AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 115–501

# PENDING LEGISLATION

## HEARING

BEFORE THE

## COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

ON

**S. 2182**
**S. 2325**

FEBRUARY 6, 2018

Printed for the use of the
Committee on Energy and Natural Resources

Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE
28–698 WASHINGTON : 2020

COMMITTEE ON ENERGY AND NATURAL RESOURCES

LISA MURKOWSKI, Alaska, *Chairman*

JOHN BARRASSO, Wyoming
JAMES E. RISCH, Idaho
MIKE LEE, Utah
JEFF FLAKE, Arizona
STEVE DAINES, Montana
CORY GARDNER, Colorado
LAMAR ALEXANDER, Tennessee
JOHN HOEVEN, North Dakota
BILL CASSIDY, Louisiana
ROB PORTMAN, Ohio
SHELLEY MOORE CAPITO, West Virginia

MARIA CANTWELL, Washington
RON WYDEN, Oregon
BERNARD SANDERS, Vermont
DEBBIE STABENOW, Michigan
JOE MANCHIN III, West Virginia
MARTIN HEINRICH, New Mexico
MAZIE K. HIRONO, Hawaii
ANGUS S. KING, JR., Maine
TAMMY DUCKWORTH, Illinois
CATHERINE CORTEZ MASTO, Nevada
TINA SMITH, Minnesota

BRIAN HUGHES, *Staff Director*
PATRICK J. MCCORMICK III, *Chief Counsel*
ISAAC EDWARDS, *Senior Counsel*
MARY LOUISE WAGNER, *Democratic Staff Director*
SAM E. FOWLER, *Democratic Chief Counsel*
DAVID GILLERS, *Democratic Senior Counsel*

# CONTENTS

## OPENING STATEMENTS


| | Page |
|---|---|
| Murkowski, Hon. Lisa, Chairman and a U.S. Senator from Alaska | 1 |
| Cantwell, Hon. Maria, Ranking Member and a U.S. Senator from Washington | 3 |


## WITNESSES


| | |
|---|---|
| Domenech, Hon. Douglas, Assistant Secretary for Insular Areas, U.S. Department of the Interior | 5 |
| Sablan, Hon. Gregorio Kilili Camacho, U.S. House of Representatives | 16 |
| Torres, Hon. Ralph DLG., Governor, Commonwealth of the Northern Mariana Islands | 21 |
| Jibas, Hon. Anderson, Mayor, Kili/Bikini/Ejit Local Government | 27 |
| Gootnick, Dr. David, Director, International Affairs and Trade, U.S. Government Accountability Office | 35 |
| Niedenthal, Jack, Member, Bikinian Elder Community | 59 |


## ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED


| | |
|---|---|
| Butters, Joseph K. (RetLCDRUSN): | |
| Letter for the Record | 76 |
| Cantwell, Hon. Maria: | |
| Opening Statement | 3 |
| Turnberry Solutions, LLC 2017 Lobbying Report | 68 |
| Derickson, Jill: | |
| Letter for the Record | 77 |
| DFS Saipan Limited: | |
| Letter for the Record | 237 |
| Dilley, Michael E.: | |
| Letter for the Record (Marianas Business Plaza) | 239 |
| Letter for the Record (MOI, LLC) | 240 |
| Domenech, Hon. Douglas: | |
| Opening Statement | 5 |
| Written Testimony | 7 |
| Letter for the Record addressed to Hon. Catherine Cortez Masto regarding the status of funds in the Resettlement Trust Fund | 124 |
| Responses to Questions for the Record | 139 |
| Gootnick, Dr. David: | |
| Opening Statement | 35 |
| Written Testimony | 37 |
| Responses to Questions for the Record | 202 |
| Guillo, Eden: | |
| Letter for the Record | 241 |
| Hawaiian Rock Products (Saipan): | |
| Letter for the Record | 242 |
| Herman's Modern Bakery, Inc.: | |
| Letter for the Record | 246 |
| Hudkins, Merle: | |
| Letter for the Record | 249 |
| Hyatt Regency Saipan: | |
| Letter for the Record regarding S. 2325 | 78 |
| Letter for the Record regarding H.R. 4869 | 80 |

Page

IT&E:
Letter for the Record addressed to Hon. Gregorio Kilili Camacho Sablan regarding H.R. 4869 dated 1/29/18 ..... 82
Letter for the Record addressed to Hon. Lisa Murkowski regarding S. 2325 dated 1/29/18 ..... 250
Jibas, Hon. Anderson:
Opening Statement ..... 27
Written Testimony ..... 30
Responses to Questions for the Record ..... 198
Johnston, Hon. J. Bennett:
Letter for the Record ..... 255
Mendiola-Long, Phillip:
Letter for the Record ..... 257
Murkowski, Hon. Lisa:
Opening Statement ..... 1
Niedenthal, Jack:
Opening Statement ..... 59
Written Testimony ..... 62
Responses to Questions for the Record ..... 207
Northern Marianas Business Alliance Corp.:
Letter for the Record ..... 261
Northern Marianas Trades Institute:
Letter for the Record ..... 87
Nutting, Stephen:
Letter for the Record ..... 263
Palacios, Hon. Arnold I.:
Letter for the Record addressed to Hon. Gregorio Kilili Sablan dated 2/1/18 ..... 88
Certified copy of duly adopted H.J.R. 20-8 ..... 90
Letter for the Record addressed to Hon. Lisa Murkowski dated 2/2/18 ..... 96
House Joint Resolution 20–7 ..... 98
House Joint Resolution 20–8 ..... 104
Senate Resolution 20–21 ..... 110
S. 2182, the Bikini Resettlement and Relocation Act ..... 210
S. 2325, the Northern Mariana Islands U.S. Workforce Act ..... 213
Sablan, Hon. Gregorio Kilili Camacho:
Opening Statement ..... 16
Written Testimony ..... 18
Saipan Chamber of Commerce:
Letter for the Record addressed to Hon. Lisa Murkowski dated 2/1/18 ..... 115
Letter for the Record addressed to Hon. Gregorio Kilili Sablan dated 1/31/18 ..... 264
Society for Human Resource Management NMI Chapter:
Letter for the Record ..... 266
Tan, Ronnie:
Letter for the Record ..... 269
Tano Group Inc.:
Letter for the Record ..... 117
(People of) Tinian and the Tinian Leadership:
Letter for the Record ..... 270
Torres, Hon. Ralph DLG.:
Opening Statement ..... 21
Written Testimony ..... 23
Responses to Questions for the Record ..... 144
Press Release dated January 21, 2018 ..... 272
Torres Refrigeration, Inc.:
Letter for the Record ..... 274
Triple J Enterprises, Inc.:
Letter for the Record ..... 119
Van Der Maas, Erick:
Letter for the Record ..... 275
Van Der Maas, Jasper:
Letter for the Record ..... 276
van Gils, Gerard:
Letter for the Record ..... 277
Weisgall, Jonathan M.:
Letter for the Record ..... 279

Page

Zackios, Hon. Gerald M.:
Statement for the Record ..... 281

# PENDING LEGISLATION

**TUESDAY, FEBRUARY 6, 2018**

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
*Washington, DC.*

The Committee met, pursuant to notice, at 10:04 a.m. in Room SD–366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

## OPENING STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

The CHAIRMAN. Good morning. The Committee will come to order.

I want to welcome everyone this morning as we gather to examine two pieces of legislation related to U.S. affiliated islands: S. 2182, the Bikini Resettlement and Relocation Act, and S. 2325, the Northern Marianas Island U.S. Workforce Act.

Walking in this morning, it was a little bit cool outside, so we will go to the South Pacific.

To address the legacy of U.S. nuclear testing in the Marshall Islands, Congress has provided $110 million to the people of Bikini for the rehabilitation and resettlement of Bikini Atoll via appropriations and an additional $75 million through the Compact of Free Association with the Marshall Islands. The Trust Fund for the Resettlement of the People of Bikini reached a high of $129 million back in 2000. Today its market value is approximately $57 million.

I introduced S. 2182 in response to the Department of the Interior's recent determination that it does not have statutory authority to conduct financial oversight of the Trust Fund. This determination just came down in November. While annual drawdowns from the Trust Fund have historically ranged from $5 to $10 million, over $15.7 million has already been withdrawn in FY 2018. Press reports detailed an immediate $11 million drawdown from the Trust Fund, nearly 20 percent of its value at the time, by the KBE Local Government Council after the Department's announcement in November. We have heard reports of large sums being spent on things such as an airplane, two landing craft, an elaborate function in Hawaii and cash payments to households on Ejit and Kili in the name of disaster relief but without any damage assessments being conducted.

S. 2182 provides the Secretary of the Interior with statutory authority to disapprove of Trust Fund withdrawals until a resettlement plan for Bikini has been submitted to Congress. It also caps the amount that can be withdrawn on an annual basis at five per-

cent of the Trust Fund's market value until the resettlement plan has been submitted.

Now I need you all to know that I am very sensitive to the notion that Washington, DC, should not dictate local decisions. Alaskans have dealt with that mentality since we were a territory. I have always found it far more useful to hear from the duly elected representatives on community needs. But I am also mindful that the Trust Fund was established for the people of Bikini, with its statutory purpose being the "rehabilitation and resettlement of Bikini Atoll." As a result of the United States' nuclear testing, our government has a responsibility to the Bikini people. Establishing the Trust Fund with U.S. taxpayer dollars was part of that responsibility, and ensuring that the Trust Fund is utilized for the people of Bikini in a manner that is consistent with its intent and statutory purpose is also our responsibility.

With this hearing, I hope to gain a better understanding from our witnesses as to the rationale and the legal analysis behind the Department's interpretation of its role. I also want to learn how the money that has been withdrawn from the Trust Fund is being utilized per Congress' intent.

