



Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

Peter A. DeFazio  
Chairman

Sam Graves  
Ranking Member

Katherine W. Dedrick, Staff Director

Jack Ruddy, Republican Staff Director

August 17, 2022

Mr. Stephen Gardner  
President and Chief Executive Officer  
Amtrak  
1 Massachusetts Ave N.W.  
Washington, DC, 20001

Dear Mr. Gardner:

We write regarding Amtrak's operations on the Southwest border with Mexico and potential service and ridership changes in the event Title 42 of the *Public Health Service Act of 1944* is lifted.<sup>1</sup> Due to the dysfunctional border policies of the Biden Administration, the United States Customs and Border Patrol (CBP) recorded an unprecedented number of border encounters in the last few years. To date, this fiscal year has seen over 1.7 million encounters at the border, over 600,000 more than last year at this time, and roughly 1.4 million more than in the last year of the previous Administration.<sup>2</sup> We are concerned about the impact that a significantly greater border surge could cause to your services and the potential use of Amtrak in the Administration's response to its self-created border crisis.

The Biden-created failures at the border deeply alarm Americans, including politicians from both parties, as weapons and record amounts of drugs are smuggled daily into American communities.<sup>3</sup> As one Democrat Congressman stated: "[w]hen you create a system that incentivizes people to come across [the border], and they are released, that immediately sends a message to Central America, that if you come across you can stay."<sup>4</sup> The mayors of Washington,

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<sup>1</sup> *Public Health Service Act of 1944*, Pub. L. No. 78-410, 58 Stat. 682 (1944) [hereinafter *Public Health Service Act*].

<sup>2</sup> *Southwest Land Border Encounters*, CBP available at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> [hereinafter *Border Encounters*].

<sup>3</sup> See Jordan Boyd, *Fentanyl Pushed U.S. Drug Overdose Deaths to Record High in 2021*, THE FEDERALIST (May 11, 2022), available at <https://thefederalist.com/2022/05/11/fentanyl-pushed-u-s-drug-overdose-deaths-to-record-high-in-2021/>.

<sup>4</sup> Ashley Parker, Nick Miroff, Sean Sullivan and Tyler Page, *'No end in sight': Inside the Biden administration's failure to contain the border surge*, WASH. POST, March 20, 2021, available at [https://www.washingtonpost.com/politics/biden-border-surge/2021/03/20/21824e94-8818-11eb-8a8b-5cf82c3dffe4\\_story.html](https://www.washingtonpost.com/politics/biden-border-surge/2021/03/20/21824e94-8818-11eb-8a8b-5cf82c3dffe4_story.html).

DC and New York City now voice sharp criticism over migrants entering their cities, despite previously proudly declaring themselves “sanctuary cities.”<sup>5</sup> Nonetheless, the Administration continues to gut border protections such as the Migrant Protection Protocols (MPP) and now is pressing ahead with efforts to end Title 42.<sup>6</sup>

Title 42 has allowed the Centers for Disease Control and Prevention (CDC) to suspend the right to admit persons from countries where a quarantinable communicable disease exists.<sup>7</sup> On March 20, 2020, the CDC and the United States Department of Health and Human Services (HHS) issued an emergency Order in response to the COVID-19 pandemic that temporarily suspended the introduction of undocumented immigrants into the United States.<sup>8</sup> This suspension includes persons claiming asylum where no legal right to asylum exists.<sup>9</sup>

On April 6, 2022, the CDC and HHS published a Notice of Intent to suspend the Title 42 Order, effective May 23, 2022.<sup>10</sup> Immediately prior to May 23, a federal judge issued a preliminary injunction halting the expiration of the Order.<sup>11</sup> In issuing the injunction, the Court found that states would incur irreparable harm by suspension of the Order, including through the costs of services needed to accommodate the significant and crippling migrant influx.<sup>12</sup>

A substantial number of southern border encounters are Title 42 encounters.<sup>13</sup> Ending the Title 42 Order is expected to cause a significant increase in the number of migrants flooding into the United States, even as migrant facilities at the border are already stretched beyond capacity.<sup>14</sup> Notably, the United States Department of Homeland Security (DHS) advised the Senate that the number of undocumented migrants crossing the border after lifting Title 42 could reach one million in only six weeks.<sup>15</sup> If daily migrant encounters swell from the current, near record, of

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<sup>5</sup> Emma Colton, *Texas buses taking migrants to NYC sets off firestorm from Dems, Abbott tells them to take it up with Biden*, FOX NEWS, Aug. 11, 2022, available at <https://www.foxnews.com/us/texas-buses-transporting-migrants-nyc-sets-firestorm-dems-abbott-tells-them-talk-biden>.

