

Congress of the United States

Washington, DC 20510

January 27, 2020

The Honorable Chad F. Wolf
Acting Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, NW
Washington, DC 20528

Dear Acting Secretary Wolf:

We write on behalf of seasonal businesses in our states from industries such as tourism and hospitality, landscaping, fairs and carnivals, seafood processing, golf courses, reforestation, contractors and horse racing, who continue to struggle with seasonal labor shortages that are made worse by the inadequate H-2B visa cap. Under the “Further Consolidated Appropriations Act, 2020”, the Secretary of the Department of Homeland Security (DHS), in consultation with Secretary of the Department of Labor (DOL), is authorized to provide expeditious H-2B cap relief for our local businesses’ upcoming seasonal labor needs.

These American businesses depend on seasonal employment to meet the demand across many industries. Without immediate and meaningful H-2B cap relief, seasonal businesses will be forced to scale back operations, cancel or default on contracts, lay off full-time U.S. workers and, in some cases, close operations completely. By taking quick action to release additional H-2B visas, seasonal businesses and U.S. workers across the country will avoid these harmful consequences, and instead, help contribute to the American economy.

The recently passed Fiscal Year 2020 Further Consolidated Appropriations bill provides DHS with the authority to lift the existing 66,000 H-2B visa cap. The language is identical to the language that was enacted in each of the past three years. In each of those years, DHS has provided supplemental cap relief in the amounts of 15,000, 15,000 and 30,000 respectively. While these supplemental visas helped some employers who were shut out of the program, they were not sufficient to satisfy the total need for H-2B workers. Additionally, these visas were not released until well into many businesses’ peak seasons, which caused significant harm to the seasonal industry. We urge you to release a significant number of additional visas as soon as possible to prevent this from happening in FY 20. According to the Department’s May 2019 rule entitled “Exercise of Time-Limited Authority to Increase the Fiscal Year 2019 Numerical Limitation for the H-2B Temporary Nonagricultural Worker Program,” you are authorized to release 64,716 additional visas under this language.

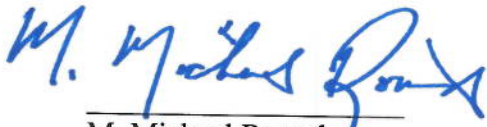
As you know, the first half H-2B visa cap for FY 20 was reached on November 15, 2019, almost a month earlier than previous years. The DOL has certified the need for approximately 51,000 H-2B workers with a date of need between October 1 and March 31 with approximately 2,500 petitions still under review. Therefore, between 18,000 and 20,500 needed H-2B worker positions will remain vacant without the expeditious release of additional visas.

Additionally, the Office of Foreign Labor Certification (OFLC) announced that within the first 24 hours of opening the Foreign Labor Application Gateway System for peak filing season that opened on January 2, 2020, employers filed 4,930 applications for more than 87,298 worker positions with an April 1, 2020, or later, work start date. By the end of the filing deadline on January 6, 2020, OFLC had received a total of 5,677 H-2B applications requesting 99,362 worker positions. This is more than triple the number of visa applications currently available for the second half of the fiscal year.

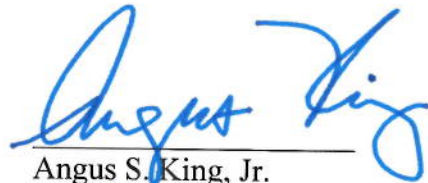
As a result, we urge DHS to release the maximum number of additional visas without delay. Congress was clear in the report accompanying the “Consolidated Appropriations Act, 2020” that DHS rely on past rulemaking and act as quickly as possible in releasing additional visas. The report language states that, “USCIS is encouraged to leverage prior year materials relating to the issuance of additional H-2B visas, to include previous temporary final rules, to improve processing efficiencies.” As you know, the FY 19 temporary final rule was only released eight months ago, and there are no new legislative authorities or technical facts to review. Therefore, additional rulemaking should not be required.

Given the continued low unemployment and growing demand for H-2B workers, as evidenced by the recent number of applications for the second half of the fiscal year, we urge the Department to promptly make available all 64,716 additional visas authorized under the law as soon as possible. These vital American businesses depend on the expeditious release of a sufficient number of additional visas. We thank you in advance for your attention to this pressing matter.

