

[Rollcall Vote No. 123 Leg.]

YEAS—51

Barrasso	Graham	Murkowski
Blackburn	Grassley	Paul
Boozman	Hagerty	Ricketts
Braun	Hawley	Risch
Britt	Hoeven	Romney
Budd	Hyde-Smith	Rounds
Capito	Johnson	Rubio
Cassidy	Kennedy	Schmitt
Collins	Klobuchar	Scott (FL)
Cornyn	Lankford	Scott (SC)
Cotton	Lee	Sullivan
Cramer	Lummis	Thune
Crapo	Manchin	Tillis
Cruz	Marshall	Tuberville
Daines	McConnell	Vance
Ernst	Moran	Wicker
Fischer	Mullin	Young

NAYS—49

Baldwin	Heinrich	Sanders
Bennet	Hickenlooper	Schatz
Blumenthal	Hirono	Schumer
Booker	Kaine	Shaheen
Brown	Kelly	Sinema
Cantwell	King	Smith
Cardin	Lujan	Stabenow
Carper	Markey	Tester
Casey	Menendez	Van Hollen
Coons	Merkley	Warner
Cortez Masto	Murphy	Warnock
Duckworth	Murray	Warren
Durbin	Ossoff	Welch
Feinstein	Padilla	Whitehouse
Fetterman	Peters	Wyden
Gillibrand	Reed	
Hassan	Rosen	

The joint resolution (S.J. Res. 24) was passed, as follows:

S.J. RES. 24

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the United States Fish and Wildlife Service relating to “Endangered and Threatened Wildlife and Plants; Endangered Species Status for Northern Long-Eared Bat” (87 Fed. Reg. 73488 (November 30, 2022)), and such rule shall have no force or effect.

EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Bradley N. Garcia, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess subject to the call of the Chair.

Thereupon, the Senate, at 1:16 p.m., recessed subject to the call of the Chair and reassembled at 1:45 p.m. when called to order by the Acting President pro tempore.

EXECUTIVE CALENDAR—Continued

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. ROMNEY. Mr. President, I yield back all time.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair

lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 4, Bradley N. Garcia, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

Charles E. Schumer, Richard J. Durbin, Sheldon Whitehouse, Martin Heinrich, Tim Kaine, Tammy Baldwin, Ben Ray Lujan, Tammy Duckworth, John W. Hickenlooper, Amy Klobuchar, Jack Reed, Jeanne Shaheen, Benjamin L. Cardin, Edward J. Markey, Alex Padilla, Margaret Wood Hassan, Catherine Cortez Masto, Gary C. Peters.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Bradley N. Garcia, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BUDD), the Senator from Texas (Mr. CRUZ), the Senator from North Dakota (Mr. HOEVEN), the Senator from Kansas (Mr. MARSHALL), and the Senator from Kansas (Mr. MORAN).

Further, if present and voting, the Senator from North Carolina (Mr. BUDD) would have voted “nay” and the Senator from Kansas (Mr. MARSHALL) would have voted “nay.”

The yeas and nays resulted—yeas 54, nays 41, as follows:

[Rollcall Vote No. 124 Ex.]

YEAS—54

Baldwin	Hassan	Peters
Bennet	Heinrich	Reed
Blumenthal	Hickenlooper	Rosen
Booker	Hirono	Sanders
Brown	Kaine	Schatz
Cantwell	Kelly	Schumer
Cardin	King	Shaheen
Carper	Klobuchar	Sinema
Casey	Lujan	Smith
Collins	Manchin	Stabenow
Coons	Markey	Tester
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warnock
Feinstein	Murphy	Warren
Fetterman	Murray	Welch
Gillibrand	Ossoff	Whitehouse
Graham	Padilla	Wyden

NAYS—41

Barrasso	Grassley	Romney
Blackburn	Hagerty	Rounds
Boozman	Hawley	Rubio
Braun	Hyde-Smith	Schmitt
Britt	Johnson	Scott (FL)
Capito	Kennedy	Scott (SC)
Cassidy	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	McConnell	Tuberville
Crapo	Mullin	Vance
Daines	Paul	Wicker
Ernst	Ricketts	Young
Fischer	Risch	

NOT VOTING—5

Budd	Hoeven	Moran
Cruz	Marshall	

The PRESIDING OFFICER (Mr. SCHATZ). On this vote, the yeas are 54, the nays are 41.

The motion is agreed to.

The PRESIDING OFFICER. The Senator from Texas.

IMMIGRATION AND CUSTOMS ENFORCEMENT

Mr. CORNYN. Mr. President, as the whole Nation knows by now, title 42, the COVID-19 public health laws used by the Border Patrol to expel people at the southern border, will expire at midnight tonight.

