



GOVERNOR GREG ABBOTT

June 16, 2021

Mr. Bryan Collier
Executive Director
Texas Department of Criminal Justice
P.O. Box 13401
Austin, Texas 78711-3401

Dear Mr. Collier:

On May 31, 2021, Governor Greg Abbott issued a proclamation declaring the ongoing situation on the state's southern border a disaster due to the occurrence and imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause. To ensure sufficient funding for Texas' ongoing response to this crisis, the Texas Department of Criminal Justice (TDCJ) shall transfer \$250 million in General Revenue to the Disaster Fund within the Trusteed Programs within the Office of the Governor. This transfer is pursuant to Section 14.04(d), Article IX of the General Appropriations Act, Senate Bill 1, 87th Legislature, R.S., 2021. State leadership will identify funding to ensure that the functions of TDCJ are not impacted by this transfer.

Though securing the international border and protecting the life and property of its citizens surrounding that border is the duty of the federal government, the current administration has shown time and time again an unwillingness to embrace this fundamental responsibility. As noted in the disaster declaration, Texas has invested a significant amount of its own resources to take action where the federal government has failed. This failure has led to a substantial increase in unlawful crossings; damage to Texans' crops, livestock, and property; greater occurrences of human trafficking and smuggling; additional drugs, including lethal fentanyl, flooding our streets; and a dangerous escalation in cartel violence. These threats to our citizens cannot remain unaddressed; if the federal government refuses to face them, the State will.

To that end, \$250 million will be transferred from TDCJ's Fiscal Year 2023 appropriation in Strategy C.1.1.: Correctional Security to Trusteed Programs within the Office of the Governor Strategy A.1.1.:

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Disaster Funds for Fiscal Year 2022. This funding is a down payment to begin design and construction of physical barriers on voluntarily donated private and public lands that border this state and Mexico. These actions are in addition to the numerous operations the State has already put in place to protect life and property, such as funding additional manpower; installing and maintaining cameras; supporting aircraft, helicopters, and watercraft; providing anti-gang activities; assisting in the prosecution of criminals; and numerous others. These funding items are not solutions in and of themselves; each serves as a force multiplier for the significant other activities this State has already initiated, and will initiate in the future.

A copy of the Governor's proclamation declaring a disaster pursuant to Chapter 418 of the Texas Government Code is attached. Again, we pledge to find additional funding as soon as possible to ensure that no program at TDCJ will be negatively affected by this transfer.

Thank you for your expedient action to complete this transfer. The most critical function of government is to provide for the safety of its citizens, and this transfer represents just the most recent example of Texas' commitment to do so.

Sincerely,



Governor Greg Abbott

Lieutenant Governor Dan Patrick

Speaker Dade Phelan



Jane Nelson



Greg Bonnen

cc: The Honorable Glenn Hegar

Attachment

PROCLAMATION
BY THE
Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, securing the international border is the federal government's responsibility, but the State of Texas has consistently taken action to ensure the safety of all Texans by augmenting federal border security efforts at the Texas-Mexico border; and

WHEREAS, since 2014, Texas has spent roughly \$3.5 billion to help secure the border and protect public safety; and

WHEREAS, in 2021 alone, I have deployed 1,000 troopers from the Texas Department of Public Safety (DPS) and hundreds of soldiers from the Texas National Guard to the border; and

WHEREAS, on March 6, 2021, amidst escalating border crossings, I directed DPS to initiate Operation Lone Star and devote additional law enforcement resources towards deterring illegal border crossings and protecting our border communities; and

WHEREAS, on March 17, 2021, I expanded Operation Lone Star to have DPS interview unaccompanied alien children to identify victims of human trafficking and gain actionable intelligence that will aid in the arrest of traffickers; and

WHEREAS, in fewer than three months since Operation Lone Star began, DPS has made over 1,300 criminal arrests, apprehended over 35,000 illegal migrants, and seized over 10,000 pounds of drugs and over 100 firearms; and

WHEREAS, the federal government used to take seriously its responsibility to enforce federal immigration laws and secure the international border, which allowed Texas to collaborate on law enforcement and related activities along the border; and

WHEREAS, under the Biden Administration, however, the federal government has shown unwillingness, ambivalence, or inability to enforce federal immigration laws, to deter and stop illegal border crossings into the United States, or to meaningfully partner with Texas in pursuing these goals; and

WHEREAS, my calls for the federal government to do its job and secure the border have gone unanswered; and

WHEREAS, the Biden Administration's inaction, whether intentional, reckless, or negligent, is causing a dramatic increase in the number of individuals unlawfully crossing the international border into Texas; and

WHEREAS, the Biden Administration's immigration policies are failing Texans, causing a humanitarian crisis in many Texas communities along the border; and

WHEREAS, there are numerous reports of farmers, ranchers, and other Texans suffering property damage as a result of the increase in unlawful crossings, including damage to crops, livestock, ranch fences, and homes; and

WHEREAS, the Biden Administration's open-border policies have enabled escalating violence from the cartels, dramatically increased the risk of human trafficking, and created a severe crisis of illegal drugs crossing into the United States, including 21.5

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million lethal doses of fentanyl that were intercepted by DPS from January through April 2021, all of which threatens harm throughout Texas and in other states; and

