

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HM 669 Enforcement of Federal Immigrations Laws

**SPONSOR(S):** Sirois

**TIED BILLS:** **IDEN./SIM. BILLS:** SM 598

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	10 Y, 5 N	Roy	Darden
2) Criminal Justice Subcommittee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

The United States Customs and Border Protection (CBP) is the nation's largest federal law enforcement agency charged with securing the nation's borders and facilitating international travel and trade. The CBP releases monthly operational statistics and reports detailing updates to their operations, number of alien encounters, and organizational goals.

The memorial provides background on the state of the southern border of the United States; detailing reported increases in alien encounters and factors overwhelming CBP resources. The memorial states these increases result in higher instances of criminal activity and the threat of infectious diseases. The memorial expresses that illegal crossings along the southern border are likely to continue to increase and order at the southern border has deteriorated to such an extent that several counties in Texas have declared states of emergency.

The memorial urges the Federal Government to secure the southern border of the United States and fix the legal immigration system. It directs the Secretary of State to dispatch copies of the memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department of Homeland Security, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto powers and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

This memorial does not have a fiscal impact on the state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Customs and Border Protection

The United States Customs and Border Protection (CBP) is the nation's largest federal law enforcement agency charged with securing the nation's borders and facilitating international travel and trade.<sup>1</sup> CBP officers are given broad law enforcement authorities for the purpose of screening all foreign visitors, returning American citizens and imported cargo that enters the U.S.<sup>2</sup> The CBP has more than 60,000 employees with the mission statement to "protect the American people, safeguard our borders, and enhance the nation's economic prosperity."<sup>3</sup>

The CBP releases monthly operational statistics and reports detailing updates to their operations, number of alien encounters, and goals.<sup>4</sup> CBP reported 231,529 alien encounters along the southwest border of the U.S. in October of 2022 and 183,479 encounters in July 2023.<sup>5</sup> In 2018, the reported number of alien encounters by CBP for July was 40,149.<sup>6</sup> CBP has reported a total of 7,230,938 alien encounters along the southwest border of the U.S. since January 2020.<sup>7</sup>

##### CBP One Mobile Application

On October 28, 2020, the U.S. CBP launched a free application (CBP One App) that serves as a single portal to multiple CBP services.<sup>8</sup> The app directs each type of user to the appropriate services based on guided questions and their needs.<sup>9</sup>

Some services available through the CBP One App are:<sup>10</sup>

- Advance submission of documents and appointment scheduling;
- Advance travel authorization to Cuba, Haiti, Nicaragua, and Venezuela;
- Updated border wait times;
- Checking the trusted traveler program status;
- I-94 entry for travelers;<sup>11</sup>
- Requesting inspection of agriculture or biological products for travelers; and
- Submitting a traveler manifest for bus operators.

##### Title 42: Covid-19 Public Health Emergency

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<sup>1</sup> U.S. Customs and Border Protection, *CBP Enforcement Statistics*, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> (last visited January 8, 2024).

<sup>2</sup> *Id.*

<sup>3</sup> U.S. Customs and Border Protection, *About CBP*, <https://www.cbp.gov/about> (last visited January 8, 2024).

<sup>4</sup> See U.S. Customs and Border Protection, *CBP releases October 2023 monthly update*, <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-october-2023-monthly-update> (last visited January 8, 2024).

<sup>5</sup> U.S. Customs and Border Protection, *Southwest Land Border Encounters*, available at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last visited January 8, 2024).

<sup>6</sup> U.S. Customs and Border Protection, *Southwest Border Migration FY2018*, <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2018> (last visited January 8, 2024).

<sup>7</sup> U.S. Customs and Border Protection, *Southwest Land Border Encounters*, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last visited January 8, 2024).

<sup>8</sup> U.S. Customs and Border Protection, *CBP One Mobile Application*, <https://www.cbp.gov/about/mobile-apps-directory/cbpone> (Last visited January 8, 2024).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> The I-94 Entry feature allows travelers to apply for a provisional I-94 prior to arriving at a land border crossing. Travelers who apply for their I-94 ahead of time will experience faster processing times to expedite entry. Travelers can also quickly access their current I-94 submission to view critical information such as, how long they can remain in the U.S., and use it for proof of visitor status once in the United States.