Our second piece of legislation this morning, S. 2325, seeks to address the Northern Mariana Islands' foreign labor concerns as we reach the end of the transition period that was established by Congress. This bill was developed by a bipartisan, bicameral working group that I formed last year. That group includes two of our witnesses today, Congressman Sablan, we thank you, and Governor Torres, as well as staff from our Committee, the House Natural Resources Committee and the House and Senate Judiciary Committees. We appreciate the good work that many have put in to getting us to where we are today.

S. 2325 extends the transition period to 2029. It further sets a numerical cap of 13,000 CW permits starting in FY 2019 with annual decreases of 500 permits for the remainder of the transition period. Our goal is to ensure that U.S. workers in the Commonwealth of the Northern Mariana Islands (CNMI) are not at a competitive disadvantage compared to foreign labor. To that end, our legislation requires a U.S. Department of Labor certification on foreign worker needs and requires that the employer pay a CW worker the highest prevailing wage.

The bill also creates a new CW–3 permit category for long-term foreign workers who have been working in the CNMI under a CW permit since 2014, and it gives the Secretary of Homeland Security the authority to revoke an issued permit if it is not being used or if the employer has violated federal labor laws.

The timing of this legislation is significant as we are only a few weeks away from the submission of the next round of CW permit applications. Notably, the Department of Homeland Security has announced a significant reduction in the number of CW permits available in FY'19, which is expected to result in the denial of thousands of applications.

While I do believe that we have a good product in front of us, I welcome suggestions on how we might be able to improve it. I do want to emphasize, however, that while I am willing to support extending the transition period, I remain committed to the intent of

the transition, which is to increase the number of U.S. workers in the CNMI economy while reducing the dependence on foreign labor.

I look forward to hearing from our witnesses on these two bills, and I thank many of you for coming a long, long distance today.

I now turn to Senator Cantwell for her comments and remarks.

**STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Thank you, Chair Murkowski, for holding this hearing, and thank you to our witnesses for joining us today to discuss Senate bill 2325, the Northern Marianas Island U.S. Workforce Act, and S. 2182, the Bikini Resettlement and Relocation Act. As the Chair said, and as I well know, many of you have traveled from far away.

As many of my colleagues know, this Committee was originally created in 1816, as the Committee on Public Lands, and in 1977 it was renamed what we call it today, the Committee on Energy and Natural Resources. Since its earliest days, its jurisdiction has encompassed territories and insular areas and the scope of the Committee's jurisdiction includes five territories: Puerto Rico, U.S. Virgin Islands, American Samoa, Guam and the Northern Mariana Islands, in addition to the Freely Associated States of Palau, Micronesia and the Marshall Islands.

Today, the Committee will consider S. 2325, which would amend labor policies in the Commonwealth of the Northern Mariana Islands. It specifically addresses the Northern Marianas only transitional worker permit program.

The Committee will also consider S. 2182, the Bikini Resettlement and Relocation Act. The bill is an attempt to ensure that the U.S. Government keep its promise to the people of the Bikini Atoll and preserve the resettlement trust.

At last year's hearing, we revisited the shameful labor abuses of the 1990s and early 2000s and the actions this Committee took in response under the leadership of then Senator Frank Murkowski. We learned that some of these same abuses had returned with recent casino and hotel construction, and we also noted press reports that indicated money laundering. Fortunately, in contrast to the '90s, the Federal Bureau of Investigation and U.S. Department of Labor were on the scene and they made multiple arrests and put a halt to the abusive labor practices, and at least five people have been indicted on charges of harboring aliens for commercial advantage and private financial gain. I expressed my concern at that time there did not appear to be sufficient oversight on the part of local government. Regarding potential money laundering, Governor Torres indicated that his administration was intent on strict regulatory oversight and he committed to evaluating whether any changes in the local law and enforcement were necessary. So I look forward to hearing about the progress on this today, Governor.

This Committee passed a bill last year which upon enactment in August would remove the loopholes which allowed construction companies to get CW visas, and during the past year we have been working on a longer-term solution to the expiring CW program.

I would like to thank Congressman Kilili Sablan from the Northern Marianas for his leadership in working these past several

months in a bipartisan way with the staff of the Committee and the Judiciary Committee to identify a path forward for a ten-year transition from the CW program. This bill, in my view, effectively promotes continued economic growth for the Marianas but also imposes additional safeguards to make sure that protections are in place for workers. Those who mistreat their employees will suffer the consequences.

The Bikini Atoll Resettlement Fund. The Marshall Islands, a sovereign nation in free association with the United States, consists of 34 low-lying atolls in the Pacific Islands approximately 2,400 miles southwest of Hawaii. One of the atolls in the northwestern quadrant of the Marshall Islands is Bikini Atoll. Between 1946 and 1958, the United States detonated 67 atmospheric devices in the Marshall Islands. Before testing began, the United States moved the 167 residents of Bikini off the island to protect them. As a result of the weapons testing, Congress provided the people of the Atoll with a Resettlement Trust Fund of approximately $110 million. Its current purpose is to resettle the people of Bikini to other islands within the Marshall Islands and to restore habitation to Bikini.

Historically, by our mutual agreement, the Department of the Interior would approve Bikini's withdrawals. I understand the people of Bikini have decided that they no longer want to continue the arrangement that had been in place for the past 27 years and the Department of the Interior has agreed to cease its oversight, but S. 2182 attempts to ensure that the Department of the Interior continues overseeing withdrawals from the funds to prevent depletion. What began as a $110 million fund was $67 million in September, and shortly after the Department of the Interior's decision, $11 million was withdrawn.

While I agree we must respect the Bikini's desire to spend their money in certain ways, the Department of the Interior has a responsibility to ensure the Fund remains for several years to come. The Federal Government must ensure that the Northern Marianas has the tools to grow its economy, while at the same time, ensuring protection of the fundamental labor rights. So I view the Northern Marianas bill before us today as accomplishing both, but the local government must remain vigilant.

Thank you, Madam Chair, for holding this important hearing. I look forward to hearing what the witnesses have to say today.

The CHAIRMAN. Thank you, Senator Cantwell.

Let's turn now to our witnesses, a very distinguished panel. We appreciate you joining us here this morning.

We will be led off this morning by the Honorable Doug Domenech, who is the Assistant Secretary for Insular and International Affairs at the U.S. Department of the Interior. Nice to have you here.

I mentioned Congressman Sablan, with the U.S. House of Representatives. Thank you for joining us, and we appreciate all your good work.

The Governor for the Commonwealth of the Northern Mariana Islands, the Honorable Ralph Deleon Guerrero Torres, is with us this morning. Thank you for traveling so far, we appreciate it.

We are also joined this morning by the Mayor of the Kili, Bikini and Ejit Local Council, the Honorable Anderson Jibas. Welcome to the Committee.

Dr. David Gootnick is the Director of International Affairs and Trade for the U.S. Government Accountability Office (GAO). We thank you for being here.

And Mr. Jack Niedenthal, who is a member of the Bikinian Elder Community. We welcome you to the Committee.

We would ask that you try to keep your comments to about five minutes. Your full statements will be included as part of the record, and then we will have an opportunity for questions and answers once you each have concluded your statements.

With that, Mr. Domenech, if you would like to lead us off this morning?

**STATEMENT OF HON. DOUGLAS DOMENECH, ASSISTANT SECRETARY FOR INSULAR AREAS, U.S. DEPARTMENT OF THE INTERIOR**

Mr. DOMENECH. Good morning, Chairman Murkowski, Ranking Member Cantwell and members of the Committee. Thank you for the opportunity to speak regarding S. 2182, the Bikini Resettlement and Relocation Act, and S. 2325, the Northern Mariana Islands U.S. Workforce Act.

The Bikini Resettlement Trust Fund was established in 1982 to aid in the relocation and resettlement of the people of Bikini. S. 2182 would limit the distribution of expenditures from the Trust Fund to no more than five percent of the principle and retain the right of the Secretary of the Interior to disapprove expenditures from the Fund.

Two weeks ago, I visited the people and places of these enchanting islands. While I was there I met with President Heine, her cabinet members and other members of the legislature in Majuro and Kwajalein. I also met with the Mayor of Bikini and the members of the Kili/Bikini/Ejit, or KBE, Council where we discussed, in general, their plans to provide for their peoples' future.

For more than three decades since the Bikini Resettlement Trust Fund was established, the Department exercised a discretionary right of veto to disapprove distributions from the Fund. This past August the KBE Council passed a resolution stating that the Department was not required, statutorily, to exercise a right of veto over the Council's budget. After a review by Interior's Solicitors Office, the Department accepted the resolution as an amendment to the Trust Fund agreement and decided we would no longer exercise the discretionary right of veto over withdrawals.

In doing so, we made clear that if KBE expended all the funds, the U.S. Government would not be responsible to replenish them, consistent with the 1980s legislation that satisfied U.S. obligations and settled all claims for nuclear testing.

S. 2182 intends to reverse this decision. For decades, the Department exercised such a discretionary right of veto which was accomplished only with the cooperation of successive elected leaders of the KBE Local Government. This arrangement came to an end in August when the Mayor of Bikini and 15 of the 18 elected members

of the KBE Council expressed their clear intent to deal with their trustee bank exclusively.

In addition, it is the Department's view that the funds that Congress appropriated decades ago lost their character as federal once the Fund acquired them. This is consistent with the Congressional Budget Office's view that, "The funds belong to the people of Bikini and thus are non-federal." Consequently, it is unclear how S. 2182 could serve to impose withdrawal restrictions retroactively on these non-federal funds that belong to a foreign entity.

