

By: \_\_\_\_\_ .B. No. \_\_\_\_\_

Substitute the following for \_\_\_\_B. No. \_\_\_\_\_:

By: \_\_\_\_\_ C.S.\_\_\_\_.B. No. \_\_\_\_\_

A BILL TO BE ENTITLED

1 AN ACT

2 relating to measures to ensure the safety and welfare of the border  
3 region of this state, including protection from ongoing criminal  
4 activity and public health threats and the establishment of the  
5 Border Protection Unit; creating a criminal offense; creating a  
6 civil penalty.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 ARTICLE 1. GENERAL PROVISIONS

9 SECTION 1.01. This Act may be cited as the Border Protection  
10 Unit Act.

11 SECTION 1.02. The legislature finds that:

12 (1) The security of Texans and the sovereignty of this  
13 state have been threatened by the deadly activities of  
14 transnational cartels operating throughout this state and the  
15 United States.

16 (2) Many Texans have lost the peaceful use and  
17 enjoyment of their properties due to criminal activities along the  
18 border.

19 (3) Lethal quantities of opioids such as fentanyl are  
20 being trafficked into this state resulting in the poisoning deaths  
21 of thousands of people throughout the United States.

22 (4) Human trafficking by transnational cartels has  
23 resulted in the deaths of many people and the exploitation of women  
24 and children.

1           (5) This state is "in such imminent danger as will not  
2 admit of delay" and declares authority under Section 10, Article 1,  
3 United States Constitution.

4           (6) Deaths from fentanyl and other synthetic opioids  
5 are increasing in this state and throughout the United States and  
6 number in the tens of thousands according to the National  
7 Institutes of Health of the United States Department of Health &  
8 Human Services.

9           (7) Fentanyl is being produced on an industrial scale  
10 by Mexican cartels and smuggled across the border into Texas.

11           (8) The number of people unlawfully entering Texas  
12 from Mexico at locations other than ports of entry has reached  
13 historic levels and local communities are increasingly  
14 overwhelmed.

15           (9) Law enforcement cannot adequately interdict  
16 fentanyl and human trafficking operations along the Texas-Mexico  
17 border because resources are diverted to address the unlawful entry  
18 by large numbers of people into Texas from Mexico.

19           (10) The legislature, acting with the governor, has  
20 the solemn duty to protect and defend the citizens of this state and  
21 maintain sovereignty over this state's borders.

22                           ARTICLE 2. BORDER PROTECTION UNIT

23           SECTION 2.01. Article 2.12, Code of Criminal Procedure, is  
24 amended to read as follows:

25           Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace  
26 officers:

27           (1) sheriffs, their deputies, and those reserve

1 deputies who hold a permanent peace officer license issued under  
2 Chapter 1701, Occupations Code;

3 (2) constables, deputy constables, and those reserve  
4 deputy constables who hold a permanent peace officer license issued  
5 under Chapter 1701, Occupations Code;

6 (3) marshals or police officers of an incorporated  
7 city, town, or village, and those reserve municipal police officers  
8 who hold a permanent peace officer license issued under Chapter  
9 1701, Occupations Code;

10 (4) rangers, officers, and members of the reserve  
11 officer corps commissioned by:

12 (A) the Public Safety Commission; and

13 (B) either:

14 (i) the Director of the Department of  
15 Public Safety; or

16 (ii) the unit chief of the Border  
17 Protection Unit;

18 (5) investigators of the district attorneys', criminal  
19 district attorneys', and county attorneys' offices;

20 (6) law enforcement agents of the Texas Alcoholic  
21 Beverage Commission;

22 (7) each member of an arson investigating unit  
23 commissioned by a city, a county, or the state;

24 (8) officers commissioned under Section 37.081,  
25 Education Code, or Subchapter E, Chapter 51, Education Code;

26 (9) officers commissioned by the General Services  
27 Commission;

1           (10) law enforcement officers commissioned by the  
2 Parks and Wildlife Commission;

3           (11) officers commissioned under Chapter 23,  
4 Transportation Code;

5           (12) municipal park and recreational patrolmen and  
6 security officers;

7           (13) security officers and investigators commissioned  
8 as peace officers by the comptroller;

9           (14) officers commissioned by a water control and  
10 improvement district under Section 49.216, Water Code;

11           (15) officers commissioned by a board of trustees  
12 under Chapter 54, Transportation Code;

13           (16) investigators commissioned by the Texas Medical  
14 Board;

15           (17) officers commissioned by:

16               (A) the board of managers of the Dallas County  
17 Hospital District, the Tarrant County Hospital District, the Bexar  
18 County Hospital District, or the El Paso County Hospital District  
19 under Section 281.057, Health and Safety Code;

20               (B) the board of directors of the Ector County  
21 Hospital District under Section 1024.117, Special District Local  
22 Laws Code;

23               (C) the board of directors of the Midland County  
24 Hospital District of Midland County, Texas, under Section 1061.121,  
25 Special District Local Laws Code; and

26               (D) the board of hospital managers of the Lubbock  
27 County Hospital District of Lubbock County, Texas, under Section

1 1053.113, Special District Local Laws Code;

