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Congress of the United States  
House of Representatives

ELISSA SLOTKIN  
8TH DISTRICT, MICHIGAN

September 19, 2022

The Honorable Alejandro Mayorkas  
Secretary  
Department of Homeland Security  
Washington, D.C. 20528

The Honorable Martin J. Walsh  
Secretary  
Department of Labor  
Washington, D.C. 20210

Dear Secretaries Mayorkas and Walsh:

I know that you share my concern about our broken immigration system and its impact on businesses across America. Nowhere is this problem more clear than with the H-2B temporary workers who supplement our American workforce. I have written to you on this same issue (see Attachments 1 and 2) as well as your predecessors (see Attachment 3). And while you were the most responsive, the program bureaucracy is still preventing our seasonal businesses from feeling the full benefits of this program.

As we approach the start of a new fiscal year – and have already reached the visa cap for the first half of the year – I therefore urge you to proactively use your authority to streamline and improve the H-2B process in the following ways:

1. Announce that you will release the maximum allowable number of H-2B visas if visa caps are reached (as they have been almost every year for decades) in October 2022, even if the final FY2023 Appropriations Bill has not yet passed;
2. Issue a rule that covers the full fiscal year and provides for automatic carryover of any unused first half supplemental H-2B visas to the second half of FY2023; and
3. Make H-2B visas transferable between job categories in cases where an employer already filed H-2B petitions for both categories but did not receive sufficient slots in the lottery.

I appreciate your quick work in March to announce an additional 35,000 H-2B visas for the second half of FY22. Unfortunately, the lengthy and cumbersome visa application process, averaging 90-120 days but sometimes even longer, means that – despite your early announcement of that decision – arrival of those necessary workers was still delayed. For example, peak season on Mackinac Island in Michigan is from April to October; in 2022, employers were still waiting on visas into June, July, and in some cases, past Labor Day. Here are just a few examples that were brought to my attention:

- A bellhop who qualified for a supplemental visa finally secured an in-person interview on August 31, two months after he should have arrived on Mackinac Island.

- Another business had supplemental visa approval for four cooks on June 14. Two of the cooks' passports are still with the US embassy awaiting approval to travel.
- One business received no Cashier positions in the lottery. They had to pay a \$2,110 fee to DHS to have two of their Food Prep & Server positions transferred to Cashiers.

I realize that DHS does not have the authority to address all the issues the H-2B visa process imposes. Interview timelines are the responsibility of the State Department, and increasing the statutory cap – set in the 1980s at 60,000 H-2B visas per year and not updated since then for a modern US economy – falls to us here in Congress. But you do control when that clock starts and whether all available visas will be released. By announcing your intent to release the maximum number of supplemental visas to meet the need demonstrated by the Department of Labor's (DOL) issuance of temporary labor certifications, close to when a Continuing Resolution is passed, you allow the application process for supplemental visas for the first half of the fiscal year to begin the day those statutory visa caps are reached. By issuing one rule for the whole fiscal year, you eliminate the redundant rulemaking process that adds 2-6 weeks to visa application timelines for the second half of the year. Finally, by allowing employers the flexibility to transfer visas between job categories, businesses can make sure they at least get a few employees of every type they need, rather than getting all the employees for one category and none for another.

I also encourage you to look at revising the H-2B process to require employers to first apply to DHS and secure an available H-2B visa slot before going to DOL to apply for a temporary labor certification. DOL gets swamped with more and more applications for labor certifications and continues to process them even when DHS determines H-2B visa caps have been met. This causes unnecessary work for DOL processors.

For our part, I will continue to push my Congressional colleagues for common sense reforms to our truly broken immigration system. For instance, although I was hoping to see the Returning Worker Exemption in the House's version of the FY23 appropriations bill, I am grateful that it at least includes the language giving you discretionary authority to issue supplemental visas. I would like to build on that effort to improve the process: raising the H-2B cap by reinstating the RWE permanently to meet the demand and do away with the lottery; creating a single, electronic portal for visa applications; revising the labor certification process to make it less burdensome on employers; and authorizing the staffing levels needed to efficiently process visas.

That said – American businesses cannot wait. I urge you to take an active role in shepherding this process at every step. Thank you for your work on this issue, and I look forward to hearing from you about how you plan to meaningfully improve the process in the coming fiscal year.

Sincerely,



Elissa Slotkin  
Member of Congress

Congress of the United States  
Washington, DC 20515

February 9, 2022

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
245 Murray Lane SW  
Washington, DC 20528

The Honorable Martin J. Walsh  
Secretary of Labor  
200 Constitution Avenue NW  
Washington, DC 20210

Dear Secretary Mayorkas and Secretary Walsh:

We write on behalf of seasonal businesses in Michigan to urge the prompt release of the maximum number of additional H-2B visas authorized by Congress for FY 2022. Your full implementation of this authority is needed to meet the requirements of Michigan seasonal employers that rely on the H-2B visa program to supplement their U.S. workforce during the summer season.

