

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DURBIN. Madam President, I move to proceed to executive session to consider Calendar No. 222.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Ana de Alba, of California, to be United States Circuit Judge for the Ninth Circuit.

CLOTURE MOTION

Mr. DURBIN. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant 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. 222, Ana de Alba, of California, to be United States Circuit Judge for the Ninth Circuit.

Richard J. Durbin, Tammy Baldwin, Alex Padilla, Mark Kelly, Jeanne Shaheen, Jack Reed, Mazie Hirono, Brian Schatz, Elizabeth Warren, Sherrod Brown, Ron Wyden, Tim Kaine, Raphael G. Warnock, Benjamin L. Cardin, John W. Hickenlooper, Amy Klobuchar, Tammy Duckworth.

Mr. DURBIN. Mr. President, finally, I ask unanimous consent that the mandatory quorum calls for the cloture motions filed today, November 6, be waived.

The PRESIDING OFFICER. The Senator from Oklahoma.

BORDER SECURITY

Mr. LANKFORD. Madam President, there has been a lot of conversation about this body—quite frankly, around the Nation—about border security. Rightfully so. It has been top of mind for a lot of cities, States, for a lot of families, school districts, businesses, especially along the border States as they have had a disproportionately large number of people who have come, many of them from all over the world, many of them non-Spanish speakers, not from Central America and South America but literally from everywhere.

The Wall Street Journal had a piece just this weekend where it detailed how hundreds of thousands of migrants from all over the world are making their way to the southwest border which is causing a surge in apprehensions, but it is especially people from Asia and Africa.

Human smuggling networks, it says, are widening their reach around the globe.

Arrests at the Southwest border of migrants from China, India and other distant countries, including Mauritania and Senegal, tripled to 214,000 during the fiscal year that ended in September.

That was up from 70,000 just the year before. That is tripling that number.

What is happening is on our southern border, the cartels are finding it more profitable to be able to move people in from farther. So they are organizing flights for people to go through seven or eight countries to be able to then arrive in Mexico, and they are moving them through in what they affectionately call “donkey flights” to be able to reach farther for the cartels to be able to make more and to exploit our laws.

America has always been open to people and immigration. We are a nation of legal immigrants, but we are also a nation of laws. And what we are finding at this stage is those laws are being exploited and being exploited dramatically. Let me give you just an example. There has been no change in the asylum law since 2010, but, in 2010, we had 21,000 people request asylum on our southern border for the year—21,000 the entire year of 2010. That wasn't an anomaly. That was about a normal amount of people requesting asylum on our southwest border. Now, we have that many requests of asylum on our southwest border every 3 days. So it has gone from 21,000 in a year to now every 3 days.

Everyone knows this is an issue. Last week, Secretary Mayorkas was in front of the Homeland Security Committee, and I asked him about this in a public hearing. I asked him whether there were policy changes that were needed.

His answer was very direct. He said:

Yes, policy changes are needed.

I asked him specifically on reforming the asylum system, knowing that it has been exploited. His exact answer was:

The asylum system needs to be reformed from top to bottom.

I asked him about the issue of withholding of removal, which now about 55 percent of the people who were released into the country were actually released under something called withholding of removal. I asked him about that. His response was:

[Withholding of removal and] the companion element is the convention against torture our system needs to be able to work efficiently and expeditiously while not compromising due process.

I asked him about repatriating individuals in difficult countries that are called recalcitrants. He said:

Our ability to repatriate individuals to the countries of origin when they do not qualify for relief under our laws is of vital importance.

Why am I bringing this up? Because it is not just me saying we need to reform the asylum process. The head of Homeland Security is saying we need to reform this process. And it is just not the head of Homeland Security saying we need to reform the asylum process. It is the administration.

Two weeks ago, the administration requested additional dollars for the border to be able to put in the supplemental. They asked for funding for Israel, for Ukraine, for Taiwan, and for border security. But then, after they put that request out, Homeland Security released an op-ed in the Washington Post, which said this:

To be clear, this supplemental funding is like a tourniquet—urgently needed and critical in the short-term, but not a long-term solution to a deep-seated problem. Our national immigration laws, having gone through major revisions by Congress in 1996, are severely out-of-date, and our system is completely broken. On this, everyone agrees.

The administration itself, just this past March, put out a release dealing with what they call “circumvention of lawful pathways.” In it, they did a Q&A back and forth to ask people questions on how it would function. This is one of the answers from the administration talking about what is happening currently at our border. They said:

[Such a high rate of migration] risks overwhelming the Department's ability to effectively process, detain, and remove, as appropriate, the migrants encountered. This would put an enormous strain on already strained resources, risk overcrowding in already crowded [U.S. Border Patrol] stations and border [ports of entry] in ways that pose significant health and safety concerns, and create a situation in which large numbers of migrants—only a small portion of whom are likely to be granted asylum—are subject to extreme exploitation . . . by the networks that support their movements north.

