

United States Senate

WASHINGTON, DC 20510

July 14, 2021

President Joseph R. Biden Jr.
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President,

The COVID-19 pandemic is the most significant public health crisis the United States has faced in our lifetime. Recent reports indicate the administration is considering immediately terminating the public health authority granted to immigration officials under Sections 362 and 365 of the Public Health Service (PHS) Act, 42 U.S.C. §§ 265, 268. Ending this order will have a dire impact on the crisis already engulfing our southwestern border. We urge you in the strongest possible terms not to take this action.

On March 20, 2020, the Centers for Disease Control and Prevention (CDC) issued an order pursuant to its public health authority under Title 42.¹ This order allows the Department of Homeland Security (DHS) to immediately expel aliens who would otherwise be held in congregate settings, including Border Patrol Stations and land Ports of Entry, rather than process them under its traditional Title 8 authorities.

COVID-19 is a highly transmissible virus, and limiting the number of individuals held in close proximity is a completely justified measure while the threat of COVID-19 persists. This is why federal immigration officials continue making robust use of the Title 42 authority.

According to the most recent data, DHS expelled 112,302 migrants encountered along the southwest land border pursuant to the CDC Order in May 2021. This constitutes a dramatic increase over the 20,895 migrants expelled along the southwest land border the previous May. In contrast, 67,732 aliens encountered along the southwest land border were processed under DHS's traditional Title 8 authorities in May 2021, compared with 2,342 in May 2020.²

Immigration facilities are overwhelmed. Revoking the authority of officials to rapidly expel illegal migrants under Title 42 without a clear plan in place to handle the stress this population will place on the system and on border communities will further exacerbate the crisis at the southwestern border.

Furthermore, your administration continues warning the American public about the dangers posed by the variants of COVID-19. Recently, CDC Director Dr. Rochelle Walensky, made

¹ "Order Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists," Centers of Disease Control and Prevention, March 20, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/order-suspending-introduction-certain-persons.html>.

² "Southwest Land Border Encounters," U.S. Customs and Border Protection, June 9, 2021, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

clear, “This rapid rise is troubling.” She went on to state that, “The delta variant is surging in pockets of the country.”³


The Department of State also recently issued an advisory regarding travel to Mexico—the country through which the vast majority of migrants affected by the CDC Order pass—stating, “Do not travel to Mexico due to COVID-19.”⁴ If the CDC and the State Department believe that the threat of COVID-19 is actually increasing (and specifically in Mexico), it is contradictory for the Biden Administration to simultaneously revoke the public health authority used by immigration officials to slow the spread of COVID-19.

The administration’s first priority must be to protect the American homeland. Allowing political considerations to overrule the clear public health threat created by the spread of COVID-19 at the border is reckless and irresponsible.

We request the administration retain the order under 42 U.S.C. §§ 265 and 268 until (1) the threat of COVID-19 variants is significantly reduced, (2) the administration has consulted with State, local, and tribal governments regarding any modification to this authority, and (3) policies have been implemented to bring the situation along the southwest land border under control and ensure that DHS and Office of Refugee Resettlement facilities will not be overwhelmed by sudden, large increases in the migrant population.

Thank you for your consideration of this request.

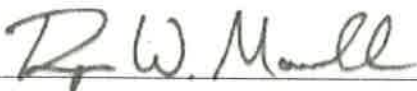
Sincerely,



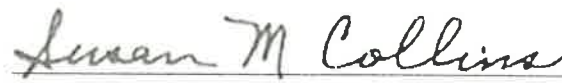
John Barrasso, M.D.
United States Senator



Mitch McConnell
United States Senator



Roger Marshall, M.D.
United States Senator



Susan M. Collins
United States Senator

³ “Press Briefing by White House COVID-19 Response Team and Public Health Officials,” The White House, July 8, 2021, <https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/08/press-briefing-by-white-house-covid-19-response-team-and-public-health-officials-44/>.

⁴ “COVID-19 Information for U.S. Citizens in Mexico,” U.S. Embassy & Consulates in Mexico, June 24, 2021, <https://mx.usembassy.gov/covid-19-information-for-u-s-citizens-in-mexico/>.



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Shelley Moore Capito
United States Senator



Bill Hagerty
United States Senator



James M. Inhofe
United States Senator



Lindsey Graham
United States Senator



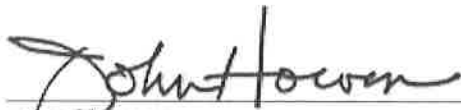
Mike Braun
United States Senator



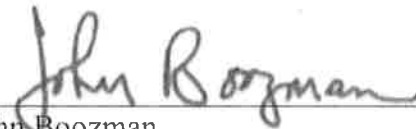
Deb Fischer
United States Senator



Kevin Cramer
United States Senator



John Hoeven
United States Senator



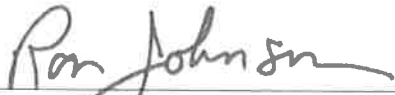
John Boozman
United States Senator



Thom Tillis
United States Senator



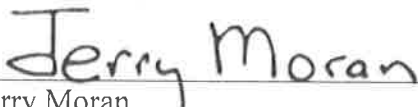
Tom Cotton
United States Senator



Ron Johnson
United States Senator



James Lankford
United States Senator



Jerry Moran
United States Senator



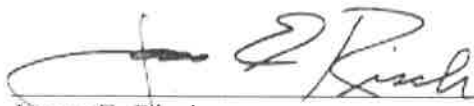
Rick Scott
United States Senator



Ted Cruz
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Mike Crapo
United States Senator



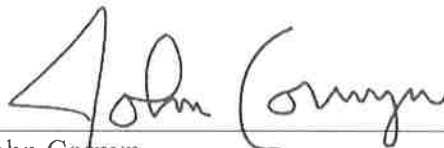
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