Congress of the United States Washington, DC 20515

September 7, 2011

The Honorable Hilda Solis Secretary of Labor U.S. Department of Labor Francis Perkins Building 200 Constitution Avenue, NW Washington, DC 20210

Dear Secretary Solis:

The H-2B program is a lifeline for scores of small and seasonal businesses around the country. These companies, upon which so many of our constituents rely for their livelihoods, are frequently unable to find enough local workers to fill their temporary and seasonal job openings, even in today's tough economic climate. As elected officials, we continue to hear from small and seasonal businesses in our states about their concerns with the Department of Labor's January 19, 2011 final H-2B wage methodology rule. This economic hardship is further exacerbated by the recently announced October 1, 2011 implementation date. The rule's impact will be even more dramatic if the Department moves forward with its March 18, 2011 proposed H-2B rule. While we appreciate the Department of Labor's attention to the H-2B program and agree with the intent of the reforms, we believe that the impact of these rules could threaten the economic survival of many small and seasonal businesses.

Seasonal businesses rely on the H-2B program to fill temporary vacancies in seafood processing, horse training, hospitality, landscaping, carnivals, agriculture support positions and other occupations. The seasonal nature of these businesses and industries means that they routinely face shortages of local workers during their peak work periods. By filling temporary jobs, H-2B workers not only keep these businesses open; they contribute to the creation of additional, year-round jobs for local workers. In these challenging economic times, we believe the Department should be pursuing policies that help our employers expand their businesses and increase hiring. Unfortunately, the Department's recent H-2B wage rule and the March 18 proposed rule threatens to do just the opposite. The proposals will negatively affect the viability of companies using the H-2B program and could possibly lead to full-time job losses.

Our constituents tell us that the current wage rates for H-2B positions already exceed the local market-based wages. Yet, by the Department's own estimates, the new wage methodology would increase H-2B hourly wages by approximately 50 percent in a manner unrelated to economic realities. Moreover, your proposed H-2B program rule creates a ¾ guarantee for each month's work (instead of for the life of the contract), establishes a new "corresponding employment" concept unrelated to how employees of small businesses share tasks and responsibilities, and mandates that H-2B employers continue to hire and recruit up until 3 days before the H-2B worker is scheduled to begin work. For many seasonal employers who operate on thin profit margins, such a dramatic increase in labor costs so quickly could drive them into bankruptcy. We cannot afford to let that happen.

The Honorable Hilda Solis September 7, 2011 Page 2

As the Department knows well, without a fairly administered H-2B program that is workable, many small and seasonal businesses will simply not be able to continue operations. Therefore, we encourage the Department to rescind and revise the January 19, 2011 wage rule and abandon its plans to immediately finalize the March 18, 2011 proposed rule.

We look forward to continuing to work with you on this issue and in supporting businesses that create jobs.

Sincerely,

September 7, 2011 Page 3

The Honorable Hilda Solis

The Honorable Hilda Solis September 7, 2011 Page 4

Larry Kissell Mark R Warner Sur Myrich Steve Wormack

John Fleming

The Honorable Hilda Solis September 7, 2011 Page 5

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