2 (18) county park rangers commissioned under  
3 Subchapter E, Chapter 351, Local Government Code;

4 (19) investigators employed by the Texas Racing  
5 Commission;

6 (20) officers commissioned under Chapter 554,  
7 Occupations Code;

8 (21) officers commissioned by the governing body of a  
9 metropolitan rapid transit authority under Section 451.108,  
10 Transportation Code, or by a regional transportation authority  
11 under Section 452.110, Transportation Code;

12 (22) investigators commissioned by the attorney  
13 general under Section 402.009, Government Code;

14 (23) security officers and investigators commissioned  
15 as peace officers under Chapter 466, Government Code;

16 (24) officers appointed by an appellate court under  
17 Subchapter F, Chapter 53, Government Code;

18 (25) officers commissioned by the state fire marshal  
19 under Chapter 417, Government Code;

20 (26) an investigator commissioned by the commissioner  
21 of insurance under Section 701.104, Insurance Code;

22 (27) apprehension specialists and inspectors general  
23 commissioned by the Texas Juvenile Justice Department as officers  
24 under Sections 242.102 and 243.052, Human Resources Code;

25 (28) officers appointed by the inspector general of  
26 the Texas Department of Criminal Justice under Section 493.019,  
27 Government Code;

1           (29) investigators commissioned by the Texas  
2 Commission on Law Enforcement under Section 1701.160, Occupations  
3 Code;

4           (30) commission investigators commissioned by the  
5 Texas Private Security Board under Section 1702.061, Occupations  
6 Code;

7           (31) the fire marshal and any officers, inspectors, or  
8 investigators commissioned by an emergency services district under  
9 Chapter 775, Health and Safety Code;

10           (32) officers commissioned by the State Board of  
11 Dental Examiners under Section 254.013, Occupations Code, subject  
12 to the limitations imposed by that section;

13           (33) investigators commissioned by the Texas Juvenile  
14 Justice Department as officers under Section 221.011, Human  
15 Resources Code; and

16           (34) the fire marshal and any related officers,  
17 inspectors, or investigators commissioned by a county under  
18 Subchapter B, Chapter 352, Local Government Code.

19           SECTION 2.02. Section 411.002(a), Government Code, is  
20 amended to read as follows:

21           (a) The Department of Public Safety of the State of Texas is  
22 an agency of the state to enforce the laws protecting the public  
23 safety, ~~and~~ provide for the prevention and detection of crime,  
24 and defend and secure the state's air, maritime, and land borders.

25 The department is composed of the Texas Rangers, the Texas Highway  
26 Patrol, the Border Protection Unit, the administrative division,  
27 and other divisions that the commission considers necessary.

1 SECTION 2.03. Section 411.004, Government Code, is amended  
2 to read as follows:

3 Sec. 411.004. DUTIES AND POWERS OF COMMISSION. The  
4 commission shall:

5 (1) formulate plans and policies for:

6 (A) enforcement of state criminal, traffic, and  
7 safety laws;

8 (B) prevention of crime;

9 (C) detection and apprehension of persons who  
10 violate laws; ~~and~~

11 (D) education of citizens of this state in the  
12 promotion of public safety and the observance of law; and

13 (E) defense and security of this state's air,  
14 maritime, and land borders;

15 (2) organize the department and supervise its  
16 operation;

17 (3) adopt rules considered necessary for carrying out  
18 the department's work;

19 (4) maintain records of all proceedings and official  
20 orders; and

21 (5) biennially submit a report of its work to the  
22 governor and legislature, including the commission's and director's  
23 recommendations.

24 SECTION 2.04. Section 411.006(a), Government Code, is  
25 amended to read as follows:

26 (a) Subject to Section 411.555, the ~~The~~ director shall:

27 (1) be directly responsible to the commission for the

1 conduct of and act as executive director of the Texas Highway  
2 Patrol, the Texas Rangers, and other administrative divisions and  
3 departments assigned by the commission, other than the Border  
4 Protection Unit [~~the department's affairs~~];

5 (2) [~~act as executive director of the department,~~  
6 [~~3~~] act with the commission in an advisory capacity,  
7 without vote;

8 (3) [~~4~~] adopt rules, subject to commission  
9 approval, considered necessary for the control of the department;

10 (4) [~~5~~] issue commissions as law enforcement  
11 officers, under the commission's direction, to all members of the  
12 Texas Rangers and the Texas Highway Patrol and to other officers of  
13 the department;

14 (5) [~~6~~] appoint, with the advice and consent of the  
15 commission, the head of a division or bureau provided for by this  
16 chapter;

17 (6) [~~7~~] quarterly, annually, and biennially submit  
18 to the commission detailed reports of the operation of the  
19 department, including statements of its expenditures; and

20 (7) [~~8~~] prepare, swear to, submit to the governor,  
21 and file in the department's records a quarterly statement  
22 containing an itemized list of all money received and its source and  
23 all money spent and the purposes for which it was spent.

24 SECTION 2.05. Section 411.007(a), Government Code, is  
25 amended to read as follows:

26 (a) Subject to the provisions of this chapter, the director  
27 may appoint, promote, reduce, suspend, or discharge any officer or



1 employee of the department, other than an officer or employee of the  
2 Border Protection Unit.

