy is that U.S. taxpayers should foot the
20 bill for his wall,⁵ going so far as to provoke a record-breaking federal government
21 shutdown over the issue;⁶ and,

¹ He proposed several, ever increasing, heights for the barrier.

² See, for example, BBC News, *Donald Trump: 'Mexico will pay for the wall'* (Sep. 1, 2016) <https://www.bbc.com/news/av/world-us-canada-37241626/donald-trump-mexico-will-pay-for-the-wall>; and see Linda Qiu, *The Many Ways Trump Has Said Mexico Will Pay For The Wall* (NY Times, Jan. 11, 2019) available at <https://www.nytimes.com/2019/01/11/us/politics/trump-mexico-pay-wall.html>.

³ The original Mexico position was announced by former President Enrique Peña Nieto. See BBC News, *Mexico 'will not pay for US border wall' - President Enrique Pena Nieto* (Jan. 26, 2017), available at <https://www.bbc.com/news/av/world-latin-america-38753660/mexico-will-not-pay-for-us-border-wall-president-enrique-pena-nieto>. The Trump Administration has not directly asked current Mexico President Andrés Manuel López Obrador to pay for the wall, but everything indicates that his policy is the same as his predecessor’s. See, Doina Chiacu, *Trump says trade deal pays for border wall, Democrats scoff* (Reuters, Dec. 13, 2018), available at <https://www.reuters.com/article/us-usa-immigration-mexico/mexicos-president-did-not-discuss-border-wall-with-trump-idUSKBN1OC1SY> (indicating that the presidents “have not discussed that issue, in any conversation”).

⁴ See, Linda Qiu, *Trump’s Baseless Claim That Mexico Will Pay for the Wall Through the New Nafta* (NY Times, Dec. 13, 2018), available at <https://www.nytimes.com/2018/12/13/us/politics/fact-check-trump-mexico-wall-usmca.html>; and see Adam Behsudi, *Fact check: Mexico will 'indirectly' pay for a border wall through the new trade deal* (Politico, Jan. 10, 2019), available at <https://www.politico.com/story/2019/01/10/fact-check-mexico-border-wall-1073928>.

⁵ Behsudi, *supra* note 4 (noting that “White House strategic communications director Mercedes Schlapp acknowledged on CNN on Wednesday [January 9, 2019] that U.S. taxpayers would ultimately fund the wall.”).

⁶ See Sinéad Baker, *SHUTDOWN DAY 32: The government shutdown could end up costing more than the \$5.7 billion Trump wants for the wall* (Business Insider, Jan. 22, 2019), available at <https://www.businessinsider.com/government-shutdown-economic-cost-border-wall-2019-1>

22 **II. The U.S.- Mexico border is already very secure, and a coast-to-coast**
23 **wall will not effectively increase**
24 **that security**

25 **WHEREAS**, effective border security must be
26 such that its costs are less than the costs of the
27 harms it can truly prevent, else it becomes a drag
28 on our taxpayers and our society;⁷ and,

“FIXED FORTIFICATIONS ARE A
MONUMENT TO THE STUPIDITY OF
MAN. IF MOUNTAIN RANGES AND
OCEANS CAN BE OVERCOME,
THEN ANYTHING BUILT BY MAN CAN
BE OVERCOME.”

29 **WHEREAS**, much of the southern border has
30 natural barriers in the form of scorching deserts,
31 rugged canyons, desolate landscapes, strong
32 rivers, and boggy wetlands, all of which can be treacherous, or even life-threatening,
33 to cross;⁸ and,

- GEN. GEORGE S. PATTON,

34 **WHEREAS**, “Congress continues to channel more U.S. taxpayer dollars to immigration
35 enforcement agencies (more than \$21 billion now) than all other enforcement
36 agencies combined, including the FBI, DEA, ATF, US Marshals, and Secret Service;”⁹
37 and,

38 **WHEREAS**, further, some of the inhospitable border areas, along with the remaining
39 southern border areas with more forgiving natural or constructed features, have
40 man-made barriers (totaling over 650 miles of fence that front the actual border)¹⁰

