

# [***EXCLUSIVE: Red States File Brief Against DHS To Protect Themselves Against Illegal Immigration***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BR4-9MB1-JBFB-H002-00000-00&context=1516831)

The Daily Caller

April 5, 2024 Friday 03:56 PM EST

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**Section:** ***POLITICS***

**Length:** 922 words

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**Body**

[*Link to Image*](https://cdn01.dailycaller.com/wp-content/uploads/2024/04/GettyImages-1249918039-scaled-e1712300081948.jpg)

Twenty states joined an amicus brief Friday, co-led by Montana and Florida, against DHS Sec. Alejandro Mayorkas to protect themselves against illegal immigration amid southern border crisis, the Daily Caller learned first.

Since President Joe Biden took office in 2021, the southern border has seen record-high numbers, with nearly 7.3 million illegal immigrants encountered by officials, according to U.S. Customs and Border Protection (CBP) [*data*](https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters). As Republicans have been sounding off on the issue over the last few years, many grew concerned after Texas' long-standing legal battle with the federal government began to [*escalate*](https://dailycaller.com/2024/01/26/ken-paxton-refusal-surrender-border-security-area-joe-biden-demands/) further in January.

Knudsen led the massive effort against Mayorkas in hopes of protecting “standing states to defend immigration rules” when the federal government “abdicates its obligation to do so,” appearing to legally prepare and ensure that state's rights are protected. Along with Montana and Florida the states that joined the filing include Alaska, Arkansas, Idaho, Indiana, Iowa, Kentucky, Mississippi, Missouri, Nebraska, New Hampshire, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Texas, Utah, and Virginia. [***(RELATED: 170 Dems Vote Against GOP-Led Bill That Would Require Illegal Immigrant Criminals To Be Detained)***](https://dailycaller.com/2024/03/07/170-democrats-vote-against-laken-riley-act/)

“President Biden's failure to follow the law and secure the southern border is wreaking havoc on communities in Montana and across the country. The crisis at the border has become so bad that every state is now a border state. Rather than defend a rule that protects states from the adverse effects of illegal immigration - like illicit drugs and crime, the Biden administration is in settlement negotiations with left-wing, open-border activists. I'm proud to support my colleagues' efforts to stop these collusive sue-and-settle practices,” Republican Montana Attorney General Austin Knudsen, who helped co-lead the brief, told the Daily Caller.

[*M.a. v Mayorkas Amicus Brief*](https://www.scribd.com/document/720350741/M-a-v-Mayorkas-Amicus-Brief#from_embed) by [*hailey*](https://www.scribd.com/user/704719198/hailey#from_embed) on Scribd

The amicus brief details that within early 2023, the U.S. Department of Justice (DOJ) and U.S. Citizenship and Immigration Services (USCIS) proposed the Circumvention of Lawful Pathways (CLP) which, according to the [*DHS*](https://www.dhs.gov/news/2023/05/11/fact-sheet-circumvention-lawful-pathways-final-rule), intending to encourage “migrants to use lawful, safe, and orderly processes for entering” the U.S., impose “conditions on asylum eligibility for those who fail to do so,” and support “the swift return of migrants who do not have valid protection claims.” The CLP was a replacement by the Biden administration for former President Donald Trump's previous Title 42 public health order enacted during the COVID-19 pandemic that expired on May 11, 2023, allowing the U.S. to send back migrants to Mexico or their countries of origin.

While the DHS approved the new rule, GOP lawmakers argued that it allows handfuls of migrants to be paroled within the U.S., as well as allowing migrants at U.S. ports of entry to schedule asylum interviews by using a government app. Multiple complaint filings were then thrown at President Joe Biden and Mayorkas, with cases involving both North Dakota and Texas being tied up in the courts, the brief stated.

Multiple red states then moved in to “intervene” in three cases, arguing that as the courts temporarily suspended the legal actions, they believed that “the Government no longer appeared to adequately represent their interests.”

The filing argues two points for the state's case claiming that they not only “have standing to defend immigration rules, especially rules implementing Expedited Removal,” but also “have an interest in preventing dead-hand control and circumvention of the Administrative Procedure Act's [APA] procedural protections,” which [*oversees*](https://www.epa.gov/laws-regulations/summary-administrative-procedure-act#:~:text=The%20Administrative%20Procedure%20Act%20(APA,on%20notices%20of%20proposed%20rulemaking.) the federal agencies process over developing and issuing new regulations. Both points for the state's argument call out the federal government's handling of illegal immigration, financial burdens states have held, prosecution arguments over illegal immigrants, and new regulations brought on by the federal government.

During January's chaotic legal battle between DHS and Texas, the Lone Star state officials began to take control over their southern border areas that were being heavily impacted by the amount of illegal crossings. As Texas authorities argued that the state had a Constitutional right to defend itself and called for Biden to use his executive order to shut down the border, Mayorkas claimed Republican Texas Gov. Greg Abbott was [*wreaking*](https://www.cnn.com/2024/03/03/politics/alejandro-mayorkas-abbott-border/index.html) “havoc in other cities and states across the country” by allegedly refusing to work with officials.

Many states like Montana and Florida rallied behind Texas' refusal to give up jurisdiction of the border after a legal decision was handed in favor of the DHS. GOP state governors [*took*](https://dailycaller.com/2024/01/25/gop-govenors-back-greg-abott-defending-texas/) to social media to defend Texas' rights by calling out Biden and his administration, as well as many offering their National Guard troops to step in.

While Texas has been under the media spotlight for its border issue, many state's throughout the country now are beginning to share the same stage. Within September 2023, Republican Montana Gov. Greg Gianforte led a 25-state bipartisan effort in pressing Biden on releasing illegal immigration data for “who is entering the country illegally, where they are relocating, how the federal government is processing their asylum applications, and whether they are being deported.” Estimated annual costs for illegal immigration into the U.S., both federally and locally, is assumed to be at least $150.7 billion, [*according*](https://news.mt.gov/Governors-Office/Governor_Gianforte_Leads_25-State_Effort_Pressing_President_Biden_for_Data_on_Illegal_Migrants) Gianforte's press release.

**Graphic**

Migrants walk towards an open gate on the Mexican side of the US-Mexico border in Ciudad Juarez, Chihuahua state, Mexico, on March 29, 2023. (Photo by GUILLERMO ARIAS/AFP via Getty Images)

**Load-Date:** April 5, 2024

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