3 SECTION 2.06. Section 411.017(a), Government Code, is  
4 amended to read as follows:

5 (a) A person commits an offense if, without the director's  
6 authorization, the person:

7 (1) manufactures, sells, or possesses a badge,  
8 identification card, or other item bearing a department insignia or  
9 an insignia deceptively similar to the department's;

10 (2) makes a copy or likeness of a badge,  
11 identification card, or department insignia, with intent to use or  
12 allow another to use the copy or likeness to produce an item bearing  
13 the department insignia or an insignia deceptively similar to the  
14 department's; or

15 (3) uses the term "Texas Department of Public Safety,"  
16 "Department of Public Safety," "Texas Ranger," [~~or~~] "Texas Highway  
17 Patrol," or "Border Protection Unit" in connection with an object,  
18 with the intent to create the appearance that the object belongs to  
19 or is being used by the department.

20 SECTION 2.07. Chapter 411, Government Code, is amended by  
21 adding Subchapter S to read as follows:

22 SUBCHAPTER S. BORDER PROTECTION UNIT

23 Sec. 411.551. DEFINITIONS. In this subchapter:

24 (1) "Unit" means the Border Protection Unit.

25 (2) "Unit chief" means the person appointed under  
26 Section 411.554 as the unit chief.

27 Sec. 411.552. BORDER PROTECTION UNIT; TERM OF

1 AUTHORIZATION. (a) The unit is a division under the commission  
2 consisting of the number of commissioned and noncommissioned  
3 officers and other employees authorized by the legislature.

4 (b) The unit is subject to appropriations by the legislature  
5 and, unless continued in existence by the legislature, is abolished  
6 December 31, 2030.

7 (c) This subchapter expires December 31, 2030.

8 Sec. 411.553. HEADQUARTERS. The unit must be headquartered  
9 in the border region.

10 Sec. 411.554. UNIT CHIEF. (a) The governor shall appoint a  
11 citizen of the United States to serve as the unit chief of the  
12 Border Protection Unit. The unit chief serves until removed by the  
13 governor.

14 (b) The unit chief may appoint, with the advice and consent  
15 of the commission, deputy unit chiefs and assistant unit chiefs who  
16 shall perform the duties that the unit chief designates. Deputy  
17 unit chiefs and assistant unit chiefs serve until removed by the  
18 unit chief.

19 (c) The unit chief, deputy unit chiefs, and assistant unit  
20 chiefs are entitled to annual salaries as provided by the  
21 legislature.

22 Sec. 411.555. GENERAL POWERS AND DUTIES OF UNIT AND UNIT  
23 CHIEF. (a) The unit chief shall:

24 (1) be directly responsible to the commission for all  
25 conduct of the unit, but may be removed only by the governor under  
26 Section 411.554;

27 (2) act as the executive director of the unit;

1           (3) act with the commission in an advisory capacity,  
2 without vote;

3           (4) adopt rules, subject to commission approval,  
4 considered necessary for the control and general administration of  
5 the unit, including rules governing the procurement of facilities  
6 and equipment for the unit and the training and working conditions  
7 for unit personnel;

8           (5) issue commissions as law enforcement officers,  
9 under the commission's direction, to members of the unit;

10          (6) create as necessary, with the advice and consent  
11 of the commission, operational or administrative divisions within  
12 the unit and appoint heads of those divisions;

13          (7) employ as necessary commissioned and  
14 noncommissioned officers and other employees to perform unit  
15 operations and functions;

16          (8) quarterly, annually, and biennially submit to the  
17 commission detailed reports of the operation of the unit, including  
18 statements of its expenditures; and

19          (9) prepare, swear to, submit to the governor, and  
20 file in the unit's records a quarterly statement containing an  
21 itemized list of all money received and its source and all money  
22 spent and the purposes for which it was spent.

23          (b) The unit chief or unit chief's designee shall provide to  
24 members of the commission and to employees of the unit, as often as  
25 necessary, information regarding the requirements for office or  
26 employment under this chapter, including information regarding a  
27 person's responsibilities under applicable law relating to

1 standards of conduct for state officers or employees.

2 (c) Subject to Subsection (d), the following provisions  
3 apply to the unit chief with respect to the unit in the same manner  
4 as the provisions apply to the director with respect to the  
5 department or, as applicable, apply to the unit when acting at the  
6 direction of the unit chief in the same manner as the provisions  
7 apply to the department when acting at the direction of the  
8 director:

9 (1) Section 411.007;

10 (2) Section 411.0071;

11 (3) Section 411.0075;

12 (4) Section 411.0079;

13 (5) Section 411.009;

14 (6) Section 411.0095;

15 (7) Section 411.0097, as added by Section 3, Chapter  
16 556 (H.B. 1239), Acts of the 79th Legislature, Regular Session,  
17 2005;

18 (8) Section 411.0097, as added by Section 1, Chapter  
19 693 (S.B. 293), Acts of the 79th Legislature, Regular Session,  
20 2005;

21 (9) Section 411.0098;

22 (10) Section 411.013(b);

23 (11) Section 411.0131;

24 (12) Section 411.0132;

25 (13) Section 411.0141(e);

26 (14) Section 411.015;

27 (15) Section 411.016;

- 1           (16) Section 411.0161;
- 2           (17) Section 411.0162;
- 3           (18) Section 411.0163;
- 4           (19) Section 411.0164;
- 5           (20) Section 411.017;
- 6           (21) Section 411.018;
- 7           (22) Sections 411.0207(c)(1)-(5);
- 8           (23) Sections 411.0208(d) and (e);
- 9           (24) Section 411.0209;
- 10          (25) Section 411.02095;
- 11          (26) Section 411.0865;
- 12          (27) Section 411.087(e);
- 13          (28) Section 411.0891; and
- 14          (29) Section 411.154.

