

# United States Senate

WASHINGTON, DC 20510

November 18, 2019

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Chuck Schumer  
Minority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Richard Shelby  
Chairman  
Senate Appropriations Committee  
U.S. Senate  
Washington, DC 20510

The Honorable Patrick Leahy  
Vice Chairman  
Senate Appropriations Committee  
U.S. Senate  
Washington, DC 20510

Dear Majority Leader McConnell, Minority Leader Schumer, Chairman Shelby and Vice Chairman Leahy:

On behalf of the seasonal employers in our states, we urge you to include H-2B cap relief in a final Fiscal 2020 Department of Homeland Security (DHS) Appropriations bill, omnibus appropriations bill or continuing resolution. Without cap relief, many employers and their domestic workforce will continue to suffer drastic economic hardship during their peak seasonal need.

The shortage of U.S. workers during the last several years has demonstrated that without needed guest workers, seasonal businesses are simply unable to meet their staffing needs. They have been forced to limit hours of operation, turn away customers, scale back service, and cancel capital equipment purchases. In some cases, businesses were forced to lay off Americans 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 and create full-time, year-round work for Americans. According to the American Enterprise Institute, every H-2B worker is estimated to create and sustain 4.64 American jobs.

In a strong economy with record-low unemployment, the H-2B program's congressionally mandated cap of 66,000 visas is inadequate to meet the labor needs of seasonal businesses. In fact, the U.S. Department of Labor (DOL) continues to report that the number of job openings actually exceeds the labor pool. Meaningful cap relief is needed to allow our seasonal businesses to supplement their workforce in the growing number of instances when Americans are not available to fill temporary positions.

For context, the FY 2019 first-half cap of 33,000 H-2B workers was met on December 11, 2018. The 33,000 second-half cap was met on February 22, 2019. During Fiscal 2019, DOL certified the need for 150,465 H-2B workers. DOL only issues final labor certifications when it concludes that:

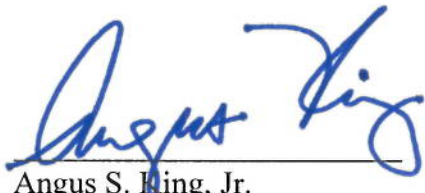
- There are not sufficient U.S. workers who are qualified and who will be available to perform the temporary services or labor for which an employer desires to hire foreign workers; and
- The employment of H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S.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

On May 8, DHS, in consultation with DOL, released an additional 30,000 visas for returning workers under the discretionary authority provided to it by the Fiscal 2019 Consolidated Appropriations Act. In order to apply for these visas, employers needed to attest to the “irreparable harm,” or permanent and severe financial losses, that would occur without H-2B workers. While many employers were able to apply for additional H-2B workers under these supplemental visas, they still suffered harmful consequences due to the fact that these workers were needed April 1<sup>st</sup> and did not arrive well into their peak seasons. Some businesses were not able to access the total number of workers needed due to DHS’ requirement that these supplemental visas be limited to returning H-2B workers. Based on current DOL processing statistics we expect the need for seasonal H-2B workers to be the same or greater than Fiscal 2019.

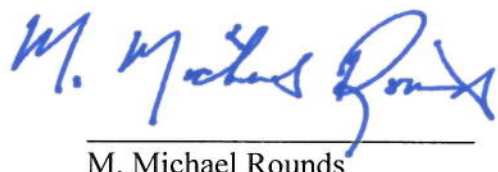
We must ensure that businesses that play by the rules are able to access the workforce they need, while also maintaining standards for wages and working conditions. For the H-2B program to be successful, there must be robust enforcement of regulations governing the program so that only those seasonal American businesses that follow the rules have access to the program. We stand ready to work together on important permanent changes to the program going forward, and we urge you to include much-needed cap relief and a returning-worker provision in the FY 2020 DHS Appropriations bill, a continuing resolution or other spending bill.

We thank you for your immediate attention to this issue.

