

United States Senate  
WASHINGTON, DC 20510

March 14, 2023

**VIA ELECTRONIC TRANSMISSION**

The Honorable Alejandro Mayorkas  
Secretary  
Department of Homeland Security  
301 7<sup>th</sup> Street SW  
Washington, D.C. 20528

Dear Secretary Mayorkas:

We write to express our opposition to the Department of Homeland Security's (DHS) proposed rule, published on January 4, 2023, titled "U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements." This proposed rule would dramatically increase application fees for employment-based visas and other immigration programs to fund this administration's failed border policies.

Specifically, we are concerned about the impact that these proposed fee increases will have on the agriculture industry throughout the country. The proposed rule would increase the fees for H-2A petitions, which encompass seasonal agricultural workers, from \$460 to \$1,090 for named workers and from \$460 to \$530 for unnamed workers.<sup>1</sup>

These fee increases alone are problematic. More troubling, however, is the new Asylum Program Fee. This proposed rule would charge employers seeking to sponsor immigrants for certain work visas an unprecedented \$600 fee to fund our broken asylum program.<sup>2</sup> To justify this proposal, DHS contends that this cost shifting approach with the Asylum Program Fee will "place greater emphasis on the ability-to-pay principle for determining user fees."<sup>3</sup> In other words, DHS believes small business owners should be forced to finance President Biden's overwhelmed and broken asylum program that is entirely unrelated to the issuance of immigrant work visas.

This proposed rule does not specify how these fee increases would lead to expedited processing times for farmers and business owners. Additionally, Congress appropriated \$275 million in fiscal year 2022 to help with current backlogs, which ultimately did not lead to more efficient processing.<sup>4</sup> Without guardrails in place to increase efficiency and improve service, this proposed

---

<sup>1</sup> U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 88 Fed. Reg. 402, 497 (proposed Jan. 4, 2023) (to be codified at 8 C.F.R. 106.2).

<sup>2</sup> *Id.* at 452.

<sup>3</sup> *Id.* at 453.


<sup>4</sup> CONSOLIDATED APPROPRIATIONS ACT OF 2022, PUB. L. NO. 117-103, § 136 Stat. 113 (2022).

rule only expands the federal bureaucracy and fills the federal government's coffers with more hard-earned taxpayer dollars.

These fee increases, coupled with the new Asylum Program Fee, will undoubtedly harm small businesses, farms, and nonprofits at a time of record high inflation. As you know, migrant encounters at our southern border soared to historic levels in fiscal year 2022 due to President Biden's refusal to enforce successful policies like the Migrant Protection Protocols, commonly known as Remain in Mexico.<sup>5</sup> Instead of penalizing employers for this administration's manufactured border crisis, DHS should focus its efforts on instituting common sense policies to stem the influx of migrants overwhelming our immigration system.

We are deeply disappointed that the Biden Administration continues to reward illegal entry into this country, especially at the expense of hardworking entrepreneurs and farmers who are operating within the legal parameters of the immigration system. It is time for President Biden to take the crisis at our southern border seriously and support our small businesses and farmers. For all of these reasons, we urge you to withdraw this deeply flawed proposed rule.

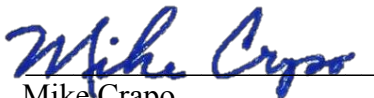
Sincerely,



Marsha Blackburn  
United States Senator



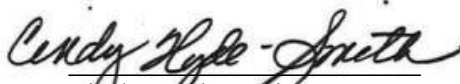
Kevin Cramer  
United States Senator



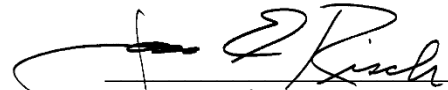
Mike Crapo  
United States Senator



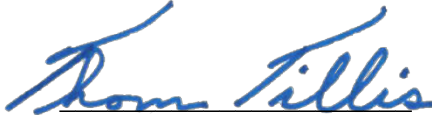
Deb Fischer  
United States Senator



Cindy Hyde-Smith  
United States Senator



James E. Risch  
United States Senator



Thom Tillis  
United States Senator



Roger Wicker  
United States Senator

---

<sup>5</sup> U.S. CUSTOMS AND BORDER PROTECTION, CBP ENFORCEMENT STATISTICS FISCAL YEAR 2022, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters-fy22>.