In response to the Covid-19 pandemic, the executive branch invoked statutory powers to impose restrictions on the entry into the United States of certain individuals.<sup>12</sup> These powers, contained in 42 U.S.C. 265 (commonly referred to as Title 42),<sup>13</sup> allowed the Center for Disease Control and Prevention (CDC) to direct immigration officials to expel certain aliens who either do not have visas, other proper travel documents, or who seek to enter the U.S. unlawfully between ports of entry.<sup>14</sup>

The federal government passed the Pandemic is Over Act on January 31, 2023, which terminates some Covid-related declarations and policies.<sup>15</sup> Some bills proposed by U.S. Congress seek to extend or reinstate Title 42 migrant restrictions<sup>16</sup> while other proposed bills seek to remove imposed restrictions and procedures established under Section 265 as it relates to migrants entering the U.S.<sup>17</sup>

### FBI Terrorist Screening Database

The Federal Bureau of Investigations (FBI) hosts and maintains a Terrorist Screening Database which monitors national and international individuals identified as potential threats and the information is shared with a variety of federal agencies.<sup>18</sup> Customs officers have access to the list to check people coming into the country at border crossings.<sup>19</sup> As of 2017, approximately 1.16 million people were included on the watchlist, according to government documents, but recent reports suggest the list has since grown to approximately two million people.<sup>20</sup>

### Texas Counties Declare State of Emergency

On May 31, 2021, the Governor of Texas declared a state of emergency for 58 counties near the U.S.-Mexico Border.<sup>21</sup> The governor stated that a surge of individuals unlawfully crossing the Texas-Mexico border posed an ongoing and imminent threat of disaster for a number of Texas counties.<sup>22</sup> In 2023, the Governor renewed the proclamation as an ongoing issue.<sup>23</sup>

### **Effects of the Memorial**

The memorial provides background on the state of the southern border of the United States; detailing reported increases in alien encounters for the years 2018, 2020, and 2023. The memorial states these increases result in higher instances of violent crimes, gang activity, trafficking of dangerous drugs such as fentanyl, sex trafficking, human trafficking, and the threat of infectious diseases. The memorial also states that increases in the number of aliens coming through the southwest border is overwhelming CBP resources and increasing the threat of terrorism.

The memorial cites that the Secretary of Homeland Security, Alejandro Mayorkas, has increased the number of aliens seeking asylum who may be admitted into the United States through the expansion of usage of the CBP One App and that most aliens processed through the mobile application will be released into the United States, regardless of whether they are granted parole or are claiming asylum.

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<sup>12</sup> Congressional Research Service, *COVID-Related Restrictions on Entry into the United States Under Title 42: Litigation and Legal Considerations*, available at <https://crsreports.congress.gov/product/pdf/LSB/LSB10874> (last visited January 8, 2024).

<sup>13</sup> See e.g. Colleen Long, *Title 42 has ended. Here's what it did, and how US immigration policy is changing*, Associated Press (May 12, 2023), <https://apnews.com/article/immigration-biden-border-title-42-mexico-asylum-be4e0b15b27adb9bede87b9bbefb798d> (last visited January 8, 2024).

<sup>14</sup> Congressional Research Service, *supra note 12* at 1.

<sup>15</sup> *Id.* at 6.

<sup>16</sup> See *id.* at 6. (H.R. 801, H.R. 7707 and S. 4022).

<sup>17</sup> See *id.* at 6. (H.R. 7760).

<sup>18</sup> Matthew Barakat, *Judge allows challenge to terrorist watchlist to move ahead*, Associated Press (July 20, 2020), <https://apnews.com/general-news-22a2d0f2f70264e9ae0db4e2b327dabe> (last visited December 11, 2023).

<sup>19</sup> *Id.*

<sup>20</sup> E.D. Cauchi and Imtiaz Tyab, *U.S. terrorist watchlist grows to 2 million people — nearly doubling in 6 years*, CBS News (Dec. 14, 2023), <https://www.cbsnews.com/news/us-terrorist-watchlist-grows/> (last visited January 8, 2024).

<sup>21</sup> Office of the Texas Governor, *Governor Abbott Renews Border Disaster Declaration In September 2023*, <https://gov.texas.gov/news/post/governor-abbott-renews-border-disaster-declaration-in-september-2023> (last visited January 8, 2024).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

The memorial states that with the expiration of Title 42 Policy enacted during the COVID-19 public health emergency, illegal crossings along the southern border are likely to continue to increase. The memorial notes that order at the southern border has deteriorated to such an extent that several counties in Texas have declared states of emergency.

The memorial urges the Federal Government to secure the southern border of the United States and fix the legal immigration system. It directs the Secretary of State to dispatch copies of the memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department of Homeland Security, and each member of the Florida delegation to the United States Congress.

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**B. SECTION DIRECTORY:**

Not applicable.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This memorial does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The memorial neither authorizes nor requires executive branch rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.