It is important to note that President Heine has indicated her support for the Department's decision to restore decision-making to the KBE Council. Secretary Zinke has made clear that he supports strongly restoring trust and responsibility to local communities with which Interior deals. The people of Bikini, through their elected leaders, have the right to exercise local control over the funds provided to them as compensation for the U.S. Government's nuclear testing in Bikini. Therefore, the Administration would not be able to support S. 2182 as currently written.

I would now like to comment on S. 2325, the Northern Mariana Islands U.S. Workforce Act. S. 2325, among other provisions, would extend the termination date of the temporary Commonwealth-Only, or CW, visa transition period by ten years, raise the annual number of CW visas to 13,000 during Fiscal Year 2019 and create incentives to increase the percentage of U.S. workers.

In recent years there have been significant investments in casino and hotel facilities in the territory, increasing the need for labor. Since 2009, the CNMI has relied on this unique Commonwealth-Only visa system which is due to end in 2019.

The Department applauds this legislative effort to increase U.S. workers. The Administration is committed to working with the leadership and people of CNMI to ensure robust and healthy economic growth and appreciates that a consistent labor market is essential.

The Department looks forward to working with the Congress and the Committee to provide long-term solution, a long-term solution to the CNMI's economic challenges, to protect and provide Americans and other U.S. eligible workers job opportunities and to identify new opportunities for growth and diversification.

Thank you.

[The prepared statement of Mr. Domenech follows:]

STATEMENT
OF
DOUGLAS DOMENECH
ASSISTANT SECRETARY FOR INSULAR AREAS
DEPARTMENT OF THE INTERIOR

BEFORE THE
U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

REGARDING
S. 2182
TO PROVIDE FOR THE SETTLEMENT AND RELOCATION OF THE PEOPLE OF BIKINI

FEBRUARY 6, 2018

Chairman Murkowski, Ranking Member Cantwell, and Members of the Committee, I am Doug Domenech, Assistant Secretary for Insular Areas at the Department of the Interior (Department). Thank you for the opportunity to testify regarding S. 2182, the Bikini Resettlement and Relocation Act.

**Provisions of S. 2182**

The Bikini Resettlement Trust Fund (Trust Fund) was established pursuant to P.L. 97-257, in order to aid in the relocation and resettlement of the Bikini people living on Kili and Ejit Islands. S. 2182 would amend P.L. 97-257 to limit the distribution of expenditures from the Trust Fund to no more than 5 percent of the principal of the Trust Fund. Under S. 2182, the Secretary of the Interior (Secretary) would retain the right to disapprove of the distribution of expenditures from the Trust Fund, subject to the 5 percent limitation, until such time as the Secretary submits a resettlement plan to Congress. The Secretary would be required to coordinate with the Bikini Atoll leadership in the development of the resettlement plan.

## Visit to the Marshall Islands

Before I discuss the Department's views on S. 2182, I wanted to share with you my recent experience in the Republic of the Marshall Islands. In my first official visit to the Marshall Islands two weeks ago, I had an opportunity to visit the people and places of these enchanting islands. I met with the Honorable President Hilda Heine and her Cabinet ministers, Members of the *Nitijela* (the Marshall Islands' parliament), students and teachers at the Rita Elementary School, the President of the College of the Marshall Islands, the hospitals in Majuro and Ebeye, and had briefings in Kwajalein Atoll and at the Ronald Reagan Ballistic Missile Defense Test Site. I also had the opportunity to meet with the Mayor of Bikini Atoll and the members of the Kili-Bikini-Ejit ("KBE") Local Government Council, where we discussed in detail their plans to provide for their people's future. The topic of this hearing was a part of our discussions, which I will detail further below.

## Background

Between June 30, 1946, and August 18, 1958, the United States conducted a series of nuclear tests in the Marshall Islands, which included the detonation of atomic and hydrogen bombs in and around Bikini Atoll. These tests necessitated the removal and relocation of Bikini Atoll inhabitants to Rongerik Atoll and Kwajalein Atoll at first, and eventually Kili Island, Ejit Island and Majuro Atoll. Following an attempt to return the Bikinians to Bikini Atoll in the 1970s after a radiological survey found that Bikini Atoll was not safe for human habitation, Bikini Atoll has remained uninhabited since 1978.

The Trust Fund was funded initially by an appropriation of $24,957,000 (P.L. 97-257). On January 14, 1986, the President signed legislation (P.L. 99-239) that approved the Compact of Free Association with the Republic of the Marshall Islands (the Compact). Section 177 of the Compact provided a procedure for the disposition of claims that resulted from the United States' Nuclear Testing Program. A separate agreement between the United States and the Republic of the Marshall Islands (RMI) authorized the settlement of all such claims, which went into effect simultaneously with the Compact. On October 10, 1986, the United States and RMI agreed that the effective date of the Compact would be October 21, 1986. On September 27, 1988, P.L. 100-46 was signed into law that satisfied the U.S. obligation to provide funds to

assist in the resettlement and rehabilitation of Bikini Atoll for the People of Bikini. P.L. 100-46, pursuant to the Compact, added an additional $90 million into the Trust Fund. The Trust Fund was amended effective October 26, 1988 in order to comply with P.L. 100-446 (the Agreement).

**Recent History**

On August 18, 2017, the Marshall Islands KBE Local Government Council passed a Rescript resolution (Rescript) to amend the Agreement stating that the Department's practice of exercising a right of veto over the Council's budget was not statutorily based.

On November 16, 2017, the Department responded to the Mayor of Bikini Atoll informing him that the Department had completed its review of the Council's Rescript. The letter further informed the Mayor and the Council that the Department was giving notice of the Department's acceptance of the Rescript as a valid amendment to the Agreement and that the Department would proceed in accordance with the terms of the Agreement as amended by the Rescript.

Although the Rescript serves to revise Section 10.1 of the Agreement, the Rescript does not and cannot affect any statutory provision concerning the Department's actions respecting the Trust Fund. Two such provisions remain extant. First, with the enactment of P.L. 100-446, Congress gave the Secretary discretion to approve expenditures not to exceed $2,000,000 in any year from Trust Fund income for projects on Kili or Ejit. Second, P.L. 100-446 further provides that one year prior to the completion of the rehabilitation and resettlement program, the Secretary shall report to the Congress on future funding needs in Bikini Atoll.

P.L. 110-446 refers to the Secretary's reserved right to ask the KBE Local Government in any year for information on whether the KBE Local Government expects to expend an amount not exceeding $2,000,000, specifically for projects on Kili and Ejit. The exercise of this statutory discretion does not relate to the KBE Local Government's total, annual budget, which also concerns projects in Majuro Atoll, Bikini Atoll and Arkansas, and it does not appertain to the KBE Local Government's request of its trustee bank to withdraw funds from the Trust Fund. They are free to

do that. Rather, this exercise of discretion is part of the statutorily mandated relationship between the KBE Local Government and the Department, separate and apart from the trustee bank.

On December 1, 2017, Chairman Murkowski wrote the Secretary of the Interior a letter to express her concern with the November 16 letter to the Mayor of Bikini Atoll. Included with the December 1 letter was a copy of S. 2182, which was introduced also on December 1 and which was referred the same day to this committee. The Chairman indicated that S. 2182 was intended to provide the "Department with the authority to disapprove withdrawals from the Resettlement Trust Fund for the People of Bikini" and to "limit those withdrawals each year to five per cent of the Fund's *corpus*, based on the Fund's average market value for the previous five fiscal years."

S. 2182 intends to provide the Department with the means to achieve the bill's purpose, namely, a *right of veto* by the Department over withdrawals from the Trust Fund. For more than three decades the Department exercised such a *right of veto* during eight U.S. Administrations. The exercise of this *right of veto*, however, was accomplished only with the request and acquiescence of the successive, elected leaders of the KBE Local Government. This arrangement came to end in August, when, while in no way criticizing the work that the Department had carried out on KBE affairs, the present Mayor of Bikini Atoll and fifteen of the eighteen elected members of the KBE Local Government Council expressed their clear intent to deal with their trustee bank exclusively and without any Federal oversight. This change was reflected in the Rescript passed by the Council in August and the Department's acceptance of the Rescript as an amendment to the Agreement.

Therefore, if the Congress enacts S. 2182 in its current form, it is unclear what mechanism the Department would utilize to disapprove withdrawals from the trustee bank or how the Department would limit withdrawals each year to five per cent of the Fund's *corpus* given the Council's resolution on the matter, based on the Fund's average market value for the previous five fiscal years.

In addition, it is the Department's understanding that the monies that the United States placed in the Trust Fund decades ago lost their character as *Federal funds* once the Trust Fund acquired them. The Trust Fund is neither Federal in nature nor itself the subject of any existing Federal oversight. The Trust Fund is not part of the sector grants under the Compact, with the Marshall Islands, which appear for regular review and oversight by the U.S.-

Marshall Islands Joint Economic Management and Financial Accountability Committee, whose chairman is the Director of Interior's Office of Insular Affairs. There is no legal means for the Department to compel the KBE Local Government to provide the Department with a copy of the KBE Local Government's proposed fiscal year budget or even the name of the trustee bank. It is the Department's opinion that it cannot legally enforce any limitation on withdrawals.

In addition, the Department notes that, when the Congressional Budget Office analyzed P.L. 106-188, the Bikini Resettlement and Relocation Act of 1999, in referring to the Trust Fund, CBO stated that "the funds belong to the people of Bikini and thus are nonfederal." Consequently, it is unclear how S. 2182 could serve to impose withdrawal restrictions retroactively on these non-Federal funds.

Finally, it is important to note that during my visit to the Marshall Islands, President Heine indicated her support for the Department's decision to restore decision-making to the KBE Local Government Council. In addition, the Department has received letters of appreciation and support from Kessai Note, the former President of the Marshall Islands and present Senator from Jabat Island; Peterson Jibas, the Bikini Atoll delegate to the Marshall Islands Constitutional Convention; and Senator Eldon Note of Bikini Atoll.