Many of these businesses are closed during the winter, and despite extraordinary efforts to meet their seasonal needs with only U.S. workers, these businesses are unable to fully staff without some foreign guest workers. One key example is the hospitality industry on Mackinac Island, a pillar of the regional economy. During the 2021 season, one Mackinac Island hotel had a pool of 150 potential U.S. workers, of whom 36 completed the application process and were hired; only 9 of them came to the Island to work. There is a dire shortage of seasonal labor in the U.S. and many Michigan employers must turn to the H-2B program to meet their workforce needs to sustain their businesses and retain their American workers. The 2021 season on Mackinac Island was the worst ever for staffing shortages. Pent up demand from previous COVID-19 restrictions resulted in a record number of tourists desiring to visit the Island. Many of these visitors could not be accommodated because of an insufficient number of H-2B workers. Hotels operated at limited occupancy, some restaurants didn't open at all or had limited hours and occupancy, and shops struggled from too few workers. Lost revenue for one hotel was more than \$600,000 during the July 4<sup>th</sup> weekend alone.

As you know, businesses can only hire H-2B workers upon certification by the Department of Labor (DOL) that there is no U.S. worker ready, willing, and able to fill the position. American employers are in urgent need of these workers, as evidenced by the DOL certifications approved so far in FY 2022. As of October 2, 2021, DOL had certified 49,526 workers, 16,526 more than the 33,000 statutory cap for the first half of the fiscal year. In addition, there are still almost 4,000 requested worker positions awaiting certification by DOL. This does not even take into account the applications that will be filed later in the fiscal year. In December 2021, DHS announced plans to release an additional 20,000 visas for the first half of FY 2022. Based upon DOL's certification data this fiscal year, there is clearly an urgent need for additional H-2B visas in this fiscal year.

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GWINN OFFICE

125 G AVE, STE B-119  
GWINN, MI 49841  
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MANISTIQUE OFFICE

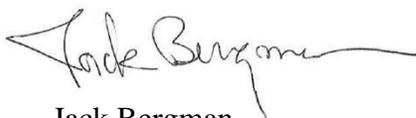
7876W Co Rd 442, STE B  
MANISTIQUE, MI 49854  
(906) 286-4191

These additional visas are critical, especially considering the Office of Foreign Labor Certification (OFLC) announcement that within the first 24 hours of opening the Foreign Labor Application Gateway System for peak filing season on January 1, 2022, employers filed 7,875 applications for more than 136,555 worker positions with an April 1, 2022, or later, work start date. The “Further Consolidated Appropriations Act, 2021,” as extended by the “Further Extending Government Funding Act, 2021,” grants the Secretary of Homeland Security, in consultation with the Secretary of Labor, the authority to release additional H-2B visas up to the highest number of returning workers who participated in the program during a single fiscal year that the returning worker program was authorized. The highest number of H-2B returning workers approved in the program’s history was 64,716 in FY 2007. American businesses in Michigan urgently need the additional 44,716 visas to support their U.S. workforce as we recover from the economic fallout of the COVID-19 pandemic. We urge you to act swiftly and announce a determination to release all of the additional visas authorized. To that end, we respectfully request the administration promptly issue a temporary final rule (TFR) in a similar manner to what was done in May 2021.

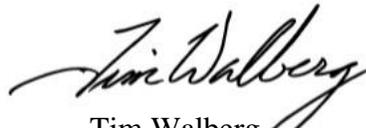
Lastly, putting in place a predictable process for the administration to utilize its Congressional authority to release supplemental H-2B visas should be a priority. As seasonal businesses face tremendous labor shortages across the nation, the prompt release of additional H-2B visas is extremely important. The release of supplemental H-2B visas should provide certainty that employers can have these workers available as close to the date of need as possible. While we appreciated the release of H-2B supplemental visas on May 25, 2021, the number of visas released was inadequate, and most of these workers did not start working until late in the season. We want to work with you to improve this process.

Thank you for your consideration of this important matter. We look forward to your response and stand by to assist your efforts.

Sincerely,



Jack Bergman  
Member of Congress



Tim Walberg  
Member of Congress



Fred Upton  
Member of Congress



Bill Huizenga  
Member of Congress



Elissa Slotkin  
Member of Congress



Peter Meijer M.C.  
Member of Congress



John R. Moolenaar  
Member of Congress



Lisa McClain  
Member of Congress

**Congress of the United States**  
Washington, DC 20510

March 4, 2019

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

Dear Secretary Nielsen,

As you know, H. J. Res. 31 –Consolidated Appropriations Act, 2019 (Pub. L. 116-6), signed into law on February 15<sup>th</sup>, 2019, confers authority to the Secretary of the Department of Homeland Security (DHS) to, in her discretion and in consultation with the Secretary of Labor, release up to approximately 69,320 additional temporary, non-immigrant H-2B visas in excess of the statutory annual cap of 66,000.

