

Congress of the United States
Washington, DC 20515

May 8, 2018

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave. NW
Washington, D.C. 20528

The Honorable Alexander Acosta
Secretary
U.S. Department of Labor
200 Constitution Ave. NW
Washington, D.C. 20210

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Dear Secretary Nielsen and Secretary Acosta:

Regrettably, we find ourselves in a similar situation as we did last year, requesting you exercise your Congressional authority to increase the current cap on the H-2B visa program. The decision to increase additional visas in July of last year, while helpful to other states, failed to benefit Alaska's industry in need, due to the extremely seasonal nature of the commercial fishing season. We very much appreciate the statements and assurances given during the April 11, 2018 fiscal year (FY) 19 Department of Homeland Security Budget Hearing before the House Appropriations Committee. It is our understanding that a decision is forthcoming and we ask that this decision be made by early May so that Alaskan businesses have the best chance at a viable fishing season, which is only a matter of weeks away.

As you know, on Friday, March 23, 2018, President Trump signed into law the FY 2018 Omnibus Appropriations bill. Included in that omnibus package is authority given to the Secretary of Homeland Security, in consultation with the Secretary of Labor, to approve further H-2B processing for the remainder of the fiscal year to bring relief to American businesses that are unable to secure the proper number of employee for the upcoming summer season. In Alaska, our seafood processing companies have continually faced hurdles in the process to secure H-2B visas, primarily due to the timing of the massive salmon harvest occurring later in the year. This year, thanks to the work of both of your Departments and staff, most Alaskan seafood companies who requested H-2B visas did receive them, but there are still those that did not. We urgently request you approve petitions for admission up to the new statutory level set in the bill for this fiscal year to allow for a robust seafood processing season in Alaska.

The seafood industry is one of the strongest sectors of Alaska's economy, generating over 78,500 jobs and an estimated \$5.8 billion in revenues annually and supporting some of the largest salmon, crab, and whitefish fisheries in the world. However, the availability of adequate seasonal labor is surprisingly low for the industry, and twenty-five percent of the required workforce cannot be found in the U.S. While Alaska and the rest of the United States provide a

strong labor base, a wider pool is required to meet the demands of the seafood industry's large harvest season.

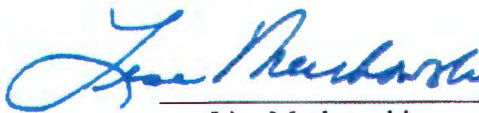
The H-2B visa program keeps the economic engine that is seafood moving in Alaska. It keeps fishermen fishing, tenders tendering, and canneries operating. Seafood dollars pass over many times at fuel docks, welding shops, grocery stores, gear stores, and air service providers. These changes to the H-2B program are necessary – even vital – to an industry dependent upon adequate staffing when fisheries start to run. Once fish are harvested, they must be processed immediately; they cannot wait for administrative delays or be arbitrarily constrained by caps in processing applications.

This short-term fix to the H-2B visa program for the remainder of FY 2018 is urgently needed for employers seeking to staff their processing facilities for the imminent summer salmon harvest. Some of Alaska's seafood processing plants are now, in real time, facing workforce decisions that are unnecessarily clouded by uncertainty about whether or not they can use key H-2B returning workers. Every day that passes forces them to change plans and lose opportunity in the seafood marketplace.

If swift action is not taken, members of the seafood industry may not obtain the required staffing levels and major economic damage will be done to processing companies, independent fishermen across Alaska and the Pacific Northwest, and all of coastal Alaska. We urge you to take action to ensure that the seasonal businesses that are so vitally important to the economy of Alaska can receive the non-immigrant seasonal workers needed to process salmon in our remote and semi-remote communities. We realize last-minute action is not ideal, and we're committed to working with you to find long-term solutions so we do not need to revisit this problem year after year.

Thank you for your attention to this matter. We look forward to hearing from you as soon as possible and seeing relief for one of Alaska's largest industries.

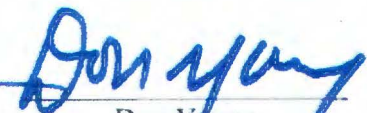
Sincerely,



Lisa Murkowski
United States Senator



Dan Sullivan
United States Senator



Don Young
Congressman for all Alaska



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

May 22, 2018

The Honorable Lisa Murkowski
United States Senate
Washington, DC 20510

Dear Senator Murkowski:

Thank you for your May 8, 2018 letter. Secretary Nielsen asked that I respond on her behalf.

Your letter urges Secretary Nielsen and Secretary Acosta to take decisive action regarding the H-2B visa provisions contained in the Consolidated Appropriations Act, 2018 (Public Law 115-141), signed by the President on March 23, 2018.

As a general matter, there is a statutory cap of 66,000 on the total number of foreign nationals who may be issued an H-2B visa or otherwise granted H-2B status during a fiscal year. *See* Immigration and Nationality Act (INA) § 214(g)(1)(B). Up to half of that allocation (33,000) is available during the first half of any given fiscal year, and the remainder is available during the second half of the fiscal year. *Id.* § 214(g)(10). However, section 205 of Div. M of the Consolidated Appropriations Act, 2018, Pub. L. 115-141, which was signed into law by the President on March 23, 2018, provides the Secretary of Homeland Security with discretion, after consultation with the Secretary of Labor, to increase the H-2B cap for the current fiscal year under prescribed circumstances.

As with the essentially identical provision authorizing the Secretary to augment the H-2B statutory cap in Fiscal Year 2017, the Department did not ask for, and does not wish to have, this discretion. 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.¹ This is 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. As Secretary Nielsen noted to lawmakers during her recent testimony, Congress placed limitations on H-2B visas to protect American workers. But it also clearly could not have been Congress' intent for the lawful administration of the program to

¹ *See* Testimony of DHS Secretary Nielsen, House Committee on Appropriations, Subcommittee on Homeland Security, Fiscal Year 2019 Budget Hearing – Department of Homeland Security (April 11, 2018) (<https://appropriations.house.gov/calendararchive/eventsingle.aspx?EventID=395210>).

The Honorable Lisa Murkowski

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put American employers out of business. DHS is in the final stages of the interagency process to implement section 205 of Div. M of the Consolidated Appropriations Act, 2018. DHS cannot comment on how many additional visas may be authorized before it is published in the *Federal Register*.

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

Respectfully,

A handwritten signature in black ink, appearing to read "LFC", with a stylized flourish extending from the end.

L. Francis Cissna
Director