

117TH CONGRESS
1ST SESSION

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

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLES.**

4 This Act may be cited as the “Stop the Surge of Un-
5 safe Rio Grande Encampments Act of 2021” or the “Stop
6 the SURGE Act of 2021”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

8 (2) During the first 4 months of fiscal year
9 2021, U.S. Customs and Border Protection recorded
10 between 71,946 and 78,414 monthly encounters with
11 migrants along the southwest border. During the
12 first 7 full months of the Biden administration, such
13 encounters increased to an average of 177,883 per
14 month, resulting in a total of 1,541,651 such en-
15 counters during the first 11 months of fiscal year
16 2021.

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

23 (A) 135.8 percent in the Laredo Sector;

24 (B) 278.7 percent in the El Paso Sector;

25 (C) 380.3 percent in the Big Bend Sector;

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

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

5 (4) The number of encounters at the southwest
6 border between U.S. Customs and Border Protection
7 agents and migrants comprised the vast majority of
8 total U.S. Customs and Border Protection encoun-
9 ters nationwide during fiscal year 2021.

10 (5) During September 2021, an estimated
11 30,000 migrants crossed through the port of entry
12 at the City of Del Rio, Texas, which is almost as nu-
13 merous as the city's population. All of these mi-
14 grants had to be processed in accordance with the
15 Immigration and Nationality Act (8 U.S.C. 1101 et
16 seq.) and section 362 of the Public Health Service
17 Act (42 U.S.C. 265). As many as 15,000 migrants
18 gathered and waited to be processed at the Del Rio
19 port of entry in mid-September, leading to inhumane
20 conditions for the migrants temporarily housed
21 under an underpass in makeshift shelters, and seri-
22 ous fears and uncertainty for the local residents.

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

1 toms and Border Protection, and U.S. Immigration
2 and Customs Enforcement were aware of the poten-
3 tial surge of migrants from Haiti several months be-
4 fore the surge occurred, but failed to stop the im-
5 pending crisis. Instead of increasing deportations to
6 discourage a surge of illegal immigration, these
7 agencies halted all deportation flights to Haiti in the
8 weeks leading up to the September crisis in Del Rio,
9 Texas.

10 (7) Although immigration policy is directed by
11 the Federal Government, the immediate effects of
12 such large numbers of encounters are primarily felt
13 by the States and local communities along the south-
14 west border. These States and local communities
15 bear direct and indirect costs, and are most im-
16 pacted by the volume of individual encounters at the
17 border. State and local governments bear substantial
18 costs to alleviate concerns for citizens and migrants
19 as a result of inadequate Federal enforcement of ex-
20 isting immigration laws and border enforcement
21 policies. These costs include health care, schooling,
22 housing, and public safety expenses related to the
23 resettlement of new arrivals.

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

1 in illegal immigration at the southwest border and
2 has since expanded the disaster declaration to a
3 total of 47 Texas counties, including Brewster,
4 Brooks, Crockett, Culberson, DeWitt, Dimmit,
5 Edwards, Frio, Goliad, Gonzales, Hudspeth, Jeff
6 Davis, Jim Hogg, Kimble, Kinney, La Salle, Lavaca,
7 Live Oak, Maverick, McMullen, Midland, Pecos, Pre-
8 sidio, Real, Terrell, Uvalde, Val Verde, Zapata, Colo-
9 rado, Crane, Galveston, Kenedy, Mason, Medina,
10 Throckmorton, Bee, Jackson, Schleicher, Sutton,
11 Webb, Zavala, Menard, Wharton, McCulloch,
12 Refugio, Victoria, and Wilbarger counties. The gov-
13 ernor has deployed thousands of National Guard and
14 Department of Public Safety troopers to the border
15 over the past months in order to enforce existing
16 Federal immigration laws. However, significant
17 numbers of additional foreign migrants are still
18 heading to the southwest border.

19 (9) The sheer volume of migrant crossings has
20 overwhelmed the capacity of Border Patrol sectors
21 along the southwest border. Many U.S. Border Pa-
22 trol agents have been pulled from their duties patrol-
23 ling the border to help process people in custody in
24 the southwest Border Patrol sectors, leaving parts of
25 the border insufficiently guarded.

