

GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

★

EXECUTIVE ORDER

Executive Order 2022-04

Securing Arizona's Southern Border

WHEREAS, on April 20, 2021, I issued a declaration of emergency pursuant to A.R.S. § 26-303(D) due to the condition on Arizona's southern border and the failed policies of the federal government that have encouraged foreign nationals to illegally cross the border; and

WHEREAS, consistent with that declaration, in 2021, I deployed the Arizona National Guard to the Arizona border to assist law enforcement and local governments with the crisis in order to ensure that law enforcement could maximize their presence across the border; and

WHEREAS, since that time, the public health, safety and welfare has continued to be threatened with the State, local governments and non-governmental organizations bearing the brunt of the influx of foreign nationals crossing into Arizona; and

WHEREAS, in 1907, declaring that it was "necessary for the public welfare," President Theodore Roosevelt unilaterally issued a Presidential Proclamation without relying upon congressional authorization claiming a 60-foot wide swath of land as reserved to the federal government "as a protection against the smuggling of goods between the United States and the Republic [of Mexico]"; and

WHEREAS, for years, the federal government has failed to use, maintain and safeguard this swath of land for the purpose designated in President Roosevelt's Proclamation, resulting in dire consequences for Arizona which has been forced to suffer the consequence of the exploitation of Arizona's southern border with Mexico by transnational criminal organizations, also known as cartels; and

WHEREAS, the federal government's refusal to secure the southern border has resulted in the ability of transnational criminal organizations to import illegal drugs, including marijuana, heroin, methamphetamine and recently fentanyl across an unrestricted southern border in Arizona; and

WHEREAS, the federal government has intentionally neglected Arizona's southern border as it installed barriers on the border with Mexico from California to Texas; and

WHEREAS, construction of an effective border barrier on Arizona's border by the federal government began in 2017, but was halted by the federal government in 2021 prior to completion, without consideration of the impact that gaps in the barrier would have on Arizona's border communities; and

WHEREAS, in 2021 the federal government lifted the "Remain in Mexico" policy that limited the number of foreign nationals accepted into the United States under its immigration limits, resulting in

litigation that was resolved in favor of the federal government at the United State Supreme Court in June, 2022; and

WHEREAS, on August 9, 2022, following the issued judgment regarding the United States Supreme Court opinion on the “Remain in Mexico” program, the federal government terminated the program; and

WHEREAS, in early 2021 when the “Remain in Mexico” program was first lifted, more than 100,000 foreign nationals illegally crossed the southern border in just one month, and the numbers of illegal border crossers has skyrocketed to historic levels; and

WHEREAS, it is projected that following the termination of the “Remain in Mexico” program, the same trend of increased illegal border crossings into Arizona will occur; and

WHEREAS, Arizona’s communities are currently dealing with large numbers of foreign nationals who are crossing into the United States illegally and using state and local resources, that are significantly more in demand due to the strain that inflation is placing on our own citizens, creating a nuisance for which the federal government has refused and failed to abate; and

WHEREAS, the shelters in Yuma County that assist foreign nationals seeking refuge in the United States following processing by United States Customs and Border Protection have been over capacity for months, with capacity ranging from approximately 115% to 160%; and

WHEREAS, at times over the past year, shelters in Pima County have also been over capacity resulting in overflow to shelters in Maricopa County and throughout the nation; and

WHEREAS, to manage this humanitarian crisis, the State of Arizona has already taken on great expense to assist foreign nationals to move on to their final destinations by transporting those who voluntarily accept assistance to Washington, D.C. where they receive further assistance; and

WHEREAS, the law enforcement officers in Arizona work tirelessly every day to keep the peace; and

WHEREAS, in 2016, the Arizona Border Strike Force was established to target transnational criminal organizations that were exploiting Arizona’s southern border through drug and human trafficking and other crime; and

WHEREAS, due to the lack of action by the federal government and the dire security threat presented by the lack of security on the southern border, I with 25 other Governors across the nation established the American Governors’ Border Strike Force to target transnational criminal organizations and related criminal activity that contributes to our nation’s drug epidemic; and

WHEREAS, recently, video surfaced on social media, which depicted heavily armed cartel members driving on an Arizona highway past Arizona law enforcement officers in a deliberate message that they were able to operate with impunity; and

