



November 28, 2023

Dick Durbin, Chair
Senate Judiciary Committee
U.S. Senate
Washington, DC 20510

Lindsey Graham, Ranking Member
Senate Judiciary Committee
U.S. Senate
Washington, DC 20510

Jim Jordan, Chair
House Judiciary Committee
U.S. House of Representatives
Washington, DC 20515

Jerry Nadler, Ranking Member
House Judiciary Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Durbin, Chairman Jordan, Ranking Member Graham, and Ranking Member Nadler:

Representing the industry associations that comprise the top H-2B occupations, along with organizations representing businesses spanning across all 50 states, we are proud to endorse Senator Graham and Senator Padilla’s proposed “Seasonal Employment Protection Act.” This bill represents a historic agreement between organized labor and industry stakeholders.

The bill provides workforce certainty to the majority of current H-2B program users. Through the certified employer provision, employers with a demonstrated record of H-2B program participation and compliance would be eligible for an H-2B visa cap exemption based on demonstrated historical workforce needs. In addition, industries such as seafood processing, equine and outdoor amusement are either exempted from the visa cap or transferred out of the H-2B program. These actions would provide much-needed certainty for long-time program users as well as alleviate some of the pressure from increasing program demand.

The chronic labor shortages faced by seasonal employers for years have only been exacerbated by the changing dynamic of the American workforce since the pandemic. The Department of Labor's Openings and Labor Turnover Surveys (JOLTS) show the rate of job openings have increased year over year for the industries that represent the top five H-2B occupations. This bill will help alleviate these workforce shortages and in doing so, will help create and sustain the jobs of American workers who rely on the H-2B workers to support their jobs during their peak seasons. Studies show every H-2B worker creates between 3.2 and 4.6 jobs for American workers.

The bill also includes numerous worker integrity measures that serve to protect both American and foreign workers. The Department of Labor receives fee authority, to be allocated towards additional enforcement of program violators and to ensure the Department returns to timely processing of H-2B applications.

As with any compromise, there were concessions. This deal includes restrictions on future program access for commercial construction and meatpacking occupations. In FY23, roughly 7% of DOL certified positions were in construction occupations and 0.7% in meatpacking. But more importantly, all *current* program users in the construction industry would be grandfathered in. They can access the program going forward and would be eligible for the certified employer provision. As such, this bill provides unprecedented workforce certainty to current program users in construction occupations.

The H-2B visa cap was set in 1990 and has not been adjusted since. This is despite GDP expanding fourfold over that time. The cap was first met in 2003 and there have been many attempts to increase the cap over the past twenty years but no deal included the support of organized labor and most notably the AFL-CIO. The program, in its current form, prevents users from accessing it because of the limited visa availability. This legislative compromise offers a real opportunity for long-term H-2B program viability and will not leave any H-2B employer in a worse position than it is in now.

We thank Senators Graham and Padilla for their leadership in spearheading this negotiation and we urge their colleagues to join them as sponsors of this legislation.

Sincerely,

Seasonal Employment Alliance

Concrete Masonry and Hardscapes Association
Natural Stone Institute

National Association of Landscape Professionals
Alabama Nursery and Landscape Association
Associated Landscape Contractors of Colorado
Illinois Landscape Contractors Association
Minnesota Nursery & Landscape Association
New Jersey Landscape Contractors Association
North Carolina Nursery & Landscape Association
Ohio Landscape Association
West Virginia Nursery & Landscape Association

Golf Course Superintendent's Association of America
American Society of Golf Course Architects
Golf Course Builders Association of America

Golf Course Superintendent's Association of Arkansas
National Club Association
National Golf Course Owners Association

Horsemen's Benevolent and Protective Association

HospitalityMaine
New England Inns & Resorts
New York State Hospitality & Tourism Association
Vermont Lodging Association
Virginia Restaurant, Lodging & Travel Association
Visit Myrtle Beach
White Mountains Attractions Association

North Carolina Fisheries Association

Outdoor Amusement Business Association
Michigan Association of Fairs and Exhibitions
Michigan Festivals and Events Association
North Carolina Association of Agricultural Fairs

Michigan Snowsports Industries Association

Aspen Chamber Resort Association
Charleston (SC) Metro Chamber of Commerce
Chester County (PA) Chamber of Business and Industry
Glenwood Springs Chamber & Resort Association
Rehoboth Beach-Dewey Beach Chamber of Commerce
Steamboat Springs Chamber
Vail Valley Partnership

CC: Members, Senate Judiciary Committee
Members, House Judiciary Committee
Members, Senate Appropriations Subcommittee on Homeland Security
Members, House Appropriations Subcommittee on Homeland Security
Leadership Offices, United States Senate
Leadership Offices, United States House of Representatives