

United States Senate

WASHINGTON, DC 20510

November 17, 2022
The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528

RECEIVED

By ESEC at 9:21 am, Nov 18, 2022

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

Dear Secretary Mayorkas and Secretary Walsh:

We write to urge you to address serious labor shortages affecting the ski and winter tourism industry in our states by providing H-2B visa cap relief. Specifically, we ask that the Departments of Homeland Security and Labor move expeditiously to issue the temporary final rule for the previously-announced 65,000 supplemental Fiscal Year 2023 H-2B visas.

On September 15th, 2022, U.S. Citizenship and Immigration Services announced that the first-half H-2B visa cap for FY23 had been reached – more than two weeks earlier than the same limit was met in FY22, which was previously the fastest this occurred. We thank your agencies for moving quickly to combat this shortage by announcing the release of 65,000 supplementary visas. However, should implementation and application guidelines for those additional visas not be issued quickly, not all industries will be able to benefit.

H-2B workers are especially vital to the ski and winter tourism industry nationwide, which is anticipating severe workforce shortages ahead of hiring for its busiest season. The industry has sought to address these shortages independent of H-2B hiring, including through significant wage increases, with overall ski wage rates increasing by 28% in the past five years across the 37 states containing ski areas.¹

Despite this, vacancies and workforce shortages remain widespread even as demand for outdoor recreation continues to grow. According to the National Ski Areas Association, 81% of all ski areas in the U.S. had unfilled winter jobs in the 2022 ski season. Additionally, the average number of winter positions that went unfilled at ski areas was 76– a steep increase from an average of 55 unfilled positions in 2021.

The urgency of addressing these workforce shortages cannot be overstated. In addition to ski and winter tourism businesses themselves, the rural mountain communities who host them depend heavily on winter tourism and recreation visitors for their overall economic health and growth.

Because employment start dates for ski area employees typically occur in early December, the

¹National Ski Areas Association Fall 2022 Journal, Wage & Salary Survey

statutory H-2B cap has been met too early for the industry to effectively utilize the program every year since 2018. And while your agencies have traditionally released supplemental visas, in the past, they have come too late to mitigate severe workforce shortages that delayed openings and limited operational capacity.

Given the lengthy timelines involved in securing H-2B visa slots and hiring and onboarding recipients, each day that passes without action contributes to the risk of those challenges repeating themselves. Releasing the recently-announced 65,000 supplemental H-2B visas as soon as possible will ensure that major winter employers like ski areas, and the mountain communities that depend on them, have a fair shot at accessing the program when H-2Bs are needed most. We thank you in advance for your consideration of this request.

Sincerely,


John Hickenlooper
United States Senator


Angus S. King, Jr.
United States Senator


Jeanne Shaheen
United States Senator


Cynthia M. Lummis
United States Senator


Amy Klobuchar
United States Senator


Margaret Wood Hassan
United States Senator


John Barrasso, M.D.
United States Senator



U.S. Citizenship
and Immigration
Services

December 9, 2022

The Honorable John Hickenlooper
United States Senate
Washington, DC 20510

Dear Senator Hickenlooper:

Thank you for your November 17, 2022, letter to the U.S. Department of Homeland Security (DHS) urging the prompt release of the previously announced supplemental H-2B visas. Secretary Mayorkas asked that I respond on his behalf.

U.S. Citizenship and Immigration Services appreciates the concerns you raised regarding the labor challenges facing the ski and winter tourism industry. As you referenced in your letter, on October 12, 2022, DHS, in consultation with the U.S. Department of Labor (DOL), announced that it will be issuing a supplemental increase of 64,716 visas for the H-2B program for U.S. employers seeking to employ additional temporary nonagricultural workers in fiscal year 2023¹ - the largest number of supplemental H-2B visas to date. Making this determination early on enables DHS and DOL to take the necessary administrative steps to complete the rulemaking and release these much-needed supplemental H-2B visas to address the labor shortages facing U.S. businesses, including the ski and winter tourism industry. Both Departments also place a high priority on strong worker and wage protections and will ensure this shared commitment is reflected in the joint temporary final rule authorizing these additional visas, which will be published in the very near future.

Of the total number of supplemental H-2B visas, 44,716 will be available to returning workers who received an H-2B visa, or were otherwise granted H-2B status, during one of the last three fiscal years. These 44,716 visas will be allocated to account for the need for additional seasonal workers during the course of the year, with a portion of the second half allocation reserved to meet the demand for workers during the peak summer season. The remaining 20,000 supplemental H-2B visas will be reserved for nationals of the Northern Central American countries and Haiti, regardless of whether they qualify as a returning worker. These visas will be available throughout the entire fiscal year. With these measures, the Departments endeavor to balance the needs of U.S. employers in all sectors whose needs vary seasonally.

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

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

The Honorable John Hickenlooper

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the creation of a task force aimed at safeguarding the integrity of the H-2B program. 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 strengthen worker protections and increase program efficiencies.

Thank you again for your letter and interest in this important issue. The cosigners of your letter will receive a separate, identical response. 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