

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.

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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

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## 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 Islands 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)—

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

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

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

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 redes-  
5                             igned, 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

“(ii) BY GAO.—Not later than December 31, 2019, and biennially thereafter, the Comptroller General of the United States shall submit a report to the Chair and Ranking Member of the Committee on Energy and Natural Resources of the Senate and the Chair and Ranking Member of the Committee on Natural Resources of the House of Representatives that identifies the ratio between domestic workers and non-domestic workers in the Commonwealth’s workforce during each of the previous 5 calendar years.

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

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

20 “(iv) REVOCATION.—

“(I) IN GENERAL.—The Secretary may revoke a permit approved under this paragraph if—



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

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

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

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

15                   “(7) CW-3 WORKERS.—

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 Commo-  
8                     nwealth 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).

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