I would be glad to have written that myself.

The administration sees the same thing that everyone else who looks at the border sees. If you take an honest assessment of what is happening, our system is being exploited by cartels, and people from around the world are answering ads that are on TikTok and messaging services saying: I can get you into the United States if you pay me enough money.

That is why 45,000 people from India came last year requesting asylum in the United States—because it is easier to get in and to pay the cartels than it is to go through the legal process. We are incentivizing illegal activity, and this body knows it.

We are a nation of laws. We should prioritize the law. We should be open to legal immigration, but we should be opposed to illegal immigration and what is happening to enrich deadly, dangerous criminal cartels in northern Mexico.

Again, the administration in their public statement made this statement just a few months ago:

The current asylum system—in which most migrants who are initially deemed eligible to pursue their claims ultimately are not granted asylum in the subsequent [immigration court] proceedings—has contributed to a growing backlog of cases awaiting review by asylum officers and immigration judges.

What are they saying? The system is broken because it is packed with people who do not actually qualify for asylum coming in to flood the system and request asylum.

We all see the challenge. Now the question is, Are we going to do something about it?

Republicans in the Senate, this past weekend, released a very simple proposal to deal with what we all know are the problems—closing the loopholes in the law that have been exploited. And, yes, it deals with asylum, and, yes, it deals with withholding because those are the areas that are being exploited. We see it. The administration sees it. The question is, Do Democrat Senators see it? That is really the issue now. Everyone else seems to see it and admit to it.

So what did we propose? We proposed some pretty straightforward things. One is what is called “safe third country” transit. These are individuals like the 45,000 people who came from India last year. They fly through four or five countries—including dangerous countries like France—to be able to land here and to be able to cross the border and say: I need to find asylum.

Almost everyone sees that as an exploitation, and it is not just us. There is almost no other country that does what we do. This whole issue about picking and choosing where I want to request asylum is not how asylum really works. You see, asylum under international law—and most people in this body know it—“asylum” and “refugee” have the same definition under international law. A refugee doesn’t pick nine different countries and then pick the one that they want. They flee to the next safe place. That is the same international rule for asylum.

If you were to request asylum right now in Canada—cross the border into Canada and request asylum—do you know what is the first question they would ask you? The first question they would ask you is: Did you just cross from the United States?

If you answered yes, they would then say: Did you request asylum there, and were you denied?

If they say, “I didn’t request asylum,” Canada will turn you right back around.

And that is not just Canada. That is most of the EU. If you went to Austria, Belgium, Bulgaria, Croatia, Czech Republic, France, Germany, Hungary, Ireland, Luxembourg, the Netherlands, Slovakia, Slovenia, the UK—if you went to any of them, they would ask: What country did you transit through before you got here, and did you request and were you denied asylum before you came in? If you said, “I didn’t request asylum in the places I transited from,” they would turn you around because that is not an unreasonable thing.

When you go through five other countries and then request asylum in the last one, you are actually trying to emigrate to that country, not request-

ing asylum under international law. You are trying to pick the place.

And, by the way, I don’t blame them for picking America. It is the greatest country in the world. But that is economic opportunity, that is not asylum.

So the question is, Can we incentivize those individuals to not try to run a loophole through our system but to actually go through the legal process and request to come here as a legal immigrant?

We love to see people from all over the world, as we always have, come into the United States legally, just not exploiting a loophole in the asylum law. That is the wrong way to be able to do it.

The bill that Republicans have proposed also deals with streamlining the process. Right now, it can take up to 10 years just to get a hearing with an immigration judge under a standard that most people know, and the administration has admitted, people won’t qualify for asylum at the end.

Why is that? Because, when you come across the border, you encounter Border Patrol or CBP or an asylum officer. They do an initial screening, and the screening is far lower than the actual standard. So you may qualify under the screening standard, but everyone knows you are not going to actually qualify for the actual standard for asylum.

So there are two simple things that can be done here. One is to make the screening standard equal to the actual standard—to say: We all know this is what you have got to achieve. So screen for that. Is it reasonable? Is it even a 51-percent chance that you are going to get to that standard? If it is, then you come in. If you are not, then you are screened out.