⁷ For a discussion on the diminishing returns of security investments see, Nader Elhefnawy, *Societal Complexity and Diminishing Returns in Security*, Quarterly Journal: International Security, vol. 29, no. 1 (Summer 2004) (arguing that security is becoming an area of diminishing returns in contemporary advanced societies, because as societies become more complex, they have less “slack” for dealing with unexpected security problems; as a consequence, the defense burden of these societies grows disproportionately to the benefits their increasing complexity is expected to provide), available at <https://www.mitpressjournals.org/doi/abs/10.1162/0162288041762977>

⁸ According to a 2017 NY Times investigation, “More people have died illegally crossing the southwestern border of the United States in the last 16 years than were killed in the Sept. 11, 2001, terrorist attacks and Hurricane Katrina combined. From October 2000 through September 2016, the Border Patrol documented 6,023 deaths in Arizona, California, New Mexico and Texas, while more than 4,800 people died in the Sept. 11 attacks and Hurricane Katrina.” Manny Fernandez, *A Path to America, Marked by More and More Bodies* (NY Times, May 4, 2017), available at <https://www.nytimes.com/interactive/2017/05/04/us/texas-border-migrants-dead-bodies.html>. See also, Andrew Becker, et al, *The deadliest route to the American dream* (Reveal News, Mar. 3, 2017), available at <https://www.revealnews.org/article/the-deadliest-route-to-the-american-dream/> (calling the Pima County border area “a desert Bermuda Triangle” after uncovering that state- and county-level data reveal even higher death tolls than the CBP admits).

⁹ Southern Border Communities Coalition (SBCC), *Border Facts*, available at <https://www.southernborder.org/border-facts> (citing Department of Homeland Security, *FY 2019 Budget in Brief*, available at <https://www.dhs.gov/sites/default/files/publications/DHS%20BIB%202019.pdf>).

¹⁰ Reveal Interactive, *The Wall: Explore the US-Mexico Border Fence* (Center for Investigative Reporting, March 3, 2017), available at <http://apps.revealnews.org/border-wall/> (“There are 700 miles of fence along the U.S.-Mexico border. In some high-traffic spots, there are two or three layers of fence in one area, leaving somewhere between 652 and 690 miles of fence that front the actual

41 and surveillance systems of varying complexity (including 9 UAV’s — unmanned
42 aerial vehicles),¹¹ thereby making it very hard for people to successfully cross the
43 border undetected; and,

44 **WHEREAS**, President Trump has stated that one of his central justifications for
45 building a border wall is to stem an alleged tide of terrorists streaming into our
46 country via the southern border,¹² but, experts, including the former Director of the
47 National Counterterrorism Center (NCTC), Nicholas Rasmussen, conclude that there
48 is no such threat;¹³ and,

49 **WHEREAS**, after Congress denied him the funding for the wall, President Trump
50 declared an emergency, expressly invoking the construction authority provided in
51 section 2808 of title 10, United States Code, so that he could transfer funds from
52 previously appropriated military construction projects to pay for the wall;¹⁴ and,

53 **WHEREAS**, defunding those Congressionally-approved military construction
54 projects in and of itself weakens our national security;¹⁵ and,

55 **WHEREAS**, the President’s Proclamation drops his previous mentions regarding
56 border-crossing terrorists, instead focusing its security-related justification solely on
57 “criminals, gang members, and illicit narcotics;”¹⁶ and,

58 **WHEREAS**, immigrants in general have a much lower rate of crime than native-born
59 Americans across the nation and, in Texas, the only state that classifies convicted

border. Often, the fence is not built on the border itself, but inside the United States by anywhere from a few feet to up to a mile.”). And see Michelle Mark, et al, *As the government shutdown over Trump’s border wall rages, a journey along the entire 1,933-mile US-Mexico border shows the monumental task of securing it* (Business Insider, Jan. 12, 2019), available at <https://www.businessinsider.com/us-mexico-border-wall-photos-maps-2018-5>

¹¹ SBCC, *supra* note 9. (citing, David Bier and Matthew Feeney, *Drones on the Border: Efficacy and Privacy Implications* (CATO Institute, May 1, 2018), available at <https://www.cato.org/publications/immigration-research-policy-brief/drones-border-efficacy-privacy-implications>)).

