

**ANDY HARRIS, M.D.**  
FIRST DISTRICT, MARYLAND

**COMMITTEE ON APPROPRIATIONS**

**SUBCOMMITTEES**

AGRICULTURE, RURAL DEVELOPMENT,  
FOOD AND DRUG ADMINISTRATION

HOMELAND SECURITY

LABOR, HEALTH AND HUMAN SERVICES,  
EDUCATION



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

June 26, 2018

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WASHINGTON, D.C. 20515  
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CHESTER, MARYLAND 21619  
PHONE 410.643.5425

WWW.HARRIS.HOUSE.GOV

The Honorable Kirstjen Nielsen  
Secretary  
U.S. Department of Homeland Security  
3801 Nebraska Avenue, NW  
Washington, DC 20528

The Honorable R. Alexander Acosta  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20510

2018 JUN 27 AM 8:10

SCANNED/RECEIVED  
BY EXEC SEC

Dear Secretary Nielsen and Secretary Acosta:

On behalf of seasonal employers in our states we urge you to allocate additional visas pursuant to the authority provided to you through the FY 2018 Omnibus Appropriations Act. The 15,000 visas released by the Departments on May 31 are inadequate to meet the bona fide labor needs of seasonal employers, as evidenced by the fact that the number of petitions for these supplemental visas far exceeded 15,000. The economic fate of seasonal businesses and their U.S. workforce hangs in the balance.

Under Division M – Title II Section 205 of the FY 2018 Omnibus Appropriations Act, the Secretary of Homeland Security, in consultation with the Secretary of Labor, may approve petitions for admission under the H-2B Nonimmigrant Temporary Worker program up to the new statutory level set in the bill for this fiscal year.

The additional 15,000 visas have not met the demonstrated labor needs of seasonal businesses this year. Since the beginning of the fiscal year, the Department of Labor (DOL) has certified petitions for over 142,000 H-2B workers, including nearly 90,000 positions for workers beginning on 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.

DOL's final certifications clearly demonstrate, as required by the FY 2018 Omnibus Appropriations Act, that there are not a sufficient number of U.S. workers who are willing, qualified and able to fill the nearly 90,000 positions so desperately needed by seasonal employers. For virtually every employer petition for which DOL has certified the insufficiency of US workers, the failure to issue additional visas will cause irreparable harm to the business


submitting the petition and its American workers. We, therefore, urge the Department of Homeland Security (DHS) to immediately resume processing additional H-2B visa petitions to meet the full demand of our small and seasonal businesses. As forms and procedures are already in place, we believe that no additional rulemaking is required for DHS to authorize these additional visas.

The lack of H-2B workers jeopardizes the survival of small and seasonal businesses and puts their American workers at risk of losing their jobs. We continue to hear daily from employers in our districts about business losses, harmful impacts to U.S. workers, and in some cases about the need to close their operations entirely due to the lack of workers.

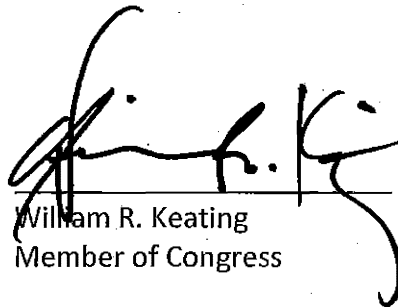
The H-2B program relies on well-vetted returning workers who come to the U.S. for seasonal employment and then go home. These workers are not immigrants. They provide an opportunity for U.S. businesses to operate at a greater capacity that meets the demand for their services, retain their full-time workers and contribute to their local economies. Seasonal workers help support many upstream and downstream jobs. Every H-2B worker is estimated to create and sustain 4.64 American jobs.

Relief for seasonal businesses that use the H-2B program is desperately needed. We urge you to immediately resume processing H-2B visa petitions up to the full number of H-2B visas authorized by the Fiscal 2018 Omnibus Appropriations Act.

