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March 29, 2022

Dear Colleague:

I am writing today to let you know it is our understanding that the Biden Administration is considering lifting the order under section 265 of Title 42 (42 U.S.C. § 265) as early as March 30, 2022. The Title 42 authority was always designed as a temporary immigration measure, but after two years of delay, most of us assumed the Biden Administration would have a reasonable way to enforce the law. As you may be aware, over 1.1 million migrants were expelled pursuant to Title 42 over the last year, while 900,000 migrants were processed into the U.S. under a Title 8 pathway. From the limited details DHS has shared with Congress and the public, I have grave concerns about the DHS plan for addressing the border after the Title 42 order is lifted.

Recently, DHS held a briefing with my staff and some of your staff to discuss their “mass irregular migration surge contingency plan.” In that briefing, the DHS Office of Intelligence and Analysis shared projections over what will happen when the Title 42 order is lifted. The DHS projections showed that:

- Over 10,000 migrants are already present and waiting in Mexico to cross the border when the Title 42 order is lifted;
- Over 100,000 migrants are present in Central and South Mexico and will cross the border within a week of the Title 42 order being lifted; *and*
- Over 1 million migrants are present within South Mexico and Central America and will likely cross the U.S. border within six weeks of the Title 42 order being lifted.

After sharing these projections, DHS stated that they have been working on a plan since last summer. That plan, according to the briefing, would focus on surging resources to the border to quickly process migrants faster. DHS also indicated that this plan will include a concept known as “interior processing,” which involves DHS busing or flying migrants to sites in the interior of the country to process and release. During the recent briefing, DHS refused to commit to providing Congress or the American people with a written copy of this plan or the locations under consideration for interior processing and release.

DHS, through interior processing, may open facilities in your states. The plan certainly helps the Biden Administration avoid the negative optics of the border chaos that will ensue when Title 42 is lifted, but it will also strain the resources of State and local communities where the Biden Administration contemplates opening these interior processing facilities.

We saw the chaos that occurred last summer – the images of the migrants under the bridge in Del Rio, Texas; the Donna Processing Facility in Texas; and Yuma, Arizona. Those images represent how our system handles only 44 percent of the migrant flow. CBP has stated that our border system only has the capacity to process 3,500 migrants per day, but DHS has already regularly encountered roughly 6,700 migrants per day this year. The Biden Administration has had a year to plan for the lifting of Title 42. Rather than enforcing the law and stopping the surge of illegal crossings, the Biden Administration is instead looking to move the chaos at the border to towns and cities across the country.

We need to stop the Biden Administration from lifting the Title 42 order until they have a workable plan in place to enforce the law and stop the chaos. I have spoken on the Senate floor of my plans to stop this process, and I invite you to join me in doing everything in your power to stop the chaos.

Oklahoma is not a border state, but the Biden Administration’s failure of leadership will turn Oklahoma and every state across the country into a border state. We need to exercise our leadership and hold the Biden Administration accountable for its failure of leadership.

I will offer a resolution of disapproval when the Title 42 order is lifted. Some of you have already agreed to join my resolution. This measure will force the Senate to vote on whether the people who elected us want the chaos to continue on our Southern border. I will also be objecting to all DHS nominations that Leader Schumer brings to the floor until DHS provides us a plan that will end the chaos by “deliver[ing] consequences for those who do not qualify for relief and seek to enter our country illegally.”<sup>1</sup>

Democrats and Republicans have raised concerns about the Biden Administration’s plan when the Title 42 order is lifted, and I hope you will join me in holding the Administration accountable for the chaos they are creating.

In God We Trust,

A handwritten signature in black ink, appearing to read "James Lankford". The signature is fluid and cursive, with a large initial "J" and "L".

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James Lankford  
United States Senator

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<sup>1</sup> See DHS Secretary Alejandro Mayorkas (@SecMayorkas), Twitter (Mar. 14, 2022, 8:58 PM): <https://twitter.com/SecMayorkas/status/1503535990526328835>.