

115TH CONGRESS
2D SESSION

S. 2325

To incentivize the hiring of United States workers in the Commonwealth of the Northern Mariana Islands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 2018

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To incentivize the hiring of United States workers in the Commonwealth of the Northern Mariana Islands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Northern Mariana Is-

5 lands U.S. Workforce Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is—

8 (1) to increase the percentage of United States
9 workers (as defined in section 6(i) of the Joint Reso-
10 lution entitled “A Joint Resolution to approve the

1 ‘Covenant To Establish a Commonwealth of the
2 Northern Mariana Islands in Political Union with
3 the United States of America’, and for other pur-
4 poses” (48 U.S.C. 1806)) in the total workforce of
5 the Commonwealth of the Northern Mariana Is-
6 lands, while maintaining the minimum number of
7 workers who are not United States workers to meet
8 the changing demands of the Northern Mariana Is-
9 lands’ economy;

10 (2) to incentivize the hiring of United States
11 workers into such workforce; and

12 (3) to ensure that no United States worker—

13 (A) is at a competitive disadvantage for
14 employment compared to workers who are not
15 United States workers; or

16 (B) is displaced by a worker who is not a
17 United States worker.

18 **SEC. 3. TRANSITIONAL PROVISIONS.**

19 (a) IN GENERAL.—Section 6 of the Joint Resolution
20 entitled “A Joint Resolution to approve the ‘Covenant To
21 Establish a Commonwealth of the Northern Mariana Is-
22 lands in Political Union with the United States of Amer-
23 ica’, and for other purposes” (48 U.S.C. 1806) is amend-
24 ed—

25 (1) in subsection (a)—

1 (A) in paragraph (2), by striking “2019”
2 and inserting “2029”; and

3 (B) by amending paragraph (6) to read as
4 follows:

5 “(6) FEES FOR TRAINING UNITED STATES
6 WORKERS.—

7 “(A) SUPPLEMENTAL FEE.—

8 “(i) IN GENERAL.—In addition to fees
9 imposed pursuant to sections 208(d)(3)
10 and 245(i), the Immigration and Nation-
11 ality Act (8 U.S.C. 1158(d)(3) and
12 1255(i)) to recover the full costs of adju-
13 dication services, the Secretary shall im-
14 pose an annual supplemental fee of \$200
15 per nonimmigrant worker on each prospec-
16 tive employer who is issued a permit under
17 subsection (d)(3) during the transition pro-
18 gram.

19 “(ii) INFLATION ADJUSTMENT.—Be-
20 ginning in fiscal year 2020, the Secretary
21 may annually adjust the fee imposed under
22 clause (i) by a percentage equal to the an-
23 nual change in the Consumer Price Index
24 for All Urban Consumers published by the
25 Bureau of Labor Statistics.

1 “(iii) USE OF FUNDS.—Amounts col-
2 lected pursuant to clause (i) shall be annu-
3 ally deposited into the Treasury of the
4 Commonwealth Government for the sole
5 and exclusive purpose of funding vocational
6 education, apprenticeships, or other train-
7 ing programs for United States workers.

8 “(B) PLAN FOR THE EXPENDITURE OF
9 FUNDS.—At the beginning of each calendar
10 year, and before any of the supplemental fees
11 are deposited into the Treasury of the Com-
12 monwealth Government for that calendar year,
13 the Commonwealth Government shall submit to
14 the Secretary of Labor—

15 “(i) a plan for the expenditures of
16 amounts deposited under subparagraph
17 (A)(iii);

18 “(ii) a projection of the effectiveness
19 of such expenditures in the placement of
20 United States workers into jobs held by
21 non-United States workers; and

22 “(iii) a report on the changes in em-
23 ployment of United States workers attrib-
24 utable to expenditures of such amounts
25 during the previous year.

1 “(C) PAYMENT RESTRICTION.—Payments
2 may not be made from amounts deposited
3 under subparagraph (A)(iii) until after the Sec-
4 retary of Labor has approved the expenditure
5 plan submitted under subparagraph (B)(i).