WHEREAS, just south of Arizona, transnational criminal organizations and cartels are in control of the plazas that control the flow of people and goods into the Arizona and beyond; and

WHEREAS, these transnational criminal organizations also have control over whether and where foreign nationals cross illegally into Arizona; and

WHEREAS, these transnational criminal organizations use the gaps in the border wall between Arizona and Mexico to effectuate their criminal activity — including the importation of illicit drugs — into our state; and

WHEREAS, law enforcement officials have also apprehended subjects crossing Arizona’s southern border that are on the terrorist watchlist; and

WHEREAS, in December, 2021, the United States Department of Homeland Security “authorize[d] the U.S. Customs and Border Protection (CBP) to address life, safety, environmental, and remediation requirements for border barrier projects located within the Border Patrol’s Yuma and Tucson Sectors”; and

WHEREAS, as of today, construction for those projects have yet to begin; and

WHEREAS, since January 2021, numerous subjects on the United States terrorist watchlist have been arrested while attempting to cross the southern border, with an unknown number actually crossing without being apprehended; and

WHEREAS, in the last month, the federal government again announced that it will fill the gaps in the border wall in some areas of the southern border after eighteen months of allowing criminals and terrorists to enter the United States – issuing a request for proposals that will delay construction for at least another month; and

WHEREAS, following that announcement, the proposed timeline for completion will be no sooner than sometime in the next three to six months; and

WHEREAS, Arizona state agency personnel have had good faith discussions with federal authorities about the current humanitarian and public safety crisis where those authorities agreed that it was necessary to close the gaps in the border wall to address the current situation on Arizona’s southern border; and

WHEREAS, due to the ongoing crisis on Arizona’s southern border, and in addition to the authority in Title 26 of the Arizona Revised Statutes, the Arizona State Legislature appropriated almost \$400 million for Fiscal Year 2023 to fill the gaps in the border wall in order to relieve the criminal activity and humanitarian crisis that such gaps allow, which will minimize the flow of people through crops and other private property pursuant to Laws 2022, Chapter 334, Section 1; and

WHEREAS, the spending authority for this funding was effective on July 1, 2022; and

WHEREAS, based on information gathered by the Arizona Department of Emergency Management and the Arizona National Guard, it has been determined that the federal government has failed to protect our great state, which has resulted in imminent danger to Arizona and its citizens; and

WHEREAS, as Governor of Arizona, our state has enjoyed a cooperative and beneficial trade relationship with Mexico and the state of Sonora, which we intend to continue; and

WHEREAS, in order to ensure effective operation of the ports for all of Arizona's vital trade partners, Arizona must secure its southern border; and

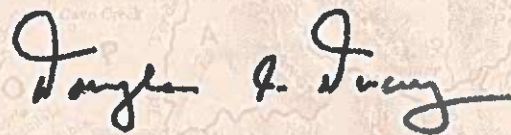
WHEREAS, the State of Arizona has the inherent right under the United States Constitution to defend itself when there is imminent danger to the health, welfare, safety and security of its citizens; and

WHEREAS, it is necessary and appropriate to protect the lives and safety of the citizens of Arizona and to protect and preserve private and public properties.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Arizona Constitution and laws of this state including but not limited to Title 26, Chapter 2 of the Arizona Revised Statutes hereby order as follows:

1. The Department of Emergency Management shall immediately initiate operations to close the gaps in Arizona's southern border wall, regardless of location, consistent with Laws 2022, Chapter 334, Section 1 and other applicable Arizona laws.
2. The Department of Emergency Management shall work with other Arizona state agencies, local authorities, private organizations and, to the extent possible, federal agencies to accomplish this mission as quickly as possible.
3. The continued authorization of the Adjutant General to mobilize and activate all or such part of the Arizona National Guard as is determined necessary to assist in the protection of life and property throughout the State for the purposes of the prior emergency declaration and this order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.



GOVERNOR

DONE at the Capitol in Phoenix on this twelfth day of August in the year Two Thousand and Twenty Two and of the Independence of the United States of America the Two Hundred and Forty-Seventh.

ATTEST:



Secretary of State