Sincerely,



Angus S. King, Jr.  
United States Senator



M. Michael Rounds  
United States Senator



Thomas R. Carper  
United States Senator

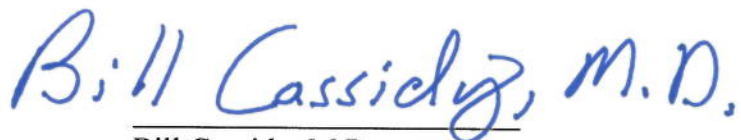


Rob Portman  
United States Senator

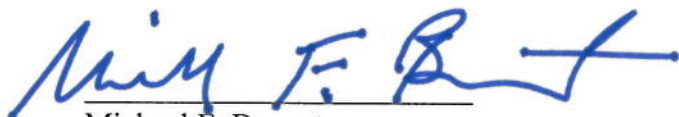




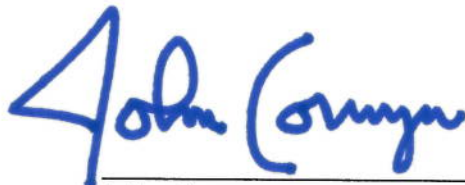
Jeanne Shaheen  
United States Senator



Bill Cassidy, M.D.  
United States Senator



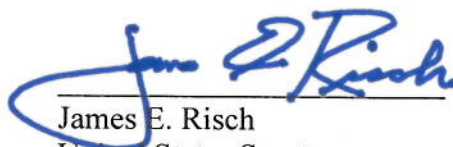
Michael F. Bennet  
United States Senator



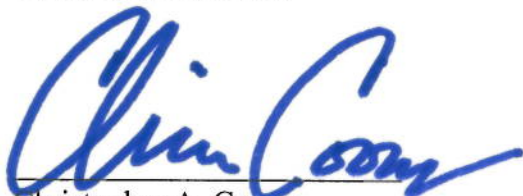
John Cornyn  
United States Senator



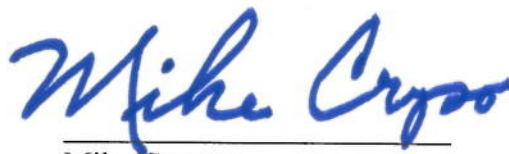
Kyrsten Sinema  
United States Senator



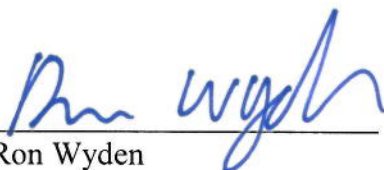
James E. Risch  
United States Senator



Christopher A. Coons  
United States Senator



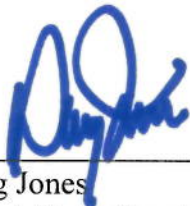
Mike Crapo  
United States Senator



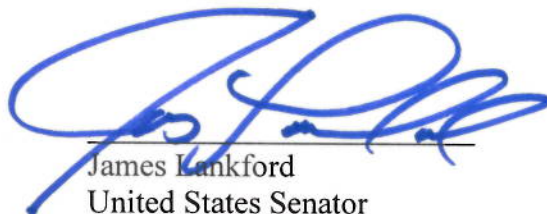
Ron Wyden  
United States Senator



Rand Paul  
United States Senator



Doug Jones  
United States Senator



James Lankford  
United States Senator



Joe Manchin III  
United States Senator



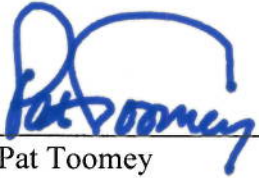
Todd Young  
United States Senator



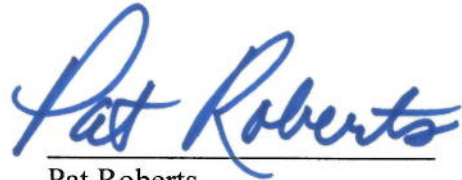
Cory Gardner  
United States Senator



Susan M. Collins  
United States Senator



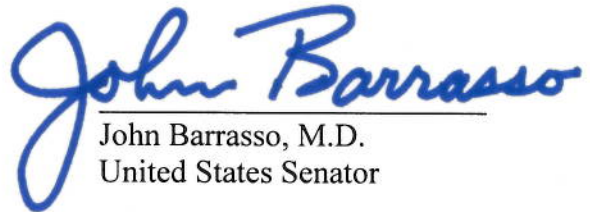
Pat Toomey  
United States Senator




Pat Roberts  
United States Senator



Tim Scott  
United States Senator



John Barrasso, M.D.  
United States Senator



John Thune  
United States Senator



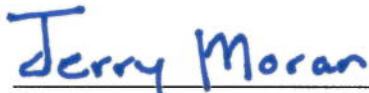
Dan Sullivan  
United States Senator



Kevin Cramer  
United States Senator



Michael B. Enzi  
United States Senator



Jerry Moran  
United States Senator



Mike Braun  
United States Senator