**Administration Position**

Secretary Zinke has made clear that he supports restoring the trust and sovereignty to the local communities with which Interior deals. It is the Department's position that the people of Bikini, through their elected leaders, have the right to amend the Agreement in order to restore their local control over the funds provided to them as restitution for the U.S. Government's nuclear testing on Bikini Atoll. Further, the Department believes that it does not have the right to veto the use of non-Federal funds that are not under our purview or jurisdiction. Absent any Federal law otherwise, the Department supports the empowerment of local governments.

Therefore the Administration would not be able to support S.2182 as currently written.

Thank you for allowing the Department to express its view on S. 2182.

STATEMENT
OF
DOUGLAS DOMENECH
ASSISTANT SECRETARY FOR INSULAR AREAS
DEPARTMENT OF THE INTERIOR

BEFORE THE
U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

REGARDING
S. 2325
THE NORTHERN MARIANA ISLANDS U.S. WORKFORCE ACT

FEBRUARY 6, 2018

Chairman Murkowski, Ranking Member Cantwell, and Members of the Committee, I am Doug Domenech, Assistant Secretary for Insular Areas at the Department of the Interior (Department). Thank you for the opportunity to testify regarding S. 2325, the Northern Mariana Islands U.S. Workforce Act. The Department looks forward to working with Congress and the Committee to assist the Commonwealth of the Northern Mariana Islands (CNMI) to provide a long-term solution to the CNMI's labor needs and economic challenges, to protect and provide Americans and other U.S.-eligible workers job opportunities, and to identify new opportunities for growth and diversification.

**Provisions of S. 2325**

S. 2325 would (1) extend the termination date of the transition period for the full application of federal immigration laws by 10 years, (2) allow for the annual adjustment of the supplemental fee of $200 per nonimmigrant worker on each prospective employer issued a permit to employ such workers, (3) clarify the eligible uses and distribution requirements of supplemental fee

funds, (4) raise the annual number of authorized CNMI-only transitional worker (CW-1) visas to 13,000 during fiscal year 2019, (5) seek to increase the percentage of United States workers by creating incentives for the hiring, protection or retention of United States workers, (6) establish new application procedures for the issuance of CW-1 visas, and (7) authorize certain eligible aliens (CW-3 workers) to receive work permits for three years, subject to three year renewal periods during the duration of the transitional period.

Extending the transition period until December 31, 2029 would, in addition to its effects on the CW-1 program, extend: (1) the exception to the otherwise applicable annual caps on H-1B and H-2B nonimmigrant workers for employment in the CNMI or Guam; (2) the E-2C CNMI nonimmigrant category for certain investors in the CNMI; and (3) the bar on asylum applications under section 208 of the Immigration and Nationality Act in the CNMI.

**Recent Economic History**

The Northern Mariana Islands (NMI) began to be governed under the *Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America* (the Covenant) and the CNMI Constitution in 1978, with the Covenant fully taking effect in 1986. It was expected that tourism was going to be part of the foundation on which CNMI's economy would be built. In the early 1980s, a garment industry was introduced and, thereafter, expanded rapidly. The garment industry peaked in 1998, with a $1.1 billion business built on imported foreign labor. By 2009, all the garment factories were closed causing a significant negative impact on CNMI's economy. CNMI's annual budgets dropped from a high of $247 million in 1997 to $102 million in 2012.

Faced with drastic revenue reduction and increasing liabilities, the CNMI government struggled to meet its mandated obligations. With impending financial ruin for CNMI government retirees, CNMI political leaders charted a new economic course for their islands. A contract was signed on August 8, 2014, that made the CNMI an international gambling destination. It was an option which the CNMI leaders found to have greater potential to improve the CNMI's economy quickly and to enable the local government to afford paying its financial obligations.

A new casino broke ground in July 2015. Since then, casino-based revenue has already started to bolster the territory's economy and provide security for its retirees.

Plans from substantially more private and public investment in CNMI were shattered when Typhoon Soudelor made landfall on the island of Saipan in August 2015. The devastation from the typhoon brought extreme competition for supplies and labor and delays in casino and hotel construction.

In addition, the CNMI economy has become increasingly dependent on CW-1 visas, which were authorized by the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110-229. The statute's mandate for the numerical reduction on CW-1 visas became an issue, considering that for fiscal year 2016 the entire number of available CW-1 visas was fully subscribed in May 2016, and was fully subscribed within two weeks for fiscal year 2017. CNMI's economy remains, admittedly, substantially dependent on what was supposed to be a temporary visa category that has been around for less than 10 years.

CNMI continues to experience labor difficulties. We look forward to working with Congress to fulfill Congress's intent to ensure a gradual, responsible CW-1 visa wind-down, while ensuring policies are in place that allow CNMI to continue its nascent economic progress. The Department looks forward to discussing opportunities to provide a long-term solution and S. 2325 is an important step in that ongoing dialogue.

Billions of dollars are being invested in casino and hotel facilities, increasing the number of civilian construction projects. Without some effort to provide legal labor relief to CNMI, it is anticipated that projected investments in the CNMI will be lost. When slated casinos and hotels finally open, the Marianas Visitors Authority estimates that they will need 18,500 additional employees to run them. A recent report by the U.S. Government Accountability Office projects that without sufficient foreign labor the economy of the NMI would contract by an estimated 26 to 62 percent.

On August 22, 2017, in recognition of the need to address the short-term labor needs of the CNMI, the President signed into law P.L. 115-53, which took the pressure off of the annual limit of 12,998 on CW-1 visas by requiring that the recent sudden increase in demand for construction be accommodated by issuing H-2B visas.

**Administration Position**

The Administration is committed to working with the leadership and people of CNMI to ensure robust and healthy economic growth, and appreciates that appropriate access to labor is key to such growth. The Administration is also committed to doing all it can to not only follow the laws of our nation, but also to help employ American citizens wherever possible.

The Administration remains open to working with Congress and the Committee to help develop the best legislation for addressing all of the economic and labor needs of the United States and CNMI. The Administration would be open to supporting legislation that facilitates the hiring of Americans and reduces CNMI's overall reliance on foreign labor by requiring a responsible, explicit wind-down of CW-1 visas to zero.

The Department of the Interior, through the Office of Insular Affairs (OIA), has been providing technical assistance to the CNMI as called for under the Consolidated Natural Resources Act of 2008, Public Law 110-229. Under the proposed legislation, the Department would be responsible to compile the aforementioned biennial report. The Department supports the intent and content of this report, but acknowledges that much of the content and work would be done by or in conjunction with the Departments of Homeland Security, Labor and Commerce.

I appreciate the opportunity to speak on behalf of the Department today, and look forward to helping develop a solution that supports the economic growth that we all seek.

The CHAIRMAN. Thank you, Mr. Domenech.

Congressman Sablan, welcome.

**STATEMENT OF HON. GREGORIO KILILI CAMACHO SABLAN, U.S. HOUSE OF REPRESENTATIVES**

Mr. SABLAN. Thank you very much and good morning, Chairwoman Murkowski, Ranking Member Cantwell, Senator Heinrich, Senator Hirono and Senator Masto.

Thank you for today's hearing on S. 2325, the Northern Mariana Islands U.S. Workforce Act. I introduced the same bill, H.R. 4869, in the House of Representatives, and we're looking at a hearing at the end of the month. My hope is the Senate will act so quickly that our hearing in the House can actually take up Chairwoman Murkowski's S. 2325.

And there is urgent reason to act. On April 1st, the window opens to apply for foreign labor permits for Fiscal Year 2019. USCIS has cut the permit cap in half, 5,000 below this year, and will close the window as soon as enough applications are received. This year, the window closed in just 11 days. Cutting the prospective foreign workforce in half will have an immediate and profoundly negative impact on the Mariana's economy, which is now flush with growth, after many years of decline.

But Congress works well, working against a deadline, and I believe we can move quickly now because the U.S. Workforce Act is the product of a bicameral, bipartisan, Congressional working group and because the bill centers on two policy goals that should find broad agreement in Congress. One, the Mariana's economy should continue to have the labor needed to continue development, and two, that the labor force should increasingly be composed of U.S. workers.

To provide the necessary labor, the bill extends the current transition period for another ten years and resets the permit cap to last year's level of 13,000. To incentivize hiring U.S. workers, the bill reduces the cap by 500 per year. To further protect U.S. workers, the bill requires the U.S. Department of Labor to certify the need for any new foreign worker and certify they will not pull down the wages of U.S. workers. And to help make U.S. workers more employable, the bill increases the annual fee paid by employers to fund apprenticeships and vocational programs and requires an annual spending plan with specific job placement targets, plan approval by U.S. Labor and performance reports. Of course, another way to get U.S. workers is to look to the mainland U.S. or to Hawaii and Alaska.

Chairwoman Murkowski, I know you have native corporations. You have native corporations who do construction and are always looking for opportunities along the Pacific Rim. I hope the Governor will look to Alaska for roads and other infrastructure projects the Commonwealth is building.

The U.S. Workforce Act also requires periodic touchback in their home countries by foreign workers to reaffirm their non-permanent, nonimmigrant status. At the same time, the bill protects those foreign workers.

When I testified here last year, federal agencies, OSHA, Labor's Wage and Hour Division, Department of Justice and Immigration,

had recently found serious violations of federal law at a major Chinese casino project in the Marianas. Also last year, the Department of Justice successfully prosecuted multiple businesses that were fronts for illegal recruitment and contracting schemes which I would call human trafficking.