6 “(D) REPORT.—The Secretary of Labor
7 shall submit an annual report to Congress that
8 describes the effectiveness of the Common-
9 wealth Government at meeting the goals set
10 forth in the expenditure plan submitted under
11 subparagraph (B)(i).”;

12 (2) in subsection (b), by adding at the end the
13 following:

14 “(3) REPORT.—Not later than 3 years after the
15 date of the enactment of the Northern Mariana Is-
16 lands U.S. Workforce Act, the Secretary shall sub-
17 mit a report to the Committee on Energy and Nat-
18 ural Resources of the Senate, the Committee on the
19 Judiciary of the Senate, the Committee on Natural
20 Resources of the House of Representatives, and the
21 Committee on the Judiciary of the House of Rep-
22 resentatives that—

23 “(A) projects the number of asylum claims
24 the Secretary anticipates following the termi-
25 nation of the transition period; and

1 “(B) describes the efforts of the Secretary
 2 to ensure appropriate interdiction efforts, pro-
 3 vide for appropriate treatment of asylum seek-
 4 ers, and prepare to accept and adjudicate asy-
 5 lum claims in the Commonwealth.”;

6 (3) in subsection (d)—

7 (A) by redesignating paragraphs (2)
 8 through (5) as paragraphs (3) through (6), re-
 9 spectively;

10 (B) by inserting after paragraph (1) the
 11 following:

12 “(2) PROTECTION FOR UNITED STATES WORK-
 13 ERS.—

14 “(A) FOREIGN LABOR CERTIFICATION.—

15 “(i) IN GENERAL.—Before applying
 16 for a nonimmigrant worker permit under
 17 this subsection, a prospective employer
 18 shall obtain a certification from the De-
 19 partment of Labor confirming the prospec-
 20 tive employer’s assertion that—

21 “(I) no qualified United States
 22 worker is able, willing, qualified, and
 23 available to accept the proposed job at
 24 the prevailing wage for that occupa-
 25 tion in the Commonwealth; and

1 “(II) employment of the foreign
2 worker will not adversely affect the
3 wages and working conditions of simi-
4 larly employed United States workers.

5 “(ii) PETITION.—After receiving a
6 certification under clause (i), a prospective
7 employer may submit a petition to U.S.
8 Citizenship and Immigration Services for a
9 Commonwealth Only Transitional Worker
10 permit on behalf of the foreign worker.

11 “(B) PREVAILING WAGE SURVEY.—In
12 order to effectuate the requirement for foreign
13 labor certification, the Department of Labor
14 shall conduct periodic prevailing wage surveys
15 in the Commonwealth.

16 “(C) MINIMUM WAGE.—An employer shall
17 pay each Commonwealth Only Transitional
18 Worker a wage that is not less than the greater
19 of—

20 “(i) the statutory minimum wage in
21 the Commonwealth;

22 “(ii) the Federal minimum wage;

23 “(iii) the prevailing wage in the Com-
24 monwealth for the occupation in which the
25 worker is employed; or

1 “(iv) the actual wage level paid by the
2 employer to any other individual employed
3 in the same occupation.”;

4 (C) by amending paragraph (3), as redese-
5 ignated, to read as follows:

6 “(3) PERMITS.—

7 “(A) IN GENERAL.—The Secretary shall
8 establish, administer, and enforce a system for
9 allocating and determining the number, terms,
10 and conditions of permits to be issued to pro-
11 spective employers for each such nonimmigrant
12 worker described in this subsection who would
13 not otherwise be eligible for admission under
14 the Immigration and Nationality Act (8 U.S.C.
15 1101 et seq.).

16 “(B) COMMENTS FROM GOVERNOR.—In
17 carrying out this paragraph, the Secretary—

18 “(i) shall consider, in good faith, any
19 comments or advice submitted by the Gov-
20 ernor of the Commonwealth, including any
21 recommendation to reserve a number of
22 permits each year for occupational cat-
23 egories necessary to maintain public health
24 or safety in the Commonwealth;

1 “(ii) shall, not later than 30 days
2 after the receipt of such comments or ad-
3 vice, submit a written response to the Gov-
4 ernor; and

5 “(iii) in the Secretary’s sole discre-
6 tion, may make the reservation of permits
7 recommended by the Governor.

8 “(C) NUMERICAL CAP.—The number of
9 permits issued under subparagraph (A) may
10 not exceed 13,000 during fiscal year 2019.

11 “(D) ANNUAL ADJUSTMENTS.—Beginning
12 in fiscal year 2020, and annually thereafter, the
13 number of permits issued under subparagraph
14 (A) may not exceed a number that is 500 fewer
15 than the number of permits that were issued
16 during the immediately preceding fiscal year.

17 “(E) REPORTS REGARDING THE PERCENT-
18 AGE OF DOMESTIC WORKERS.—

19 “(i) BY GOVERNOR.—Not later than
20 60 days before the end of each calendar
21 year, the Governor shall submit a report to
22 the Secretary that identifies the ratio be-
23 tween domestic workers to non-domestic
24 workers in the Commonwealth’s workforce

1 based on income tax filings with the Com-
2 monwealth for the tax year.