15           (d) The director may not exercise any operational or  
16 administrative control over the unit chief or the unit. The unit  
17 chief may not exercise any operational or administrative control  
18 over the director or the department, other than the unit.

19           (e) The unit is a criminal justice agency for purposes of  
20 this chapter.

21           (f) The unit:

22               (1) may collect, preserve, ship, and analyze a DNA  
23 sample for the DNA database subject to the rules adopted under  
24 Section 411.146(c)(1); and

25               (2) is entitled to access or use a DNA sample or record  
26 subject to the rules adopted under Section 411.147(b).

27           (g) The unit is a law enforcement agency for purposes of

1 Section 411.1471(b).

2 (h) The unit may assist local law enforcement with the  
3 investigation of crime.

4 Sec. 411.556. OFFICE OF AUDIT AND REVIEW FOR UNIT. The  
5 governor shall establish the office of audit and review within the  
6 unit and appoint the director of the office to perform the duties  
7 under Subchapter I with respect to the unit. The director of the  
8 office of audit and review of the unit shall serve until removed by  
9 the governor.

10 Sec. 411.557. INSPECTOR GENERAL FOR UNIT. (a) The governor  
11 shall establish the office of the inspector general within the unit  
12 and appoint the inspector general of the unit who shall perform with  
13 respect to the unit the duties of Subchapter I-1 or as may be  
14 provided by other law. The inspector general of the unit shall serve  
15 until removed by the governor.

16 (b) The inspector general of the unit is responsible for:

17 (1) preparing and delivering assessments concerning  
18 the administration of the unit to the governor, the legislature,  
19 and the unit chief;

20 (2) acting to prevent and detect serious breaches of  
21 unit policy, fraud, and abuse of office, including any acts of  
22 criminal conduct within the unit; and

23 (3) independently and objectively reviewing,  
24 investigating, delegating, and overseeing the investigation of:

25 (A) conduct described by Subdivision (2);

26 (B) criminal activity occurring within the unit;

27 (C) allegations of wrongdoing by unit employees;

1                   (D) crimes committed on unit property; and

2                   (E) serious breaches of unit policy.

3           Sec. 411.558. OFFICERS; OTHER EMPLOYEES. (a) The unit  
4 chief may employ commissioned or noncommissioned officers meeting  
5 the qualifications described by Section 411.561 to perform the  
6 duties of the unit. Those officers are entitled to compensation as  
7 provided by the legislature and must be recruited and trained  
8 within the border region to the extent practicable.

9           (b) The unit chief may employ individuals who are not  
10 officers as necessary to carry out the duties of the unit.

11           (c) Subject to the provisions of this chapter, the unit  
12 chief may appoint, promote, reduce, suspend, or discharge any  
13 officer or employee of the unit.

14           Sec. 411.559. AUTHORITY OF OFFICERS. (a) A commissioned  
15 officer of the unit is governed by the law regulating and defining  
16 the powers and duties of sheriffs performing similar duties, except  
17 that the officer may make arrests and execute processes in a  
18 criminal case in any county.

19           (b) Subject to Subsection (c), a commissioned or  
20 noncommissioned officer of the unit may, to the extent consistent  
21 with the United States and Texas Constitutions and federal law,  
22 arrest, apprehend, or detain persons crossing the Texas-Mexico  
23 border unlawfully, and deter persons attempting to cross the border  
24 unlawfully, including with the use of non-deadly crowd control  
25 measures.

26           (c) A noncommissioned officer may not exercise the  
27 authority provided by Subsection (b) unless specifically

1 authorized by the commission and the governor and unless the  
2 officer has been provided training approved by the commission and  
3 the governor. The commission shall develop or recognize a training  
4 program required by this subsection.

5 Sec. 411.560. DEFENSES TO CIVIL AND CRIMINAL LIABILITY.  
6 Notwithstanding any other law, any defense or affirmative defense  
7 that applies to a peace officer in a civil or criminal action  
8 applies to the unit chief and the officers of the unit in a civil or  
9 criminal action brought against the unit chief or an officer of the  
10 unit arising from conduct engaged in while discharging the duties  
11 of the unit.

12 Sec. 411.561. QUALIFICATIONS AND STANDARDS. (a) To be a  
13 commissioned officer of the unit, a person must hold a peace officer  
14 license issued under Chapter 1701, Occupations Code, and meet any  
15 other qualifications set by the commission.

