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9TH DISTRICT, MASSACHUSETTS

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May 31, 2018

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
308 Nebraska Avenue, NW
Washington D.C. 02528

Dear Secretary Nielsen,

I am writing to you today with two requests.

First, I am inviting you to visit my district, which encompasses the southeastern coast of Massachusetts, including Cape Cod, Martha's Vineyard, and Nantucket. As you know, H-2B visas are of critical concern to the livelihood of hundreds of small business on the Cape and Islands. I invite you to meet with our small business owners to see how the Administration's current policy of limiting H-2B visas is crippling American businesses. I have heard stories from business owners in my district who have spent weeks working twenty-four hours per day, even sleeping in their offices, just to keep their doors open. I have spoken with an elderly couple whose dream it was to retire to Cape Cod and run a restaurant, but who are instead in their kitchen cooking seven nights a week for months on end, working so hard that their physicians grew concerned about their health. These types of hardships should not be a part of owning a business in the United States, and these examples merely scratch the surface of the stories I could share with you. In fact, should you accept my invitation, the Cape Cod Chamber of Commerce is willing to host a forum so you can speak with as many small business owners in the region as possible and hear their personal stories, the hardships stemming from the Administration's H-2B policy, and the losses they are suffering as a result.

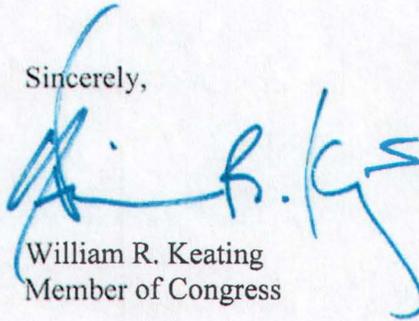
Second, I request that you utilize your authority to release additional H-2B visas beyond the 15,000 recently authorized. Those 15,000 visas represent only about 30% of the workers needed across the country to keep American small businesses afloat. This year we saw nearly unprecedented levels of employer need in the H-2B system, resulting in more than 80,000 final labor certifications being issued by the U.S. Department of Labor. As you know, a final labor certification proves that there was no US worker willing to perform the job duties required by an employer during the period of need. When the U.S. Citizenship and Immigration Services (USCIS) began accepting applications for H-2B visas earlier this year, the level of demand was so immense that it triggered a visa lottery, a previously unknown procedure for the H-2B

program that left business across the United States with great uncertainty in planning for their summer labor needs.

A strong bipartisan coalition of 89 Members of Congress came together to express our concerns over the real need for H-2B visas demonstrated by employers in our districts. The decision to release only 15,000 additional visas is wholly insufficient. Therefore, I am respectfully requesting that if more than 15,000 H-2B applications are received by USCIS during this new application period, you immediately exercise your authority to raise the H-2B cap further to accommodate any applications received in excess of the 15,000 visas recently authorized.

If you have any questions about this matter please feel free to contact Andrew Nelson in my Hyannis Office at (508) 771-6868 or Andrew.Nelson@mail.house.gov. I thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. R. Keating". The signature is stylized and written over the printed name below it.

William R. Keating
Member of Congress



U.S. Citizenship
and Immigration
Services

July 12, 2018

The Honorable William R. Keating
U.S. House of Representatives
Washington, DC 20515

Dear Representative Keating:

Thank you for your May 31, 2018 letter and for inviting Secretary Nielsen to visit your district. The Secretary 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, 2018.¹

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.

¹ 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 William R. Keating
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Thank you again for your letter and interest in this important issue. 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,



L. Francis Cissna
Director