3 “(ii) BY GAO.—Not later than Decem-
4 ber 31, 2019, and biennially thereafter, the
5 Comptroller General of the United States
6 shall submit a report to the Chair and
7 Ranking Member of the Committee on En-
8 ergy and Natural Resources of the Senate
9 and the Chair and Ranking Member of the
10 Committee on Natural Resources of the
11 House of Representatives that identifies
12 the ratio between domestic workers and
13 non-domestic workers in the Common-
14 wealth’s workforce during each of the pre-
15 vious 5 calendar years.

16 “(F) APPLICATION; ISSUANCE OF PER-
17 MITS.—

18 “(i) SUBMISSION.—A prospective em-
19 ployer may submit an application—

20 “(I) for a new permit 180 days
21 before the beginning of the allocation
22 year in which the permit will become
23 effective; or

24 “(II) for the renewal of an exist-
25 ing permit 180 days before the end of

1 the allocation year in which the exist-
2 ing permit expires.

3 “(ii) ADJUDICATION.—The Secretary
4 shall adjudicate an application for a permit
5 submitted pursuant to clause (i) not later
6 than 60 days after the receipt of such ap-
7 plication.

8 “(iii) EMPLOYMENT VERIFICATION.—
9 The Secretary shall establish a system for
10 each employer of a Commonwealth Only
11 Transitional Worker to submit a quarterly
12 report to the U.S. Immigration and Cus-
13 toms Enforcement office in the Common-
14 wealth that provides evidence to verify the
15 continuing employment and payment of
16 such worker under the terms and condi-
17 tions set forth in the permit petition that
18 the employer filed on behalf of such work-
19 er.

20 “(iv) REVOCATION.—

21 “(I) IN GENERAL.—The Sec-
22 retary may revoke a permit approved
23 under this paragraph if—

24 “(aa) the employer fails to
25 maintain the continuous employ-

1 ment of the subject worker, fails
2 to pay the subject worker, or
3 commits any other violation of
4 the terms and conditions of em-
5 ployment; or

6 “(bb) the beneficiary of such
7 petition does not apply for a visa
8 within 60 days after the approval
9 of such petition.

10 “(II) USE OF REVOKED PETI-
11 TION.—A revoked petition under this
12 paragraph shall be immediately avail-
13 able for use within the same fiscal
14 year for which the petition was ap-
15 proved and shall not be further count-
16 ed against the numerical limit for that
17 year.

18 “(v) LEGITIMATE BUSINESS.—

19 “(I) IN GENERAL.—A prospective
20 employer that is not a legitimate busi-
21 ness may not be granted a petition.

22 “(II) DEFINED TERM.—In this
23 clause, the term ‘legitimate business’
24 means a real, active, and operating
25 commercial or entrepreneurial under-

1 taking that the Secretary, in the Sec-
2 retary's sole discretion, determines—

3 “(aa) produces services or
4 goods for profit, or is a govern-
5 mental, charitable, or other val-
6 idly recognized nonprofit entity;

7 “(bb) meets applicable legal
8 requirements for doing business
9 in the Commonwealth;

10 “(cc) has substantially com-
11 plied with wage and hour laws,
12 occupational safety and health
13 requirements, and all other Fed-
14 eral requirements related to em-
15 ployment during the preceding 5
16 years; and

17 “(dd) does not directly or in-
18 directly engage in prostitution,
19 human trafficking, or any other
20 activity that is illegal under Fed-
21 eral or Commonwealth law.

22 “(vi) CONSTRUCTION OCCUPATIONS.—
23 A permit for Construction and Extraction
24 Occupations (as defined by the Depart-
25 ment of Labor as Standard Occupational

1 Classification Group 47–0000) may only be
2 issued to extend a permit that was first
3 issued before October 1, 2015.”;

4 (D) in paragraph (4), as redesignated, by
5 inserting “or to Guam for the purpose of tran-
6 sit only” after “except admission to the Com-
7 monwealth”;

8 (E) in paragraph (5), as redesignated, by
9 adding at the end the following: “Approval of a
10 petition filed by the new employer within the
11 same fiscal year as the current permit shall not
12 count against the numerical limitation for that
13 period.”; and

14 (F) by adding at the end the following:

15 “(7) CW–3 WORKERS.—

16 “(A) DESIGNATION.—The Secretary shall
17 designate an alien admitted under this sub-
18 section as a ‘CW–3 worker’ if the alien—

19 “(i) was admitted to the Common-
20 wealth as a Commonwealth Only Transi-
21 tional Worker during fiscal year 2014 and
22 every subsequent fiscal year beginning be-
23 fore the date of the enactment of the
24 Northern Mariana Islands U.S. Workforce
25 Act; and

1 “(ii) is otherwise admissible.

2 “(B) PERMIT.—

3 “(i) IN GENERAL.—Each CW-3 work-
4 er shall be deemed to have met the foreign
5 labor certification requirement under para-
6 graph (2) and, upon application, shall be
7 issued a permit to remain in the Common-
8 wealth during the 3-year period beginning
9 on the date of the enactment of the North-
10 ern Mariana Islands U.S. Workforce Act.