16 (b) To be a noncommissioned officer of the unit, a person  
17 must:

18 (1) be a U.S. citizen;

19 (2) either:

20 (A) be a graduate of a school subject to approval  
21 under Section 1701.251(c)(1), Occupations Code; or

22 (B) have experience as a law enforcement officer  
23 in another state or with a federal law enforcement agency; and

24 (3) meet any other qualifications set by the  
25 commission.

26 (c) The unit is an equal employment opportunity employer and  
27 may not discriminate against or give preferential treatment to any



1 employee or job applicant on account of the individual's race,  
2 color, sex, national origin, or religion.

3 (d) A noncommissioned officer shall operate under the  
4 accountability requirements and standards of professional conduct  
5 set forth by the commission.

6 Sec. 411.562. FACILITIES AND EQUIPMENT; TRAINING; TRANSFER  
7 FROM DEPARTMENT. (a) The unit shall acquire equipment and  
8 facilities and conduct training necessary to fulfill the  
9 operational, intelligence, communication, logistics, and  
10 administrative duties provided by this chapter and the unit chief.

11 (b) The commission shall transfer existing personnel,  
12 equipment, and facilities to the unit from within the department as  
13 determined necessary by the commission or the governor, in the  
14 commission's or governor's discretion, while maintaining  
15 accountability and adequate support for all officers and activities  
16 within the commission's responsibility.

17 Sec. 411.563. CONSTRUCTION AND MAINTENANCE OF PHYSICAL  
18 BARRIERS. (a) The unit shall oversee the construction and  
19 maintenance of walls, fences, and other physical barriers along the  
20 Texas-Mexico border in order to enhance the safety and security of  
21 citizens of this state.

22 (b) The unit chief, or the unit chief's designee, is  
23 authorized to negotiate and acquire the necessary rights-of-way,  
24 leases, permissions, materials, and services needed to erect and  
25 maintain physical barriers.

26 (c) The unit may use funds appropriated by the legislature,  
27 other government funds, or donations from United States citizens

1 and domestic entities.

2 (d) The commission may delegate authority granted under  
3 this section to another state agency.

4 Sec. 411.564. ARTICLE I, SECTION 10 INVOCATION. Pursuant to  
5 a legislative finding or a declaration by the governor that a state  
6 of invasion or imminent danger under Section 10, Article I, United  
7 States Constitution, exists, the unit chief and director may order  
8 the unit and the department, as applicable, to take, and the unit  
9 and department may take, the following actions to the extent  
10 consistent with the constitutions of this state and the United  
11 States:

12 (1) deter and repel persons attempting to enter this  
13 state unlawfully at locations other than ports of entry;

14 (2) return aliens to Mexico who:

15 (A) have been observed actually crossing the  
16 Texas-Mexico border unlawfully; and

17 (B) were apprehended, detained, or arrested in  
18 the vicinity of the Texas-Mexico border;

19 (3) enhance the examination of aircraft, ships,  
20 vehicles, and cargo at or near ports of entry for the purposes of  
21 interdicting fentanyl and other dangerous drugs and interdicting  
22 human smuggling; and

23 (4) use force to repel, arrest, and detain known  
24 transnational cartel operatives in the border region.

25 Sec. 411.565. OPERATIONAL PLAN TO COORDINATE BORDER  
26 SECURITY. (a) The unit shall develop and recommend to the governor  
27 and report to the legislature a strategic plan that establishes the

1 framework for the budget and operations of the unit, including  
2 homeland security strategies and the assistance of other state and  
3 local entities. The unit shall annually report to the governor and  
4 the legislature on the implementation of the strategic plan.

5 (b) The unit shall include in the strategic plan goals,  
6 objectives, and performance measures that involve collaboration  
7 with other state agencies and local entities.

8 (c) The unit shall create plans and conduct operations  
9 consistent with the strategic plan.

10 (d) The operational plan under this section must include an  
11 evaluation of 8 U.S.C. Section 1325(a) and other federal laws  
12 relating to the requirement that border crossings occur only at  
13 designated ports of entry.

14 SECTION 2.08. As soon as practicable after the effective  
15 date of this Act, the governor shall appoint the unit chief as  
16 prescribed by Section 411.554, Government Code, as added by this  
17 Act.

18 SECTION 2.09. (a) Mindful of *Leavitt v. Jane L.*, 518 U.S.  
19 137 (1996), in which in the context of determining the severability  
20 of a state statute the Supreme Court of the United States held that  
21 an explicit statement of legislative intent is controlling, it is  
22 the intent of the legislature that every provision, section,  
23 subsection, sentence, clause, phrase, or word in this article, and  
24 every application of the provisions in this article to every  
25 person, group of persons, or circumstances, are severable from each  
26 other.

27 (b) If any application of any provision in this article to

1 any person, group of persons, or circumstances is found by a court  
2 to be invalid, preempted, or unconstitutional, for any reason, then  
3 the remaining applications of that provision to all other persons  
4 and circumstances shall be severed and preserved, and shall remain  
5 in effect. All constitutionally valid applications of the  
6 provisions in this article shall be severed from any applications  
7 that a court finds to be invalid, preempted, or unconstitutional  
8 because it is the legislature's intent and priority that every  
9 valid application of every statutory provision be allowed to stand  
10 alone.