At our border communities, in the 1,200 miles of our border with Mexico and Texas, they are bracing for a tsunami of humanity. As we know, over the last couple of years, title 42 has been one of the tools in the Border Patrol's toolbox to prevent the Biden border crisis from becoming the Biden border catastrophe or calamity.

To give you a sense of the impact of title 42, which will go away tonight, since President Biden took office, U.S. Customs and Border Protection has logged more than 5 million illegal border crossings—5 million. Because of title 42, the United States hasn't been required to detain, identify, and process every single person who crossed the border illegally. In fact, nearly half of those 5 million were removed under title 42, a total of almost 2.4 million people.

Consider the countless stories we have heard over the last 2 years about overcrowded detention facilities. I have seen them myself. We have all seen them on television or in the print media. We have seen these shelters bursting at the seams. That was the case when Border Patrol was detaining only roughly half of the individuals who illegally crossed the southern border because they were able to use title 42.

Starting tomorrow, agents will have to apprehend every single person under DHS's—Department of Homeland Security's—traditional title 8 authority. The problem is that law enforcement doesn't have the space to hold those individuals, not even close.

Last spring, Secretary Mayorkas, the Secretary of Homeland Security, said, Customs and Border Protection detention facilities could hold approximately 18,000 people. That sounds like a large number, until you begin to look at the number of people who are crossing the border every day.

This week, we have already seen an average of about 10,000 border crossings a day. And he says we can detain 18,000. And you are getting 10,000 a day?

Well, once title 42 is lifted, that number will climb even higher. Detention facilities, which are already overcapacity, will become even more crowded. And once they are fully maxed out, the Biden administration will simply release people into the United States, using what they call parole.

Now, parole—we are perhaps familiar with parole in the criminal context—but parole in the immigration context means that they will be released into the interior of the United States, whether or not they can satisfy the legal requirement to be granted asylum, and they will be told to go to an Immigration and Customs Enforcement office in the interior of the United States—in Chicago, in New York, here in Washington, DC, or wherever they may end up.

Unfortunately, immigration court backlogs because of the vast numbers of people coming in. If you show up in New York, and you have been paroled in the United States, assuming you even show up, which many don't, you could wait as many as 10 years to begin the process of being heard in immigration court.

And here is the real unfairness. Consider the people—although it is a small minority, maybe 15 percent or so of these migrants who claim asylum will have a valid claim. They have to wait in line with the 85 or more percent who we know will not have a valid plan. How unfair is it to those people to leave them in legal limbo because of the uncontrolled numbers coming across the border?

Well, anyone who thinks this is somehow a scare tactic or a made-up story is in for a rude awakening. Over the last several weeks, as the title 42 end date has crept closer, we have seen migrants gathering in larger and larger numbers along the border in Mexico. It is currently estimated that more than 100,000 migrants are already waiting. With this deadline just around the corner, the Secretary of Homeland Security traveled to Brownsville, TX, last Friday to talk about what is to come.

Brownsville, TX, which is at the very tip of the Rio Grande Valley, right across from Mexico, is one of three Texas cities to declare a state of emergency already, anticipating the end of title 42. Laredo and El Paso were the other two because they are preparing, as best they can, for an unprecedented surge of migrants.

Over the last couple of weeks, more than 15,000 migrants have arrived in Brownsville. Law enforcement and city officials have been overwhelmed by the arrival of so many people, and they are bracing for an even larger surge on Friday.

With this as a backdrop, Secretary Mayorkas made an absolutely dumbfounding statement last week—one of many that he has made in the past. He said: The border is not open; it has not been open; and it will not be open subsequent to May 11.

It is beyond my comprehension how someone can see what we are seeing on our TV screens or in the media and then to have a public official like the Secretary of Homeland Security tell us a lie repeatedly about the border not being open.

I don't know what he calls 5 million people coming across the border. Well,

about half of them have been expelled, so let's say, roughly, 2.5 million after you consider those who were repatriated as a result of title 42. He said this in Brownsville, which is a city that has absorbed less than 15,000 migrants in less than 2 weeks.

You know, in some of the newspapers they have a Pinocchio test where they will give you one Pinocchio, two Pinocchios, three Pinocchios, four Pinocchios, based on how outrageous the lie is. And I don't think you can count up enough Pinocchios to award Secretary Mayorkas for his outright falsehood that he continues to spew, sitting in the critical position to do something about this.

The border has clearly been open, and President Biden and his administration have laid out the welcome mat. And that is why there has been absolutely no deterrence. You know, law enforcement, including Border Patrol, doesn't just enforce the law. They, by enforcing the law and by people knowing that they are enforcing the law, hope to deter other people from violating the law.