<sup>6</sup> See DHS, COURT ORDERED REIMPLEMENTATION OF THE MIGRANT PROTECTION PROTOCOLS, (July 1, 2022), available at <https://www.dhs.gov/migrant-protection-protocols>; see also Public Health Determination and Order Regarding Suspending the Right To Introduce Certain Persons From Countries Where a Quarantinable Communicable Disease Exists, 87 Fed. Reg. 19,941 (Apr. 6, 2022), available at <https://www.govinfo.gov/content/pkg/FR-2022-04-06/pdf/2022-07306.pdf> [hereinafter Title 42 Suspension].

<sup>7</sup> See *Public Health Service Act of 1944*.

<sup>8</sup> Notice of Order Under Sections 362 and 365 of the Public Health Service Act Suspending Introduction of Certain Persons From Countries Where a Communicable Disease Exists, 85 Fed. Reg. 17,060 (Mar. 26, 2020), available at <https://www.govinfo.gov/content/pkg/FR-2020-03-26/pdf/2020-06327.pdf>.

<sup>9</sup> *Id.*

<sup>10</sup> Title 42 Suspension *supra*, note 6.

<sup>11</sup> Maria Sacchetti, *Federal judge blocks Biden administration from ending Title 42*, WASH. POST, May 20, 2022, <https://www.washingtonpost.com/national-security/2022/05/20/title-42-asylum-border/>.

<sup>12</sup> *Id.*

<sup>13</sup> *Border Encounters supra*, note 2.

<sup>14</sup> Anna Giaritelli, *Border officials expect Biden to end Trump Title 42 border policy in April*, WASH. EXAMINER, (March 23, 2022), available at <https://www.washingtonexaminer.com/policy/border-officials-expect-biden-to-end-trump-title-42-border-policy-in-april>.

<sup>15</sup> Press Release, Senator Lankford, Lankford Warns 1 Million Illegal Immigrants Could Cross the Southern Border in 6 Weeks If Biden Rescinds Title 42 (Mar. 23, 2022), available at <https://www.lankford.senate.gov/news/press-releases/lankford-warns-1-million-illegal-immigrants-could-cross-the-southern-border-in-6-weeks-if-biden-rescinds-title-42>.

7,100 to roughly 18,000 persons as reported, such a surge would prove overwhelming for CBP and border states.<sup>16</sup>

Amtrak currently operates the Sunset Limited which runs along the Southwest border through Texas to California.<sup>17</sup> Three Amtrak trains run on this route per week on track privately owned by Union Pacific Railroad.<sup>18</sup> In Fiscal Year 2019, annual ridership on the Sunset Limited was just under 100,000 people per year.<sup>19</sup> Ridership plummeted significantly during the COVID-19 pandemic to under 58,000 persons per year.<sup>20</sup> In Fiscal Year 2021, the Sunset Limited lost more money than any of Amtrak's long distance routes, with a loss of almost \$40 million and a revenue to cost ratio of 0.17.<sup>21</sup> Accordingly, Amtrak should focus on rebuilding its existing network by developing sustainable ridership on this line to rebound from this devastating financial loss largely compensated by taxpayer funds. To accomplish this task, the *Infrastructure Investment and Jobs Act (IIJA)* provided significant new funding to Amtrak with \$66 billion in advanced appropriations, including \$16 billion in advanced appropriations for Amtrak's National Network (that includes the Sunset Limited) over 5 years.<sup>22</sup> These funds should be spent on upgrades, maintenance, returning Amtrak to full pre-pandemic ridership, and working towards profit.

If Title 42 ends, causing an overwhelming migrant surge at the border, we are deeply concerned that Amtrak's resources – especially those supporting the Sunset Limited route – will be used to transport these undocumented persons. Such a situation would cause disruptions for Amtrak customers as well as interrupt freight traffic that could further exacerbate the supply chain crisis.<sup>23</sup> Such actions would also constitute an unconscionable use of significant amounts of taxpayer funds and resources to aid in the vast movement of illegal migrants into American communities. Accordingly, we respectfully ask Amtrak to provide the Committee written responses, briefings, and relevant documents to the following questions no later than August 31, 2022:

1. A briefing on, and all documents relating to, all activities, discussions or planning Amtrak has undertaken regarding the potential use of its trains, infrastructure, and resources, including but not limited to, the Sunset Limited and accompanying stations, to transport migrants crossing from the Southern Border.

