

United States Senate

WASHINGTON, DC 20510

COMMITTEES:

ARMED SERVICES

BANKING, HOUSING, AND
URBAN AFFAIRS

ENVIRONMENT AND PUBLIC WORKS

SMALL BUSINESS AND
ENTREPRENEURSHIP

VETERANS' AFFAIRS

April 17, 2018

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

Dear Secretary Nielsen,

I write today to follow up on our phone conversation regarding the H-2B visa program and its importance to the economy of my home state of South Dakota. As you will see in the examples from more than two dozen South Dakota employers, the H-2B visa program is an essential tool for businesses seeking to supplement full-time domestic laborers with temporary workers.

These positions are often difficult, if not impossible, to fill with domestic workers because of the seasonal nature of the work. The full-time jobs these temporary positions support span several industries. These include hospitality, forestry, tourism, construction, landscaping and other seasonal industries.

In South Dakota, we are fortunate to have one of the lowest levels of unemployment in the nation. According to the U.S. Department of Labor's Bureau of Labor Statistics, unemployment was 3.4 percent in February 2018, well below the national average. However, this presents a problem for South Dakota's seasonal industries. Because the available worker pool is so small, many are simply unwilling to accept seasonal jobs, preferring to continue the job search for a permanent position. Failing to fill these positions can mean canceled contracts, shortened seasons and even closed businesses. All of these negative consequences would come at the expense of domestic workers also employed by these businesses.

On March 23, 2018, President Trump signed into law the Consolidated Appropriations Act of 2018. This law allows the Secretary of Homeland Security, after consultation with the Secretary of Labor, to increase the total number of H-2B visas available if it is determined "...that the needs of American businesses cannot be satisfied in fiscal year 2018 with United States workers who are willing, qualified, and able..."

Pursuant to this authority granted to you by Congress, I have attached letters from some of South Dakota's employers illustrating the importance of the H-2B program and the obstacles facing them when trying to fill these positions. These support letters represent merely a fraction of the businesses that have contacted my office about the importance of this program. I am confident that their real-world experiences will help inform the Department of Homeland Security's (DHS) decision making process.

The busy season for H-2B labor is already underway, especially for the tourism and outdoor industries. South Dakota's businesses will need to receive any additional visas as soon as possible. In fiscal year 2017, Congress granted DHS similar authority to provide additional visas. The final rulemaking, however, came far too late in the season for many of my state's businesses to benefit. In order to mitigate the harm that has already been done by this labor shortage, H-2B visa holders will need to be on the job without delay.

Our nation's immigration and labor policies should have as its top consideration the American economy and the American worker. President Trump has to date sought to champion this cause, and I appreciate the role you have played in that effort. In advancement of these goals, I respectfully request that you: 1.) take into account the perspective of South Dakota's small and seasonal businesses, including the inevitable effect on domestic employment, as you weigh decisions related to the H-2B program, and 2.) instruct U.S. Citizenship and Immigration Services officials to take every available measure to expedite processing should DHS make additional visas available this fiscal year.

Again, thank you for the opportunity to work with you on this issue. Please feel free to reach out should you have questions or need clarification about the importance of this program for the economy and people of South Dakota.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Michael Rounds". The signature is fluid and cursive, with a large, stylized "R" at the end.

M. Michael Rounds
United States Senator

CC: The Honorable R. Alexander Acosta