

United States Senate

WASHINGTON, DC 20510

December 11, 2023

The Honorable Julie A. Su
Acting Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20001

Dear Acting Secretary Su:

We write to encourage the Department of Labor to use its Schedule A Shortage Occupation list as a tool to address the workforce shortages our country is facing in critical high-skill industries, including Science, Technology, Engineering, and Math occupations (STEM) and professional healthcare occupations.

Established in 1965, the Schedule A Shortage Occupation List was created to simplify the process of hiring international talent. Occupations on the Schedule A list may be filled by immigrants sponsored for employment-based green cards without their sponsor being required to obtain a permanent labor certification, a process that can take over a year. Importantly, this process does not increase the number of employment-based (EB) visas available, and individuals who work in Schedule A occupations are held to the same eligibility standards as any other EB visa applicant. It is simply a tool to be more responsive to skilled-labor needs across the nation. Unfortunately, the Schedule A list has not been updated since 2005, and currently consists of only two specific occupations: professional nurses and physical therapists, which fails to account for how our workforce shortages have evolved.

Throughout its history, the Schedule A list has included a variety of high-skill occupations, saving vital processing time for employers looking to fill positions in healthcare, scientific research, advanced manufacturing, and more. Many of those same industries are once again sounding the alarm about job growth coupled with workforce shortages – both current and anticipated. According to the Bureau of Labor Statistics, occupations in the STEM sector are projected to grow at more than twice the rate of other occupations by 2031.¹ The Semiconductor Industry Association projects of the 3.85 million positions expected to be created for computer scientists, engineers, and technicians by 2030, more than 1/3 will go unfilled.² And in its most recent industry outlook survey, the National Association of Manufacturers reported “attracting and retaining a quality workforce” was already the primary concern of over 74% of the firms it represents.³

Vacancies in these high-skill industries also threaten U.S. national security and readiness. The Department of Defense, in its FY20 Industrial Capabilities Report, explained that “the

¹ <https://blog.dol.gov/2022/11/04/stem-day-explore-growing-careers>

² <https://www.semiconductors.org/chipping-away-assessing-and-addressing-the-labor-market-gap-facing-the-u-s-semiconductor-industry/>

³ https://www.nam.org/wp-content/uploads/2023/03/Manufacturers_Outlook_Survey_Q2_June_2023.pdf

production of engineers and scientists with U.S. citizenship, and the skills necessary to successfully develop and sustain the software required by the DOD in modern environments, is not keeping up with demand.” The DOD further acknowledged that “this issue directly threatens U.S. national self-determination in commerce and geopolitics.”

Similarly, the Bureau of Labor Statistics projects a much faster than average growth for healthcare occupations from 2022 to 2032, citing a projection of 1.8 million openings annually.⁴ While nursing is one of the few identified Schedule A occupations, staffing challenges have persisted, due to in part to these professionals increasingly being relied upon to address shortages in other sectors of the healthcare industry. Additionally, the U.S. Department of Health and Human Services, Health Resources and Services Administration (HRSA) has projected shortages across the fields of Behavioral Health, Family Medicine, General Internal Medicine and Nursing.⁵ As employers across our states respond to workforce challenges on the ground, we should ensure all solutions are on the table, including the use of a skills-based immigration approach to bolster healthcare professionals serving our communities.

In some parts of rural and remote America, immigrant healthcare specialists provide the only access to care. A sharp decline in visa issuance for legal permanent resident and temporary visa issuance between 2019 and 2020, attributed to the COVID-19 pandemic,⁶ further impacted workforce shortages for industries like home health, who are working to care for the growing U.S. aging population.⁷ These professionals are essential to the continued well-being of our citizens, underscoring the importance of your department using the tools at its disposal to combat critical staffing shortages.

While this undoubtedly points to a need for greater investment in our domestic STEM and healthcare workforce, which we look forward to working with your agency to address, there remains a significant need for individuals who can fill these gaps now. Lengthy processing delays at the Department of Labor prevent international professionals from being part of the solution. In September 2023, your agency reported the average processing time for PERM labor certification applications had reached 326 days. If an audit of the application is performed, the average rises to 489 days.⁸

Placing select high-demand occupations on the list would not only accelerate the filling of these vacancies, it would also ease the remaining volume of labor certifications your department must process. And while we applaud the recent announcement that your agency is moving to examine use of the Schedule A list once again, we would like to better understand the following:

1. Why has the Department of Labor not updated the Schedule A list in nearly 20 years?
2. Why is the list not reviewed at regular intervals given the frequent and significant changes in the economy and labor market?
3. Are there any specific barriers the department has faced when attempting to do so? If so, what additional resources are needed?

⁴ U.S. Bureau of Labor Statistics: Healthcare Occupations. <https://www.bls.gov/ooh/healthcare/home.htm>

⁵ <https://bhw.hrsa.gov/data-research/projecting-health-workforce-supply-demand>

⁶ <https://www.migrationpolicy.org/news/pandemic-impact-immigrants-us-immigration-two-years-on#:~:text=Among%20the%20report's%20key%20findings,visa%20issuance%20dropped%2054%20percent.>

⁷ https://www.hcoa.org/uploads/1/3/3/0/133041104/workforce_report_and_call_to_action_final_03272023.pdf

⁸ <https://flag.dol.gov/processingtimes>

4. Does the Department of Labor take into account the national security, as well as economic, needs of the US economy when updating the Schedule A list?
5. Does the Department of Labor take into consideration skills-based needs when updating the Schedule A list?

For too long, unnecessary red tape has prevented skilled immigrants from helping us fill vacancies and maintain U.S. competitiveness in vital industries. The Department of Labor has tools at its disposal to address some of these challenges, but does not seem to have employed them to the fullest extent possible. We look forward to better understanding how Congress can work with your agency to combat workforce shortages, attract and hire international talent, and continue growing the economy.

Sincerely,



John Hickenlooper
United States Senator



Kevin Cramer
United States Senator



Joe Manchin III
United States Senator



M. Michael Rounds
United States Senator