Sincerely,



Andy Harris, M.D.  
Member of Congress



William R. Keating  
Member of Congress



Jack Bergman  
Member of Congress



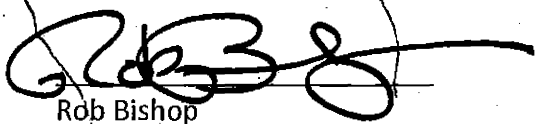
Chellie Pingree  
Member of Congress



Steve Chabot  
Member of Congress



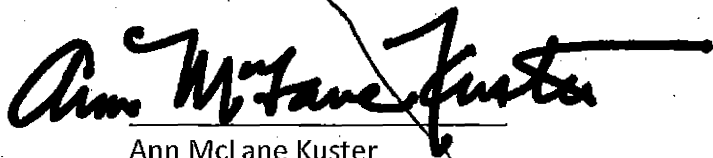
Vicente Gonzalez  
Member of Congress



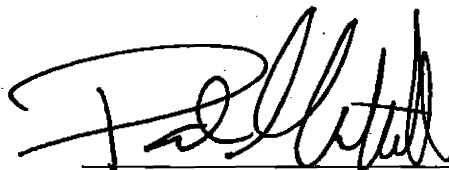
Rob Bishop  
Member of Congress



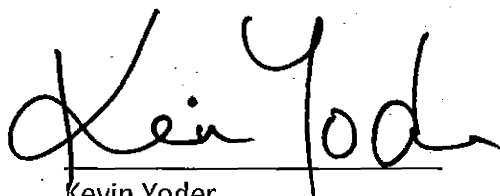
Glenn 'GT' Thompson  
Member of Congress



Ann McLane Kuster  
Member of Congress



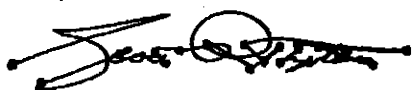
Paul Mitchell  
Member of Congress



Kevin Yoder  
Member of Congress



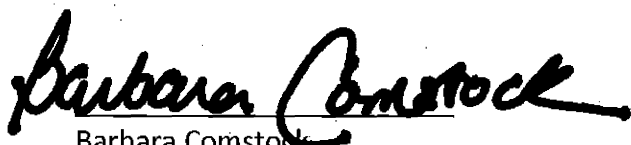
Mia Love  
Member of Congress



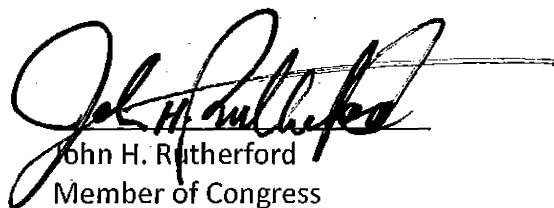
Scott Tipton  
Member of Congress



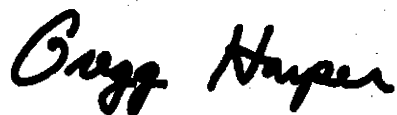
Tom Rice  
Member of Congress



Barbara Comstock  
Member of Congress



John H. Rutherford  
Member of Congress



Gregg Harper  
Member of Congress



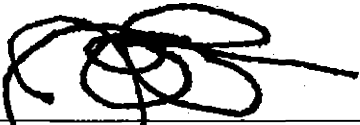
Roger Marshall, M.D.  
Member of Congress




Elise M. Stefanik  
Member of Congress



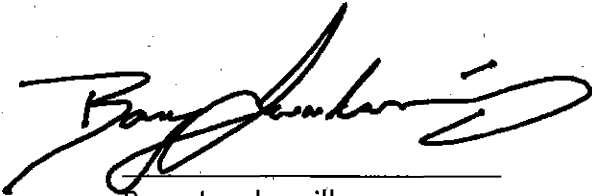
Chris Stewart  
Member of Congress



Jim Renacci  
Member of Congress



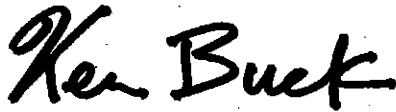
Bob Gibbs  
Member of Congress



Barry Loudermilk  
Member of Congress



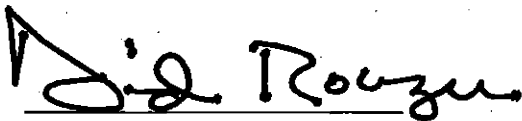
Thomas A. Garrett, Jr.  
Member of Congress



