

118TH CONGRESS  
1ST SESSION

# S. RES. \_\_\_\_\_

Expressing the sense of the Senate that Secretary of Homeland Security Alejandro Nicholas Mayorkas does not have the confidence of the Senate or of the American people to faithfully carry out the duties of his office.

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IN THE SENATE OF THE UNITED STATES

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Mr. MARSHALL submitted the following resolution; which was referred to the Committee on \_\_\_\_\_

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## RESOLUTION

Expressing the sense of the Senate that Secretary of Homeland Security Alejandro Nicholas Mayorkas does not have the confidence of the Senate or of the American people to faithfully carry out the duties of his office.

Whereas while serving as Secretary of Homeland Security, Alejandro Nicholas Mayorkas, in violation of his constitutional oath, has engaged in a pattern of conduct that is incompatible with his constitutional and statutory duties as Secretary of Homeland Security, including by—

(1) failing to “take all actions the Secretary determines necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States”, as required under section 2(a) of the Secure Fence Act of 2006 (8

U.S.C. 1701 note), which includes “the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband”, as evidenced by—

(A) more than 5,500,000 illegal aliens crossing the United States southern border during Secretary Mayorkas’ term in office, including 20 consecutive months with more than 150,000 illegal border crossings and a 180 percent increase in encounters at the southern border compared to the previous administration;

(B) the apprehension of 98 individuals listed on the Terrorist Screening Database at the southern border during fiscal year 2022, which is more such apprehensions than occurred during the previous 5 years combined, and the apprehension of 69 such individuals during the first 6 months of fiscal year 2023, which is a higher rate of apprehensions of such individuals than took place in fiscal year 2022;

(C) more fentanyl entering the United States in a recent 2-month period than the amount of fentanyl that entered the United States during all of fiscal year 2019, with more 14,000 pounds of poisonous fentanyl seized at the southern border during fiscal year 2022, resulting in tens of thousands of deaths from fentanyl overdoses, which are now the leading cause of death for Americans between 18 and 45 years of age; and

(D) the failure of the Department of Homeland Security, under the leadership of Secretary Mayorkas, to comply with provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.),

which require the detention of inadmissible aliens arriving in the United States or aliens who are physically present in the United States without inspection until processed, and the implementation by Secretary Mayorkas of unlawful and misguided catch-and-release directives, such as the Notice to Report process and the parole plus Alternatives to Detention process, which have resulted in the reckless release of more than 1,000,000 illegal aliens into the interior of the United States; and

(2) gravely endangering the national security of the United States, undermining the operational control of our southern border, and encouraging illegal immigration by—

(A) terminating contracts for additional border wall construction, in contradiction of congressional appropriations;

(B) ending the Migrant Protection Protocols (commonly known as “Remain in Mexico”), which was an indispensable tool to address the border crisis and restore integrity to the immigration system; and

(C) attempting to terminate the order of suspension issued by the Director of the Centers for Disease Control and Prevention under section 362 of the Public Health Service Act (42 U.S.C. 265) as a result of the public health emergency relating to the COVID–19 pandemic (commonly known as “title 42 authority”), which has proven to be a critical tool enabling U.S. Customs and Border Protection to quickly expel illegal aliens;

Whereas with the termination of title 42 authority, the Department of Homeland Security is planning to reroute

asylum and parole applicants through the CBP One mobile application in order to obscure border encounter numbers;

Whereas on multiple occasions while serving as Secretary of Homeland Security, Alejandro Nicholas Mayorkas, in violation of his constitutional oath, has willfully provided perjurious, false, and misleading testimony to Congress, including—

(1) on April 28, 2022, during a hearing of the Committee on the Judiciary of the House of Representatives, by responding to Congressman Chip Roy’s question, “Will you testify under oath that we have operational control of the border?”, with “Yes we do”, despite the fact that, the term “operational control” has defined in law as “the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband”; and

(2) on November 15, 2022, during a hearing of the Committee on Homeland Security of the House of Representatives, by responding to Congressman Dan Bishop’s question, “Do you continue to maintain that the border is secure?”, with “Yes, and we are working day in and day out to enhance security, Congressman.”;

Whereas section 1621 of title 18, United States Code, clearly states that anyone who “willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true” is guilty of perjury and shall be fined or imprisoned not more than 5 years, or both;

Whereas the record-breaking number of illegal alien encounters, including more 1,000,000 known “getaways”, and the record seizures of deadly fentanyl and other contra-

band, confirm that Secretary Mayorkas has not taken all actions necessary to ensure operational control of the southern border, as required by law;

Whereas U.S. Border Patrol Chief Raul Ortiz, in a field hearing before the Committee on Homeland Security of the House of Representatives, stated that U.S. Border Patrol does not have operational control of the border, which directly contradicts Secretary Mayorkas' April 2022 testimony to the Committee on the Judiciary of the House of Representatives;

Whereas in September 2021, while Alejandro Nicholas Mayorkas was serving as Secretary of Homeland Security—

(1) approximately 15,000 Haitian migrants crossed the border from Mexico into the United States and were concentrated in an encampment underneath the international bridge between Mexico and the Del Rio, Texas, Port of Entry and in surrounding areas;

(2) mounted Border Patrol agents and troopers with the Texas Department of Public Safety dispersed a large group of migrants gathered near a boat ramp located in the United States along the Rio Grande River, approximately 500 yards east of the Del Rio Port of Entry and then attempted to stop the flow of all migrants illegally crossing the Rio Grande River into the United States at that location;

(3) within hours of the incident described in paragraph (2)—

(A) images and video surfaced on social media that showed multiple Border Patrol agents on horseback using their horses to keep several illegal immi-

grants from entering the United States after crossing the Rio Grande in Del Rio, Texas;

(B) extremist liberal activists rushed to judgment and falsely accused the agents of whipping the illegal immigrants with their horse reins; and

(C) some activists made the disgusting false equivalency to slavery;

(4) President Joe Biden publicly repeated the slanderous claims described in paragraph (3), stating, “To see people treated like they did . . . people being strapped—it’s outrageous. I promise you, those people will pay”;

(5) Vice President Kamala Harris said “Human beings should not be treated that way, and as we all know, it also evoked images of some of the worst moments of our history where that kind of behavior has been used against the indigenous people of our country, has been used against African Americans during times of slavery”;

(6) Secretary Mayorkas, after Assistant Secretary of Homeland Security for Public Affairs Marsha Espinosa emailed to him a news article explaining that the photographer who took the images did not see the agents whipping anyone—

(A) misled the general public by publicly supporting the Biden administration’s false narrative that Border Patrol agents whipped Haitian migrants;

(B) participated in a White House press conference during which he publicly and falsely slandered the Border Patrol agents referred to in paragraph (2), calling the images “horrifying” and an example of “systemic racism”;

Whereas a 511-page report by the U.S. Customs and Border Protection’s Office of Personal Responsibility found “no evidence that [Border Patrol agents] involved in this incident struck, intentionally or otherwise, any migrant with their reins”; and

Whereas the National Border Patrol Council, which is the labor union representing Border Patrol agents and support staff, is considering supporting the impeachment of Secretary Mayorkas:

Now, therefore, be it

1        *Resolved,*

2        That it is the sense of the Senate that Secretary  
3 Alejandro Nicholas Mayorkas no longer holds the con-  
4 fidence of the Senate or of the American people to faith-  
5 fully carry out his duties as Secretary of Homeland Secu-  
6 rity.