

Congress of the United States
Washington, DC 20515

March 8, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
245 Murray Lane, SW
Washington, D.C. 20528

The Honorable Martin J. Walsh
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Dear Secretary Mayorkas and Secretary Walsh,

We write on behalf of the many seasonal businesses in our districts to respectfully call upon you both to provide urgent H-2B cap relief in order to address the critical shortages of seasonal labor. Specifically, we urge that the Department of Homeland Security (DHS), in consultation with the Department of Labor (DOL), commit to utilizing the authority provided by Congress to release the total allowable number of additional H-2B visas for Fiscal Year 2022 (FY22). Additionally, we request that your agencies take the necessary steps to expeditiously process pending H-2B applications in advance of the start of the April 1st, 2022 hiring period for the second half of FY22. We respectfully ask that this be done by instituting the emergency procedures previously used by DOL to address labor certification processing delays.

As the COVID-19 pandemic continues to exacerbate labor shortages across the United States, we seek to highlight the pressing need for the Biden Administration to do everything in its power to provide appropriate H-2B cap relief. American businesses working in industries that include hospitality, tourism, landscaping, seafood processing, recreation, reforestation, contracting and more depend heavily on seasonal employment to meet the pressing demands of the work they do. We have heard from countless business owners in our respective districts about the challenges they are facing in meeting their labor needs; with businesses facing massive labor shortfalls despite offering starting bonuses, increased salary, and other benefits to prospective American employees. For entrepreneurs and business owners like the ones we represent, the mounting pressure they face to keep up with demand is nothing short of a crisis.

The consequences of this crisis are clear: if businesses that rely on seasonal workers are not able to fulfill their labor needs, they will be forced to scale back operations or close altogether. The impact of this looming economic disaster will be felt not only by seasonal workers awaiting news that they will be permitted to work in the United States, but also by many American citizens employed at businesses that may have no choice but to close their doors if they fail to secure additional labor. The arbitrary cap on H-2B visas has a ripple effect throughout the economy, indirectly harming American workers and their families. A 2011 study found that for every 100 H-2B visas that are granted, over 460 jobs are created for American citizens.¹ Providing H-2B cap relief is a matter of urgency for the future of the American economy.

In the past year, pursuant to the authority provided to the Department of Homeland Security under the FY22 Continuing Resolution, DHS has provided supplemental cap relief, in excess of the statutory cap of 66,000, in the amounts of 22,000 in May of 2021 and 20,000 in January of 2022. While this is a welcome development, this relief was not nearly sufficient to meet the total need for H-2B workers across the country. Additionally, the release of these visas did not occur until well into peak-season for many of the businesses that are most reliant on seasonal workers. As we look forward towards the rest of FY22, there is an unquestionable sense of urgency to expand the level of cap relief made available to American businesses.

¹ Zavodny, Madeleine. "Immigration and American Jobs." *American Enterprise Institute*, American Enterprise Institute, Dec. 2011.
<https://www.aei.org/wp-content/uploads/2011/12/-> immigration-and-american-jobs_144002688962.pdf

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With this fact in mind, we urge you to release all allowable visas as soon as possible to ensure that workers can begin active employment on April 1, 2022, the start date for the second half of FY22. According to your Departments' January 28, 2022 temporary final rule titled "Exercise of Time- Limited Authority to Increase the Fiscal Year 2022 Numerical

Limitation for the H-2B Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking To Change Employers," DHS is authorized to release a total of 64,716 additional visas this fiscal year. The swift release of all additional visas that DHS is empowered to approve will provide enormous relief to businesses suffering from a lack of available labor.

Accordingly, we ask that you release and process the authorized 44,716 additional visas in a manner that will guarantee that all H-2B workers can begin work on April 1, 2022. In a December 20, 2021 press release, DHS acknowledged the significant need for additional relief, indicating the agency's intention to, "implement policies that will make the H-2B program even more responsive to the needs of our economy." With the enormous number of applications received during the filing period for the second half of FY22, it is clear that there is a demonstrated economic need for DHS to urgently release the remaining additional visas.

We are also cognizant of the historic demand that has been placed on the program which has led to delays in processing labor certifications at the Department of Labor. Failure to take action to rectify these delays will undoubtedly prevent employers from completing the H-2B application process before the April 1, 2022 start date for the second half of FY22. These delays are nothing new; in the second half of FY21, employers assigned to the final review group did not receive a first action from DOL until late February and a labor certification until March. This year, DOL is already running a week behind compared to where they were in 2021, and has a larger group of applications to process. In 2016, as a result of similar processing delays, DOL instituted emergency procedures to allow employers to begin U.S. worker recruitment prior to receiving their first actions from DOL. With this precedent in mind, we request that DOL again institute these emergency procedures in order to enable employers to submit their recruitment reports immediately upon receiving a Notice of Acceptance from DOL.

Providing appropriate and much needed H-2B cap relief to impacted businesses will provide the certainty and confidence business owners need to continue to play their role in strengthening the American economy. After over two years of incredibly challenging economic circumstances, it is incumbent upon DHS and DOL to take immediate and necessary action to provide targeted relief to businesses suffering from unprecedented labor shortages. Releasing the additional authorized visas, and implementing emergency measures to relieved processing delays, will ensure that businesses across the United States that rely on seasonal workers will be able to keep their doors open and their businesses growing. We thank you in advance for your attention to this pressing matter.

Sincerely,



David P. Joyce
Member of Congress



Henry Cuellar
Member of Congress



Andy Harris
Member of Congress



Steve Chabot
Member of Congress


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Member of Congress



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Member of Congress



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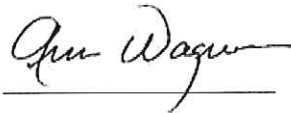
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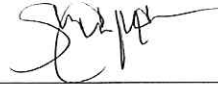


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Member of Congress

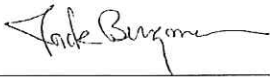
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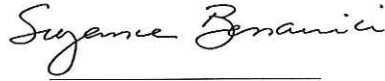


Andy Barr
Member of Congress

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Carolyn Bourdeaux
Member of Congress



Suzanne Bonamici
Member of Congress



Sharice L. Davids
Member of Congress



Mike Carey
Member of Congress



Thomas Suozzi
Member of Congress



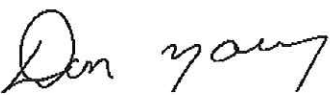
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Member of Congress



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Eric Swalwell
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