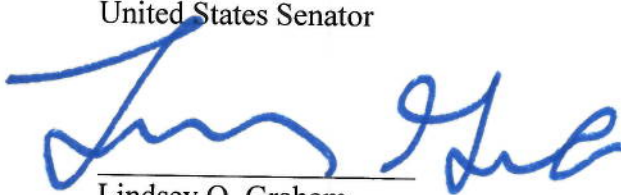
Sincerely,



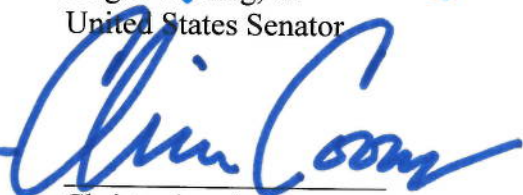
M. Michael Rounds
United States Senator



Angus S. King, Jr.
United States Senator



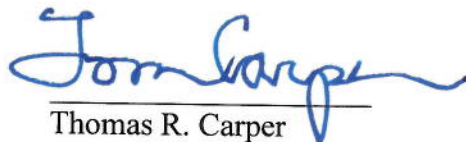
Lindsey O. Graham
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United States Senator




Thom Tillis
United States Senator



Thomas R. Carper
United States Senator



James E. Risch
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Benjamin L. Cardin
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Dan Sullivan
United States Senator



Michael F. Bennet
United States Senator



Lisa Murkowski
United States Senator


Chris Van Hollen
United States Senator



Rob Portman
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Doug Jones
United States Senator



Roy Blunt
United States Senator

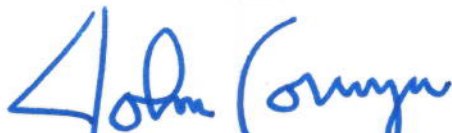

Mark R. Warner
United States Senator



Michael B. Enzi
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Pat Toomey
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Cindy Hyde-Smith

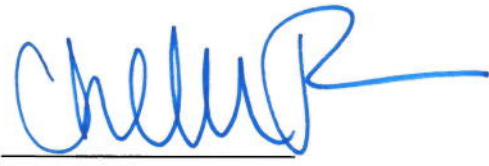
Cindy Hyde-Smith
United States Senator

Rand Paul

Rand Paul
United States Senator



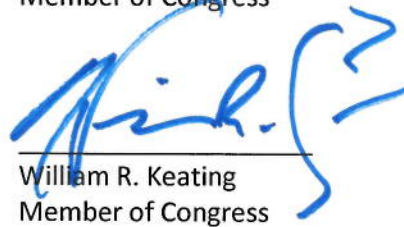
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Member of Congress



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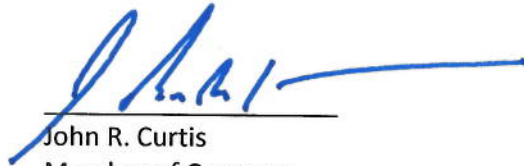
Steve Chabot
Member of Congress



Justin Amash
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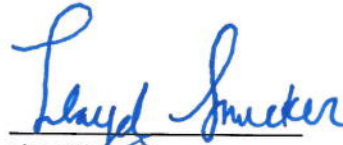
Vicente Gonzalez
Member of Congress



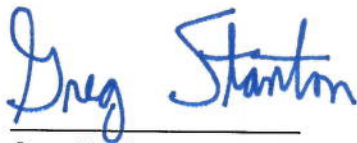
John R. Curtis
Member of Congress



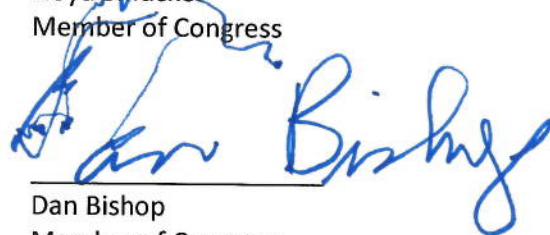
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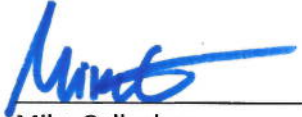
Josh Gottheimer
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Jason Crow
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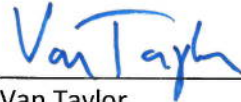
Mike Gallagher
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Abigail D. Spanberger
Member of Congress