According to Department of Labor (DOL) data, the demand for temporary, seasonal workers, with a start date between April 1, 2019 and the end of fiscal year 2019, exceeds 95,000 workers—almost three times the number of available H-2B visas for that time period. Given the near historic low unemployment rate, the constant oversubscription to the program and its importance to our local economies, we strongly urge you to use the discretion afforded your office in the most recent appropriations bill to release, without delay and to the greatest extent allowed by law, additional H-2B visas sufficient to meet the certified demand of our seasonal employers.

If significant H-2B cap relief is not provided, there will be severe consequences for seasonal businesses and our economy generally. Several seasonal businesses denied access to the program due to the insufficient availability of visas have already been forced to scale back their operations, cancel or default on contracts, lay off full-time U.S. workers, and, in some cases, shutter their operations entirely. Failing to release additional H-2B visas will only result in more closures or scale backs for these businesses. We would also note that while we were pleased to see you exercise your discretion to release additional visas in previous years, the 15,000 additional visas released in both FY 17 & FY 18, were wholly inadequate to meet the demonstrated, certified needs of our seasonal employers.

Further, in past years, rulemaking associated with the release of additional visas significantly delayed our employers' access to them. We do not believe that additional rulemaking is required this year due to the timing of the law's enactment. In 2017 and 2018, Congress did not pass the DHS appropriations until April and March, respectively. The announcement of the release of the additional 15,000 visas in each of these years was not made until the summer (July 17, 2017 and May 31, 2018). At those times, both DHS and DOL asserted that additional rulemaking was required because labor certifications provided in early winter were deemed to have become

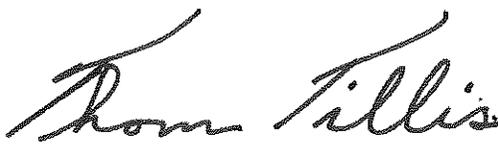
“stale” necessitating a fresh test of the labor market. This is not the case now. This year’s labor certifications have been issued within the past two (2) months and thus are concurrent with current labor market conditions. We urge the Department to announce quickly its intention to exercise the authority provided by Congress by providing the full amount of visas authorized and simply continue processing H-2B petitions until any additional visa allotment is exhausted.

As a result of the discretion conferred by the recently passed appropriations bill, your department has the opportunity to assist these seasonal employers by allowing them access to a labor pool that can meet their demonstrated and certified needs. As such, we urge you to expeditiously release a sufficient number of additional visas (up to the 69,320 allowed by law) to allow these vital businesses to continue to fulfill their contracts, retain their American workers, make additional capital investments, expand their businesses and maximize their contribution to the American economy.

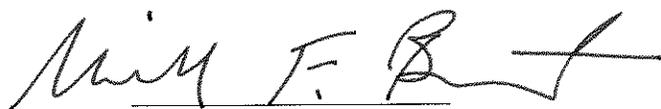
Sincerely,



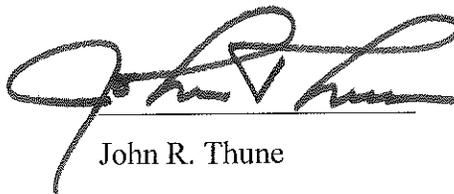
M. Michael Rounds  
United States Senator



Thom Tillis  
United States Senator



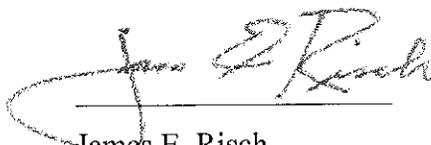
Michael F. Bennet  
United States Senator