11 (c) The legislature further declares that it would have  
12 enacted this article, including each provision and part of this  
13 article and all constitutional applications of the provisions of  
14 this article, regardless of the fact that any provision, part, or  
15 application of this article would be declared invalid, preempted,  
16 or unconstitutional.

17 (d) If any provision of this article is found by any court to  
18 be unconstitutionally vague, then the applications of that  
19 provision that do not present constitutional vagueness problems  
20 shall be severed and remain in force, consistent with the  
21 severability requirements of Subsections (a), (b), and (c) of this  
22 section.

23 (e) A court may not decline to enforce the severability  
24 requirements of Subsections (a), (b), (c), and (d) of this section  
25 on the ground that severance would "rewrite" the statute or involve  
26 the court in legislative or lawmaking activity. A court that  
27 declines to enforce or enjoins a state official from enforcing a

1 statutory provision is not rewriting a statute or engaging in  
2 legislative or lawmaking activity, as the statute continues to  
3 contain the same words as before the court's decision. A judicial  
4 injunction or declaration of unconstitutionality:

5           (1) only prohibits enforcement of the disputed statute  
6 against the named parties to that lawsuit and may be subsequently  
7 vacated by a later court if that court has a different understanding  
8 of the requirements of the Texas Constitution, the United States  
9 Constitution, or federal law;

10           (2) is not a formal amendment of the language in a  
11 statute; and

12           (3) does not constitute rewriting a statute any more  
13 than a decision by the executive not to enforce a statute in a  
14 limited and defined set of circumstances.

15           (f) If a state or federal court disregards any of the  
16 severability requirements in Subsection (a), (b), (c), (d), or (e)  
17 of this section and declares or finds any provision of this article  
18 facially invalid, preempted, or unconstitutional when there are  
19 discrete applications of that provision that can be enforced  
20 against a person, group of persons, or circumstances without  
21 violating federal law or the federal or state constitution, then  
22 that provision shall be interpreted, as a matter of state law, as if  
23 the legislature had enacted a provision limited to the persons,  
24 group of persons, or circumstances for which the provision's  
25 application does not violate federal law or the federal or state  
26 constitution and every court shall adopt this saving construction  
27 of that provision until the court ruling that pronounced the

1 provision facially invalid, preempted, or unconstitutional is  
2 vacated or overruled.

3 ARTICLE 3. TRESPASS: CIVIL AND CRIMINAL PENALTIES

4 SECTION 3.01. Article 17.44, Code of Criminal Procedure, is  
5 amended by adding Subsection (b-1) to read as follows:

6 (b-1) A magistrate shall require as a condition of release  
7 on bond for a defendant arrested for an offense under Section 30.08,  
8 Penal Code, that the defendant submit to electronic monitoring  
9 unless the magistrate finds that the defendant is not a flight risk.

10 SECTION 3.02. Chapter 752, Government Code, is amended by  
11 adding Subchapter D to read as follows:

12 SUBCHAPTER D. ENFORCEMENT BY ATTORNEY GENERAL

13 Sec. 752.101. CIVIL PENALTY: TRESPASS WHILE ENTERING THIS  
14 STATE. (a) A person who engages in conduct constituting an  
15 offense under Section 30.08, Penal Code, is liable to this state for  
16 a civil penalty in an amount not to exceed \$10,000 for each  
17 occurrence of the conduct.

18 (b) The attorney general may bring an action to collect the  
19 civil penalty and may recover attorney's fees and costs incurred in  
20 bringing the action.

21 SECTION 3.03. Chapter 30, Penal Code, is amended by adding  
22 Section 30.08 to read as follows:

23 Sec. 30.08. TRESPASS WHILE ENTERING THIS STATE. (a) A  
24 person commits an offense if the person knowingly enters the  
25 property of another, without the effective consent of the owner,  
26 while knowingly entering this state from any neighboring  
27 jurisdiction, regardless of the person's immigration status.

1           (b) An offense under this section is a felony of the third  
2 degree.

3           (c) If conduct that constitutes an offense under this  
4 section also constitutes an offense under another law, the actor  
5 may be prosecuted under this section, the other law, or both.

6                           ARTICLE 4. PUBLIC HEALTH EMERGENCY

7           SECTION 4.01. Subtitle D, Title 2, Health and Safety Code,  
8 is amended by adding Chapter 81B to read as follows:

9 CHAPTER 81B. SUSPENSION OF ENTRY OF PERSONS FROM DESIGNATED PLACES  
10 TO PREVENT SPREAD OF COMMUNICABLE DISEASES

11 Sec. 81B.001. DEFINITIONS. In this chapter:

12                   (1) "COVID-19" means the 2019 novel coronavirus  
13 disease.

14                   (2) "Federally declared public health emergency"  
15 means:

16                           (A) a public health emergency declared by the  
17 United States secretary of health and human services under 42  
18 U.S.C. Section 247d; or

19                           (B) an emergency or disaster declared, including  
20 under a renewal of the declaration, by the president of the United  
21 States in relation to a public health emergency described by  
22 Paragraph (A) under:

23                                   (i) the National Emergencies Act (50 U.S.C.  
24 Section 1601 et seq.); or

25                                   (ii) the Robert T. Stafford Disaster Relief  
26 and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.).