The second is that we actually have three different screenings. Many people don’t know this. We screen for asylum, and then we separately screen for what is called withholding, and we separately screen for Convention against Torture. Those three different screenings are made at three different times—sometimes across a decade of time. Everyone knows, if you don’t qualify for the first one, you are likely not going to qualify for the other two, either. But you can request it, and you can run that loophole, and then you are in the United States. And the cartels literally teach people exactly what to say in their last step so that they can exploit that loophole.

So let’s actually have a screening standard that is the same standard you have to get to, and let’s screen for all three of those things at the same time. That actually sounds like government efficiency. I know we are not good at that as a nation, but, if we screen all three of those things at the same time, it allows somebody to have due process. We don’t want someone not to have due process. If someone is a victim of torture, we want to make sure they have an opportunity to go through that process. But why

wouldn’t we go through all three of those at the same time, rather than across 10 years, waiting for multiple different hearings?

Republicans also proposed something pretty simple. Right now, the law says that if you committed a felony, then you are not eligible for asylum. But the problem with that is, there are some crimes that are not considered a felony at the earliest days, and we are still allowing them in.

Let me give you a for instance. What if you had three DUIs? What if you are dealing meth? What if you are a member of a gang and you show it? What if you have a domestic violence conviction?

If you have a domestic violence conviction, you can’t own a firearm in America, but you could get asylum in America. We literally invite people to be able to come in whom we already know have domestic violence convictions.

So we are making it pretty simple. We are saying: Hey, listen, let’s keep the standard where it is for a felony, but let’s actually prevent the loopholes.

Why would we invite someone into the country whom we know has had multiple DUI convictions? Why would we do that? It is not safe for our streets.

Do any one of you want to sit down with a dad and say: Your daughter was killed in a DUI because we were loose on our asylum rules? I would assume not.

We are not asking for something extreme. Again, it is typical for many places around the world that this is how it would be done. All we are trying to do is to be able to fix the loopholes and to be able to secure our Nation.

This proposal we put forward keeps families together. I know there is going to be an immediate thing that this is about separating families at the border. Actually, no, it is very explicit that if families travel together, families stay together for their hearing, to be able to make sure that we are protecting that family. But we are also raising a simple question. We all know and we have all seen the stories, and for those of us who have gone to the border, we have seen it with our own eyes: children traveling with adults that—we are all parents, and we can see clear enough that is not really your child—where children are literally used as a free pass to be able to get into the country and to be able to expedite.

We would like to be able to protect those children and make sure children are actually not used to be a free pass into the country. There is a way to be able to prevent that and to be able to protect those families that are actually real families at the same time.

We do a couple other things. We also raise just a very simple statement about the Border Patrol. Many people here may or may not know, but the Border Patrol can’t actually get overtime if you are at a certain level. If

you are other Federal law enforcement, you do get overtime. But if you are Border Patrol, you do not.

So these guys may work 100 hours for 2 weeks, but for the additional hours they are working, they don't actually get overtime pay. That is not right.

So what happens is, Border Patrol has a hard time with retention, not just because the job is incredibly difficult but, once they get to a certain level, their families encourage them and say: Why don't we do another Federal law enforcement somewhere else—still stay in Federal law enforcement, but we can actually earn overtime pay at that point rather than actually being punished for staying in the Border Patrol and trying to be able to serve?

Why don't we fix that?

Why don't we fix some of the training issues that have come up?

Why don't we actually try to respond to those things?

Why don't we provide the opportunity for the Biden administration to be able to lay out a strategy for how to secure the border? We are not writing it. Just give them the opportunity to be able to do it.

And here is one thing that has been interesting that I have already heard pushback from. We have a section where we talk about the border wall. What is interesting is, what we have actually proposed is we actually fulfill the border wall portion that President Biden has already said he is going to do. We actually just want to put it in writing so the President can't just say orally, "I want to do this." We have to actually put it in writing to be able to do it. That is a reasonable thing to be able to do.

Listen, we are not asking for crazy stuff. We are asking for what Americans are asking for: Just secure the border. We want to be a nation that welcomes immigrants, but we also want to be a nation that honors the law. We can do both. That is what we are setting in front of this body—to say: When we are talking about the supplemental, let's actually talk about not just securing Israel and securing Ukraine and securing Taiwan; let's also secure the United States of America.

With that, I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant bill 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. 372, Monica M. Bertagnolli, of Massachusetts, to be Director of National Institutes of Health.

Charles E. Schumer, Richard J. Durbin, Debbie Stabenow, Tammy Duckworth, Mark Kelly, Tina Smith, Tammy Baldwin, Robert P. Casey, Jr., Christopher A. Coons, Tim Kaine, Christopher Mur-

phy, Sheldon Whitehouse, Jeanne Shaheen, Richard Blumenthal, Benjamin L. Cardin, Chris Van Hollen, Catherine Cortez Masto.

