A BILL TO BE ENTITLED

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

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

ARTICLE 1. GENERAL PROVISIONS

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

SECTION 1.02. The legislature finds that:

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

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

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

(4) Human trafficking by transnational cartels has resulted in the deaths of many people and the exploitation of women and children.
This state is "in such imminent danger as will not admit of delay" and declares authority under Section 10, Article 1, United States Constitution.

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

Fentanyl is being produced on an industrial scale by Mexican cartels and smuggled across the border into Texas.

The number of people unlawfully entering Texas from Mexico at locations other than ports of entry has reached historic levels and local communities are increasingly overwhelmed.

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

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

ARTICLE 2. BORDER PROTECTION UNIT

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

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

(1) sheriffs, their deputies, and those reserve
deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
(2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
(4) rangers, officers, and members of the reserve officer corps commissioned by:
   (A) the Public Safety Commission; and
   (B) either:
   (i) the Director of the Department of Public Safety; or
   (ii) the unit chief of the Border Protection Unit;
(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;
(6) law enforcement agents of the Texas Alcoholic Beverage Commission;
(7) each member of an arson investigating unit commissioned by a city, a county, or the state;
(8) officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;
(9) officers commissioned by the General Services Commission;
(10) law enforcement officers commissioned by the Parks and Wildlife Commission;
(11) officers commissioned under Chapter 23, Transportation Code;
(12) municipal park and recreational patrolmen and security officers;
(13) security officers and investigators commissioned as peace officers by the comptroller;
(14) officers commissioned by a water control and improvement district under Section 49.216, Water Code;
(15) officers commissioned by a board of trustees under Chapter 54, Transportation Code;
(16) investigators commissioned by the Texas Medical Board;
(17) officers commissioned by:
   (A) the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, the Bexar County Hospital District, or the El Paso County Hospital District under Section 281.057, Health and Safety Code;
   (B) the board of directors of the Ector County Hospital District under Section 1024.117, Special District Local Laws Code;
   (C) the board of directors of the Midland County Hospital District of Midland County, Texas, under Section 1061.121, Special District Local Laws Code; and
   (D) the board of hospital managers of the Lubbock County Hospital District of Lubbock County, Texas, under Section
1. 1053.113, Special District Local Laws Code;
2. (18) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;
3. (19) investigators employed by the Texas Racing Commission;
4. (20) officers commissioned under Chapter 554, Occupations Code;
5. (21) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;
6. (22) investigators commissioned by the attorney general under Section 402.009, Government Code;
7. (23) security officers and investigators commissioned as peace officers under Chapter 466, Government Code;
8. (24) officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;
9. (25) officers commissioned by the state fire marshal under Chapter 417, Government Code;
10. (26) an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;
11. (27) apprehension specialists and inspectors general commissioned by the Texas Juvenile Justice Department as officers under Sections 242.102 and 243.052, Human Resources Code;
12. (28) officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;
(29) investigators commissioned by the Texas Commission on Law Enforcement under Section 1701.160, Occupations Code;

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

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

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

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

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

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

(a) The Department of Public Safety of the State of Texas is an agency of the state to enforce the laws protecting the public safety, [and] provide for the prevention and detection of crime, and defend and secure the state's air, maritime, and land borders. The department is composed of the Texas Rangers, the Texas Highway Patrol, the Border Protection Unit, the administrative division, and other divisions that the commission considers necessary.
SECTION 2.03. Section 411.004, Government Code, is amended to read as follows:

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

(1) formulate plans and policies for:
   (A) enforcement of state criminal, traffic, and safety laws;
   (B) prevention of crime;
   (C) detection and apprehension of persons who violate laws; [and]
   (D) education of citizens of this state in the promotion of public safety and the observance of law; and
   (E) defense and security of this state's air, maritime, and land borders;

(2) organize the department and supervise its operation;

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

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

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

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

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

(1) be directly responsible to the commission for the
conduct of and act as executive director of the Texas Highway
Patrol, the Texas Rangers, and other administrative divisions and
departments assigned by the commission, other than the Border
Protection Unit [the department's affairs];

(2) [act as executive director of the department;]

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

(3) [adact rules, subject to commission
approval, considered necessary for the control of the department;

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

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

(6) [quarterly, annually, and biennially submit
to the commission detailed reports of the operation of the
department, including statements of its expenditures; and

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

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

(a) Subject to the provisions of this chapter, the director
may appoint, promote, reduce, suspend, or discharge any officer or
employee of the department, other than an officer or employee of the
Border Protection Unit.

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

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

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

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

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

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

SUBCHAPTER S. BORDER PROTECTION UNIT

Sec. 411.551. DEFINITIONS. In this subchapter:

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

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

Sec. 411.552. BORDER PROTECTION UNIT; TERM OF
AUTHORIZATION. (a) The unit is a division under the commission consisting of the number of commissioned and noncommissioned officers and other employees authorized by the legislature.

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

(c) This subchapter expires December 31, 2030.

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

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

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

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

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

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

(2) act as the executive director of the unit;
(3) act with the commission in an advisory capacity, without vote;
(4) adopt rules, subject to commission approval, considered necessary for the control and general administration of the unit, including rules governing the procurement of facilities and equipment for the unit and the training and working conditions for unit personnel;
(5) issue commissions as law enforcement officers, under the commission's direction, to members of the unit;
(6) create as necessary, with the advice and consent of the commission, operational or administrative divisions within the unit and appoint heads of those divisions;
(7) employ as necessary commissioned and noncommissioned officers and other employees to perform unit operations and functions;
(8) quarterly, annually, and biennially submit to the commission detailed reports of the operation of the unit, including statements of its expenditures; and
(9) prepare, swear to, submit to the governor, and file in the unit's records a quarterly statement containing an itemized list of all money received and its source and all money spent and the purposes for which it was spent.