John R. Thune  
United States Senator



Roy Blunt  
United States Senator



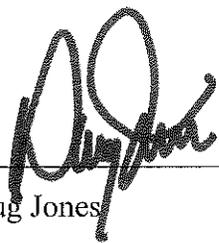
James E. Risch  
United States Senator



Mike Crapo  
United States Senator



Dan Sullivan  
United States Senator



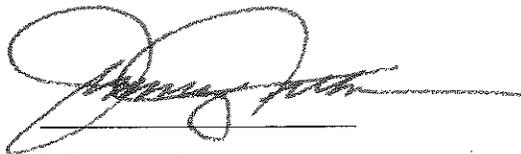
Doug Jones  
United States Senator



Kevin Cramer  
United States Senator



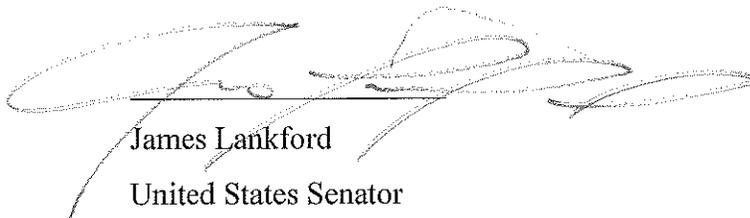
Joe Manchin III  
United States Senator



Johnny Isakson  
United States Senator



Pat Roberts  
United States Senator



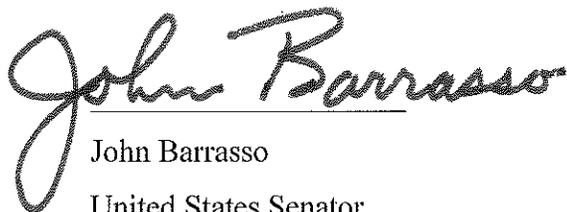
James Lankford  
United States Senator



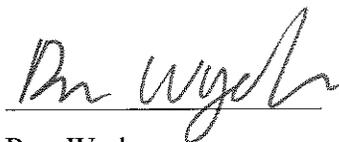
Lisa Murkowski  
United States Senator



Susan M. Collins  
United States Senator



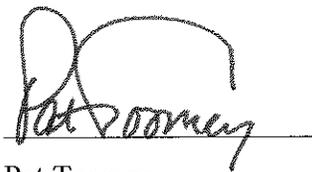
John Barrasso  
United States Senator



Ron Wyden  
United States Senator



Michael B. Enzi  
United States Senator



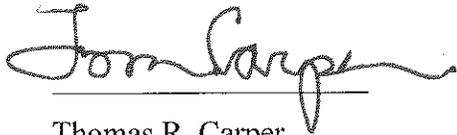
Pat Toomey  
United States Senator



Jerry Moran  
United States Senator



Bill Cassidy  
United States Senator



Thomas R. Carper  
United States Senator



Lindsey Graham  
United States Senator



Todd Young  
United States Senator



Rob Portman  
United States Senator



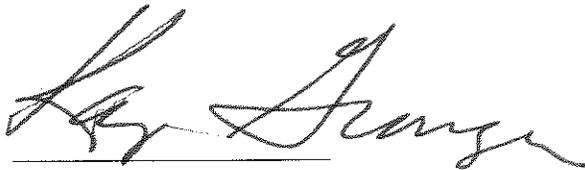
Tim Scott  
United States Senator



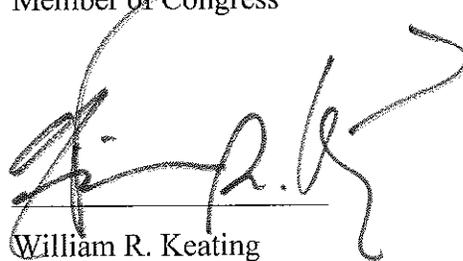
Andy Harris, M.D.  
Member of Congress



Chellie Pingree  
Member of Congress



Kay Granger  
Member of Congress



William R. Keating  
Member of Congress



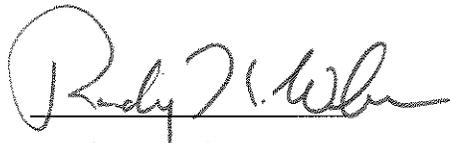
Jack Bergman

Member of Congress



Henry Cuellar

Member of Congress



Randy K. Weber

Member of Congress



Vicente Gonzalez

Member of Congress



Rob Bishop

Member of Congress



Pete Stauber

Member of Congress



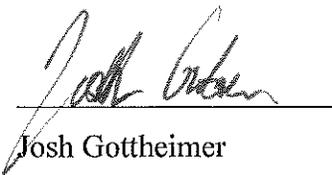
Bruce Westerman

Member of Congress



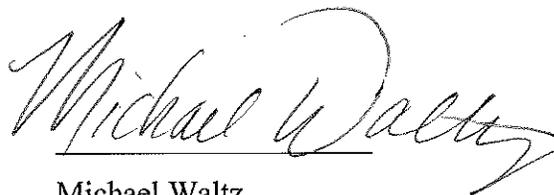
Paul Mitchell

Member of Congress



Josh Gottheimer

Member of Congress



Michael Waltz

Member of Congress



Scott Tipton

Member of Congress



Michael Guest

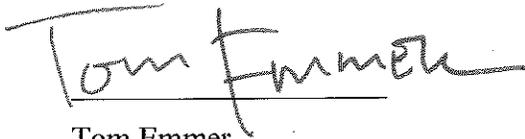
Member of Congress



Filemon Vela  
Member of Congress



Roger Marshall, M.D.  
Member of Congress



Tom Emmer  
Member of Congress



Elise M. Stefanik  
Member of Congress



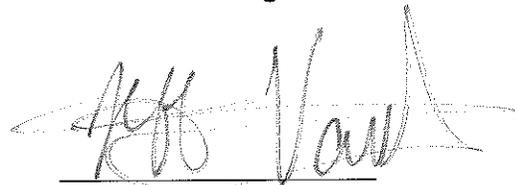
Ralph Norman  
Member of Congress



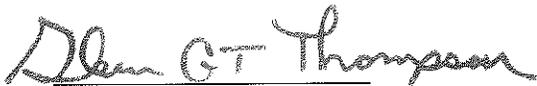
Ann McLane Kuster  
Member of Congress



Cindy Axne  
Member of Congress



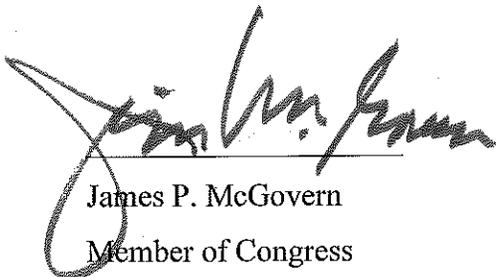
Jefferson Van Drew  
Member of Congress



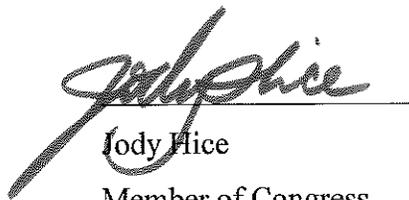
Glenn 'GT' Thompson  
Member of Congress