¹² See Eric Schmitt, et al, *A Border Wall to Stop Terrorists? Experts Say That Makes Little Sense* (NY Times, Jan. 8, 2019), available at <https://www.nytimes.com/2019/01/08/us/politics/trump-border-wall-terrorists.html>

¹³ *Ibid.*; and see Nicholas Rasmussen, *Terrorists and the Southern Border: Myth and Reality* (Just Security, Jan. 8, 2019), available at <https://www.justsecurity.org/62156/terrorists-southern-border-myth-reality/>

¹⁴ *Presidential Proclamation on Declaring a National Emergency Concerning the Southern Border of the United States*, Proclamation No. 9844, February 15, 2019, available at <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-declaring-national-emergency-concerning-southern-border-united-states/>

¹⁵ Patrick Kelley, *Pentagon wants Congress to replenish funds Trump taps for border wall* (Roll Call, Feb. 28, 2019) (quoting Pentagon officials as stating that the diverting money from the current projects “won’t weaken the military — so long as Congress replenishes the accounts Trump could tap to build the wall”), available at <https://www.rollcall.com/news/congress/pentagon-plans-recoup-lost-military-construction-funds>

¹⁶ *Presidential Proclamation 9844*, *supra* note 14.

60 criminals by immigration status, “illegal (sic.) immigrant conviction rates are about
61 half those of native-born Americans;”¹⁷ and,

62 **WHEREAS**, the Trump Administration’s own 2018 National Drug Threat Assessment
63 reveals that the most common method used by Mexican transnational criminal
64 organizations (TCO’s) to smuggle drugs across the southern border “involves
65 transporting illicit drugs through U.S. POEs [ports of entry] in passenger vehicles with
66 concealed compartments or commingled with legitimate goods on tractor trailers,”¹⁸
67 a practice which cannot be stopped or curtailed by the wall; and,

68 **WHEREAS**, gang members, the remaining category cited by the President as
69 justification, is not likely to be curtailed by the wall due to the walls predicted porosity
70 even to non-criminal migrants (discussed below) and their close relationship with the
71 drug cartels,¹⁹ which could provide passage despite the wall via their tunnels, ships
72 and light aircraft;²⁰ and,

73 **WHEREAS**, the engineering challenge presented by the hundreds of different soils
74 along the border means that, even if it could ever be constructed in any reasonable
75 amount of time, the wall would be unsteady in many places and likely to corrode, lean,
76 or be offset after building due to lack of access to bedrock and to natural processes,
77 including shifting sand dunes, massive flooding, earthquakes, and corroding and
78 expanding soils, meaning that the keeping the wall upright could be as budget- and
79 time-consuming as building it in the first place;²¹ and,

¹⁷ Alex Nowrasteh, *Illegal Immigrants and Crime – Assessing the Evidence* (CATO Institute, March 4, 2019), available at <https://www.cato.org/blog/illegal-immigrants-crime-assessing-evidence>

¹⁸ U.S. Drug Enforcement Administration (DEA), *2018 National Drug Threat Assessment*, p. 99 (October 2018), available at <https://www.dea.gov/sites/default/files/2018-11/DIR-032-18%202018%20NDTA%20final%20low%20resolution.pdf>. The Assessment also reveals that other methods include tunnels (particularly for cannabis), commercial cargo trains and passenger buses, and, to a lesser extent, maritime vessels off the coast of California and even various aerial methods like ultralight aircraft and unmanned aerial systems (UASs) and drones. None of these are susceptible to prevention via the wall. Only a minimum amount enters via clandestine land trails.

¹⁹ DEA National Drug Threat Assessment, *supra* note 18, at pp. 114-117.

²⁰ See note 18.

²¹ See Maya Wei-Haas, *What Geology Has to Say About Building a 1,000-Mile Border Wall* (Smithsonian Magazine Feb. 7, 2017), available at <https://www.smithsonianmag.com/science-nature/vast-geological-challenges-building-border-wall-180962072/>. See also, Stuart Leavenworth, *Biggest hurdle for Trump’s border wall? The remote, rugged terrain* (McClatchy DC, Jan. 22, 2018), available at <https://www.mcclatchydc.com/news/nation-world/national/article195841649.html>

80 **III. President Trump’s wall would not halt, or effectively decrease,**
81 **undocumented immigration**

82 **WHEREAS**, for the last seven consecutive years, visa overstays have exceeded illegal
83 border crossings as a source of undocumented migrants, “a trend which has become
84 the norm;”²² and,

85 **WHEREAS**, while the President’s wall is directed squarely at preventing Hispanic
86 undocumented immigration,²³ the country with the highest consistent growth in
87 undocumented immigrants to the United States this decade is India;²⁴ and,

