

# United States Senate

February 6, 2020

**RECEIVED**

**By ESEC at 2:16 pm, Feb 06, 2020**

The Honorable Eugene Scalia  
Secretary  
Department of Labor  
200 Constitution Ave, N.W.  
Washington, D.C. 20210

The Honorable Chad F. Wolf  
Acting Secretary  
Department of Homeland Security  
2707 Martin Luther King Jr Ave, S.E.  
Washington, D.C. 20032

Dear Secretary Scalia and Acting Secretary Wolf:

I am writing to request that you exercise the authority delegated to you under Division I, "Extensions," Title I, Section 105 of the Further Consolidated Appropriations Act (P.L. 116-94) to increase the numerical limitation on H-2B visas in order to provide relief to American businesses.

The demand for H-2B visas consistently outstrips the supply of visas. For the first half of Fiscal Year 2020, the Department of Labor certified the need for approximately 51,000 H-2B workers, roughly 18,000 more H-2B workers than are allowed under the numerical limitation. In Fiscal Year 2019, the Department of Labor certified the need for nearly 85,000 more H-2B visas than were provided under the numerical limitation.

By law, the Department of Labor will only issue a labor certification for an H-2B visa if:

- 1) There are not sufficient U.S. workers who are qualified and who will be available to perform the temporary services or labor for which an employer desires to hire foreign workers; *and*
- 2) The employment of H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.

Any position for which an employer seeks to recruit an H-2B worker must be advertised publicly, and the Trump Administration has taken significant steps to modernize this process to ensure that American workers have additional opportunities to review and apply to these postings.<sup>1</sup> These requirements ensure that the H-2B visa program is administered in a way that does not disadvantage American workers.

President Trump has made it a priority to create higher wages and employment rates for workers in the United States and to protect their economic interests.<sup>2</sup> The President has surely succeeded in accomplishing this goal through his stewardship of the economy.

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<sup>1</sup> Department of Homeland Security. "Modernizing Recruitment Requirements for the Temporary Employment of H-2B Foreign Workers in the United States," 84 F.R. 62431. November 15, 2019.

<sup>2</sup> Executive Order 13788: "Buy American and Hire American." 82 F.R. 18837. April 21, 2017.

We are now seeing a situation where many American businesses need and are unable to find workers. The Bureau of Labor Statistics recently reported that the national unemployment rate is at 3.5 percent, and the number of available jobs exceeds the available labor pool by roughly 1 million. The unemployment rate for African Americans and Hispanics are at all-time lows, and 48 states had unemployment rates at or under 5 percent in December 2019.

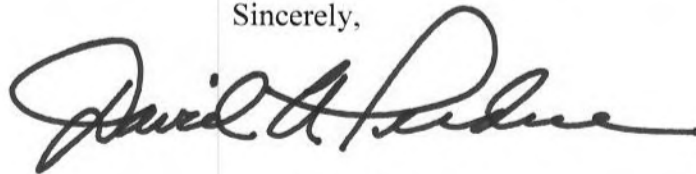
As our economy continues this historic recovery, it is becoming more difficult for American businesses to recruit and hire American workers for temporary and seasonal jobs. Many of these American businesses are at risk of irreparable harm if they do not receive the workers for whom they have petitioned. The economic harm facing these businesses will impact American families, local communities, and the livelihoods of many of the American workers this Administration has prioritized. American workers who operate businesses that employ H-2B nonimmigrants during peak seasons may be forced to downsize or lay off their American employees if they cannot access the workforce they need to maintain production or grow business operations.

Given our historic economic situation under President Trump's leadership, I am requesting that you exercise your discretion to increase the H-2B cap to the maximum extent as allowed by law in order to protect American businesses and the American workers who run and work for those businesses. I also ask the following:

- The Buy American and Hire American Executive Order was promulgated in April 2017. Since then, the unemployment rate has dropped from 4.4 percent in April 2017 to 3.5 percent in December 2019. Will your agencies incorporate our economy's continued economic recovery under President Trump when exercising your discretion to increase the numerical limitation on H-2B visas for Fiscal Year 2020?
- How do your agencies balance the enforcement of the Buy American and Hire American Executive Order in light of President Trump's historic economic recovery?

Thank you for your attention to this matter. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Perdue". The signature is fluid and cursive, with a large initial "D" and "P".

David A. Perdue  
United States Senate