(b) The unit chief or unit chief's designee shall provide to members of the commission and to employees of the unit, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable law relating to
standards of conduct for state officers or employees.

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

(1) Section 411.007;

(2) Section 411.0071;

(3) Section 411.0075;

(4) Section 411.0079;

(5) Section 411.009;

(6) Section 411.0095;

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

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

(9) Section 411.0098;

(10) Section 411.013(b);

(11) Section 411.0131;

(12) Section 411.0132;

(13) Section 411.0141(e);

(14) Section 411.015;

(15) Section 411.016;
Section 411.0161;
Section 411.0162;
Section 411.0163;
Section 411.0164;
Section 411.017;
Section 411.018;
Sections 411.0207(c)(1)-(5);
Sections 411.0208(d) and (e);
Section 411.0209;
Section 411.02095;
Section 411.0865;
Section 411.087(e);
Section 411.0891; and
Section 411.154.

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

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

(f) The unit:

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

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

(g) The unit is a law enforcement agency for purposes of
Section 411.1471(b).

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

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

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

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

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

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

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

(A) conduct described by Subdivision (2);

(B) criminal activity occurring within the unit;

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

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

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

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

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

(c) A noncommissioned officer may not exercise the authority provided by Subsection (b) unless specifically
authorized by the commission and the governor and unless the
officer has been provided training approved by the commission and
the governor. The commission shall develop or recognize a training
program required by this subsection.

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

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

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

(1) be a U.S. citizen;
(2) either:
(A) be a graduate of a school subject to approval
under Section 1701.251(c)(1), Occupations Code; or
(B) have experience as a law enforcement officer
in another state or with a federal law enforcement agency; and
(3) meet any other qualifications set by the
commission.

(c) The unit is an equal employment opportunity employer and
may not discriminate against or give preferential treatment to any
employee or job applicant on account of the individual's race, color, sex, national origin, or religion.

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

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

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

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

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

(c) The unit may use funds appropriated by the legislature, other government funds, or donations from United States citizens...
and domestic entities.

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

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

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

(2) return aliens to Mexico who:

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

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

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

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

Sec. 411.565. OPERATIONAL PLAN TO COORDINATE BORDER SECURITY. (a) The unit shall develop and recommend to the governor and report to the legislature a strategic plan that establishes the
framework for the budget and operations of the unit, including homeland security strategies and the assistance of other state and local entities. The unit shall annually report to the governor and the legislature on the implementation of the strategic plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 3. TRESPASS: CIVIL AND CRIMINAL PENALTIES

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

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

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

SUBCHAPTER D. ENFORCEMENT BY ATTORNEY GENERAL

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

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

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

Sec. 30.08. TRESPASS WHILE ENTERING THIS STATE. (a) A person commits an offense if the person knowingly enters the property of another, without the effective consent of the owner, while knowingly entering this state from any neighboring jurisdiction, regardless of the person's immigration status.
(b) An offense under this section is a felony of the third degree.

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

ARTICLE 4. PUBLIC HEALTH EMERGENCY

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

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

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

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

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

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

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

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

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

(3) "Person" means any individual other than one
described by:

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

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

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

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

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

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

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

(b) A person who enters this state from a foreign country
other than in accordance with Subsection (a), to the extent
consistent with the United States Constitution and federal
immigration law, shall be removed to the country from which they
entered the United States, their country of origin, or another location as practicable, as rapidly as possible with as little time spent in congregate settings as practicable under the circumstances.

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

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

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

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

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

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

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

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

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

ARTICLE 5. LEGISLATIVE OVERSIGHT

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

CHAPTER 330. LEGISLATIVE BORDER SAFETY OVERSIGHT COMMITTEE

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

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

(1) provide objective research, analysis, and recommendations to help guide state border safety policies;
(2) provide oversight for the border protection unit established under Subchapter S, Chapter 411; and

(3) perform other duties required by law.

(b) The committee consists of the following members:

(1) the lieutenant governor;

(2) the speaker of the house of representatives;

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

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

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

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

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

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

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

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

(2) recommend to the legislature:

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

(B) policy priorities to address the long-range needs determined under Subdivision (1)(C); and
(3) advise and assist the legislature in developing plans, programs, and proposed legislation to improve the effectiveness of border safety initiatives and programs.

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

(1) Subchapter B, Chapter 301;

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

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

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

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

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

(d) As an exception to Chapter 551 and other law, for a meeting in the City of Austin at which both joint chairs of the committee are physically present, any number of the other committee members may attend the meeting by use of telephone conference call.
video conference call, or other similar telecommunication device. This subsection applies for purposes of establishing a quorum or voting or any other purpose allowing the members to fully participate in any committee meeting. This subsection applies without regard to the subject or topics considered by the members at the meeting.

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

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

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

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

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

Sec. 330.005. STAFF; AUTHORITY TO CONTRACT. The committee may hire staff or may contract with universities or other suitable entities to assist the committee in carrying out the committee’s duties. Funding to support the operation of the committee shall be
provided from funds appropriated to the Texas Legislative Council.

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

ARTICLE 6. SEVERABILITY; EFFECTIVE DATE

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

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

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