

# United States Senate

WASHINGTON, DC 20510

December 3, 2015

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
317 Russell Senate Office Building  
Washington, DC 20510

The Honorable Harry Reid  
Minority Leader  
United States Senate  
522 Hart Senate Office Building  
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Reid:

Earlier this year, the Senate included language in the Fiscal Year (FY) 2016 Labor, Health and Human Services, Education, and Related Agencies bill that would effectively rollback many basic protections for U.S. and foreign workers contained in the Department of Labor 2015 H-2B Interim Final Rule. As the negotiations on appropriation bills continue for Fiscal Year 2016, we respectfully request you avoid including changes to the H-2B visa program in any omnibus or appropriations measure.

As you know, Democratic Congressional leadership has made it clear that they will not agree to spending measures with ideological policy riders. Policy riders on the H-2B visa program are being proposed, however, for inclusion in any continuing resolution or appropriations bill. Such H-2B policy riders have no place in this appropriations process. These H-2B policy rider proposals:

- **Authorize Use of Private Wage Surveys** that would depress U.S. worker wages and implement a wage methodology invalidated by a federal court. Such private surveys drive wages below market rates. For example, from July 2013 to April 2014, the Department of Labor approved 115 prevailing wage applications for landscape workers in the Philadelphia metropolitan area. These approved applications included 32 based on the Occupational Employment Statistics survey, which required a minimum payment of \$14.04 per hour, and 83 based on employer surveys, which were approved at wage rates ranging from \$9.16 to \$11.22 per hour—a difference amounting to as much as \$200 for a 40-hour workweek.
- **Create a New Guest-Worker Program** by expanding the H-2B program into a year-round program and tripling the size of the program. One rider proposal would exempt returning workers from the statutory cap of 66,000 H-2B workers per year, increasing the program to annually admit approximately 200,000 H-2B workers.
- **Revoke protections for U.S. workers** by blocking the Department of Labor from verifying that employers conducted U.S.-based recruitment or ensuring that U.S. workers receive at least the same wages and benefits as H-2B workers. These riders would defund efforts to require employers to engage in additional recruitment of U.S. workers when they do not conduct sufficient recruitment in violation of the regulations.

Already, some H-2B employers pay lower wages to exploitable foreign workers, instead of hiring local U.S. workers and paying them at market rates. For example, in Maryland during FY 2014, 1,437 H-2B landscaping jobs were certified at an average wage of \$10.43 per hour, while the average wage for landscapers in the state is \$13.22, meaning employers saved \$2.79 per hour by hiring an H-2B landscaper instead of a local Maryland worker.

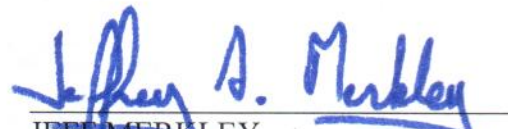
- **Eliminate protections for migrant workers** that keep them from being brought to the U.S. far in advance of need to wait without work for prolonged periods of time.


The appropriations process should not be used to bypass the legislative process or make substantive changes to immigration law. Moreover, any changes to guest worker programs must be accompanied by a path to citizenship for the 11 million undocumented workers and families living in the United States. These substantial changes to the H-2B programs are essentially piecemeal reforms that should not be obscured in the appropriations process, and instead must be considered as a part of comprehensive immigration reform legislation.

Thank you for your consideration. We are eager to see an appropriations bill enacted that funds our national government and leaves substantive immigration policy for debate through the regular process.


Sincerely,

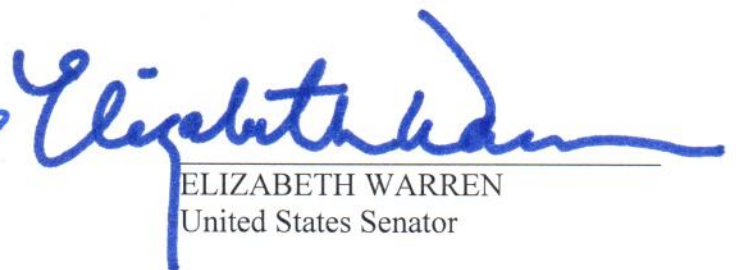
  
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