27                   (3) "Person" means any individual other than one

1 described by:

2 (A) the first sentence of Section 1 of the  
3 Fourteenth Amendment to the United States Constitution; or

4 (B) 8 U.S.C. Section 1101(a)(20).

5 (4) "Port of entry" means a port of entry described by  
6 Part 101, Title 19, Code of Federal Regulations (19 C.F.R. part  
7 101), or 22 C.F.R. Section 40.1.

8 Sec. 81B.002. SUSPENSION OF ENTRY. (a) To the extent  
9 consistent with the United States Constitution and federal  
10 immigration law, all persons entering this state by land from  
11 another country must pass through a port of entry for appropriate  
12 medical review during:

13 (1) the pendency of any federally declared public  
14 health emergency for COVID-19;

15 (2) any time that a federal agency has in place any  
16 vaccination requirement for any person lawfully residing in the  
17 United States, including government contractors or health care  
18 workers, for the purposes of preventing the spread of COVID-19 in  
19 the United States; or

20 (3) any time the United States Department of State has  
21 in place any travel warning related to COVID-19 for any country from  
22 which citizens have unlawfully entered the United States during the  
23 most recent year for which there is available data.

24 (b) A person who enters this state from a foreign country  
25 other than in accordance with Subsection (a), to the extent  
26 consistent with the United States Constitution and federal  
27 immigration law, shall be removed to the country from which they



1 entered the United States, their country of origin, or another  
2 location as practicable, as rapidly as possible with as little time  
3 spent in congregate settings as practicable under the  
4 circumstances.

5 SECTION 4.02. (a) Mindful of *Leavitt v. Jane L.*, 518 U.S.  
6 137 (1996), in which in the context of determining the severability  
7 of a state statute the Supreme Court of the United States held that  
8 an explicit statement of legislative intent is controlling, it is  
9 the intent of the legislature that every provision, section,  
10 subsection, sentence, clause, phrase, or word in this article, and  
11 every application of the provisions in this article to every  
12 person, group of persons, or circumstances, are severable from each  
13 other.

14 (b) If any application of any provision in this article to  
15 any person, group of persons, or circumstances is found by a court  
16 to be invalid, preempted, or unconstitutional, for any reason, then  
17 the remaining applications of that provision to all other persons  
18 and circumstances shall be severed and preserved, and shall remain  
19 in effect. All constitutionally valid applications of the  
20 provisions in this article shall be severed from any applications  
21 that a court finds to be invalid, preempted, or unconstitutional  
22 because it is the legislature's intent and priority that every  
23 valid application of every statutory provision be allowed to stand  
24 alone.

25 (c) The legislature further declares that it would have  
26 enacted this article, including each provision and part of this  
27 article and all constitutional applications of any provisions of

1 this article, regardless of the fact that any provision, part, or  
2 application of this article would be declared invalid, preempted,  
3 or unconstitutional.

4 (d) If any provision of this article is found by any court to  
5 be unconstitutionally vague, then the applications of that  
6 provision that do not present constitutional vagueness problems  
7 shall be severed and remain in force, consistent with the  
8 severability requirements of Subsections (a), (b), and (c) of this  
9 section.

10 (e) A court may not decline to enforce the severability  
11 requirements of Subsections (a), (b), (c), and (d) of this section  
12 on the ground that severance would "rewrite" the statute or involve  
13 the court in legislative or lawmaking activity. A court that  
14 declines to enforce or enjoins a state official from enforcing a  
15 statutory provision is not rewriting a statute or engaging in  
16 legislative or lawmaking activity, as the statute continues to  
17 contain the same words as before the court's decision. A judicial  
18 injunction or declaration of unconstitutionality:

19 (1) only prohibits enforcement of the disputed statute  
20 against the named parties to that lawsuit and may be subsequently  
21 vacated by a later court if that court has a different understanding  
22 of the requirements of the Texas Constitution, the United States  
23 Constitution, or federal law;

24 (2) is not a formal amendment of the language in a  
25 statute; and

26 (3) does not constitute rewriting a statute any more  
27 than a decision by the executive not to enforce a statute in a

1 limited and defined set of circumstances.

2 (f) If a state or federal court disregards any of the  
3 severability requirements in Subsections (a), (b), (c), (d), or (e)  
4 of this section and declares or finds any provision of this article  
5 facially invalid, preempted, or unconstitutional when there are  
6 discrete applications of that provision that can be enforced  
7 against a person, group of persons, or circumstances without  
8 violating federal law or the federal or state constitution, then  
9 that provision shall be interpreted, as a matter of state law, as if  
10 the legislature had enacted a provision limited to the persons,  
11 group of persons, or circumstances for which the provision's  
12 application does not violate federal law or the federal or state  
13 constitution and every court shall adopt this saving construction  
14 of that provision until the court ruling that pronounced the  
15 provision facially invalid, preempted, or unconstitutional is  
16 vacated or overruled.