WHEREAS, the arrest of human smugglers by state and local law enforcement, combined with increased arrests connected with other border-related crime, threatens to substantially increase inmate population in jails to the extent that there may not be an adequate number of jail beds available; and

WHEREAS, the federal government's failure to secure the border has led to so many individuals unlawfully crossing the border that it has unilaterally established roughly ten new migrant detention facilities in Texas that are operated exclusively by the federal government, without any state regulation or oversight; and

WHEREAS, while Texas previously licensed certain residential facilities that house unaccompanied alien children or families, the U.S. Constitution prohibits the federal government from commandeering the State of Texas or its officials to continue administering state-licensed facilities in response to a federal migrant detention crisis caused by the acts or omissions of the federal government; and

WHEREAS, the unabated influx of individuals resulting from federal government policies threatens to negatively impact state-licensed residential facilities, including those that serve Texas children in foster care; and

WHEREAS, in the Texas Disaster Act of 1975, the Legislature charged the Governor with the responsibility "for meeting . . . the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and expressly granted the Governor broad authority to fulfill that responsibility; and

WHEREAS, the Legislature has, in Section 418.004(1), defined a "disaster" as "the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause;" and

WHEREAS, under Texas law, declaring a disaster allows the use of all available state and local resources needed to manage the situation, activates the state emergency management plan, and empowers the Texas Division of Emergency Management to reassign and fully utilize appropriate personnel where they are needed most; and

WHEREAS, the Legislature has also, in Section 12.50 of the Texas Penal Code, increased the punishments available for certain criminal offenses committed in an area for which a disaster has been declared, including for criminal trespass, burglary, and theft; and

WHEREAS, declaring a disaster also allows the State of Texas to request federal funding for costs related to the disaster, and a number of counties have already declared a local disaster and started accounting for costs that can be made part of a request (Crockett, Edwards, Goliad, Gonzales, Hudspeth, Jeff Davis, Jim Hogg, Kinney, Lavaca, La Salle, Maverick, Presidio, Uvalde, Real, and Val Verde counties); and

WHEREAS, declaring a disaster also allows the State of Texas to request federal funding for costs related to the disaster, and a number of counties have already declared a local disaster and started accounting for costs that can be made part of a request (Crockett, Edwards, Goliad, Gonzales, Hudspeth, Jeff Davis, Jim Hogg, Kinney, La Salle, Lavaca, Maverick, Presidio, Real, Uvalde, and Val Verde counties);

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, in accordance
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8:28 O'CLOCK

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with the authority vested in me by Section 418.014 of the Texas Government Code, do hereby certify that the ongoing surge of individuals unlawfully crossing the Texas-Mexico border poses an ongoing and imminent threat of widespread and severe damage, injury, and loss of life and property, including property damage, property crime, human trafficking, violent crime, threats to public health, and a violation of sovereignty and territorial integrity, in Brewster, Brooks, Cameron, Crockett, Culberson, Dimmit, Duval, Edwards, El Paso, Goliad, Gonzales, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Kenedy, Kinney, La Salle, Lavaca, Maverick, McMullen, Pecos, Presidio, Real, Reeves, Starr, Sutton, Terrell, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala counties, and for all state agencies affected by this disaster. I do hereby declare a state of disaster for all listed counties covered by this disaster declaration and for all state agencies affected by this disaster.


Pursuant to Section 418.017, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster, including the use of all available resources of state and local law enforcement to assist and protect Texans from criminal activity and property damage.

I hereby direct DPS to use available resources to enforce all applicable federal and state laws to prevent the criminal activity along the border, including criminal trespassing, smuggling, and human trafficking, and to assist Texas counties in their efforts to address those criminal activities.

I hereby direct the Texas Commission on Jail Standards and the Texas Commission on Law Enforcement to work with Texas counties, to provide appropriate guidance, and to request from the Office of the Governor any necessary suspensions of law, in order to ensure that the counties have the flexibility needed to establish adequate alternative detention facilities or otherwise add or expand capacity; to streamline procedures for licensing and transfers; and to address any staffing issues that may arise in expanding capacity.

I hereby direct the Texas Health and Human Services Commission (HHSC) to take all necessary steps to discontinue state licensing of any child-care facility in this state that shelters or detains unlawful immigrants or other individuals not lawfully present in the United States under a contract with the federal government. Pursuant to Section 418.016 of the Texas Government Code, I hereby suspend Sections 42.046 and 42.048 of the Texas Human Resources Code, and all other relevant laws, to the extent necessary to allow HHSC to deny a license application for any new child-care facility that shelters or detains unlawful immigrants or other individuals not lawfully present in the United States under a contract with the federal government, to renew any existing such licenses for no longer than a 90-day period following the date of this order, and to provide notice and initiate a 90-day period beginning on the date of this order to wind down any existing such licenses.

Pursuant to Section 418.016, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

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In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.



IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 31st day of May, 2021.

Handwritten signature of Greg Abbott in black ink.

GREG ABBOTT
Governor

ATTESTED BY:

Handwritten signature of Ruth R. Hughs in black ink.

RUTH R. HUGHS
Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
8:00 O'CLOCK

MAY 31 2021