Ken Buck  
Member of Congress



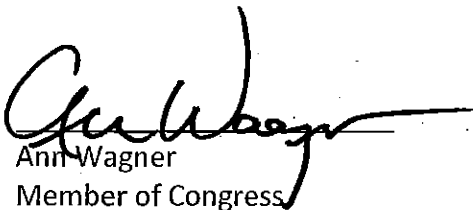
Ralph Abraham, M.D.  
Member of Congress



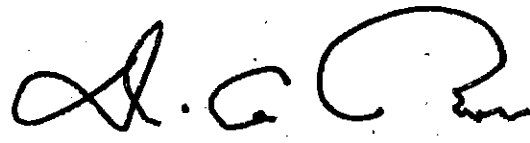
David Rouzer  
Member of Congress



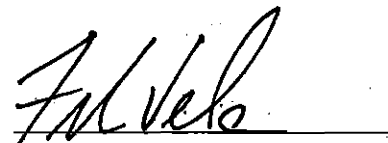
Mike Bishop  
Member of Congress



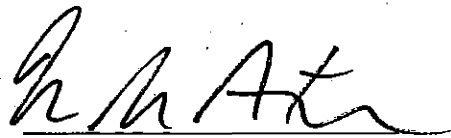
Ann Wagner  
Member of Congress



Dennis A. Ross  
Member of Congress



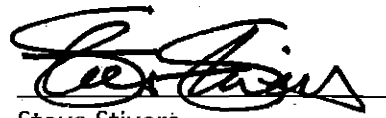
Filemon Vela  
Member of Congress



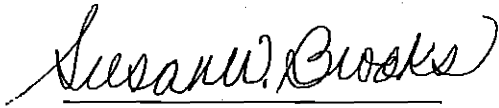
Tom MacArthur  
Member of Congress




John Moolenaar  
Member of Congress



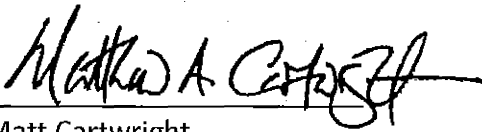
Steve Stivers  
Member of Congress



Susan W. Brooks  
Member of Congress



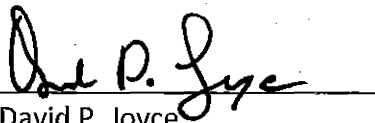
Kevin Cramer  
Member of Congress



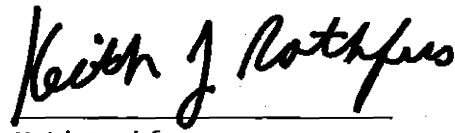
Matt Cartwright  
Member of Congress



Chris Collins  
Member of Congress



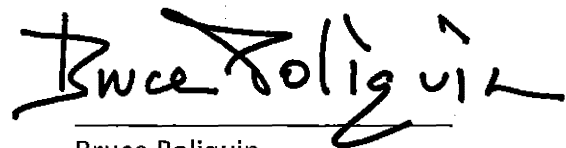
David P. Joyce  
Member of Congress



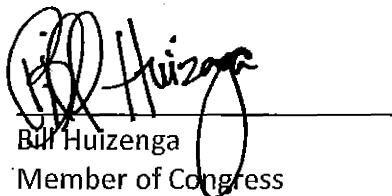
Keith Rothfus  
Member of Congress



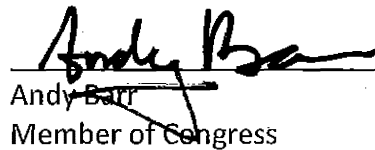
Scott Perry  
Member of Congress