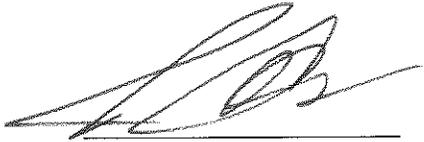
Anthony Brindisi  
Member of Congress



James P. McGovern  
Member of Congress



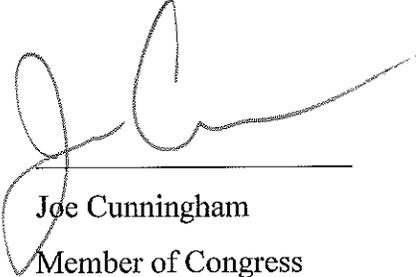
Jody Hice  
Member of Congress



Ralph Abraham, M.D.  
Member of Congress



Barry Loudermilk  
Member of Congress



Joe Cunningham  
Member of Congress



Clay Higgins  
Member of Congress



Tom Malinowski  
Member of Congress



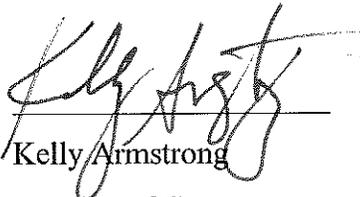
Tom Rice  
Member of Congress



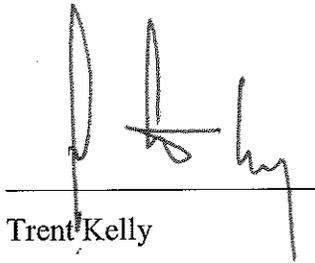
Guy Reschenthaler  
Member of Congress



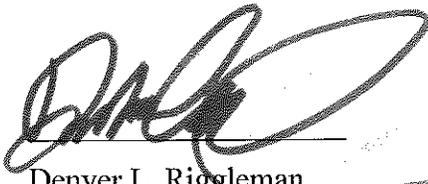
John Moolenaar  
Member of Congress



Kelly Armstrong  
Member of Congress



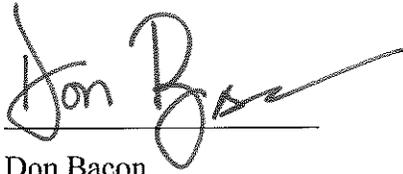
Trent Kelly  
Member of Congress



Denver L. Riggleman  
Member of Congress



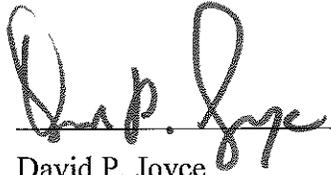
Anthony Gonzalez  
Member of Congress



Don Bacon  
Member of Congress



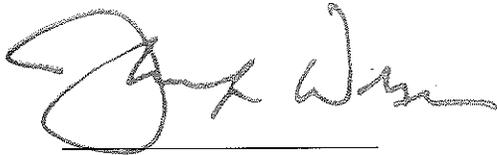
Lauren Underwood  
Member of Congress



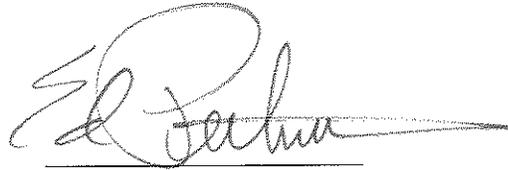
David P. Joyce  
Member of Congress



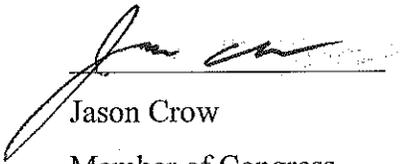
Steve Watkins  
Member of Congress



Jennifer Wexton  
Member of Congress



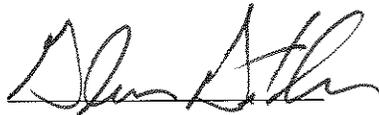
Ed Perlmutter  
Member of Congress



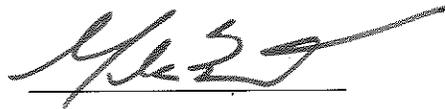
Jason Crow  
Member of Congress



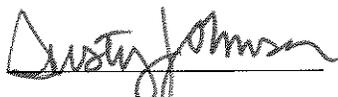
Dan Newhouse  
Member of Congress



Glenn Grothman  
Member of Congress



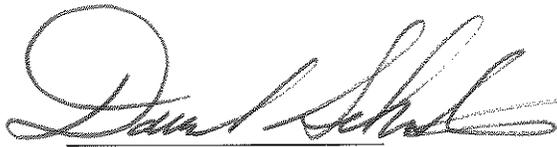
Mike Bost  
Member of Congress



Dusty Johnson  
Member of Congress



Ron Estes  
Member of Congress



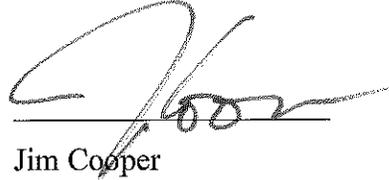
David Schweikert  
Member of Congress



Elissa Slotkin  
Member of Congress



French Hill  
Member of Congress



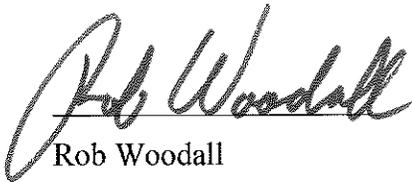
Jim Cooper  
Member of Congress



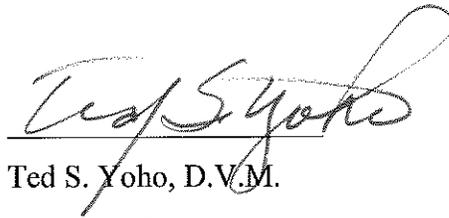
Sharice Davids  
Member of Congress



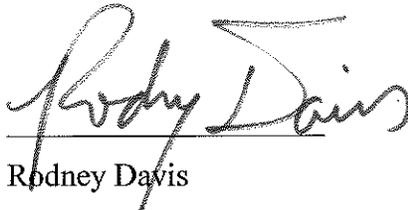
Roger Williams  
Member of Congress



Rob Woodall  
Member of Congress



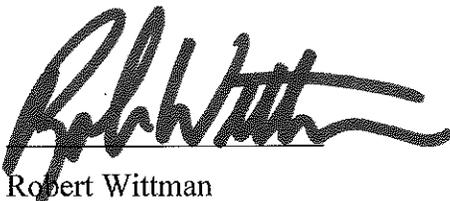
Ted S. Yoho, D.V.M.  
Member of Congress



