



HB 4: Testimony Before the Texas House State Affairs Committee

By Chuck DeVore

Chairman Hunter, Members of the Committee:

My name is Chuck DeVore. I'm the Chief National Initiatives Officer at the Texas Public Policy Foundation. At the Foundation, our Secure and Sovereign Frontier campaign works tirelessly to craft solutions for a safe border—for both Texas and America. We study the breakdown of state and society in Mexico, we assess the state-cartel threat from beyond the Rio Grande, and we craft and support good policy in Austin and Washington, D.C., to meet those challenges.

Those challenges are brought into stark relief today, with news that the U.S. Border Patrol just reported a new record high for encounters on our southern border for September, 218,777. September marks the end of fiscal year, meaning Border Patrol apprehensions surpassed 2 million.

That mission brings me here today to testify on House Bill 4. I will share the bottom line up front: HB 4 is a good bill, HB 4 is a Constitutional bill, and HB 4 ought to be enacted into law.

This legislation achieves two major items in empowering Texas to deal with the border crisis. It creates an offense—first a misdemeanor, and then a felony as events warrant—for illegal entry into the state across an international border. It furthermore allows a law-enforcement officer to detain and transport illegal aliens back to a lawful port of entry, and order their return across the international border.

The necessity of these measures is obvious and compelling to Texans who have lived through the border crisis of the past several years—which is to say, all Texans, in all of Texas. The federal government's perennial failure to secure the Texas-Mexico border, coupled with the transformation of the Mexican government into a *de facto* state-cartel syndicate, has resulted in a flood of illegal aliens, illegal drugs, and illegal goods across our border and into our communities. Washington, D.C.'s failure to address this crisis hurts every American who deserves safe communities for themselves and their families. It also hurts migrants themselves, *every one of whom* is a victim of human trafficking by the time they reach the border. In short, the necessity of HB 4 is compelled by the *political* imperative to ensure that Americans possess the most basic element of sovereignty, the ability to determine and define who becomes part of their community; and it is compelled by the *moral* imperative of shutting down the cruel commerce in humanity that is the human-trafficking apparatus out of Mexico.

Fortunately, the Founding Fathers did not leave the states defenseless in the face of federal-government inaction or failure. The states retain the ability to defend themselves and their citizenry under the Constitution, both as affirmed in Article I, Section 10, which grants states power of ordinary self-defense; and in the Tenth Amendment, which affirms that the states retain all the ordinary prerogatives of a sovereign not specifically reserved to the federal government. Among those powers are the plenary powers, bounded solely by Constitutional protections, over all persons within their jurisdiction; and what the late Justice Antonin Scalia

referred to as a “defining characteristic of sovereignty: the power to exclude from the sovereign’s territory people who have no right to be there.”

HB 4 is therefore no radical nor unprecedented legislation. It is normal, it is needed, it is Constitutional, and it is common-sense. For the sake of all the victims of our lawless border, from Texans to migrants and beyond, we urge its passage.

Chuck DeVore is the Chief National Initiatives Officer at the Texas Public Policy Foundation.

For six years until he termed out in 2010, DeVore represented almost 500,000 people in the California State Assembly where he was vice chairman of the Committee on Revenue and Taxation, vice chairman of the Veterans Affairs Committee, as well as a member of the Budget Committee and the Joint Legislative Audit Committee.

DeVore was a senior assistant to a U.S. congressman from 1988 to 1990, and was a Reagan appointee in the Office of the Secretary of Defense as a special assistant for foreign affairs.

Prior to his election, DeVore was an executive in the aerospace industry for 13 years analyzing technology and corporate capabilities and working in business development.

DeVore retired from the U.S. Army as a lieutenant colonel. His last assignment was Deputy J1 for the California National Guard. In the capacity, he helped plan the Guard’s response to improving the border barrier system in California. He was an intelligence officer and served in Panama, South Korea, the 1992 L.A. Riots, and in support of Operation Desert Storm.

