

# Congress of the United States

Washington, DC 20515

January 11, 2018

The Honorable Kirstjen Nielsen  
Secretary  
U.S. Department of Homeland Security  
Washington, DC 20528

The Honorable R. Alexander Acosta  
Secretary  
U.S. Department of Labor  
Washington, DC 20210

Dear Secretary Nielsen and Secretary Acosta:

H-2B visas, which certify foreign workers to be temporarily employed in the United States, are heavily relied upon by Maine's many tourism and hospitality businesses that are in need of seasonal, temporary workers beyond the number that they can hire in our state and region. In many cases, the continued employment of their full-time, year-round workers also depends on the availability of temporary workers during peak seasons.

Many businesses have contacted our offices to express concern that the 33,000 numerical cap for H-2B visas for the first half of this fiscal year was reached on December 21, 2017. In addition, on January 1, 2018 – the first day on which employers could file for the second half of the fiscal year – the Department of Labor (DOL) received 4,500 H-2B visa applications covering more than 81,600 workers, or more than double the cap. This extremely high volume of applications highlights the importance of H-2B visas to businesses across the country.

We remain concerned that the number of applications received so far suggests that many employers with a date of need later than April 1, 2018, could be capped out of the program again this year. As Maine's tourism season starts later than that of many other businesses participating in the program, the cap will likely be met before many Maine businesses are able to get their workers. Combined with the low unemployment rate in our state, the effect could be extremely harmful for Maine's businesses and communities in which they are located.

Accordingly, we urge the Department of Homeland Security (DHS) to conduct an immediate audit of the number of unused visas from the first half of fiscal year (FY) 2018 – and if you find that the full 33,000 visas were not actually issued during the first half of FY 2018, to make sure that those visas are made available as soon as possible for the second half of the fiscal year. For reference, in 2015, after previously announcing that the statutory cap had been reached, DHS determined that more than 5,000 unused visas were available. Soon thereafter, the agency began accepting applications from businesses hoping to hire workers through the program.

In addition, we have heard that DOL is randomly processing applications received on January 1, without regard to the time the application was actually filed. Many Maine employers filed their applications just minutes after midnight to ensure they would be first in line to receive visas for the H-2B workers on which they depend. We are concerned that these employers could be locked out if the visa cap is reached because visas are being allocated to employers who filed their applications much later in the day. Accordingly, we urge DOL to ensure that priority for the allocation of visas be based on the time of application.

We would appreciate your prompt attention to this matter, as many tourism businesses in our state depend on the H-2B visa program. Should you have any questions, please contact us directly or have your staff contact Mark LeDuc (Collins) at (202) 224-2523, Sanjay Kane (King) at (202) 224-5344, Todd Stein (Pingree) at (202) 225-6116, or Allison Behuniak (Poliquin) at (202) 225-6306.

Sincerely,



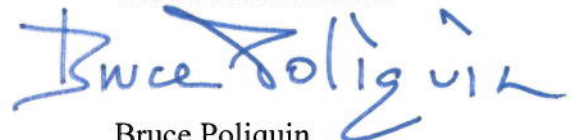
Susan M. Collins  
United States Senator



Chellie Pingree  
Member of Congress



Angus S. King, Jr.  
United States Senator



Bruce Poliquin  
Member of Congress