1 **SEC. 3. STATEMENT OF POLICY.**

2 (a) IN GENERAL.—It shall be the policy of the United
3 States for the Secretary of Homeland Security, the Com-
4 missioner of U.S. Customs and Border Protection, the Di-
5 rector of U.S. Citizenship and Immigration Services, the
6 Director of U.S. Immigration and Customs Enforcement,
7 and any other Federal agencies or military officials in-
8 volved in the processing of illegal aliens and foreign mi-
9 grants seeking entry or any form of legal status in the
10 United States to adhere to the procedures described in
11 subsection (b) when processing migrants in covered Bor-
12 der Patrol sectors along the southwest border.

13 (b) PROCEDURES.—

14 (1) RELOCATION TO NEW PORTS OF ENTRY.—

15 Any official of the Department of Homeland Secu-
16 rity, upon encountering any alien who has illegally
17 entered the United States in a covered Border Pa-
18 trol sector, shall immediately relocate such alien to
19 any of the new ports of entry established pursuant
20 to section 4 and designated for immigrant proc-
21 essing pursuant to section 5. Any such encounter
22 within the geographic boundaries of a covered Bor-
23 der Patrol sector is subject to the transfer policies,
24 timing, and geographic limitations established under
25 this Act.

26 (2) LIMITATIONS.—

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

11 (B) CONDITION FOR GRANTING TEM-
12 PORARY LEGAL STATUS.—No official of the De-
13 partment of Homeland Security may issue a
14 Notice to Appear, issue a Notice to Report,
15 grant parole, defer action, grant asylum, or
16 grant any other legal authorization to remain in
17 the United States to any alien described in
18 paragraph (1) until such alien has been trans-
19 ferred from the covered Border Patrol sector in
20 which the alien was first encountered to one of
21 the newly created ports of entry.

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

- 24 (1) the Big Bend Sector;
25 (2) the Del Rio Sector;

1 (3) the El Paso Sector;

2 (4) the Laredo Sector; and

3 (5) the Rio Grande Sector.

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

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

11 (2) to authorize the release or parole of any
12 alien that is not expressly authorized under the Im-
13 migration and Nationality Act (8 U.S.C. 1101 et
14 seq.).

15 **SEC. 4. ESTABLISHMENT OF NEW PORTS OF ENTRY.**

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

18 (1) Palo Alto, California.

19 (2) St. Helena, California.

20 (3) Yountville, California.

21 (4) Greenwich, Connecticut.

22 (5) Rehoboth Beach, Delaware.

23 (6) Cambridge, Massachusetts.

24 (7) Martha's Vineyard, Massachusetts.

25 (8) Nantucket, Massachusetts.

1 (9) Block Island, Rhode Island.

2 (10) Governors Island, New York.

3 (11) Scarsdale, New York.

4 (12) North Hero, Vermont.

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

7 (a) IN GENERAL.—The Secretary of Homeland Secu-
8 rity, the Commissioner of U.S. Customs and Border Pro-
9 tection, the Director of U.S. Citizenship and Immigration
10 Services, the Director of U.S. Immigration and Customs
11 Enforcement, and any other Federal agencies or military
12 officials involved in the processing of illegal aliens and mi-
13 grants seeking entry or any form of temporary or perma-
14 nent legal status in the United States shall immediately
15 transfer aliens encountered in any covered Border Patrol
16 sector to a new port of entry established pursuant to sec-
17 tion 4, in accordance with the requirements and directives
18 set forth in subsection (b).

19 (b) TIMING OF TRANSFERS.—

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

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

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

4 (2) PROHIBITION OF DISCRETION, DELAYS, OR
5 DEFERRALS.—No Federal official may exercise dis-
6 cretion—

7 (A) to delay or defer the transfer of an
8 alien described in section 3(b)(1) from a cov-
9 ered Border Patrol sector for any purpose; or

10 (B) to process an application for entry or
11 any request for temporary or permanent legal
12 status received from such an alien before the
13 completion of the transfer required under sub-
14 section (a).

15 **SEC. 6. EFFECTIVE DATE.**

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

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