But when people see an open border with no enforcement, there is no deterrence. And so people do what we can expect they will continue to do, and that is to continue to come.

Well, at midnight tonight, title 42 expires. Secretary Mayorkas must really think that the American people are stupid or dumb. But they are not. They are smart. They can see what is going on. They know he is not telling the truth. And for some reason, President Biden continues to keep him on the payroll. You would think, at some point, somebody should get fired for this disaster, which is about ready to get worse. There needs to be some sort of accountability.

If you did something like this in the private sector, what do you think would happen to you? You would be held accountable. But apparently not in the Biden administration. You can lie to the American people. You can fail to do your job until it gets so bad that presumably something has to give.

All of us can see photos and videos of the chaos at the southern border. We see it on our social media feeds and on the nightly news. We understand what is happening, and we know who is responsible.

So the administration is being dishonest when they say the border is not open. And they have made it painfully obvious that nothing is going to change until they are forced to do so.

After a couple of years—I have been writing to the Secretary of Homeland Security for at least the last 2 years, saying: When title 42 ends, as we know it will at some point, what is your plan? What is your plan?

Well, on the eve of this looming crisis and catastrophe, after the end of title 42, the administration has rolled out something they call the circumvention of lawful pathways rule.

The problem is, the Constitution does not give the executive branch—the President of the United States—the power to write immigration laws or to stand up new pathways for legal status. If young people who were given Deferred Action for Childhood Arrivals have learned one thing, it is that the President does not have the authority to unilaterally change immigration laws. That is something he has to do in conjunction with the Congress.

But the Biden administration seems eager to repeat history with this rule, which funnels migrants into new, unconstitutional, so-called lawful pathways that were unilaterally created by the executive branch.

You know, there has got to be a little office somewhere—I haven't found it yet here in Washington DC—that generates these names for legislation or new rules and regulations, which actually are the opposite of what they do. That was true with the Inflation Reduction Act, which didn't reduce inflation. And it is true of this so-called circumvention of Lawful Pathways Act. It is not lawful. It is not constitutional for the President to do it by himself.

Unfortunately, that is just one of many problems with this rule. The broad goal, plainly, is to ensure a more orderly asylum process by reducing the number of border crossings between ports of entry and encouraging migrants to seek asylum at ports. Well, if that were actually what was going to happen, that would be improvement. Those who fail to present themselves at a port of entry would, theoretically, be ineligible for asylum. And it purports to regulate the flow of asylum seekers into land ports of entry so they don't become dangerously overcrowded.

As I said, at face value, these seem like constructive ideas, but this rule is brimming with flaws and exceptions and loopholes that were explicitly designed to ensure migrants will be released into the United States en masse.

I learned as a law student: What the front page giveth, the back page can taketh away.

While the Biden administration may want to put on this happy face that, yes, we learned our lesson, we are changing the rules, we are going to restrict the pathways by which people can seek asylum in the United States, the truth is they have no commitment to an orderly, lawful, and humane system of immigration.

The Biden plan includes broad exemptions for migrants who show up at a port of entry without an appointment and are illiterate—or at least claim to be. It provides an exception for migrants who can't access the DHS scheduling system or who experience significant technical issues with the notoriously glitchy CBP One app. And the Department all but admits in the fine print that these migrants will be paroled.

Remember what I said about parole. It is just releasing these migrants into the United States and quickly being

given employment authorization documents.

The exceptions swallow the rule by outlining broad exceptions that can't be objectively evaluated and are easily gamed. If they can't be gamed, they will be gamed.

The Biden administration has provided the cartels with a road map or a playbook. The administration is saying: Instruct migrants to use one of these excuses. Coach them to use one of these excuses, and they will be eligible for asylum, and they will be released into the interior of the United States.

Migrants can make the dangerous journey to the border, show up at a port of entry without an appointment, say the magic words, and still be paroled into the United States.

As the administration has made clear, it plans to "expeditiously process" migrants who arrive at the southwest border. With title 42 set to expire and 100,000 immigrants gathering across the border, this is President Biden's plan. It is called expedited catch-and-release.

The circumvention of lawful pathways rule is dangerous and unconstitutional. I am in the process of introducing a Congressional Review Act resolution to disapprove of it. This rule would rapidly increase the number of migrants being paroled in the United States while doing nothing—zero—to deter migrants with weak asylum claims.

Immigration groups on the left and the right, interestingly, oppose this rule. Some of our colleagues in the Democratic caucus have expressed that they are deeply disappointed with the administration and that it has chosen to move forward in publishing this proposed rule. That is from a Democratic Member of the Senate.

I urge Senator SCHUMER, the majority leader, who sets the schedule around here, to allow us to vote on my resolution as soon as possible.

