

IMMIGRATION

After border bill failure, ICE considers mass releases to close budget gap



By [Nick Miroff](#)

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U.S. Immigration and Customs Enforcement has drafted plans to release thousands of immigrants and slash its capacity to hold detainees after the failure of a Senate border bill that would have erased a \$700 million budget shortfall, according to four officials at ICE and the Department of Homeland Security.

The bipartisan [border bill that Republican lawmakers opposed last week](#) would have provided \$6 billion in supplemental funding for ICE enforcement operations. The bill's demise has led ICE officials to begin circulating an internal proposal to save money by releasing thousands of detainees and cutting detention levels from 38,000 beds to 22,000 — the opposite of the enforcement increases Republicans say they want.

The budget crunch and the proposal also present a difficult scenario for the Biden administration heading into the spring, when illegal crossings at the southern border are expected to spike again. On Tuesday, [House Republicans voted to impeach Homeland Security Secretary Alejandro Mayorkas](#) over his border record, and immigration remains President Biden's worst-rated issue in polls.

Former president [Donald Trump](#), the 2024 Republican front-runner in the presidential campaign, [boasted](#) of his role in influencing lawmakers to block the border bill, which he said would have benefited Biden politically.

DHS could try to cover the funding gap at ICE by reprogramming money from the Coast Guard, the Transportation Security Administration or other agencies within the department. But such moves are contentious, and ICE officials say the \$700 million deficit is the largest projected shortfall the agency has faced in recent memory.

Some of the proposed cost savings would occur as deportations reduce ICE detention levels, but much of it would have to happen through the mass release of detainees, said the officials, who spoke on the condition of anonymity because they were not authorized to discuss internal deliberations.

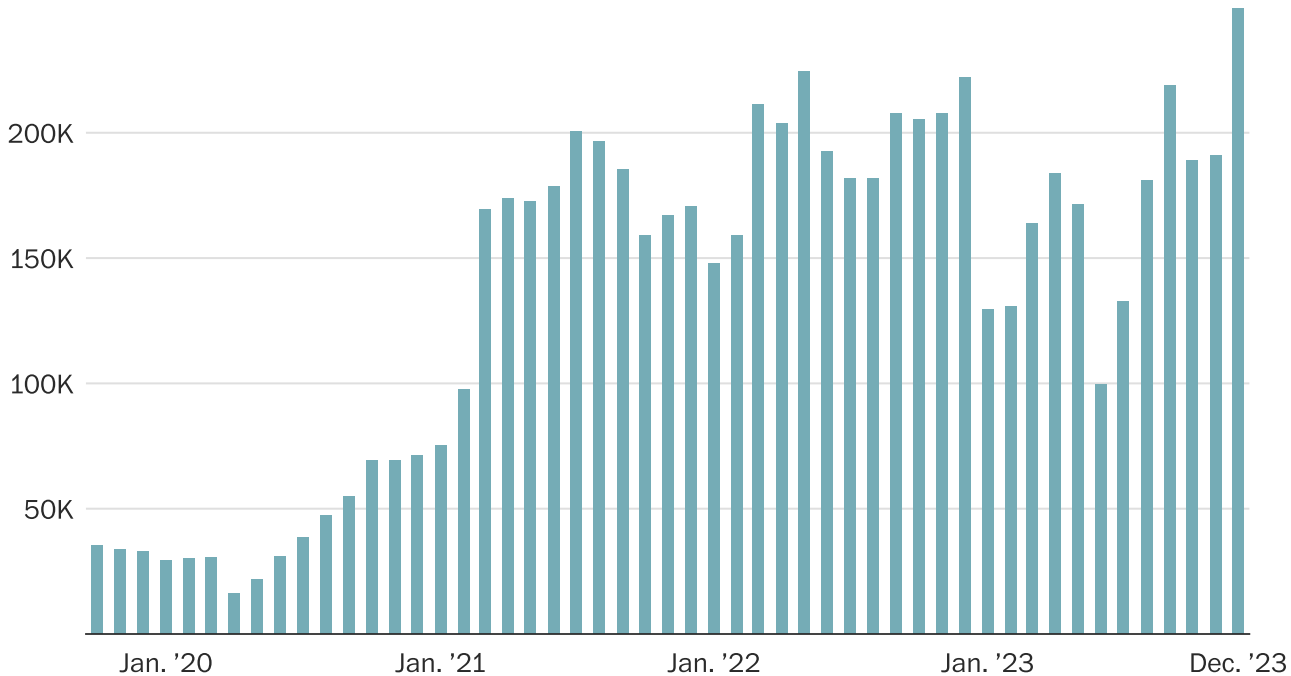
Erin Heeter, a DHS spokesperson, said Congress has “chronically underfunded” the department’s “vital missions on the southwest border.”

“Most recently, Congress rejected the bipartisan national security bill out of hand, which will put at risk DHS’s current removal operations,” Heeter said in a statement. “A reduction in ICE operations would significantly harm border security, national security, and public safety.”