17 ARTICLE 5. LEGISLATIVE OVERSIGHT

18 SECTION 5.01. Subtitle C, Title 3, Government Code, is  
19 amended by adding Chapter 330 to read as follows:

20 CHAPTER 330. LEGISLATIVE BORDER SAFETY OVERSIGHT COMMITTEE

21 Sec. 330.001. DEFINITION. In this section, "committee"  
22 means the legislative border safety oversight committee  
23 established under this chapter.

24 Sec. 330.002. ESTABLISHMENT; COMPOSITION. (a) The  
25 legislative border safety oversight committee is established to:

26 (1) provide objective research, analysis, and  
27 recommendations to help guide state border safety policies;

1           (2) provide oversight for the border protection unit  
2 established under Subchapter S, Chapter 411; and

3           (3) perform other duties required by law.

4       (b) The committee consists of the following members:

5           (1) the lieutenant governor;

6           (2) the speaker of the house of representatives;

7           (3) four senators appointed by the lieutenant  
8 governor; and

9           (4) four members of the house of representatives  
10 appointed by the speaker of the house of representatives.

11       (c) The lieutenant governor and the speaker of the house of  
12 representatives are joint chairs of the committee.

13       Sec. 330.003. POWERS AND DUTIES. (a) The committee shall:

14           (1) use statistical analyses and other research  
15 methods to conduct an in-depth examination of border safety  
16 initiatives and programs in this state that includes:

17                   (A) an assessment of the cost-effectiveness of  
18 the use of state and local funds in ensuring border safety;

19                   (B) an identification of critical border safety  
20 problems; and

21                   (C) a determination of the state's long-range  
22 border safety needs;

23       (2) recommend to the legislature:

24                   (A) strategies to solve the problems identified  
25 under Subdivision (1)(B); and

26                   (B) policy priorities to address the long-range  
27 needs determined under Subdivision (1)(C); and

1           (3) advise and assist the legislature in developing  
2 plans, programs, and proposed legislation to improve the  
3 effectiveness of border safety initiatives and programs.

4           (b) The committee has all other powers and duties provided  
5 to a special committee by:

6                 (1) Subchapter B, Chapter 301;

7                 (2) the rules of the senate and the house of  
8 representatives; and

9                 (3) policies of the senate and house committees on  
10 administration.

11           Sec. 330.004. MEETINGS; QUORUM. (a) A majority of the  
12 members of the committee from each house of the legislature  
13 constitutes a quorum to transact business. If a quorum is present,  
14 the committee may act on any matter within the committee's  
15 jurisdiction by a majority vote.

16           (b) The committee shall meet as often as necessary to  
17 perform the committee's duties. Meetings may be held at any time at  
18 the request of either chair or on written petition of a majority of  
19 the committee members from each house of the legislature.

20           (c) The committee shall meet in the City of Austin, except  
21 that if a majority of the committee members from each house of the  
22 legislature agree, the committee may meet in any location  
23 determined by the committee.

24           (d) As an exception to Chapter 551 and other law, for a  
25 meeting in the City of Austin at which both joint chairs of the  
26 committee are physically present, any number of the other committee  
27 members may attend the meeting by use of telephone conference call,

1 video conference call, or other similar telecommunication device.  
2 This subsection applies for purposes of establishing a quorum or  
3 voting or any other purpose allowing the members to fully  
4 participate in any committee meeting. This subsection applies  
5 without regard to the subject or topics considered by the members at  
6 the meeting.

7 (e) A committee meeting held by use of telephone conference  
8 call, video conference call, or other similar telecommunication  
9 device:

10 (1) is subject to the notice requirements applicable  
11 to other meetings;

12 (2) must specify in the notice of the meeting the  
13 location in the City of Austin at which the joint chairs will be  
14 physically present;

15 (3) must be open to the public and audible to the  
16 public at the location specified in the notice under Subdivision  
17 (2); and

18 (4) must provide two-way audio communication between  
19 all committee members attending the meeting during the entire  
20 meeting, and if the two-way audio communication link with any  
21 member attending the meeting is disrupted at any time, the meeting  
22 may not continue until the two-way audio communication link is  
23 reestablished.

24 Sec. 330.005. STAFF; AUTHORITY TO CONTRACT. The committee  
25 may hire staff or may contract with universities or other suitable  
26 entities to assist the committee in carrying out the committee's  
27 duties. Funding to support the operation of the committee shall be

1 provided from funds appropriated to the Texas Legislative Council.

2 Sec. 330.006. REPORT. Not later than January 1 of each  
3 odd-numbered year, the committee shall submit to the legislature a  
4 report that contains the recommendations described by Section  
5 330.003(a)(2).

6 ARTICLE 6. SEVERABILITY; EFFECTIVE DATE

7 SECTION 6.01. (a) If any provision of this Act or its  
8 application to any person or circumstance is held invalid, the  
9 invalidity does not affect other provisions or applications of this  
10 Act that can be given effect without the invalid provision or  
11 application, and to this end the provisions of this Act are declared  
12 to be severable.

13 (b) Subsection (a) of this section does not affect another  
14 severability provision contained in this Act.

15 SECTION 6.02. This Act takes effect immediately if it  
16 receives a vote of two-thirds of all the members elected to each  
17 house, as provided by Section 39, Article III, Texas Constitution.  
18 If this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect September 1, 2023.