11 “(ii) RENEWAL.—The permit issued
12 under clause (i) may be renewed in 3-year
13 increments during the transition period de-
14 scribed in subsection (a)(2) if the alien re-
15 mains outside of the United States for a
16 continuous period of not less than 30 days
17 during the 180-day period immediately
18 preceding each such renewal.

19 “(iii) NUMERICAL LIMITATION.—Each
20 permit issued under clause (i) shall count
21 against the annual numerical limitations
22 set forth in subparagraphs (C) and (D) of
23 paragraph (3).

24 “(C) ROSTER.—The Secretary shall main-
25 tain a roster of aliens in this category.

1 “(D) FEE.—Employers of CW–3 workers
2 shall be subject to the annual education fee
3 under subsection (a)(6).

4 “(8) REQUIREMENT TO REMAIN OUTSIDE OF
5 THE UNITED STATES.—Except as provided in para-
6 graph (7), the permit for a Commonwealth Only
7 Transitional Worker may not be renewed for more
8 than 2 consecutive years. An alien may not again be
9 eligible for such a permit until after the alien has re-
10 mained outside of the United States for a contin-
11 uous period of not less than 30 days.”; and

12 (4) by adding at the end the following:

13 “(i) DEFINITIONS.—In this section:

14 “(1) ALLOCATION YEAR.—The term ‘allocation
15 year’ means the fiscal year immediately following the
16 current year.

17 “(2) COMMONWEALTH.—The term ‘Common-
18 wealth’ means the Commonwealth of the Northern
19 Mariana Islands.

20 “(3) COMMONWEALTH ONLY TRANSITION
21 WORKER.—The term ‘Commonwealth Only Transi-
22 tion Worker’ means an alien who has been admitted
23 into the Commonwealth under the transition pro-
24 gram for the purposes of a permit provided under
25 subsection (d)(3).

1 “(4) CURRENT YEAR.—The term ‘current year’
2 means the fiscal year in which an allocation is deter-
3 mined for the allocation year.

4 “(5) DOMESTIC WORKER.—The term ‘domestic
5 worker’ means any worker who is—

6 “(A) a United States worker; or

7 “(B) a citizen of the Republic of the Mar-
8 shall Islands, the Federated States of Micro-
9 nesia, or the Republic of Palau (known collec-
10 tively as the ‘Freely Associated States’) who
11 has been lawfully admitted to the United States
12 pursuant to—

13 “(i) section 141 of the Compact of
14 Free Association between the Government
15 of the United States and the Governments
16 of the Marshall Islands and the Federated
17 States of Micronesia (48 U.S.C. 1921
18 note); or

19 “(ii) section 141 of the Compact of
20 Free Association between the United
21 States and the Government of Palau (48
22 U.S.C. 1931 note).

23 “(6) GOVERNOR.—The term ‘Governor’ means
24 the Governor of the Commonwealth of the Northern
25 Mariana Islands.

1 “(7) SECRETARY.—The term ‘Secretary’ means
2 the Secretary of Homeland Security.

3 “(8) TAX YEAR.—The term ‘tax year’ means
4 the fiscal year immediately preceding the current
5 year.

6 “(9) UNITED STATES WORKER.—The term
7 ‘United States worker’ means any worker who is—

8 “(A) a citizen or national of the United
9 States; or

10 “(B) an alien who has been—

11 “(i) lawfully admitted for permanent
12 residence;

13 “(ii) admitted as a refugee under sec-
14 tion 207 of the Immigration and Nation-
15 ality Act (8 U.S.C. 1157); or

16 “(iii) granted asylum under section
17 208 of such Act (8 U.S.C. 1158).”.

18 (b) RULEMAKING.—Not later than 60 days after the
19 date of the enactment of this Act, the Secretary of Home-
20 land Security shall publish regulations in the Federal Reg-
21 ister to implement the amendments made by subsection
22 (a).

23 (c) DEPARTMENT OF THE INTERIOR TECHNICAL AS-
24 SISTANCE.—Not later than October 1, 2019, and bienni-
25 ally thereafter, the Secretary of the Interior shall submit

1 a report to Congress that describes the fulfillment of the
2 Department of the Interior’s responsibilities to the Com-
3 monwealth of the Northern Mariana Islands—

4 (1) to identify opportunities for economic
5 growth and diversification;

6 (2) to provide assistance in recruiting, training,
7 and hiring United States workers; and

8 (3) to provide such other technical assistance
9 and consultation as outlined in section 702(e) of the
10 Consolidated Natural Resources Act of 2008 (48
11 U.S.C. 1807).

○