

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

THOMAS J. DONOHUE
CHIEF EXECUTIVE OFFICER

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June 11, 2020

The President
The White House
Washington, DC 20500

Dear Mr. President:

The U.S. Chamber of Commerce commends you and your administration for the many actions taken to help businesses recover in the wake of the COVID-19 emergency. The tax relief and sensible regulatory policies put in place over the last several years provide an important foundation for restoring millions of workers to their jobs as well as creating new ones, and the Chamber looks forward to continuing to work with the administration to build on last month's job growth.

As the economy rebounds, American businesses will need assurances that they can meet all their workforce needs. To that end, it is crucial that they have access to talent both domestically and from around the world. Policies that would, for example, impose wide-ranging bans on the entry of nonimmigrant workers or impose burdensome new regulatory requirements on businesses that employ foreign nationals would undermine that access to talent, and, in the process, undercut our economy's ability to grow and create jobs.

Specific concerns have been raised about the impact a potential entry ban would have on the hiring or continued employment of intracompany transferees under the L-1 visa category. These visas are used by American businesses such as automobile manufacturers that require the services of their company's engineers to prepare new plants for opening, financial services companies that need executives to oversee critical investment projects, and pharmaceutical companies whose scientists and researchers are embarking on new medical research initiatives. If these American businesses are unable to bring needed expertise into the country, investments and research may not happen, to the detriment of American workers and our economy.

Very similar concerns have been raised with respect to the effects that an entry ban would have on employers of H-1B visa holders. American businesses across multiple industries, including technology companies, accounting firms, manufacturers, among others, employ H-1B workers for the skill sets they possess that drive innovation and productivity gains within their own companies or for their clients. If companies cannot hire new H-1B workers or continue to employ their current H-1B workers, innovation and productivity growth, particularly that which is achieved through patent production, would suffer greatly to the detriment of our overall economy. Short-term disruptions in the L-1 and H-1B visa programs would hamper businesses' ability to make long-term planning and domestic investment decisions.

Employer worries regarding the ability to access specific workers are not unique to the high-tech sectors of America's economy. Seasonal employers, such as forestry and landscaping firms, have expressed similar concerns about entry bans on H-2B workers. Without these workers, many seasonal employers will not be able to operate at full capacity and could have difficulty meeting contractual obligations. Many of these businesses are small businesses, and these employers often operate on thin margins. If they lose business because they lack an adequate labor force, the employers and the Americans who work for them full-time would suffer.

Several other potential policy changes are also raising concerns among employers. These include the following:

- Imposing new restrictions on hiring international students who were educated or trained in the U.S. and severely limiting which foreign national graduates are eligible for work authorization.
- Substantial increases in filing fees for H-1B workers, which would negatively impact all companies and would be most harmful to small businesses that are more sensitive to drastic fee increases.
- Curtailing work authorization eligibility for the spouses of H-1B visa holders, which would exacerbate worker retention issues across multiple industries.
- Instituting a new requirement that companies must perform labor market tests for a service provider's H-1B workers. This novel idea seeks to establish a joint employment relationship between firms simply due to a contractual relationship, which stands in stark contrast with a new Labor Department rule that seeks to limit determinations of joint employment status.

America's immigration system clearly is not perfect. As you acknowledged a year ago, it discriminates against "genius" and "brilliance." The U.S. Chamber of Commerce agrees with that assessment in many respects. However, the potential changes to immigration policy discussed above would only serve to magnify those flaws of our current system.

Businesses and workers are starting to recover from the downturn caused by COVID-19. However, restrictive changes to the immigration system will push investment and economic activity abroad, slowing down the recovery and reducing job creation. The Chamber is committed to helping unemployed Americans get back to work and key to doing so is taking all necessary steps to support and maximize economic activity. We look forward to continuing to work with you on economic recovery and on positive reforms to our immigration policies that would serve the interests of American businesses and American workers.

Sincerely,

A handwritten signature in black ink, appearing to read "J. D. ...", with a long horizontal flourish extending to the right.

Thomas J. Donohue