

October XX, 2018

The Honorable Paul D. Ryan
Speaker
U.S. House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
H-204, The Capitol
Washington, D.C. 20515

Dear Speaker Ryan and Leader Pelosi:

On behalf of the seasonal employers in our states, we urge you to include in the final Fiscal Year 2019 Department of Homeland Security Appropriations bill the H-2B cap relief that the House Appropriations Committee adopted by voice vote. The Committee-passed DHS Appropriations bill would exempt well-vetted returning workers from the annual H-2B visa cap, reallocate the capped 66,000 visas on a quarterly basis to ensure that employers with late seasons are not shut out of the program, allow for visas to be appropriated on a proportional basis to ensure that all qualifying employers receive at least a percentage of needed H-2B workers, and strengthen enforcement within the program so that the program is only used by those who follow the rules. Without this cap relief, many employers and their domestic workforce will continue to suffer severe economic hardship and could go out of business.

The past two fiscal years have demonstrated that without an adequate workforce, small and seasonal businesses are not able to fulfill contracts. They have been forced to turn away customers, scale back services, and cancel capital equipment purchases. In some cases, businesses were forced to lay off American workers whose jobs are supported by H-2B workers or shut down their operations entirely. Seasonal businesses need meaningful and lasting cap relief, so they can continue to contribute to the economy, grow their operations, and create American jobs.

The H-2B program is essential to those employers who recruit, but cannot find, temporary American workers to fill jobs across a variety of seasonal industries. These seasonal businesses therefore are forced to rely on H-2B workers to supplement their American workforce.

The H-2B program relies on well-vetted returning workers who come to the U.S. for seasonal employment and then go home. Returning workers are denied re-entry to the United States if they overstay their visas or break the law. These workers are not immigrants. They provide assistance for small and seasonal businesses that do not have access to enough American workers to operate at a greater capacity, retain their existing full-time American workers, and contribute to their local economies. Seasonal workers also help support many upstream and downstream jobs. Every H-2B worker is estimated to create and sustain 4.64 American jobs.

In a strong economy with record-low unemployment, the program's congressionally mandated cap of 66,000 visas is inadequate to meet the labor needs of eligible seasonal businesses. In fact, the U.S. Department of Labor (DOL) continues to report that the number of

job openings exceeds the available the labor pool. Meaningful cap relief is needed to allow U.S. seasonal businesses to supplement their labor force during peak seasons when Americans are not available to fill temporary positions.

For FY 2018, the 33,000 first half cap was met on December 15, 2017, and the 33,000 second half cap was met on February 27, 2018. As of July, DOL has certified the bona fide need for 142,387 H-2B workers, including 89,275 H-2B workers who were slated to begin work on or after April 1. DOL only issues final labor certification when it concludes that:

- There are not sufficient U.S. workers who are qualified and who will be available to perform the temporary services or labor for which an employer desires to hire foreign workers; and that
- The employment of H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.

On May 31, 2018, DHS released an additional 15,000 visas under the discretionary authority provided to it by the FY 2018 Omnibus Appropriations Act; however, this number is only a fraction of the actual need. Furthermore, due to significant need, DHS again resorted to a lottery to determine which companies were lucky enough to receive desperately needed H-2B workers. Approximately 52% of H-2B positions requested for the second half cap went unfilled, jeopardizing the survival of small and seasonal businesses and their American workforce.

The fate of seasonal businesses and their American workforce should not depend on a lottery if their workforce needs truly cannot be met by recruiting American workers alone. These seasonal businesses need meaningful cap relief so they can continue to generate economic growth and create jobs for American workers across the country. We urge you to include in the final Fiscal Year 2019 Department of Homeland Security Appropriations bill the much needed H-2B cap relief and reforms to the program that were already approved by the House Appropriations Committee.

We thank you for your immediate attention to this issue. Should you have any questions or concerns, please do not hesitate to contact our offices.

Sincerely,