The U.S. Workforce Act tackles those problems head on. From now on, employers must present evidence to federal agents every three months that foreign workers are being paid and that all the other terms and conditions of employment are being met. And employers who are in breach of federal or Commonwealth labor laws or not using their permits will have them revoked, so legitimate businesses can have those permits. Of course, we may have some fine tuning to do. We will be meeting with Homeland Security in the next few days and the Labor Department. But all in all, we have a good bill.

We wanted to be sure the economy would have workers. Our bill does that. We wanted to be sure that more Americans would be getting jobs. Our bill does that, too.

And once again, I thank you, Chairman Murkowski, Ranking Member Cantwell and all the members of our Congressional working group.

Today, it seems, we live in an age of division. But this bill reminds us, with effort and good will, agreement is within our reach.

And of course, Chairman Murkowski, you and I share the experience of working successfully together as we did on the transfer of submerged lands in the Marianas in 2013, the Rosa Parks study in 2014, extending the labor transition period from 2014 to 2019, and last year, on H.R. 339, my bill, barring the use of CW worker's permits for new construction workers. None of that legislation was easy, and the U.S. Workforce Act may be the most difficult of all. But I look forward to continuing to work with you. I am confident we can be successful again.

Thank you very much for inviting me this morning.

[The prepared statement of Mr. Sablan follows:]

Gregorio Kilili Camacho Sablan
U.S. House of Representatives
Statement on S.2325
Northern Mariana Islands U.S. Workforce Act
Senate Energy and Natural Resources Committee
February 6, 2018

Thank you, Chairman Murkowski and Ranking Member Cantwell, for today's hearing on S. 2325, the Northern Mariana Islands U.S. Workforce Act.

I have introduced the same bill, H.R. 4869, in the House of Representatives. And a hearing on my legislation has been tentatively scheduled in the Natural Resources Committee for February 28.

My hope is that the Senate will act so quickly that our hearing in the House can actually take up Chairman Murkowski's S. 2325.

There is urgent reason to act.

On April 1, the window opens to apply for foreign labor permits for fiscal 2019. USCIS has cut the permit cap in half, 5,000 below this year, and will close the window as soon as enough applications are received to meet that lower cap. This year, the window closed in just 11 days.

Cutting the prospective foreign workforce in half will have an immediate and profoundly negative impact on the Marianas economy, which is now flush with growth, after many years of decline.

Congress works well, working against a deadline. And I believe we can move quickly now.

The U.S. Workforce Act is the product of a bicameral, bipartisan working group, convened under your leadership, Madame Chair, and centers on two policy goals that should find broad agreement in Congress:

1) that the Marianas economy have the labor needed to continue development, and

2) that the labor force increasingly be composed of U.S. workers.

To provide the necessary labor the bill extends the current transition period for another ten years and resets the permit cap to last year's level of 13,000.

To incentivize hiring U.S. workers the bill reduces the cap by 500 per year.

To further protect U.S. workers the bill requires that the U.S. Department of Labor certify the need for any new foreign workers and certify they will not pull down the wages of U.S. workers.

And to help make U.S. workers more employable the bill increases the annual fee paid by employers to fund apprenticeships and vocational programs, and requires an annual spending plan with specific job placement targets, plan approval by U.S. Labor, and performance reports.

The U.S. Workforce Act, also, requires a periodic touchback in their home country by foreign workers to reaffirm their temporary, nonimmigrant status.

But the bill also protects those foreign workers.

When I testified here last year federal agencies—OSHA, Labor's Wage and Hour Division, DOJ, and Immigration—had recently found serious violations of federal law at a major Chinese casino project in the Marianas.

Also last year, DOJ successfully prosecuted multiple businesses that were fronts for illegal recruitment and contracting schemes – what I would call human trafficking.

The U.S. Workforce Act tackles those problems head on.

From now on, employers will have to present evidence to federal agents—every three months—that foreign workers are being paid and that all the other terms and conditions of employment are being met.

And employers who are in breach of federal or Commonwealth labor laws—or not using their permits—will have them revoked, so legitimate businesses can have them instead.

It is often said in negotiations, no one gets everything they want.

With respect to the negotiation of the U.S. Workforce Act that adage is not true.

We all wanted to be sure the economy would have workers. Our bill does that.

We all wanted to be sure that more Americans would be getting jobs. Our bill does that, too.

Of course, we may have some fine-tuning yet to do.

But in all we have a good bill.

For that, I thank you, Chairman Murkowski and Ranking Member Cantwell, and all the members of our bipartisan congressional working group and our staff.

I know, it seems, today, we live in an age of division.

But we should not be discouraged.

This bill reminds us—with effort and good will—agreement is within our reach.

I look forward to continuing to work with you to enact the U.S. Workforce Act.

The CHAIRMAN. Thank you, Congressman. We appreciate you being here.

Governor Torres, good to see you.

**STATEMENT OF HON. RALPH DLG. TORRES, GOVERNOR, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

Mr. TORRES. Good morning, hafa adai and tirow. On behalf of the people of the Commonwealth of the Northern Mariana Islands, I want to thank Chairman Murkowski, Ranking Member Cantwell and other Senators and distinguished members of this Committee for recognizing the need of this important conversation for the community and the economy of the Northern Mariana Islands through the Northern Mariana Islands U.S. Workforce, S. 2325.

I am here today to speak about our transition into the U.S. immigration system, the progress we have made toward the highest ratio of U.S. workers to foreign workers in our short history, the challenges that have arose in pursuit of even higher numbers and how this bill provides for time and resources to make the goals of this transition period possible, without harming the economy or the people of the CNMI.

If we look to the data available to us from USCIS, we can see that within the listed CW occupations, economic growth, local government policy and efforts have reduced the demand for many job categories. For instance, in 2013, Northern Marianas College successfully launched a four year Bachelor's degree in business with training in accounting. This timeframe saw accounting positions in the CW program fall from 8th highest in demand to 15th in 2016. From teachers to retail workers and throughout the economy, since the beginning of the transition period, the CNMI has made gains toward the reduction of our reliance on foreign workers. The GAO study speaks to this as well, finding that the domestic labor force in the CNMI is nearly half of the total workforce, increasing 11 percent compared to 2009.

The bill provides for protection of U.S. workers in our labor force through measures that are necessary for the CNMI to more adequately hire and retain U.S. workers through wage standards. The creation of the CW-3 category recognizes the importance of the CNMI long-term foreign workers and will be crucial toward providing the next generation of U.S. workers on-the-job training that is essential for the success of our economy. Allowing only legitimate businesses to acquire foreign labor under the CW program is an important step toward economic growth that is clean, sustainable, conducive to the safety and well-being of our community.

Most importantly, this bill provides the CNMI and the Federal Government the time to grow our economy and succeed in our shared goal of building a strong, sustainable U.S. workforce because even after all the gains we have made, since I came into office, in the absence of this bill, Chairman, the CNMI would not be able to withstand losing half of its workforce in 2019.

The JGL—GAO, I'm sorry, the GAO has already found that without CW-1 workers, the CNMI would stand to lose as much as 62 percent of our GDP. The effect of this massive economic collapse will be profound. We estimate that if the economy contracts by this amount, we stand to lose 25 percent of our U.S. workforce as a re-

sult of business closures and an even greater amount from the outward migration of U.S. workers that will follow. With that, our data shows a potential reduction of 59 percent of local revenue. That would potentially leave the CNMI with an annual operating budget of less than $100 million before paying our debt services obligations and payments to our federally-administered pension settlement fund.

I have witnessed tight budgets in the past, the government austerity measures, the inability to pay for gasoline for our police cars and the long lines at the food stamps office. This will be far worse.

This year we saw the need for greater data, more accountability and better screens that these funds were going toward a training of our workers. So we have implemented a direct funding mechanism to students to subsidize the cost of training and track their progress because they are an important product of our work.

We have many limitations in the CNMI that are not present in the states. We do not have Department of Labor unemployment statistics like a state. We do not have the U.S. Census Bureau's American Community Survey, but through the funding assistance we have been able to produce occasional data that gives us some light.

Most recently, the CNMI Department of Commerce released its 2016 Household Income Expenditure Survey, which projected that there would be an estimated 1,800 U.S. citizens in our islands that are potentially classified as "unemployed". While 1,800 is a relatively small number, it is my hope to eliminate this number as best we can. To do so, we have instituted the strictest work requirements on food stamp recipients in the nation. We have promoted government-sponsored job fairs and continue to allocate dollars to training institutions and programs. We have targeted issues that are affecting U.S. citizens' employment, starting our first Drug Court and Drug Rehabilitation Outpatient facility and are working toward the implementation of the CNMI's first public transit to alleviate the transportation issues that are preventing individuals from obtaining a job.

This bill represents a compromise on issues that the CNMI feels merits considerations. In our initial proposal, put forward in collaboration with the CNMI business community, we requested a numerical limit of 15,000, which would allow for greater growth of the level of current rate and removal of construction workers ban on CW-1 permits to allow for the existing private contract and more critical, public-service infrastructure development activities to continue on the schedule.

Altogether, Madam Chair, thank you very much for this opportunity for giving us this time to represent and to testify on this august body.

Thank you, and I'm open for questions.

[The prepared statement of Mr. Torres follows:]

**WRITTEN TESTIMONY**
**OF**
**RALPH DLG. TORRES**
**GOVERNOR**
**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**BEFORE THE**
**U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES**

February 6, 2018

Good morning,

On behalf of the people of the Commonwealth of the Northern Mariana Islands, I want to thank Chairman Murkowski, Ranking Member Cantwell and other distinguished members of this committee for recognizing the need of this important conversation for the community and the economy of the Northern Mariana Islands.