Rodney Davis  
Member of Congress



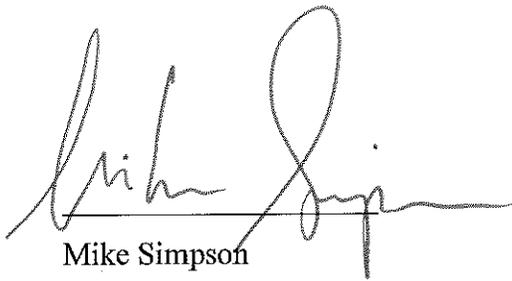
Patrick McHenry  
Member of Congress



Robert Wittman  
Member of Congress

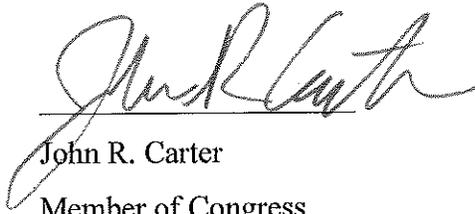


Michael R. Turner  
Member of Congress



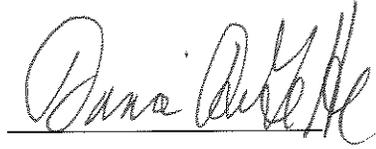
Mike Simpson

Member of Congress



John R. Carter

Member of Congress



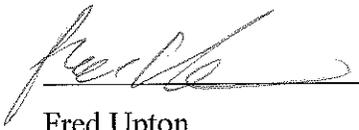
Diana DeGette

Member of Congress



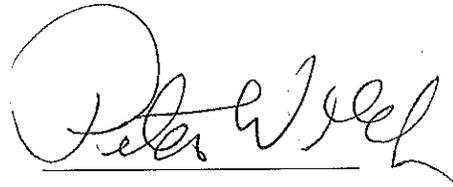
Rick Larsen

Member of Congress



Fred Upton

Member of Congress



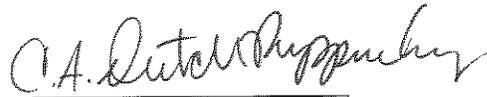
Peter Welch

Member of Congress



H. Morgan Griffith

Member of Congress



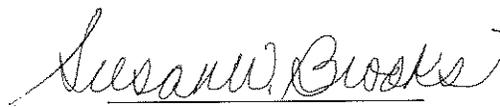
C. A. Dutch Ruppberger

Member of Congress



Tom Cole

Member of Congress



Susan W. Brooks

Member of Congress



John Shinkus

Member of Congress

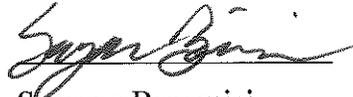


Bill Flores

Member of Congress



Blaine Luetkemeyer  
Member of Congress



Suzanne Bonamici  
Member of Congress



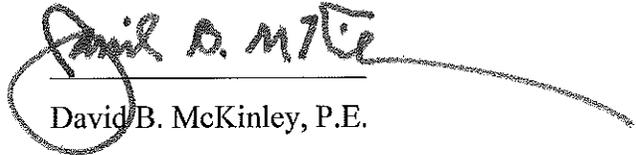
Bill Huizenga  
Member of Congress



Steve Stivers  
Member of Congress



Vicky Hartzler  
Member of Congress



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



Chris Stewart  
Member of Congress



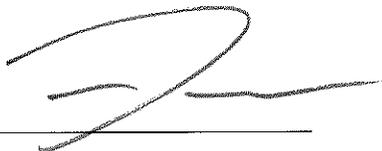
Chris Collins  
Member of Congress



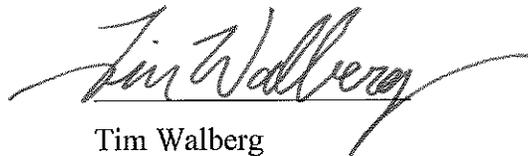
Adam Kinzinger  
Member of Congress



Betty McCollum  
Member of Congress



Tom Reed  
Member of Congress

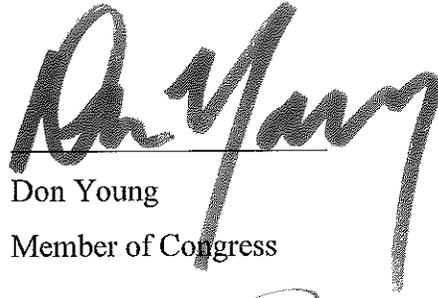


Tim Walberg  
Member of Congress



Larry Bucshon, M.D.

Member of Congress



Don Young

Member of Congress



Sean Patrick Maloney

Member of Congress



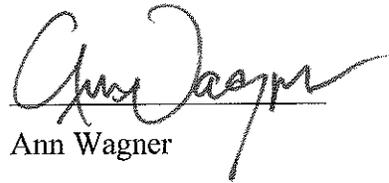
Emanuel Cleaver II

Member of Congress



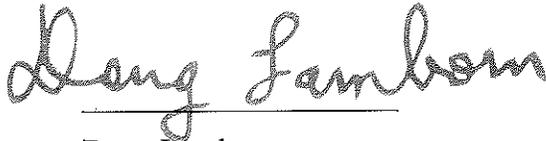
Bill Johnson

Member of Congress



Ann Wagner

Member of Congress



Doug Lamborn

Member of Congress