Bruce Poliquin  
Member of Congress



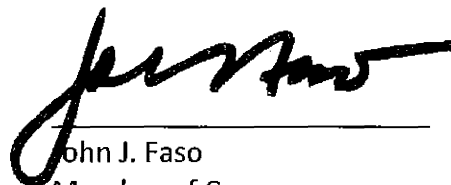
Bill Huizenga  
Member of Congress



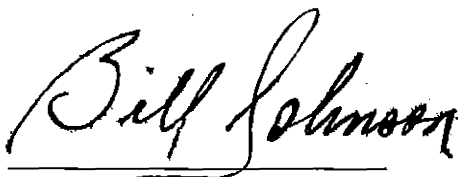
Andy Barr  
Member of Congress



Carol Shea-Porter  
Member of Congress



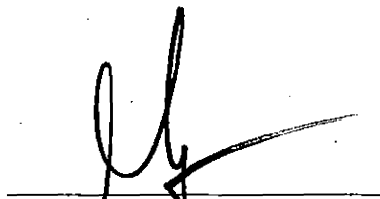

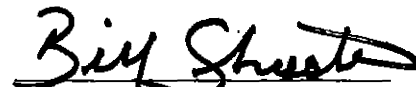
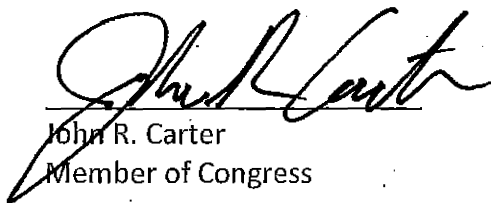
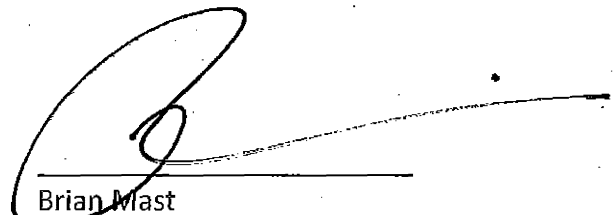
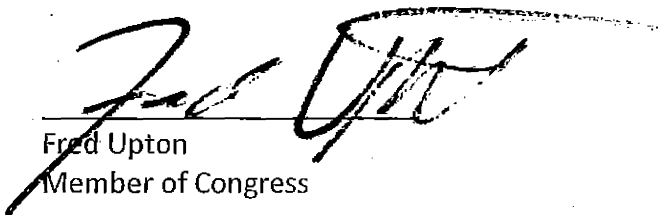
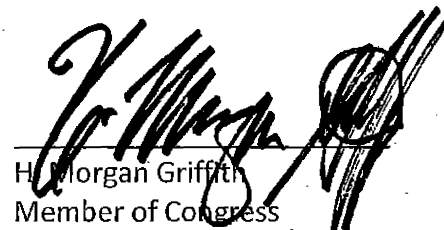



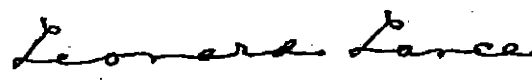
John J. Faso  
Member of Congress



Bill Johnson  
Member of Congress



David G. Valadao  
Member of Congress

  
Garrett Graves  
Member of Congress  
Luke Messer  
Member of Congress  
Robert Wittman  
Member of Congress  
Bill Shuster  
Member of Congress  
John R. Carter  
Member of Congress  
Brian Mast  
Member of Congress  
Fred Upton  
Member of Congress  
H. Morgan Griffith  
Member of Congress  
Mark Sanford  
Member of Congress  
John Shimkus  
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Peter Welch  
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Leonard Lance  
Member of Congress