I would also like to acknowledge Chairman Murkowski for her consistent efforts in working with the US territories and building an understanding of the unique circumstances we face. These discussions have informed and contributed to the Northern Mariana Islands US Workforce Act.

I am here today to speak about our transition into the US immigration system– the progress we have made toward the highest ratio of US workers to foreign workers in our short history, the challenges that have arose in pursuit of even higher numbers, and how this bill provides for time and resources to make the goals of this transition period possible, without harming the economy or the people of the CNMI.

Since the enactment of U.S. Public Law 110-229 in 2008, my islands have experienced a great deal of change. The year following Public Law 110-229, the CNMI economy contracted by an astonishing 17.5%. What followed were years of severe economic depression, reduced government revenues and less opportunities for employment for all residents. In 2014, we began a process to revive the economy and in reversing the years of economic decline the real progress toward meeting the goals of the transition period started. We saw more businesses open and more jobs become available. This growth occurred within the federal control of immigration and has shown that we can both work toward transitioning foreign workers and building a viable economy successfully if we do it together.

If we look to the data available to us from USCIS we can see that, within the listed CW occupations, economic growth, local government policy and efforts have reduced the demand for many job categories. In fiscal years 2012 and 13, the top two job classifications listed were for marketing and sales, and food service occupations. In 2016, the top two jobs were in construction and building trades, which speaks toward the growth of our economy and the demand for new construction. Since 2013, Northern Marianas College successfully launched its 4-year bachelor's degree in business, with training in accounting. This timeframe saw accounting positions in the

CW program fall from 8th highest in demand to 15th in 2016. From teachers to retail workers and throughout the economy, since the beginning of the transition period, the CNMI has made gains toward the reduction of our reliance on foreign workers. The GAO study, which was performed at the request of Chairman Murkowski, speaks to this as well in finding that the domestic labor force in the CNMI is nearly half of the total workforce, increasing 11% compared to 2009. In today's economy, more US workers are building greater levels of economic growth than ever before, and this success is worth continuing.

That is not to say there are no improvements we can make to this program. In the past years, we have all seen areas in which the federal government and the CNMI can work collaboratively to build a viable economy in the Northern Mariana Islands that can recruit, train, and hire greater numbers of US workers. I believe this bill is shaped upon these lessons learned and will allow us to be better partners in our shared goal of building a strong economy through a strong US workforce.

The bill provides for protections of US workers in our labor force through measures that are necessary for the CNMI to more adequately hire and retain US workers. The creation of wage standards, such as the prevailing wage, was a position I have supported in our most recent 902 Consultations and is necessary to ensure wages remain competitive enough to entice US workers and that the presence of foreign workers under the CW-1 program do not reduce opportunities for US citizens. Additionally, the requirement for employers to first seek a foreign labor certification is a long-awaited component of the transition period, that can allow for greater targeting of US training efforts and properly transition occupations critical to the economy as more US workers are recruited and trained.

Furthermore, the creation of the CW-3 category recognizes the importance of the CNMI's long-term foreign workers, many of whom have been in the CNMI before the transition period began and have significant knowledge and experience in their fields. These individuals are a part of our community and their expertise and knowledge will be crucial toward providing the next generation of US workers the on-the-job training that will be essential for the success of our economy.

The institution of permit revocation and the reissuance of those permits within the fiscal year is a provision that will correct for one of the largest economic hindrances of the CW-1 program. This recognizes the fluidity of the private sector and will allow economic activity to continue, without undermining the goals of the transition.

Likewise, allowing only legitimate businesses to acquire foreign labor under the CW program is an important step toward economic growth that is clean, sustainable and conducive to the safety and wellbeing of our community. I want all businesses in the CNMI to follow our laws, and this provision assists my administration in ensuring that no bad actors will be allowed any opportunity to exploit workers, circumvent our regulations, or engage in activities that harm the fabric of our community.

Most importantly, this bill provides the CNMI and the Federal Government the time to grow our economy and succeed in our shared goal of building a strong and sustainable US workforce.

Because, even after all of the gains we have made since I have come into office, in the absence of this bill, the CNMI will not be able to withstand losing half of its workforce in 2019.

The GAO has already found that without CW-1 workers in the CNMI, we stand to lose as much as 62% of our Gross Domestic Product. The effects of this massive economic collapse will be profound. We estimate that if the economy contracts by this amount, we stand to lose 25% of our US workforce as a result of business closures, and an even greater amount from the outward migration of US workers that will follow. With the economic contraction, our data shows a potential reduction of 59% in local revenue. That would potentially leave the CNMI with an annual operating budget of less than $100 million dollars. This, compounded by our debt service obligations and payments to our federally administered pension settlement fund, on top of Constitutional obligations to our School system, could leave the CNMI government approximately $14 million dollars to operate a government. I have witnessed tight budgets in the past. The government austerity measures. The inability to pay for gasoline for our police cars. The long lines at the food stamp office. This will be far worse.

I realize this fact and understand that there is much the CNMI must do to showcase our ability to be responsible partners in this effort. I have had my frustrations with our progress as well. I share your concerns about the use and allocation of the CW worker fees – are the fees being used to the best effect for US workers, are there accountability measures in place, how can we collect better data about our workforce are questions I have asked and have worked toward resolving. That is why I endeavored to try different approaches toward allocating training funds. In the past, we allocated funds directly to institutions to help subsidize their training efforts. We then targeted institutions we felt could best contribute to the areas of greatest need. Still I had questions about the outcomes of these dollars. This year we saw the need for greater data, more accountability, and better assurances that these funds were going toward the training of our workers, so we have implemented a direct funding mechanism to students to subsidize the cost of training, and track their progress, because they are the important product of our work. There are some challenges in embarking on any new approach, but I feel that this is the best way to ensure our people can be trained and ready to drive our economy forward.

I also am concerned about the data we are collecting for our overall economy, its validity and its accuracy. We have many limitations in the CNMI that are not present in a state. We do not have Department of Labor Unemployment Statistics like a state. We do not have U.S. Census Bureau's American Community Survey, but through the funding assistance we have been able to produce occasional data that gives us some light. Most recently, the CNMI Department of Commerce released its 2016 Household Income Expenditure Survey, which among a list of things, asked questions of a sample of our population about their employment status and their citizenship. Of these results, the survey projected that there is an estimated 1,800 US Citizens in our islands would be potentially classified as "Unemployed".

While 1,800 is a relatively small number, it is my hope to eliminate this number as best we can. To do so, we have instituted the strictest work requirements on food stamp recipients in the nation, we have promoted government sponsored job fairs and continue to allocate local dollars to training institutions and programs. We have targeted issues that are affecting US Citizen employment,

starting the first CNMI Drug Court and Drug Rehabilitation Outpatient facility, and are working toward the implementation of the CNMI's first public transit system to alleviate the transportation issues that are preventing individuals from obtaining a job. We are experimenting, innovating, and reaching out with local funds to bring more US citizens into jobs and we can do so with our growing economy.

The issues underlying this transition period are complex, and have developed over decades, even prior to the CNMI joining the American community. We have made great progress toward being responsible partners and are willing to continue our efforts to build a sustainable and vibrant economy in the far reaches of the Pacific that proudly fly the American flag.

In truth, this bill represents a compromise on issues that the CNMI feels merits consideration. In our initial proposal, put forward in collaboration with the CNMI business community, we requested a CW numerical limit of 15,000, which would allow for greater growth levels than the current rate, and an extension of time before implementing the construction worker ban on CW-1 permits to allow for the existing private construction and, more critically, public-sector infrastructure development activities to continue on schedule. However, in understanding the concerns of Congress, the holistic view of the benefits of ensuring the economy does not collapse, I support this bill.

Through the passage of this bill, the CNMI can continue to grow toward higher standards of living for our citizens. This committee has experience with the difficult decisions that must be made regarding economic collapse in the United States' territories. This bill allows all of us to steer away from recreating the economic hardships of our brothers and sisters in Puerto Rico in the Northern Mariana Islands, without the direct expense of US taxpayer dollars. Before you is an economic development bill that responsibly and dutifully protects the interests of US citizens and our country and is worthy of your consideration and support.

Accompanying this testimony is additional information regarding CNMI tax filings and citizenship of workers, an overview of the training objectives and plans for use of CW worker fees if the program is extended and additional information for the Committees consideration.

Thank you for this opportunity, not only for allowing me to testify before this august body, but also for the opportunity for the CNMI to succeed through the Northern Mariana Islands US Workforce Act.

The CHAIRMAN. Thank you, Governor.

Welcome, Mayor Jibas.

**STATEMENT OF HON. ANDERSON JIBAS, MAYOR, KILI/BIKINI/EJIT LOCAL GOVERNMENT**

Mr. JIBAS. Madame Chair, Ranking Member Senator Maria Cantwell, Senators, my name is Anderson Jibas, Mayor of the Kili/Bikini/Ejit Local Government.

Senate bill 2182 came to us as a surprise. It's a bill that will limit the use of our money in years to come. In our calculation, a five percent restriction on our Bikini Resettlement Trust Fund will provide us an estimate of around $2 million next year and maybe less after the year after that. We cannot live off $2 million a year.

As the Mayor of the people of Kili/Bikini/Ejit Local Government, I will have to shut down our power plant, engine fuel and we have faced power outage, cut off our food supply to 6,000-plus population and will include Ejit/Bikini Island——

May I ask? Has any of the members of this Committee been to Kili Island?

Anyhow, just for an example. Kili Island is a three-fourths of a mile long and wide. It has no islets or lagoon, compared to Bikini that has 23 islets with a large lagoon. Kili Island has limited resources. Six months out of the year it has rough seas and sometimes with power outage from old Ejit generators along with the limitation of traditional food and in times we have to begin to download cargo ships because of rough seas with no dock. I will have to lay off all of our employees, including trust fund managers and trustees here in the United States and so on. Bill S. 2182 will affect many of us, and I promise it will make life even more harder than now.