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<sup>16</sup> Eric Ruark, *Repealing Title 42 would cause the worst border crisis in American history*, WASH. TIMES, May 11, 2022, <https://www.washingtontimes.com/news/2022/may/11/repealing-title-42-would-cause-the-worst-border-cr/>.

<sup>17</sup> SUNSET LIMITED, <https://www.amtrak.com/sunset-limited-train> (last visited Aug. 11, 2022).

<sup>18</sup> *Id.*

<sup>19</sup> AMTRAK, AMTRAK FY2019 RIDERSHIP (2019), available at <http://media.amtrak.com/wp-content/uploads/2019/11/FY19-Year-End-Revenue-and-Ridership.pdf>.

<sup>20</sup> *Id.*

<sup>21</sup> AMTRAK, GENERAL AND LEGISLATIVE ANNUAL REPORT & FISCAL YEAR 2023 GRANT REQUEST (2022), available at <http://media.amtrak.com/wp-content/uploads/2022/05/Amtrak-General-Legislative-Annual-Report-FY2023-Grant-Request.pdf>.

<sup>22</sup> *IIJA*, Pub. L. No.117-58, 135 Stat. 429 (2021).

<sup>23</sup> See Union Pacific, *Union Pacific System Map* (last visited Aug. 5, 2022), available at [https://www.up.com/cs/groups/public/documents/up\\_pdf\\_natedocs/pdf\\_system\\_map.pdf](https://www.up.com/cs/groups/public/documents/up_pdf_natedocs/pdf_system_map.pdf).

- a. Please provide a written response as to whether Amtrak has committed to any future plans regarding transportation of migrants that would utilize Amtrak's limited resources as mentioned in question 1.
2. A briefing on, and documents relating to, all activities, discussions or planning Amtrak has undertaken with Federal agencies and entities, including the CBP and DHS, state and local agencies, law enforcement, nonprofits, and non-governmental organizations – including Catholic Charities and the United Way – or other persons, businesses, or entities regarding the potential use of Amtrak's trains and resources to transport undocumented migrants into the Continental United States.
  - a. Please provide a written response as to whether Amtrak has committed to any future plans regarding the potential use of Amtrak's trains and resources to transport undocumented migrants into the Continental United States with the organizations and entities mentioned in question 2.
3. Do you commit to provide the Committee with advanced notice, as soon as possible, of any plans to use or expand Amtrak services, including purchasing tickets for migrants and adding trains, to move migrants crossing the Southern Border on Amtrak trains?

Thank you for your assistance in this matter. We look forward to your responses. If you have any questions, please contact the Republican staff at the House Committee on Transportation and Infrastructure at (202) 225-9446.

Sincerely,



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Sam Graves  
Ranking Member  
Committee on Transportation  
and Infrastructure



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Eric A. "Rick" Crawford  
Ranking Member  
Subcommittee on Railroads,  
Pipelines, and Hazardous Materials



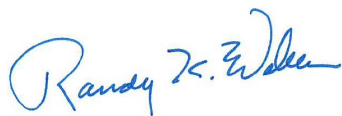
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Tim Burchett  
Member of Congress



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Beth Van Duyne  
Member of Congress



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Randy Weber  
Member of Congress



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Jefferson Van Drew  
Member of Congress




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Carlos Gimenez  
Member of Congress



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Troy Balderson  
Member of Congress



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Rodney Davis  
Member of Congress



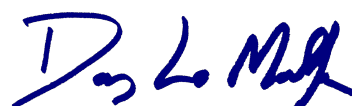
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Michael Guest  
Member of Congress



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Mike Gallagher  
Member of Congress



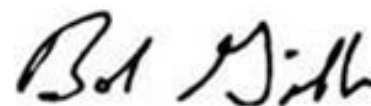
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Doug LaMalfa  
Member of Congress



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Pete Stauber  
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Garret Graves  
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Mike Bost  
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Brian J. Mast  
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Brian Babin, D.D.S.  
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