88 **WHEREAS**, in fact, “from 2016-2017, visa overstayers accounted for 62 percent of the
89 newly undocumented, while 38 percent had crossed a border illegally;”²⁵ and,

90 **WHEREAS**, as for the remaining minority of undocumented immigration which is
91 traceable to border-crossings, the value of any reasonably foreseeable disruptions, if
92 any, caused by undocumented migration which could be avoided by any decreases

²² The latest data is for the years 2016-17. See Richard Gonzalez, *For 7th Consecutive Year, Visa Overstays Exceeded Illegal Border Crossings* (NPR, Jan. 16, 2019), available at <https://www.npr.org/2019/01/16/686056668/for-seventh-consecutive-year-visa-overstays-exceeded-illegal-border-crossings>; see also Dean DeChiaro, *Border wall debate ignores biggest source of illegal immigration: visa overstays* (Roll Call, Feb. 1, 2019), available at <https://www.rollcall.com/news/congress/border-illegal-immigration-visa-overstays>; and see Chris Nichols, *MOSTLY TRUE: Visa overstays account for ‘half’ of all people in the country illegally* (Politifact California, Aug. 24, 2018) (discussing conclusions about the entire undocumented population based on slightly older numbers).

²³ The percentage of immigrants using legal ways to immigrate in 2017 by selected Latin American countries are: El Salvador (89%), Honduras (79.6%), Guatemala (75.1%), Mexico (65.3%), Dominican Republic (45.6%) and Nicaragua (43.7%). Total U.S. undocumented population, by Latin American country of origin, has changed in this decade by: Ecuador (-27%), Mexico (-20%), Colombia (-8%), El Salvador (9%), Guatemala (17%), and Honduras (21%). Robert Warren, *US Undocumented Population Continued to Fall from 2016 to 2017, and Visa Overstays Significantly Exceeded Illegal Crossings for the Seventh Consecutive Year* (CMS), available at <https://cmsny.org/publications/essay-2017-undocumented-and-overstays/>

²⁴ Warren, *supra* note 23 (showing that India’s U.S. undocumented immigrant population has grown 72% this decade). Note: While Venezuela technically has a much higher undocumented immigration growth this decade of 124%, almost all of it has come in the last four years — via visa overstays of migrants arriving by air— as the Maduro regime has steadily collapsed and the country’s economic and human rights crisis has deepened. There is therefore a growing bipartisan recognition regarding the need to treat Venezuela migrants differently than typical undocumented migrants. See, for example, S.636 - *Venezuela Temporary Protected Status Act of 2019* (Sponsored by Sen. Robert Menendez) (Cosponsored by Sens. Richard Durbin, Marco Rubio, Patrick Leahy and Cory Booker) (Introduced in the Senate on February 28, 2019), available at <https://www.congress.gov/bill/116th-congress/senate-bill/636/text>

²⁵ Center for Migration Studies, *The Center for Migration Studies Releases New Estimates Showing Visa Overstays Exceeded Entries Without Inspection for the Seventh Consecutive Year: Findings show that border wall would not halt undocumented migration* (Jan. 16, 2019), available at <http://cmsny.org/wp-content/uploads/2019/01/PRESS-RELEASE-2017-Undocumented.pdf>

93 caused by the border wall, would pale in comparison to the costs of building, manning
94 and maintaining the wall;²⁶ and,

95 **WHEREAS**, in fact, experts agree that, “achieving absolute border control, whereby
96 no single individual crosses into a state without that state’s authorization, is
97 impossible and the only nations that have come close to such control were
98 totalitarian, with leaders who had no qualms about imposing border control with
99 shoot-to-kill orders;”²⁷ and,

100 **WHEREAS**, this means that it would be impossible for President Trump’s wall to halt
101 all or most of undocumented immigration, even the most faultless version of the wall
102 would still be porous;²⁸ and,

103 **IV. Building the wall would cause a litany of harms to America’s values,**
104 **economy, environment, and international relations**

105 **WHEREAS**, taken in the context of some of the Administration’s other policies, such
106 as family separation or incarceration at the border,²⁹ ending DACA,³⁰ and introducing

