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117TH CONGRESS
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S. 3002

To address the surge in illegal border crossings along the southwest border by establishing new ports of entry for processing migrants in accordance with the Immigration and Nationality Act and section 362 of the Public Health Service Act.

IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 2021

Mr. CRUZ introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To address the surge in illegal border crossings along the southwest border by establishing new ports of entry for processing migrants in accordance with the Immigration and Nationality Act and section 362 of the Public Health Service Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLES.

This Act may be cited as the ''Stop the Surge of Unsafe Rio Grande Encampments Act of 2021'' or the ''Stop the SURGE Act of 2021''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The southwest border of the United States, particularly near the Rio Grande Valley, has been inundated by illegal aliens and foreign migrants in response to lenient immigration and border policies and practices.

(2) During the first 4 months of fiscal year 2021, U.S. Customs and Border Protection recorded between 71,946 and 78,414 monthly encounters with migrants along the southwest border. During the first 7 full months of the Biden administration, such encounters increased to an average of 177,883 per month, resulting in a total of 1,541,651 such encounters during the first 11 months of fiscal year 2021.

(3) U.S. Customs and Border Protection encounters have increased during fiscal year 2021 in each southwest Border Patrol Sector compared to fiscal year 2020, particularly in the sectors along the Rio Grande River, where, as of August 2021, there had been an increase of—

(A) 135.8 percent in the Laredo Sector;

(B) 278.7 percent in the El Paso Sector;

(C) 380.3 percent in the Big Bend Sector;

(D) 532.6 percent increase in the Del Rio Sector; and

(E) 542.4 percent increase in the Rio Grande Valley Sector.

(4) The number of encounters at the southwest border between U.S. Customs and Border Protection agents and migrants comprised the vast majority of total U.S. Customs and Border Protection encounters nationwide during fiscal year 2021.

(5) During September 2021, an estimated 30,000 migrants crossed through the port of entry at the City of Del Rio, Texas, which is almost as numerous as the city's population. All of these migrants had to be processed in accordance with the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and section 362 of the Public Health Service Act (42 U.S.C. 265). As many as 15,000 migrants gathered and waited to be processed at the Del Rio port of entry in mid-September, leading to inhumane conditions for the migrants temporarily housed under an underpass in makeshift shelters, and serious fears and uncertainty for the local residents.

(6) Several Federal officials have acknowledged that officials at the Department of Homeland Security's Office of Intelligence and Analysis, U.S. Cus-

toms and Border Protection, and U.S. Immigration and Customs Enforcement were aware of the potential surge of migrants from Haiti several months before the surge occurred, but failed to stop the impending crisis. Instead of increasing deportations to discourage a surge of illegal immigration, these agencies halted all deportation flights to Haiti in the weeks leading up to the September crisis in Del Rio, Texas.

(7) Although immigration policy is directed by the Federal Government, the immediate effects of such large numbers of encounters are primarily felt by the States and local communities along the southwest border. These States and local communities bear direct and indirect costs, and are most impacted by the volume of individual encounters at the border. State and local governments bear substantial costs to alleviate concerns for citizens and migrants as a result of inadequate Federal enforcement of existing immigration laws and border enforcement policies. These costs include health care, schooling, housing, and public safety expenses related to the resettlement of new arrivals.

(8) The Governor of Texas originally declared a disaster in 34 Texas counties based on the increase

in illegal immigration at the southwest border and has since expanded the disaster declaration to a total of 47 Texas counties, including Brewster, Brooks, Crockett, Culberson, DeWitt, Dimmit, Edwards, Frio, Goliad, Gonzales, Hudspeth, Jeff Davis, Jim Hogg, Kimble, Kinney, La Salle, Lavaca, Live Oak, Maverick, McMullen, Midland, Pecos, Presidio, Real, Terrell, Uvalde, Val Verde, Zapata, Colorado, Crane, Galveston, Kenedy, Mason, Medina, Throckmorton, Bee, Jackson, Schleicher, Sutton, Webb, Zavala, Menard, Wharton, McCulloch, Refugio, Victoria, and Wilbarger counties. The governor has deployed thousands of National Guard and Department of Public Safety troopers to the border over the past months in order to enforce existing Federal immigration laws. However, significant numbers of additional foreign migrants are still heading to the southwest border.

(9) The sheer volume of migrant crossings has overwhelmed the capacity of Border Patrol sectors along the southwest border. Many U.S. Border Patrol agents have been pulled from their duties patrolling the border to help process people in custody in the southwest Border Patrol sectors, leaving parts of the border insufficiently guarded.

