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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

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SB 388 Original DIGEST 2024 Regular Session Hodges

Present law provides in the La. Constitution that the state's government is instituted by the people to protect the rights of the individual for the good of the whole and state government's only legitimate ends are to secure justice for all, preserve peace, protect rights, and to promote the happiness and general welfare of the people.

Proposed law retains present law and creates the crimes of unlawful entry and reentry without lawful presence in this state.

Proposed law provides that the crime of unlawful entry by an alien without lawful presence in this state is committed when a person who is an illegal alien has committed unlawful entry into this state. Defines "unlawfully entry" to mean an alien without lawful presence in this state that is found entering or has entered into the state without lawful presence whether by an automobile, watercraft, airplane, or by any other method of entry, either directly from a foreign nation or indirectly from another state.

Proposed law provides that the crime of unlawful reentry by an alien without lawful presence in this state is committed when an illegal alien has committed unlawfully entry into this state. Defines "unlawfully reentry" to mean an alien without lawful presence in this state who has entered, attempted to enter, or at any time is found in this state after the person has been found to have been subject to any of the following:

- (1) Denied admission, excluded, deported, or otherwise removed from the U.S.
- (2) Departed from the U.S. while an order of exclusion, deportation, or removal is outstanding.

Proposed law provides that the punishment for being guilty of violating proposed law is imprisonment for not more than one year, or payment of a \$4,000 fine, or both. Second or subsequent conviction of proposed law is subject to imprisonment, with or without hard labor, for not less than six months nor more than two years, fined not more than \$10,000, or both.

Proposed law provides for an affirmative defense to a prosecution if the federal government has granted the defendant lawful presence or asylum in the U.S. pursuant to federal law. The defendant is not entitled to an affirmative defense, if his conduct is a violation of any of the following:

- (1) Is an alien who enters or attempts to enter the U.S. at any time or place other than as designated by immigration officers, or eludes examination or inspection by immigration officers or to enter or obtains entry to the U.S. by a false or misleading representation or a material fact.

- (2) Marriage fraud to evade a federal immigration law.
- (3) An individual who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws.

Proposed law provides for an interstate compact for border security.

Proposed law authorizes Governor Jeff Landry, with the assistance of the attorney general, to assist the governor of the state of Texas to establish an interstate compact for border security at the southern border at the U.S.-Mexico border to control the influx with respect to illegal immigration that threatens the safety and security of La. citizens.

Proposed law provides legislative finding, as follows:

- (1) In 2024, an executive order was issued by Governor Jeff Landry, JML 24-05, entitled "Identifying, Qualifying, and Mitigating the Adverse Effects of Illegal Immigration on Louisiana". The executive order found that illegal entry and reentry to the U.S., as well as the encouragement and inducement of illegal entry and transportation of illegal aliens within the U.S., are criminal offenses under federal law, and those who aid and abet these offenses also commit a criminal act and that the state of Louisiana bears 99% of the costs due to incarcerating illegal immigrants who commit secondary crimes in La. other than unlawful entry by an alien.
- (2) The U.S. Supreme Court has recognized that states bear the consequences of unlawful immigration.
- (3) Open border policies by the federal government result in increased prison overcrowding, overcrowding at La. schools, and threatened the state and local tax base of La. citizens.
- (4) In the 2024 Second Extraordinary Session, the legislature appropriated funds and the governor issued an executive order to deploy the La. National Guard to assist the state of Texas in securing the southern border of the U.S. to curb the invasion by illegal immigrants at the international border in South Texas.

Proposed law provides that, the governor, with the legal assistance of the attorney general, is hereby authorized to negotiate and assist the state of Texas in an interstate compact for border security among interested states with the governor of the state of Texas in securing the southern border of the U.S.

Proposed law provides that the interstate compact authorized by proposed law may do all of the following:

- (1) Share law enforcement intelligence on illegal activity occurring at or in proximity to the U.S.-Mexico border.

- (2) Sharing of state resources in order to build physical barriers, comprehensive technological surveillance systems, or combinations of barriers and surveillance systems on state property for the purposes of deterring and detecting illegal activity at or in proximity to the U.S.-Mexico border.
- (3) Sharing of other law enforcement resources to ensure the protection of personnel and property of citizens of the states participating in the compact.

Proposed law provides that, once the governor, with the assistance of the attorney general, has negotiated and assisted the governor of the state of Texas with preparation and the state of Texas finalizes the compact to protect its southern border, the governor shall promptly submit the Interstate Compact for Border Security to the legislature for approval and for the purposes of appropriating necessary funds to fulfill the purposes of proposed law.

Proposed law provides that if any provision or item of proposed law, or the application thereof, is held invalid by a court, that invalid portion shall be severed and the rest of proposed law will be valid.

Proposed law provides that the portion of the proposed law that creates the crime of unlawful entry by an illegal alien without lawful presence in this state is to become effective immediately upon, and to the extent permitted, by the occurrence of any of the following circumstances:

- (1) Any decision of the Supreme Court of the U.S. in the case of *U.S. v. Texas*, that affirms the Act which originated as Texas Senate Bill No. 4 of the 2023 88th Legislature Fourth Called Legislative Session of the Texas Legislature, which enacted Texas Penal Code, entitled "Illegal Entry Into the State", that recognizes the right of states to protect their citizens of their respective states when "actually invaded, or in such imminent (d)anger as will not admit delay", pursuant to Art. 1, Section 10 of the Const. of the U.S.
- (2) Adoption of an amendment to the U.S. Const. if, in whole or in part, restores or increases the authority of the state of La. to prohibit or limit the unlawful entry or reentry by an illegal alien to La., should the U.S. Supreme Court fail to affirm the provisions of Texas Senate Bill No. 4.

Proposed law provides that the provision of proposed law is to become effective upon any an executive order or other such executive action by the Texas governor in furtherance of the Act by the Texas legislature that provides for the "Interstate Compact for Border Security" which authorizes the governor of the state of Texas to develop and execute an interstate compact for border security for among interested states.

(Adds R.S. 14:112.21-112.23 and R.S. 49:216)