Seventy-two years of exile from our own land. There were 167 of our elders that were relocated from Bikini in 1946 to Kili Island. Today there is about 16 of them alive. All of them have no health plan and cannot move because of illness and age.

Here I have with me members of the Council Executive and Senator and former President Kessai Note are here with me today. I can tell you in the delegation that came, I have seven elders that are elders of Bikini. I know one of my witness, your witness here, is representative on behalf of the Bikini Community, and I can state this out that he is not an Elder of Bikini.

I am from Kili Island where the displaced public of Bikini were relocated in 1946 to Rongerik, Kwajalein, then to Kili and to Ejit Island. As you know, the Department of Interior recognizes that it did not have statutory mandate over the Kili/Bikini/Ejit Resettlement Trust Fund annual budget and expenditures. We fully support and welcome Doug Domenech and the Department's decision in November 2017 on this issue.

For decades DOI had oversight over every single expenditure from the Resettlement Trust Fund with the coincidence of successive administrations of Kili/Bikini/Ejit Local Government and warranted colonialism, we appreciate the U.S. acting on its recognition of its limited role.

We, the elected body of the Kili/Bikini/Ejit Council, who live among the people of Bikini, have determined that we should deal

directly with the Resettlement Trust Fund, not through intermediaries. There were discrepancies and issues in dealing with the two non-RMI natives who were, frankly, condescending to us. The Trust Liaison Agent and the lawyer in DC would inform us that DOI said no, or DOI said this, DOI said that. We finally checked with DOI and DOI said they were never contacted. Power, and in full, was in the hands of intermediaries, not with the elected KBE Council. So the Council began dealing directly with DOI instead of middlemen who did not really present or represent the real needs of the people of Bikini. Suddenly, our relationship with DOI became direct, good, open and transparent. The Kili/Bikini/Ejit Local Government and I, the elected leaders of Bikini, the people of Bikini, we live with the people of Bikini and experience their daily joys and daily hardships. We know far better than the intermediaries or distant agencies of the United States what is needed to make the lives of the displaced population more bearable.

Now that things have changed, we are moving forward. Last year, my administration asked the Department of Interior whether its main role of veto power with the Resettlement Trust was mandated by laws of the United States. The Department's answer was no, it was not mandated by law. That is, the Resettlement Trust Fund monies belong to the people of Bikini, and their elected leaders are best suited to determine how those monies are to be used. But now this Committee is considering legislation that takes us backward to the whole system, a system that says the bureaucrats and the federal agencies know what is best for the people of Bikini.

I will explain this is why we oppose this bill. Our ancestors moved from the beautiful island of Bikini Atoll so that 23 thermonuclear bombs could be detonated, poisoning and vaporized three of our islands. That has been our experience, but you need to and must live with the consequences of removal and displacement. Nobody knows these consequences better than we do—certainly no agencies in Washington, DC. With all due respect, neither does the U.S. Congress. We know best how to provide for the people of Bikini, now and in the future. We know how to survive the hardships of life on a rock in the middle of the Pacific Ocean and we know the beauty of our islands in the Bikini, where we long to live and raise our children.

In 1988, we did not know how much it would cost to rehabilitate and restore Bikini to a condition which permitted us to move back. The Resettlement Trust Fund was given about $110 million. In 2001, scientists and engineers developed the rehabilitation and restoration plan and determined that the cost would be around $361 million of which about $110 million was already given to the KBE Resettlement Trust Fund. Another $250 million was needed and was awarded by the Nuclear Claims Tribunal, but to date, the U.S. Congress has refused to fund the award. Let me repeat. Bikini already submitted a rehabilitation and restoration plan in 2001, but the U.S. Congress ignored it.

The CHAIRMAN. Mayor, I am going to ask you to summarize. You are well over your time.

Mr. JIBAS. I'm sorry, Chair, Madam Chair.

I've traveled 8,000 miles, and I will try to get all this in. And I have submitted the statement to the Committee.

The CHAIRMAN. Yes, the full statement is incorporated as part of the record.

Mr. JIBAS. Alright, thank you.

The CHAIRMAN. Did you have final wrap-up that you wanted to make there?

Mr. JIBAS. Alright.

I have about three more pages, but yes, thank you for letting me finish off.

And just to get to the point, we are trying to make sure that in the last two years now with the new Administration and this term I tried to work with DOI and Insular Affairs.

I want to give them a big thanks for all their support and we—I ask that the Committee can work with Insular Affairs and get all of our information and what we have been through in the last several years.

But I want to conclude within times of climate change, Madam Chair. In the last several years, over the course of five years, our islands have been flooded with four feet, five feet, into the community—three-fourths of the island, covered. Kili Island has no islets. It's a single, isolated island in the middle of the South Pacific Ocean with no lagoon, compared to Bikini. And Madam Chair, we cannot go back to Bikini because it is filled with radiation—cesium–137, strontium 90—it's filled, we cannot live there according to studies of DOE. We will stay there, but we cannot live on Kili Island. It's only three-fourths of a mile wide and long. We consider it a prison. There is not enough resources. In times of months that the ocean is not food, six months out of the year, we cannot fish. And if we cannot import food to the island, to the community or we cannot get our monies from our Trust Funds, how can we live off that?

And at this time of climate change, this Administration is trying to work along with the Office of Insular Affairs and we hope that the Committee on Natural Resources can please see to our vision what we try to do for the people.

[The prepared statement of Mr. Jibas follows:]

STATEMENT OF
ANDERSON JIBAS
MAYOR, KILI/BIKINI/EJIT LOCAL GOVERNMENT

BEFORE THE
U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

REGARDING S. 2182
TO PROVIDE FOR THE RESETTLEMENT AND RELOCATION OF THE PEOPLE OF BIKINI

FEBRUARY 6, 2018
RM. 366, SENATE DIRKSEN BUILDING, 10:00A.M.

Madame Chair, Ranking Member Senator Maria Cantwell, Senators,

I am Anderson Jibas, the Mayor of the Kili/Bikini/Ejit Local Government. Attending this hearing with me are seven members of the ten-member Executive Council of the Kili/Bikini/Ejit Local Government or "KBE" for short.

I normally live on the island of Kili, in the Marshall Islands, the island where the displaced population of Bikini Atoll moved to many years ago, after first being moved to Rongerik, then to Kwajalein, then to Kili and Ejit.

We are here today at the request of the committee to provide remarks about proposed Senate Bill 2182, and I appreciate the opportunity to do so.

First, I commend the Department of the Interior in general and the Office of the Solicitor of the Interior in particular in recognizing that the Department did not have any statutory mandate over the Kili/Bikini/Ejit Resettlement Trust Fund annual budget and expenditures. We fully support the November 16, 2017 letter from Doug Domenech to me.

For more than 30 years, the Department exercised oversight over every single expenditure from the Resettlement Trust Fund at the acquiescence of successive administrations of the Kili-Bikini-Ejit Local Government. Although we appreciated working with the Department during that time, that setup was condescending and very colonialist, so we very much appreciate the Department's acting on its recognition of its limited role.

We have discovered that it is best for the KBE Council to deal directly with the Resettlement Trust Fund, because the way things were before, there were too many discrepancies and issues in dealing with two non-RMI natives who were, frankly, condescending to us. The Trust Liaison Agent and the lawyer in D.C. did not allow interaction between us and the Department, and many times we would

hear "DOI said NO" or DOI said this or that, but when we were finally able to check with DOI, DOI said they were never contacted. Power was in the hands of two men, one of whom, an ex-employee, is here testifying. Relationship now with the DOI is now direct, good, open, and transparent. The Council began dealing directly with DOI without these middle-men who scrambled our messages, and who did not really present or represent the real needs of the People of Bikini.

Our previous leaders put all their trust in these two men. I and the current Council have members who have spent many years in the United States, living and going to school, and the people elected us, not the former Trust Liaison Agent, who ran for Senator from Majuro Atoll, not Bikini Atoll, because they trust us.

The Kili/Bikini/Ejit local government and I are the elected leaders of the People of Bikini. We live with the People of Bikini and experience their daily joys and their daily hardships. We know best what is needed to make the lives of the displaced population more bearable. We feared DOI because our Liaison and Lawyer told us we were not allowed to interact with DOI. But things have changed, and we are moving forward.

When the Congressional Budget Office determined that the KBE Resettlement Trust Fund monies were not federal monies, but monies that belonged to the people of Bikini, I do not understand why the federal government continued to put restrictions on the use of money that was not federal money.

It was not until this past year that my administration asked the Department of the Interior that very question, which was answered favorably for the People of Bikini. That is, the Resettlement Trust Fund monies belong to the People of Bikini, and their elected leaders are best suited to determine how those monies are to be used.

Now, in retaliation against the Department of the Interior's recognition that the Department has no legal mandate to control the KBE Resettlement Trust Fund, this Committee has introduced this legislation which frankly takes us back to a colonialist and paternalistic system that says the bureaucrats in a Federal agency know what is best for the people of Bikini.

Madame Chair, we may look like simple folk whose recent ancestors were moved from Bikini to allow 23 thermonuclear blasts to poison all our islands and to vaporize three of our islands, but we simple folk have become more sophisticated and we know best what our people need; we know best how to provide for them now and in the future; we know how to survive the hardships of life on a rock in the middle of the Pacific, and we know the beauty of our islands in Bikini, where we long to live and to raise our children.