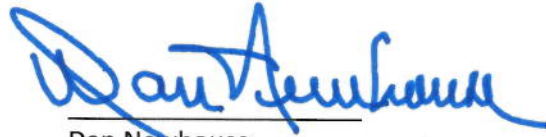
Dean Phillips
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Van Taylor
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Derek Kilmer
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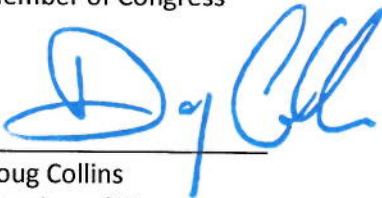
Glenn Grothman
Member of Congress



Joe Wilson
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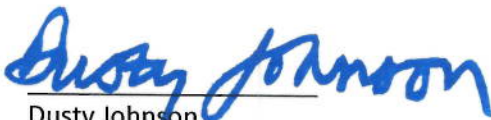
Mike Bost
Member of Congress



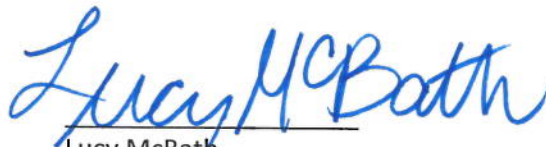
Doug Collins
Member of Congress



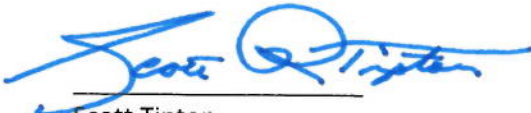
Darren Soto
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Dusty Johnson
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Lucy McBath
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Scott Tipton
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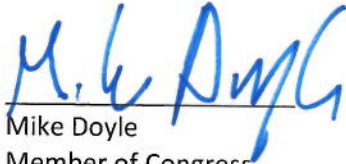
Haley M. Stevens
Member of Congress



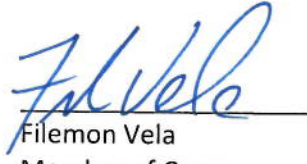
Michael Guest
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Peter T. King
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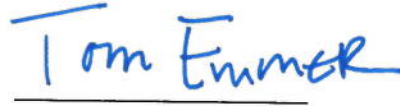
Mike Doyle
Member of Congress



Filemon Vela
Member of Congress



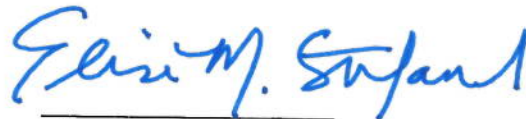
Roger Marshall, M.D.
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Tom Emmer
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Neal P. Dunn, M.D.
Member of Congress



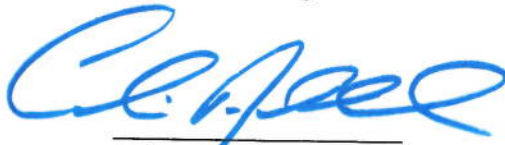
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Jefferson Van Drew
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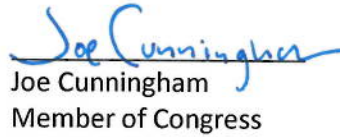
Kendra Horn
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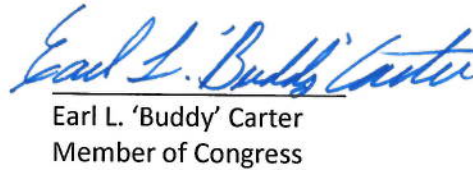
Clay Higgins
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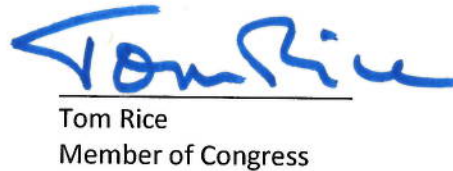
Tom Malinowski
Member of Congress