Record crossings in late 2023 left Department of Homeland Security agencies burning through their budgets for the 2024 fiscal year that started Oct. 1.

Southwest border apprehensions by month

Illegal crossings at the U.S.-Mexico border reached record levels in December, according to U.S. Customs and Border Protection data.



Source: [U.S. Customs and Border Protection data](#). Updated monthly.

The proposed border funding bill that emerged last week after months of Senate negotiations included new enforcement powers and resources long sought by Republicans. The bill would have tightened restrictions on asylum eligibility at the southern border while providing the president with emergency powers to summarily expel migrants if crossings exceeded 5,000 daily.

The legislation offered a major funding injection for ICE. It was among the most significant concessions to Republicans by Democratic lawmakers, who have long attempted to restrain ICE enforcement within U.S. cities and communities by opposing big increases to detention and deportation spending.

Rep. Mark Green (R-Tenn.), who led the impeachment proceedings against Mayorkas as chairman of the House Homeland Security Committee and told reporters Wednesday he is retiring at the end of his term, said it was “absurd” that the administration would blame Republicans for ICE’s funding woes because Biden officials have previously tried to cut the agency’s budget.

“Secretary Mayorkas has consistently requested fewer ICE beds year after year,” Green said in a statement. “Instead of treating enforcement as a hostage negotiation—‘give us more money or else’ — Secretary Mayorkas should just do his job and follow the law.”

In response to The Washington Post’s reporting on the ICE contingency plans, Sen. Jon Tester (D-Mont.) sent a [letter](#) to GOP congressional leaders Wednesday urging them to pass border security legislation “that was the result of months of tough negotiations.”

“No one got everything they wanted, but they worked together and crafted a bill to address the issues at our southern border — the same issues that politicians have been sounding the alarm on for years,” Tester wrote. “It is past time for Congress to stop kicking the can down the road and quit using the border as a political football.”

The supplemental bill had \$7.6 billion for ICE overall, including \$2.6 billion for deportation flights and \$3.2 billion for detention capacity, money that would have boosted capacity by thousands of beds per day. The agency has contracts and agreements with scores of local and county jails across the United States where it can place detainees for weeks, months and sometimes longer as they await a court ruling or face deportation. About half of ICE’s \$8.5 billion annual budget is used for detention and deportation operations.

The bill’s failure produced a reversal of traditional partisan politics on immigration, with most Democrats embracing new border restrictions and funding for enforcement, while Republicans opposed the bill in part because it could benefit the incumbent president.

Activists who have campaigned to close immigration detention facilities or argued ICE should be eliminated entirely — and who normally denounce Republican hard-liners — were pleased to see GOP lawmakers kill the border bill.

“While we feel some relief that the Senate did not include the harmful and permanent immigration policy changes it was considering and that ICE is not getting a more than \$7 billion infusion above their already astronomical budget, we continue to demand actual cuts [to the ICE budget] that shrink the detention system,” said Silky Shah, the executive director of Detention Watch Network, an advocacy coalition.

“We find it problematic that the framing is that ICE is facing cuts, when in fact, ICE’s budget has continued to grow astronomically year after year,” Shah said.

Faced with record numbers of illegal crossings at the Mexico border and mounting criticism from his own party, Biden has deployed ICE officers more aggressively and ramped up deportation flights in recent months. White House officials say the administration has deported or returned 500,000 migrants since May, more than Trump did on an annual basis during his term.

Biden did not start off with that approach. The president ordered a temporary pause on ICE deportations when he took office in January 2021. His administration directed ICE officers to be more restrained and prioritize immigrants who pose a national security or public safety threat, along with the most recent border-crossers.

Arrests by ICE resulting in a deportation have fallen from about 80,000 per year under Trump to roughly 35,000 per year during Biden's first three years, according to the Office of Homeland Security Statistics.

Most of the detainees in ICE custody are not immigrants arrested in U.S. cities for crimes, but recent arrivals taken into custody along the Mexico border, ICE statistics show. Of the 38,500 detainees who were in ICE detention at the end of January, 72 percent were transferred by U.S. Customs and Border Protection.

A major reduction in ICE detention capacity would be likely to lead to more deportation-eligible migrants getting released from U.S. custody along the border, DHS officials said. That would further undermine the Biden administration's strategy of applying "consequences" — especially deportations and returns — to deter migrants who cross illegally and don't qualify for asylum.

John Sandweg, who was acting director of ICE under President Barack Obama, said many of the Republican lawmakers voting to impeach Mayorkas have attacked him for releasing border-crossers who should be detained. ICE doesn't have the capacity for that, Sandweg said.

"There are far more demands on ICE right now than the resources available to meet them," he said.

"ICE is funded at levels so far below what the Republicans want," Sandweg said. "You can't have your cake and eat it too."