The PRESIDING OFFICER. 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 Monica M. Bertagnolli, of Massachusetts, to be Director of the National Institutes of Health, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. FETTERMAN), the Senator from Georgia (Mr. OSSOFF), and the Senator from New York (Mr. SCHUMER) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Wyoming (Mr. BARRASSO), the Senator from Indiana (Mr. BRAUN), the Senator from Alabama (Mrs. BRITT), the Senator from North Dakota (Mr. HOEVEN), the Senator from Idaho (Mr. RISCH), and the Senator from South Carolina (Mr. SCOTT).

Further, if present and voting: the Senator from North Dakota (Mr. HOEVEN) would have voted "nay."

The yeas and nays resulted—yeas 59, nays 32, as follows:

[Rollcall Vote No. 292 Ex.]

YEAS—59

Baldwin	Hassan	Peters
Bennet	Heinrich	Reed
Blumenthal	Hickenlooper	Romney
Booker	Hirono	Rosen
Boozman	Kaine	Rounds
Brown	Kelly	Schatz
Butler	King	Shaheen
Cantwell	Klobuchar	Sinema
Capito	Lujan	Smith
Cardin	Lummis	Stabenow
Carper	Manchin	Tester
Casey	Markey	Tillis
Cassidy	Marshall	Van Hollen
Collins	Menendez	Warner
Coons	Merkley	Warnock
Cortez Masto	Moran	Warren
Duckworth	Murkowski	Welch
Durbin	Murphy	Whitehouse
Gillibrand	Murray	Wyden
Graham	Padilla	

NAYS—32

Blackburn	Hagerty	Rubio
Budd	Hawley	Sanders
Cornyn	Hyde-Smith	Schmitt
Cotton	Johnson	Scott (FL)
Cramer	Kennedy	Sullivan
Crapo	Lankford	Thune
Cruz	Lee	Tuberville
Daines	McConnell	Vance
Ernst	Mullin	Wicker
Fischer	Paul	Young
Grassley	Ricketts	

NOT VOTING—9

Barrasso	Fetterman	Risch
Braun	Hoeven	Schumer
Britt	Ossoff	Scott (SC)

The PRESIDING OFFICER (Ms. SMITH). On this vote, the yeas are 59, the nays are 32.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

TRIBUTE TO DAN MAHR

Mr. MERKLEY. Madam President, the great American labor organizer Delores Huerta said:

Every moment is an organizing opportunity, every person [is a] potential activist, [and] every minute [is] a chance to change the world.

In that spirit, I rise to bid farewell to a member of my team, Dan Mahr.

Dan sees every constituent as an opportunity to connect and every townhall meeting as a chance to change someone's world.

I host a lot of townhall meetings in Oregon—one in every one of our 36 counties every year. One time, Dan and I were hosting a townhall meeting in rural eastern Oregon, where an older, conservative rancher was waiting in line to talk to me and had that look on his face where he just knew he was pretty unhappy and wanted to let me know why. Well, Dan noticed him too. He started chatting with him, and pretty soon, that stony expression began to crack, and the conversation began to warm up. By the time that stern rancher had made it to me, he was chuckling and patting Dan on the back.

As we left that meeting, everyone, including our church ladies and our ranchers and our farmers—everyone—to our rural hippies, was giving Dan extra handshakes on the way out the door. That is how it was in townhalls where Dan was staffing.

He joined my team in 2016, 7 years ago, after a decade of fighting for unions and working families across America. As my senior labor adviser, he has stood up to the powerful on behalf of the working people all across our State. He has been one of my field representatives, serving folks in North Central Oregon, in Clackamas County and Wasco and Hood River and Sherman and Gilliam Counties. But he didn't just get the job done in those counties; he was always the first person to volunteer to staff a townhall meeting for his teammates no matter how far away it is across the State. He just loves being out on the road in Oregon. He has driven thousands of miles, set up thousands of chairs, met thousands of Oregonians. Whenever a new field representative joined our team, he was the first to welcome that individual to Team Merkley, to go with him or her to their first townhall, to lend a helping hand at the events.

Our work is important to him because if folks are taking their time out of busy lives to come to a townhall meeting, he wants to give them the respect that goes with feeling welcome and feeling heard. And, of course, that is exactly the attitude I take to those meetings.

Well, Dan's dedication to constituents' services is renowned on the team, not just for his personal touch but also for his personal tenacity. There is a saying—a saying I like a lot—that tenacity is a superpower. I experienced that a few times in my life. I certainly believe it is true.

Ever since I was first elected to the Senate in 2008, I have been hearing about funding for economic development in the Columbia River Gorge.