²⁶ Contrast the \$24 billion that undocumented immigrants paid the IRS in taxes in 2015 alone to the estimates in the dozens of billions for the cost of the wall (which do not include manning and maintenance). And see ALIA report, *Border Security: Moving Beyond Past Benchmarks*, ALIA Doc. No. 13013051 (Jan. 30, 2013) (citing GAO testimony to the effect that the “[r]esources that would be needed to absolutely prevent every single incursion would be something probably out of reasonable consideration”), available at <https://www.aila.org/infonet/aila-report-border-security-benchmarks>

²⁷ Rey Koslowski, *The Evolution of Border Controls as a mechanism to Prevent Illegal Immigration*, Migration Policy Institute (February 2011), available at <http://www.migrationpolicy.org/pubs/bordercontrols-koslowski.pdf>

²⁸ GAO Report, *Border Security: Preliminary Observations on Border Control Measures for the Southwest Border* (February 2011), available at <http://www.gao.gov/new.items/d11374t.pdf>. See also Edward Alden, *Immigration and Border Control*, *Cato Journal* Vol.32, No. 1 (Winter 2012), available at <http://www.cato.org/pubs/journal/cj32n1/cj32n1-8.pdf> (“Evading border enforcement has become more difficult, more expensive, and more uncertain than before. But border control will always remain imperfect; it is not possible for the United States to create a perfectly secure border, and that should not be the goal.”). And see Jonathan Hilburg, *All eight border wall prototypes fail basic penetrability test* (The Architects Newspaper, Jan. 11, 2019), available at <https://archpaper.com/2019/01/border-wall-prototypes-breached/>

²⁹ See NHCSL Resolution 2018-16, *EMERGENCY RESOLUTION: End the Separation of Migrant Families and Reject the Detention of Children and Families*, available at <https://nhcsl.org/resources/resolutions/2018/2018-16/>.

³⁰ See NHCSL Resolutions 2018-08, *EMERGENCY RESOLUTION: End the Uncertainty and Create a Pathway to Citizenship for Dreamers Now*, available at <https://nhcsl.org/resources/resolutions/2018/2018-8/>; 2017-18, *Regarding the Impact of the Deferred Action for Childhood Arrivals Program on Educational Attainment and Community Stability*, available at <https://nhcsl.org/resources/resolutions/2017/2017-18/>; and 2017-07, *Encouraging the Continuity of the DACA and DAPA Programs*, available at <https://nhcsl.org/resources/resolutions/2017/2017-7/>. See also, *Latino Legislators Welcome DACA Ruling, Urge DHS to Keep Program* (NHCSL Apr. 25 2018), available at <https://nhcsl.org/media/news/latino-legislators-welcome-daca-ruling-urge-dhs-to-keep-program/>

107 a citizenship question to the 2020 Census,³¹ the President’s emergency declaration to
108 build the wall, which also runs afoul the intent and consent of Congress, only serves
109 to unfairly exacerbate anti-Hispanic hostility in our country, undermine the American
110 value of equal protection under the law, and sow distrust of their government among
111 Hispanic-Americans and other Americans of color; and,

112 **WHEREAS**, a physical barrier between the United States and Mexico implies that
113 those on the other side are somehow lesser, straining relations with one of our most
114 important trading partners and signaling that Hispanic immigrants are not welcome
115 in the United States, thereby elevating racial and ethnic tensions; and,

116 **WHEREAS**, due to the law invoked by President Trump in declaring the emergency,³²
117 building the wall would deprive the military of the funds for construction projects
118 that Congress had previously deemed necessary, harming the economies of the
119 communities for which those other projects were slated; and,

120 **WHEREAS**, the Tohono O’odham nation’s territory straddles the U.S.-Mexico border
121 and would be divided by the construction of the wall, without that Native American
122 nation’s acquiescence,³³ undermining Tohono O’odham sovereignty,³⁴ and further
123 straining the Federal government’s already fraught relationship with America’s first
124 peoples; and,

125 **WHEREAS** the construction of a border wall would threaten diverse landscapes,
126 bisecting “the geographic range of 1,506 native animals and plants, including 62
127 species that are listed as critically endangered” and disconnecting “a third of 346
128 native wildlife species from 50 percent or more of their range that lies south of the
129 border;”³⁵ and,

130 **WHEREAS**, the construction of a border wall would exacerbate flooding;³⁶ and,

131 **WHEREAS**, because the wall would be built well north of the Rio Grande, building it
132 would isolate property and homes owned by U.S. citizens on the Mexican side of the
133 wall;³⁷ and,

³¹ See NHCSL Resolution 2018-12, *EMERGENCY RESOLUTION: Rejecting the Proposed Citizenship Question on the 2020 Decennial Census*, available at <https://nhcsl.org/resources/resolutions/2018/2018-12/>

³² Presidential Proclamation 9844, *supra* note 14 (invoking 10 U.S.C. § 2808)

³³ Bier, *supra* note 37.