Garret Graves

Member of Congress



Frank Lucas

Member of Congress



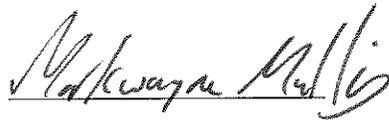
Steve Chabot

Member of Congress



Brad Wenstrup

Member of Congress



Markwayne Mullin

Member of Congress



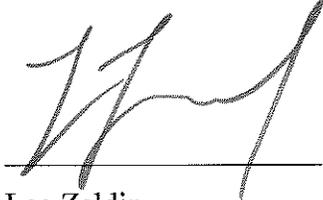
Andy Barr

Member of Congress



Brett Guthrie

Member of Congress



Lee Zeldin

Member of Congress



Bob Gibbs

Member of Congress



Thomas Massie

Member of Congress



Billy Long

Member of Congress



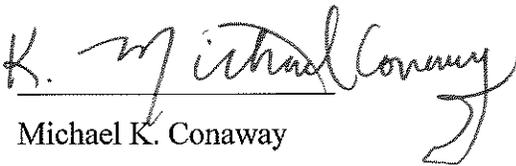
Ken Buck

Member of Congress



Robert Latta

Member of Congress



Michael K. Conaway

Member of Congress



Matt Cartwright

Member of Congress

CC Alex Acosta

Secretary, United States Department of Labor



## Congress of the United States

### House of Representatives

ELISSA SLOTKIN

8TH DISTRICT, MICHIGAN

February 2, 2022

The Honorable Alejandro Mayorkas  
Secretary  
Department of Homeland Security  
Washington, D.C. 20528

The Honorable Martin J. Walsh  
Secretary  
Department of Labor  
Washington, D.C. 20210

Dear Secretaries Mayorkas and Walsh:

I am writing to ask that you take a focused look at our broken immigration system and allow more legal immigration into the United States this spring. The goal, which I believe we share, is to facilitate more *legal* immigration, directly from home countries of origin, based on the specific needs of the U.S. economy. Specifically, I ask your help raising the cap on H-2B visas and ensuring the timely release of H-2A and H-2B visas to get Michigan businesses and farmers the workforce they need, when they need it. As you know better than most, our current immigration system isn't working for *anyone* – from the businesses and farms who are in need of legal labor, to our overstretched customs and border officials, to the migrants themselves risking life and limb to walk over our border because they have no better option than to come by foot.

