Email subject: 2019 cap relief

I am writing because I am teetering on the brink of losing my business. Congress and the Administration will not permit me and other seasonal businesses like mine to hire workers legally authorized to work in the US. In the past, I have relied on the federal non-immigrant temporary/seasonal H-2B worker program to supplement my regular, U.S. workforce. Unfortunately, the H-2B program each year is limited to 66,000 workers divided into first and second half annual allocations.

As of March 31, the Department of Labor received over 4,500 applications for over 98,000 workers. The demand for H-2B workers exceeds the available visas by three times.

In the FY18 Omnibus spending bill passed on March 23, Congress granted Department of Homeland Security the discretionary authority to issue up to 68,000 additional visas. Inexplicably, DHS Secretary Nielsen has refused to date to issue any of these additional visas.

I cannot stress enough the catastrophic situation this uncertainty has created for my company. Despite extensive recruiting, I have only been able to hire \_\_\_ U.S. workers.

Many people ask why I do not offer higher wage rates to attract legal, U.S. workers. First, I am paying a respectable hourly wage nearly twice the U.S. minimum wage which is set by the U.S. Department of Labor. It is also higher than the ‘prevailing wage’ other businesses like mine in our area pays workers in the same occupation. Therefore, clearly it is not the wage rate that makes it difficult to find sufficient seasonal workers.

Also, the shortage of U.S. workers cannot be solved by simply paying more. What I pay is already more per hour than other industries in our area such as fast food and hotels/motels. There are other considerations as well, including the perception that jobs involving heavy manual labor, outdoors in all weather conditions are not desirable. Further, the jobs I have available are not permanent; they are temporary and as such, cannot compete with indoor, permanent jobs even if they pay less.

Then there is the anti-competitive aspect of increased hourly wage rates. Labor costs are the highest component of my annual budget. If I increased my hourly wage rate it would have to be passed along to my customers in the form of higher costs which would make my company’s services uncompetitive in comparison with other area [*name of industry ex. landscapers*]. Because of these and other factors, my ability to absorb increased labor expenditures is sharply limited.

I am struggling to survive as a business. While I hope that Secretary Nielsen utilizes her discretion as soon as possible, the truth is that it will be too late for most seasonal businesses whose busiest times of year are between March and May. I understand this is out of Congressman \_\_\_\_\_’s control. What is in Congressman \_\_\_’s control is the fate of cap relief for 2019. Committee deliberations on next year’s DHS appropriation is fast approaching. Will Congressman \_\_\_\_\_\_ make a personal request to the DHS Appropriations Committee’s Chairman, John Carter, to include the language below in the baseline bill for DHS for FY19?

*Requested Language in FY2019 Legislation – Homeland Security Provision*

1. Cap Relief Amendment

*SEC.—Fiscal Year Cap Relief*

*Section 214(g)(1)(B) (8 U.S.C 1184(g)(1)(B) is amended as follows:*

*(C) Notwithstanding the numerical limitation set forth above, the Secretary of Homeland Security, upon receipt of DOL certifications that sufficient United States workers who are willing, qualified, and able to perform temporary nonagricultural  labor are not available,* ***shall*** *increase the total number of visas issued under section 101(a)(15)(H)(ii)(b) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) in such fiscal year  above such limitation by a number sufficient to fulfill those DOL certifications; provided, that the total number of visas above the numerical limitation set forth above shall be) not more than the highest number of H–2B nonimmigrants who participated in the H–2B returning worker program in any fiscal year in which  returning workers were exempt from such numerical limitation.  Such increase shall be effective as if implemented at the beginning of each fiscal year.*

Thank you for your assistance.