³⁴ Without Congressional approval if built through the emergency declaration process.

³⁵ Laura Parker, *6 ways the border wall could disrupt the environment* (National Geographic, Jan. 10, 2019), available at <https://www.nationalgeographic.com/environment/2019/01/how-trump-us-mexico-border-wall-could-impact-environment-wildlife-water/>

³⁶ *Ibid.*

³⁷ *Ibid.* (“A 1970 treaty requires that the floodplain of the Rio Grande remain open to both sides of the border. The Obama administration attempted to build fences along the river anyway, but the treaty and the river’s floods forced the barrier to be placed so far into the interior of the United States that it has many holes to allow U.S. residents access to their property. These also provide an opportunity for

134 **WHEREAS**, the wall would bisect seven Texas wildlife conservation areas, including
135 the Lower Rio Grande Valley National Wildlife Refuge and Big Bend National Park,
136 placing almost 70 percent of the National Butterfly Center on the Mexican side,³⁸ and
137 threatening the South Texas \$400 million a year ecotourism economy;³⁹ and,

138 **V. We agree with the President that there is a humanitarian crisis at**
139 **the southern border, but it cannot be solved by building a wall to**
140 **turn our backs on it**

141 **WHEREAS**, recent conditions in El Salvador, Guatemala and Honduras have caused
142 many citizens of those countries, particularly families, to flee for their lives, legally
143 requesting asylum in the United States;⁴⁰ and,

144 **WHEREAS**, some of these victims were forced to flee the violence in their countries
145 which predictably resulted from their food system's collapse due to the outsize effect
146 of climate change on Central America;⁴¹ and,

147 **WHEREAS**, President Trump cited this "humanitarian crisis" as a justification for
148 building his wall, because, according to him, it "threatens core national security
149 interests;"⁴² and,

150 **WHEREAS**, while we agree that it is in fact a humanitarian crisis, humanitarian crises
151 are not national security threats and are not solved by building barriers to hide them,

border crossers." See David Bier, *Why the Wall Won't Work* (CATO Institute May 2017), available at <https://www.cato.org/publications/commentary/why-wall-wont-work>. Current plans actually include gates with codes for residents and others, including members of the National Butterfly Center, which would drastically diminish any claimed effectiveness of the wall).

³⁸ *Ibid.*

³⁹ Patrick Timmons, *Border wall threatens nature tourism industry in South Texas* (UPI, Jan, 31, 2019), available at <https://www.upi.com/Border-wall-threatens-nature-tourism-industry-in-South-Texas/6351548890618/>

⁴⁰ See NHCSL Resolution 2018-16, *supra* note 29. See also, Maria Sacchetti, *ICE cuts family detention capacity, is likely to release immigrant families directly into the United States* (The Washington Post, Mar. 29, 2019), available at https://www.washingtonpost.com/immigration/ice-cuts-family-detention-capacity-likely-will-release-immigrant-families-directly-into-the-united-states/2019/03/29/260bcfac-522e-11e9-a3f7-78b7525a8d5f_story.html?utm_term=.f7fc5ce97ccd

⁴¹ Lauren Markham, *How climate change is pushing Central American migrants to the US* (The Guardian US Opinion, Apr. 6, 2019), available at <https://www.theguardian.com/commentisfree/2019/apr/06/us-mexico-immigration-climate-change-migration>; and see Jonathan Blitzer, *How Climate Change is Fueling the U.S. Border Crisis* (The New Yorker, Apr. 3, 2019), available at <https://www.newyorker.com/news/dispatch/how-climate-change-is-fuelling-the-us-border-crisis>

⁴² *Presidential Proclamation 9844*, *supra* note 14. ("In particular, recent years have seen sharp increases in the number of family units entering and seeking entry to the United States and an inability to provide detention space for many of these aliens while their removal proceedings are pending. If not detained, such aliens are often released into the country and are often difficult to remove from the United States because they fail to appear for hearings, do not comply with orders of removal, or are otherwise difficult to locate.")