The White House has claimed that this is the only option available to address a looming catastrophe, but that is false too. In the nineties, President Clinton signed a law establishing something called expedited removal. In short, it allows Border Patrol to detain and quickly remove people who cannot prove their legal requirement in order to stay. Expedited removals have been utilized by Republicans and Democrats over the years. It is a part of that powerful deterrent that we need to reestablish.

So those who have no legitimate claim to legal status will make that dangerous journey, having paid thousands of dollars to a coyote or cartel to get here. If a person is likely to be removed from the United States within a few days of crossing, fewer and fewer of them will even attempt to make the dangerous journey in the first place.

That is the power of expedited removal. It sends a clear message that America's immigration laws will be en-

forced, something that has not happened during President Biden's watch.

President Biden has the authority today to conduct expedited removals. He has had that authority since day one but refuses to fully utilize it.

I have heard the Press Secretary for the President say: Well, it is up to Congress to deal with this.

Well, Congress has already dealt with this, and President Clinton signed it into law.

It is because President Biden has unilaterally surrendered to the cartels that continue to make billions of dollars and whose poison kills tens of thousands of Americans each year because it continues to flow across the border. President Biden has the tools he needs today. So don't believe this: Well, it is their fault.

It is the blame game, which is an Olympic sport here in Washington, DC—trying to blame somebody else, denying personal responsibility.

But this one sits at the feet of the President of the United States. Rather than stand up new facilities or hire more personnel to make the expedited removal process function, the Biden administration has, instead, chosen to release people into the interior of the country at an unprecedented pace.

Where the expedited removal serves as a deterrent, President Biden's wide-scale catch-and-release is a magnet. People are being released to wait immigration court dates that are years down the road—if they show up, and many of them won't. Some migrants aren't scheduled to appear before an immigration judge until 2032—9 years from now. Believe me, when that happens, word travels fast, and more people are sure to follow suit. Why wouldn't they?

President Biden has effectively said: Keep coming. We are going to wave you on through the turnstile at the border, maybe never to be heard from again and never to appear in front of an immigration judge. How unfair is it to those who do have legitimate claims to have to wait in line for 9 or 10 years with the vast majority of people who we know will not qualify?

Well, this is what we have seen since President Biden took office and decided to undo everything the previous President had done. And the pace is going to do nothing but accelerate once title 42 goes away at midnight tonight.

This administration needs to get serious about expedited removals, about using the tools that are already available. It needs to make sure that those with invalid claims are quickly removed from the United States and, yes, people with valid claims need to be welcomed for following the lawful process.

That is what I mean when I say we need a legal, humane, and orderly immigration system. Legal immigration has been one of the greatest things our country has ever embraced. Virtually all of us, or at least our ancestors, came from somewhere else. And we

have always tended to attract people who are leaving dire circumstances—perhaps economic, perhaps otherwise—in their home country, who want to come to the United States to pursue their dreams.

I believe that is the secret sauce that has made our country what it is today—the powerhouse that it is today, economically and otherwise. But it is lawful immigration. It is orderly immigration. It is humane immigration. It is not the chaos and the criminality that we see at the border today.

Sometimes I ask myself: How bad does this have to get before the politicians in Washington, DC, wake up and decide to do something?

I hope we are at that point. I hope it doesn't have to get worse because it can get worse if we simply do nothing.

But the first step is for the President to use the tools available to him already signed into law. In order to do that, they need to increase detention space so frontline personnel will have the capacity to actually carry out these expedited removals.

The Biden administration also needs to stop waving or paroling people into the country to wait for an appointment with immigration and customs enforcement that is years in the future. Again, that is for the ones that show up.

These are just a few of the ways that the President can deal with this crisis today. Those options have been available since the day he took office. He just refuses to use them and tries to shift the blame to others.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Vermont.

DEBT CEILING

Mr. WELCH. Mr. President, the most consequential question now before Congress—the one that most impacts the most people we all represent—is whether the United States of America will do what it has always done: pay its bills in full and on time.

It was Alexander Hamilton who established the precedent that has become an enduring principle: America pays its bills.

But in order to preserve that principle, Congress must raise the debt limit. It is important to remind ourselves that raising the debt ceiling does not allow any additional spending, nor does it include new obligations for our taxpayers. It allows Congress to continue to pay for the spending that has already been approved by this and prior Congresses.

The debt ceiling is an anomaly in the United States. Other countries recognize the obvious. When a legislative body approves spending—whether it is for the defense of the nation, the healthcare of its citizens, the support for its farmers—it is then that the legislative body incurs the obligation. It is really no different than when a family takes out a mortgage or a car loan. When that bill becomes due each month, you pay the mortgage and you pay the car loan. Otherwise, things end