Richard M. Nolan  
Member of Congress




Diana DeGette  
Member of Congress



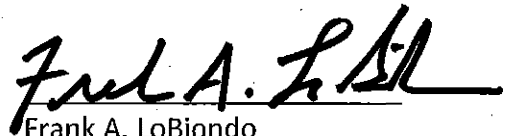
Frank Lucas  
Member of Congress



Dutch Ruppersberger  
Member of Congress



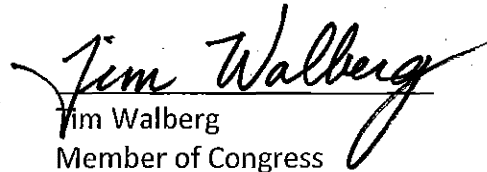
Brad Wenstrup  
Member of Congress



Frank A. LoBiondo  
Member of Congress



K. Michael Conaway  
Member of Congress



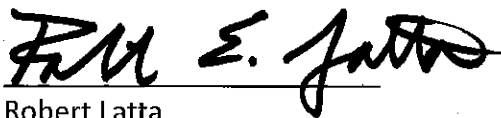
Jim Walberg  
Member of Congress



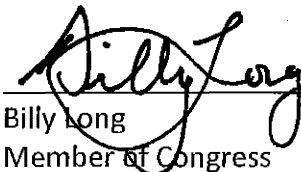
Bill Flores  
Member of Congress



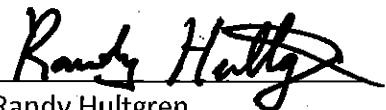
Mike Coffman  
Member of Congress



Robert Latta  
Member of Congress



Billy Long  
Member of Congress



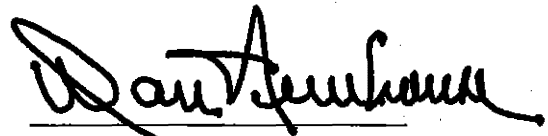
Randy Hultgren  
Member of Congress



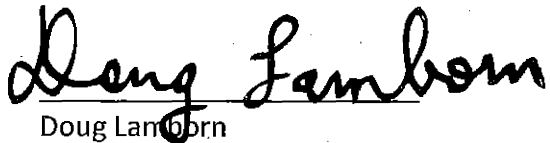
Kristi Noem  
Member of Congress



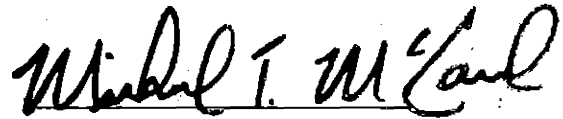
Tom Cole  
Member of Congress



Dan Newhouse  
Member of Congress



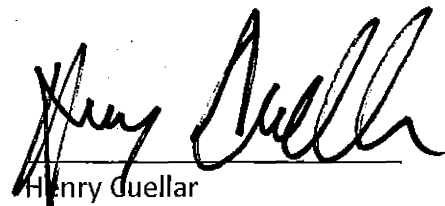
Doug Lamborn  
Member of Congress



Michael T. McCaul  
Member of Congress



Steve Pearce  
Member of Congress



Henry Cuellar  
Member of Congress





**U.S. Citizenship  
and Immigration  
Services**

July 12, 2018

The Honorable Andy Harris, M.D.  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Harris:

Thank you for your June 26, 2018 letter. Secretary Nielsen asked that I respond on her behalf.

In your letter, you requested that the Secretary exercise her authority to release additional H-2B visas to accommodate any demand above the 15,000 H-2B visas for fiscal year (FY) 2018 recently authorized in the temporary final rule published by the Department of Homeland Security (DHS) and the Department of Labor (DOL) on May 31, 2018.<sup>1</sup>

The Secretary does not intend to reopen the supplemental cap for FY 2018. As with the essentially identical provision in the FY 2017 Omnibus, the Department did not ask for, and does not believe it is appropriate to have the discretion to authorize the issuance of additional H-2B visas in general, and specifically, under a supplemental cap. Having been delegated this responsibility by Congress, the Secretary felt it was necessary to authorize additional H-2B visas to help seasonal employers stay in business, thereby protecting the jobs of their American workers.

I share Secretary Nielsen's opinion that Members of Congress have the best information to know the "right" number of H-2B visas needed to support American businesses without harming American workers because congressional representatives have the best understanding of their constituencies and the needs of their local employers.

Further, I share the Secretary's desire to work together with Congress to limit H-2B visas to employers with truly temporary needs, and to find solutions to most effectively allocate available H-2B visas throughout the year. I appreciate your own involvement in efforts to improve the H-2B program. In the coming months, DHS will be submitting a congressionally mandated report that details options for addressing the issue of late-season filers in the H-2B program that are currently unable to obtain H-2B workers. This report will include suggestions on how the program can better serve our national interest. In the meantime, DHS continues to take steps of its own in this regard, including by inviting members of the public having information that a participating employer may be abusing the H-2B program to submit the information to [ReportH2BAbuse@uscis.dhs.gov](mailto:ReportH2BAbuse@uscis.dhs.gov).

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<sup>1</sup> See Exercise of Time-Limited Authority To Increase the Fiscal Year 2018 Numerical Limitation for the H-2B Temporary Nonagricultural Worker Program, 83 Fed. Reg. 24905 (May 31, 2018).

The Honorable Andy Harris, M.D.

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Thank you again for your letter and interest in this important issue. The co-signers of your letter will receive separate, identical responses. Should you require any additional assistance, please have your staff contact the U.S. Citizenship and Immigration Services Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Respectfully,

A handwritten signature in blue ink, appearing to read "LFC", is positioned above the printed name.

L. Francis Cissna  
Director