152 they must be addressed with empathy and commitment to tackling their underlying
153 causes; and,

154 **WHEREAS**, in contrast, President Trump has used war-related language to refer to
155 the migrants, claiming that they threaten the “territorial integrity” of the United
156 States, and complaining that their arrival is a “strategic exploitation” of America’s
157 humanitarian programs;⁴³ and,

158 **WHEREAS**, the recent “downward undocumented population trends for Nicaragua,
159 Ecuador, Peru, Poland, and Korea demonstrate that undocumented migrants will
160 return to their home countries, even some in difficult conditions;”⁴⁴ and,

161 **WHEREAS**, experts agree that a “serious commitment to improving conditions in the
162 Northern Triangle states of Central America, Venezuela, and other countries could
163 significantly reduce the US undocumented population;”⁴⁵ and,

164 **WHEREAS**, despite the evidence, President Trump decided to do the opposite,
165 announcing he would cut off aid to El Salvador, Guatemala and Honduras, and in the
166 process provoking “chaos in the State Department and U.S. embassies” which had
167 been using the aid to attempt to minimize the incentives for migration by “having
168 people stay and thrive;”⁴⁶ and,

169 **WHEREAS**, when requesting asylum, the migrants face the largest backlog of cases
170 our immigration system has ever seen,⁴⁷ having increased by 50% just since
171 President Trump took office, with the average case taking 578 days to complete, and
172 the average case resulting in relief taking almost 3 years;⁴⁸ and,

173 **WHEREAS**, the Trump Administration has sought to decrease the backlog by forcing
174 judges to resolve cases faster, a move which the judges’ union warned would “raise
175 concerns as to whether actions they take, such as denying a continuance or excluding

⁴³ Presidential Memorandum of April 29, 2019 to the Attorney General and the Secretary of Homeland Security, available at <http://cdn.cnn.com/cnn/2019/images/04/29/office.of.the.press.secretary.pdf>.

⁴⁴ Warren, supra note 23.

⁴⁵ *Ibid.*

⁴⁶ Mary Beth Sheridan, *Trump plans to cut U.S. aid to 3 Central American countries in fight over U.S.-bound migrants* (The Washington Post, Mar. 30, 2019), available at https://www.washingtonpost.com/world/the_americas/trump-plans-us-aid-cut-to-3-central-american-countries-as-fight-widens-over-us-bound-migrants/2019/03/30/d6814b42-52ff-11e9-bdb7-44f948cc0605_story.html?utm_term=.ec38d8577786

⁴⁷ Almost 870,000 cases as of this writing. See https://trac.syr.edu/phptools/immigration/court_backlog/apprep_backlog.php

⁴⁸ Denise Lu, *Court Backlog May Prove Bigger Barrier for Migrants Than Any Wall* (NY Times, Jan. 24, 2019), available at <https://www.nytimes.com/interactive/2019/01/24/us/migrants-border-immigration-court.html>

176 a witness, are legally sound or personally motivated” and which “ultimately will
177 increase the backlog;”⁴⁹ and,

178 **WHEREAS**, President Trump has gone so far as to prejudice their asylum cases,
179 claiming on April 29, 2019, despite the obvious lack of final adjudication, that in
180 “March [2019], more than 100,000 inadmissible aliens were encountered seeking
181 entry into the United States;”⁵⁰ and,

182 **WHEREAS**, given the climate-change circumstances which constitute a natural
183 disaster, President Trump could grant Northern Triangle migrants the blanket relief
184 of Temporary Protected Status (TPS) under Section 244⁵¹ of the Immigration and
185 Nationality Act (INA);⁵² and,

186 **WHEREAS**, notwithstanding their mostly non-threatening nature, and the length of
187 the court process they face, the Trump Administration has sought to keep the
188 migrants that make it across the border or present themselves at a legal port of entry,
189 including children, locked up pending resolution of their immigration adjudication⁵³
190 while the rest are housed in massive shelters in Mexico;⁵⁴ and,

191 **WHEREAS**, finally, President Trump has now called for requiring fees from fleeing
192 migrants who are the poorest of the poor to process their immigration and
193 employment-authorization claims.⁵⁵

⁴⁹ NAIJ, *The National Association of Immigration Judges “Strenuously Opposes” Proposed Quotas and Completion Deadlines Announced by DOJ as Tools to Measure the Performance of Immigration Judges* (April 3, 2018), available at <https://www.aila.org/infonet/naij-strenuously-opposes-proposed-quotas>. And see *Presidential Memorandum, supra* note 43 (The President orders that all adjudications should be final, including appeals, “within 180 days of filing” by mere regulation without additional resources).