SEC. 3. STATEMENT OF POLICY.

(a) IN GENERAL.—It shall be the policy of the United States for the Secretary of Homeland Security, the Commissioner of U.S. Customs and Border Protection, the Director of U.S. Citizenship and Immigration Services, the Director of U.S. Immigration and Customs Enforcement, and any other Federal agencies or military officials involved in the processing of illegal aliens and foreign migrants seeking entry or any form of legal status in the United States to adhere to the procedures described in subsection (b) when processing migrants in covered Border Patrol sectors along the southwest border.

(b) PROCEDURES.—

(1) RELOCATION TO NEW PORTS OF ENTRY.—Any official of the Department of Homeland Security, upon encountering any alien who has illegally entered the United States in a covered Border Patrol sector, shall immediately relocate such alien to any of the new ports of entry established pursuant to section 4 and designated for immigrant processing pursuant to section 5. Any such encounter within the geographic boundaries of a covered Border Patrol sector is subject to the transfer policies, timing, and geographic limitations established under this Act.

(2) LIMITATIONS.—

(A) PROCESSING LOCATION.—No official of the Department of Homeland Security may exercise discretion to process aliens encountered in a covered Border Patrol sector under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or section 362 of the Public Health Service Act (42 U.S.C. 265) at any location other than the new ports of entry established pursuant to section 4 and designated for immigrant processing pursuant to section 5.

(B) CONDITION FOR GRANTING TEMPORARY LEGAL STATUS.—No official of the Department of Homeland Security may issue a Notice to Appear, issue a Notice to Report, grant parole, defer action, grant asylum, or grant any other legal authorization to remain in the United States to any alien described in paragraph (1) until such alien has been transferred from the covered Border Patrol sector in which the alien was first encountered to one of the newly created ports of entry.

(c) COVERED BORDER PATROL SECTORS.—In this Act, the term ''covered Border Patrol sector'' means—

(1) the Big Bend Sector;

(2) the Del Rio Sector;

(3) the El Paso Sector;

(4) the Laredo Sector; and

(5) the Rio Grande Sector.

(d) RULES OF CONSTRUCTION.—Nothing in this Act may be construed—

(1) to prohibit any Federal agency from facilitating and conducting deportations or removals in accordance with the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or section 362 of the Public Health Service Act (42 U.S.C. 265); or

(2) to authorize the release or parole of any alien that is not expressly authorized under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 4. ESTABLISHMENT OF NEW PORTS OF ENTRY.

The Secretary of Homeland Security shall establish new ports of entry in each of the following locations:

(1) Palo Alto, California.

(2) St. Helena, California.

(3) Yountville, California.

(4) Greenwich, Connecticut.

(5) Rehoboth Beach, Delaware.

(6) Cambridge, Massachusetts.

(7) Martha's Vineyard, Massachusetts.

(8) Nantucket, Massachusetts.

(9) Block Island, Rhode Island.

(10) Governors Island, New York.

(11) Scarsdale, New York.

(12) North Hero, Vermont.

SEC. 5. TRANSFERS FOR PROCESSING MIGRANT STATUS AND IMMIGRATION CLAIMS.

(a) IN GENERAL.—The Secretary of Homeland Security, the Commissioner of U.S. Customs and Border Protection, the Director of U.S. Citizenship and Immigration Services, the Director of U.S. Immigration and Customs Enforcement, and any other Federal agencies or military officials involved in the processing of illegal aliens and migrants seeking entry or any form of temporary or permanent legal status in the United States shall immediately transfer aliens encountered in any covered Border Patrol sector to a new port of entry established pursuant to section 4, in accordance with the requirements and directives set forth in subsection (b).

(b) TIMING OF TRANSFERS.—

(1) IN GENERAL.—The transfers described in subsection (a) shall—

(A) take place immediately after an alien described in section 3(b)(1) is encountered in any covered Border Patrol sector; and

(B) be carried out with adequate speed to prevent temporary encampments by migrants or aliens within any covered Border Patrol sector.

(2) PROHIBITION OF DISCRETION, DELAYS, OR DEFERRALS.—No Federal official may exercise discretion—

(A) to delay or defer the transfer of an alien described in section 3(b)(1) from a covered Border Patrol sector for any purpose; or

(B) to process an application for entry or any request for temporary or permanent legal status received from such an alien before the completion of the transfer required under subsection (a).

SEC. 6. EFFECTIVE DATE.

Notwithstanding the date of the enactment of this Act, the provisions of this Act shall be deemed to have taken effect on September 1, 2021.

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