I appreciate that you recently announced a 22,000 increase in the cap on H-2B nonimmigrant visas for positions with start dates on or before March 31, 2022. I ask you to go further and increase the number of visas issued and, importantly, ensure that these legal visa-holders are able to begin working as early as April 1. This would provide significant relief to Michigan's tourism-based economy. Such a move would have immediate benefits for our state. For example, Michigan's most popular tourist attraction, Mackinac Island, relies on an influx of 4,000 to 5,000 workers during peak season, which runs from April to November. And our farmers, who have for decades relied on legal temporary labor to bring food to our tables, are now facing an unprecedented labor shortage, making this need even more critical.

These temporary workers are not replacing American jobs, they are *in addition* to American jobs. I therefore request that you take full advantage of your statutory authority to issue up to 44,000 more H-2B visas nationwide this fiscal year. Likewise, I'd ask you to ensure both H-2A and H-2B visas are released in a timely fashion. If the timing is similar to years past, the visas will be issued too late to satisfy the needs of these small businesses and farmers, and they will once again not be able to keep everything open all season.

I know that increasing these caps to legal immigration via executive action are short-term fixes, and that Congress has been unable and unwilling to handle the issue in a thoughtful, bipartisan manner. As a former CIA officer and Pentagon official, I know we desperately need a strategic approach to immigration that vigilantly secures our borders and protects our sovereignty; tailors our legal immigration to best strengthen the U.S. economy; provides a pathway to citizenship for DACA recipients; addresses the root causes of displacement; and ensures that we are living up to our nation's values by remaining a refuge for people truly fleeing persecution or death.

Both parties in Congress have been derelict in their duty to rise above partisan concerns to address this obvious need. To that end, I will be introducing bills over the coming weeks and months to try, once again, to take common-sense action on the issue of immigration and border security, and I look forward to working with you to make them law.

In the meantime, I urge you to take executive action within your statutory authority to expand pathways to legal immigration to the U.S. This will improve our economy and support Michigan's small businesses and help prevent yet another crush of humans on our southern border. Thank you for your consideration, and I look forward to hearing back from you.

Sincerely,



Elissa Slotkin  
Member of Congress



U.S. Citizenship  
and Immigration  
Services

November 4, 2022

The Honorable Elissa Slotkin  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Slotkin:

Thank you for your September 19, 2022 letter to the U.S. Department of Homeland Security. Secretary Mayorkas asked that I respond on his behalf, and I apologize for the delay in my response.

DHS recognizes the labor challenges facing Michigan's businesses and appreciates the importance of the H-2B program in addressing those challenges. When Congress has given DHS its time-limited authority to increase the H-2B cap beyond the annual numerical limitation set forth in section 214 of the Immigration and Nationality Act (INA), DHS has worked expeditiously, in consultation with the U.S. Department of Labor (DOL) in each instance, to exercise this statutory authority.

As your letter notes, U.S. Citizenship and Immigration Services (USCIS) has already, as of September 12, received enough petitions to reach the congressionally mandated cap on H-2B visas for the first half of fiscal year (FY) 2023. However, since your letter, Congress again authorized DHS to increase the H-2B cap in the *Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023* (Public Law 117-180). On October 12, 2022, DHS and DOL jointly announced the forthcoming publication of a temporary final rule to make available an additional 64,716 H-2B visas for the remainder of the 2023 fiscal year.<sup>1</sup> In addition to meeting the needs of U.S. employers, DHS and DOL announced their ongoing commitment to ensuring protections for both H-2B and U.S. workers, most notably with the creation of a task force aimed at safeguarding the integrity of the H-2A and H-2B programs.

Further, DHS plans to issue a notice of proposed rulemaking that will modernize and reform the H-2A and H-2B nonimmigrant worker programs. DHS will propose, among other things, policies that increase program efficiencies and build upon existing worker protections. DHS welcomes your valuable suggestions and will consider the options you provided for improving the current H-2B program.

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<sup>1</sup> <https://www.uscis.gov/newsroom/news-releases/dhs-to-supplement-h-2b-cap-with-nearly-65000-additional-visas-for-fiscal-year-2023>

**The Honorable Elissa Slotkin**

Page 2

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou  
Director