⁵⁰ *Presidential Memorandum, supra* note 43.

⁵¹ 8 U.S.C. §1254a

⁵² For a thorough discussion on TPS see, Jill H. Wilson, *Temporary Protected Status: Overview and Current Issues*, RS20844 (Congressional Research Service, Mar. 29, 2019), available at <https://fas.org/sgp/crs/homsec/RS20844.pdf>

⁵³ See NHCSL Resolution 2018-16, *End the Separation of Migrant Families and Reject the Detention of Children and Families* (decrying the Administration’s family separation policy and its attempt to “replac[e] it with the equally disturbing and inhumane policy of incarcerating the children with the parents”), available at <https://nhcsl.org/resources/resolutions/2018/2018-16/>.

⁵⁴ Julia Ainsley, *DHS plans to begin turning asylum-seekers back to Mexico to await court dates* (NBC News Jan. 24, 2019), available at <https://www.nbcnews.com/politics/immigration/dhs-plans-begin-turning-asylum-seekers-back-mexico-await-court-n962401>; and see Nicole Acevedo, *America Ferrera leads Tijuana migrant shelter visit, calls for changes to U.S. asylum policy* (NBC News, Mar. 11, 2019), available at <https://www.nbcnews.com/news/latino/america-ferrera-leads-tijuana-migrant-shelter-visit-calls-changes-u-n981686>

⁵⁵ *Presidential Memorandum, supra* note 43.

194 **VI. Conclusions**

195 **THEREFORE, BE IT RESOLVED**, the National Hispanic Caucus of State Legislators
196 recognizes the need for secure borders and ports of entry to the United States; and,

197 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
198 rejects any security measures that cost more than the harms they can truly prevent;
199 and,

200 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
201 rejects the construction of extensive further physical barriers at the southern border
202 due to their ineffectiveness, the exorbitant construction and maintenance costs of a
203 coast-to-coast wall, and the social, cultural, economic and environmental impacts
204 such a barrier would have, as explained in this Resolution; and,

205 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
206 supports the mission and robust funding of the visa-issuing posts of the U.S.
207 Department of State, which are the true potential deterrents to undocumented
208 migration; and,

209 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
210 reiterates its call of Resolution 2018-16, to *End the Separation of Migrant Families and*
211 *Reject the Detention of Children and Families*, and urges Congress and the President to
212 act with no further delay to properly address the humanitarian crisis at the southern
213 border by treating asylum seekers humanely and with dignity inside our borders, and
214 fully funding immigration courts so asylum cases can be resolved without further
215 undue delays or added fees and in a fair manner; and,

216 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
217 urges Congress and the President to fully fund and prioritize properly-targeted and
218 administrated partnership-oriented human rights, civil rights, humanitarian,
219 economic, agricultural, climate, crime and corruption fighting, justice system and
220 democracy aids and policies to the Northern Triangle states of El Salvador,
221 Guatemala, Honduras, and other countries in the Americas, so that they can better
222 provide the proper physical and economic security, and civil rights guarantees, for
223 their citizens in the first place, reducing the need for asylum migration and
224 strengthening the United States' commitment to our American neighbors; and,

225 **BE IT FINALLY RESOLVED**, that, in view of the aid and environmental circumstances
226 mentioned above, the National Hispanic Caucus of State Legislators urges Congress
227 and the President grant Temporary Protected Status to Northern Triangle migrants
228 until the environmental and violence crises in each of those countries subside.

229 IN COMPLIANCE WITH THE SPECIAL PROCEDURAL AND VOTING REQUIREMENTS FOR
230 IMMEDIATE NEED OUTLINED IN THE BYLAWS, THE NHCSL EXECUTIVE COMMITTEE
231 UNANIMOUSLY APPROVED THIS RESOLUTION, AS AMENDED, ON BEHALF OF THE ENTIRE
232 CAUCUS ON MAY 7, 2019, AT ITS MEETING IN WASHINGTON, DC.