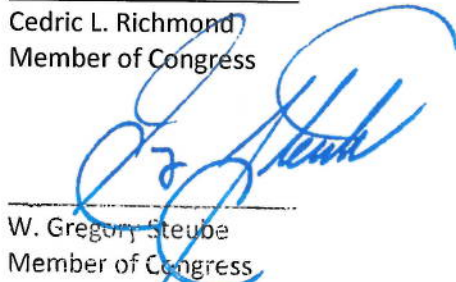
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Cedric L. Richmond
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W. Gregory Steube
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Guy Reschenthaler
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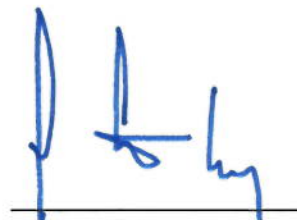
Elaine G. Luria
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John Moolepaar
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Kelly Armstrong
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Trent Kelly
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Antonio Delgado
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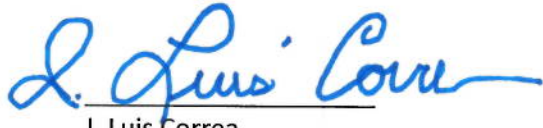
Warren Davidson
Member of Congress



Anthony Gonzalez
Member of Congress



Kay Granger
Member of Congress



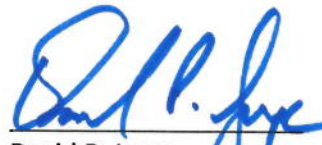
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Lauren Underwood
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Mikie Sherrill
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David Trone
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Jennifer Wexton
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Troy Balderson
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Jared Golden
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Ron Estes
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Elissa Slotkin

Elissa Slotkin
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French Hill

French Hill
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Jim Cooper

Jim Cooper
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Sharice L. Davids

Sharice L. Davids
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Susan Wild

Susan Wild
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Roger Williams
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John H. Rutherford
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Fred Keller

Fred Keller
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Rob Woodall

Rob Woodall
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Ted S. Yoho, DVM
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Rodney Davis

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Michael T. McCaul

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Patrick McHenry

Patrick McHenry
Member of Congress

Kathy Castor

Kathy Castor
Member of Congress



Robert J. Wittman
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Michael R. Turner
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Mike Simpson
Member of Congress



John R. Carter
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Diana DeGette
Member of Congress



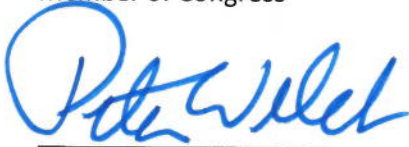
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Brian Mast
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Fred Upton
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C.A. Dutch Ruppertsberger
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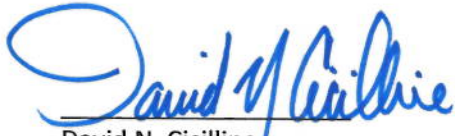
Gerald E. Connolly
Member of Congress



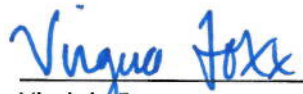
David B. McKinley, P.E.
Member of Congress



Chris Stewart
Member of Congress



David N. Cicilline
Member of Congress



Virginia Foxx
Member of Congress



Tim Walberg
Member of Congress



Richard E. Neal
Member of Congress



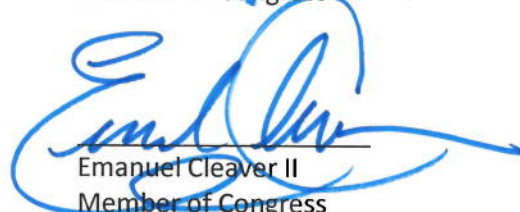
Larry Bucshon, M.D.
Member of Congress



Don Young
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Joe Courtney
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Emanuel Cleaver II
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Bill Johnson
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Gregory F. Murphy, M.D.
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Kurt Schrader
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Brett Guthrie
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Lee Zeldin
Member of Congress



Thomas Massie
Member of Congress



Bob Gibbs
Member of Congress



Billy Long
Member of Congress



Ken Buck
Member of Congress



Robert E. Latta
Member of Congress

CC:

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210