Back in 1988 we did not know how much it would cost to rehabilitate and to restore Bikini Atoll to a condition which permitted us to move back. The Resettlement Trust Fund was given about $110 million. But in 2001, after scientists and engineers had completed their studies and developed a Rehabilitation and Restoration Plan, the scientists and engineers determined that the cost would be around $361 million, of which about $110 million was already "given" to the KBE Resettlement Trust Fund. An additional $251 million was needed and was awarded by the Nuclear Claims Tribunal, but to date the U.S. Congress has refused to fund the award, and Bikini remains unsafe for habitation. Let me

repeat: Bikini already submitted a Rehabilitation and Restoration Plan in 2001, but the U.S. Congress ignored it, and now your committee is asking for another one. Are members of your committee ready to fund the 2001 Plan? If so, we are ready to move back as soon as the rehabilitation and restoration are finished.

In 2016, researchers from Columbia University went to Bikini and other atolls in the Marshall Islands and conducted surveys of the gamma ray emissions. The gamma radiation on Bikini was 184 milli-Rems per year, when the safe level is 15 milli-Rems per year. This was in 2016.

Be assured, we cannot move back with our families until the islands are cleaned up.

But we don't live in a fantasy world. When the U.S. told my ancestors that they would take care of us until we returned to our safe and clean land, Bikini Atoll, our ancestors actually believed the United States and allowed the United States to bomb our islands! Do we really think the U.S. Congress is going to fund the clean up and restoration of Bikini? No, we don't. We stopped believing in the U.S. Congress.

So, what are we, the elected leaders of the People of Bikini, doing?

We are taking the reins into our hands.

The budgets in recent years met some of our needs, but certain needs were not addressed and began accumulating, plus, the budgets did not account for the future. This year's budget of over $11 million dollars takes into consideration the need to renovate and build new houses that were damaged by king tides, it also restores health care for those needing care outside of the Marshall Islands, and it provides for educational scholarships. We could not do that with the recent budgets. To mitigate the effects of the spring tides, we need to build good sea-walls or riprap on the sides of Kili where the water comes over, but that costs a lot of money and that is never allowed in our limited budgets.

Our opposition posted pictures of cars for the Council saying we had spent our 2018 budget monies on those cars. Actually those were used cars, costing less than $10,000 each including freight, and were from last year's budget. Those cars were not from the 2018 budget or the $11 million we withdrew.

Also our opposition posted pictures of people holding cash when we distributed cash. That cash was from our hardship allowance from the Claims Trust Fund to assist families affected by the high tides. Those monies were not from the Resettlement Trust Fund. Our own lawyer said it was crazy to distribute cash instead of checks, and we have learned.

We did not distribute the $11 million or spend it all at once. We still have it in the bank. We are watching and ensuring each dollar is spent on Council-approved categories. The Council held numerous public meetings on the budget, and everyone had a chance to input their opinions. In the end the Council passed a budget for FY 2018 which we are now operating under. We understand that with the authority over the Resettlement Trust Fund comes the responsibility to make right choices for the People of Bikini. We will utilize these funds for the good of our people. These funds are not to benefit a few people. The budget was determined by the elected Council in a democratic way. We are

dedicated and determined to make the right choices. The Mayor does not act unilaterally but responds to the People of Bikini with the support of the KBE elected Council.

The total Resettlement Trust Fund monies at the end of September, 2017 was around $67 million. We took out $11 million and are spending it frugally. We will also hire experts to advise us how to invest our money wisely in the stock market to yield the best returns. We would have liked to keep the $11 million in the Resettlement Trust Fund, but the rumors about a letter or a formula that would be applied to our ability to withdraw our own monies, caused us to withdraw the $11 million to ensure we had enough for this fiscal year's budget.

We will also be leveraging our money to attract investments in tourism, infrastructure development, restoration of land, and immediately revive our tourism. We plan beginning income-generating projects that will eventually lead to a lesser reliance on the Resettlement Trust Fund. These projects could not get funding under previous KBE administrations because access to the funds were limited.

Bikini Atoll is a world-class diving destination and was so for many years, but about 15 years ago diving stopped bringing in revenues when Bikini shut down its operation due to unreliable air transportation to and from Bikini. We plan to fix that.

With private management, our world-class diving operation will be resurrected.

But not all people like to dive. We will develop an informational tour, taking advantage of the 2010 United Nations designation of Bikini Atoll as a World Heritage Site. What have we done to exploit that designation? Nothing so far, because of limited funds. But my administration plans to change that.

Bikini Atoll will become a sought-after diving and tourism destination once more, bringing in revenues to the KBE Local Government, lessening the reliance on the Resettlement Trust Fund.

So we went from budgets of $8 million that barely provided for sustenance of our population, to one this year which tries to address some of the needs that have been building up, and then comes this ridiculous formula based not on reality but some non-applicable, non-realistic justification that will completely hurt our people.

We know what our people need. We are not sitting on our hands. We are planning for the future. We will not come back and get slapped in the face again. We and the RMI National Government are still waiting for the U.S. Congress to address the RMI's Changed Circumstances Petition that was filed almost 2 decades ago. We have been slapped enough. Is that what you fear? Well, fear no more. We are stating right here that the U.S. has continued to let us down, and we don't expect anything different.

The international community will become aware of this lack of concern for the cleanup of our island but we do not expect the U.S. to keep its promise. We know the U.S. is not going to keep its promise to clean up our beautiful island, so please just leave us alone and let us work with the money that we have in order to plan for the future of our people.

The Resettlement Trust Fund monies belong to the people of Bikini, not the U.S. Federal government,

and we cannot accept the restrictions of Senate Bill 2182.

Under Senate Bill 2182, we will be receiving only about $2 million per year to feed, to provide scholarships, to provide healthcare, etc., to our displaced population on Kili, on Ejit, and on Majuro and elsewhere. That is grossly inadequate.

I again reiterate, the KBE Resettlement Trust Fund monies are not US government or federal monies, those funds belong to the People of Bikini. If those monies belong to the People of Bikini, what gives the federal government, through the Department of the Interior the right to tell us how to spend our money?

We have the best interest of the people of Bikini at heart, and if we do not perform, they will not elect us again, but we need the opportunity to move ahead and not just sit back and get slapped in the face with old colonialist and paternalistic systems that demean our honor and our integrity and treat us like children who do not know what they are doing.

We appreciate the authority, and we assure the committee and the People of Bikini that we will be good stewards of the money, and we will not spend it away.

Madame Chair, there are some of our elders in this room that remember your father's and mother's visit to Bikini back in 1996. Chairman Senator Frank Murkowski and your mother, Nancy, swam in the waters of Bikini and your father dove the sunken ships in those waters. You are most welcome to also come and visit our lovely islands of Bikini.

We will revive tourism and bring in revenues that will sustain us, but we need the chance to decide for ourselves, and we need the recognition that we are adult elected leaders who know what is best for the People of Bikini, and we won't come back knocking on your door.

Thank you Madame Chair.

The CHAIRMAN. Thank you, Mayor.

Dr. Gootnick, welcome.

**STATEMENT OF DR. DAVID GOOTNICK, DIRECTOR, INTERNATIONAL AFFAIRS AND TRADE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Dr. GOOTNICK. Thank you very much.

Chairman Murkowski, Ranking Member Cantwell and members of the Committee, let me return for a moment to the CW Worker program in the Commonwealth.

This Committee, along with Mr. Sablan, recently asked GAO to examine federal data on the implementation of the CW Worker program. My testimony today is based on our prior work and preliminary results from this ongoing analysis. I'll highlight the aspects of our work that most closely pertain to the key provisions of the proposed legislation.

The intent of the CNRA, among other things, was to minimize any adverse economic consequences of ending the preexisting, locally administered foreign worker program. However, a decade after the passage of the CNRA, foreign workers make up more than half of the CNMI workforce and a recent study found that these workers held 80 percent of all jobs in the tourist industry.

Last year, we modeled GDP under a range of assumptions on labor and output and found that if all CW workers were removed from the labor force, the mostly likely result would have been an economy 37 to 50 percent below its 2015 level.

Regarding specific provisions in the proposed legislation.

First, on the reset of the cap and extension of the transition period. From Fiscal '12 to '16, as the economy grew, the number of CW permits nearly doubled and as has been said, since 2016, the number has approached or hit the cap, a de facto constraint on firms' access to foreign workers. Hiking the cap to 13,000 would essentially meet or exceed the number of CW permits approved for any year of the program thus far, including 2016, when according to BEA, the economy grew by 29 percent. However, regardless of the level, with the so-called 500 or fewer provision, a downturn in the economy, if it significantly reduces demand for CW workers, would ratchet down the ceiling on permits for all subsequent years.

Second, regarding the recently enacted limits on construction and construction-related workers. Our preliminary analysis indicates that as of January 2018 CIS had approved 750 CW permits for construction workers for this year. This is a 75 percent drop on the number of construction permits as compared to 2016. Given that some of these workers had permits issued prior to the August 2017 legislation, we should expect that the number of construction permits will only drop further in subsequent years. In 2016, over a quarter of all permits were issued to three construction firms. In the future, any large-scale construction is going to have to rely on U.S. eligible workers, H visas or other visa categories.

Third, on the challenges to increasing the domestic workforce. Last year, we reported the best available data estimated there were 2,400 unemployed, U.S. eligible workers living in the Commonwealth. Our number differs slightly from the Governor's. We include FAS workers, workers from the Compact nations, who are

U.S. eligible workers. Additional workforce entrants will primarily come from the roughly 700 high school or 200 college grads each year.

According to most employers we've interviewed, efforts to recruit U.S. and FAS workers have met with limited success, are hampered by the high cost of recruitment, high turnover and a higher minimum wage paid in Guam and Hawaii.

Regarding the safeguards against labor abuse. First, it's worth acknowledging, as Ranking Member Cantwell did, that this program was itself built, at least in part, as a response to the labor abuses and working conditions tolerated in the years of the garment industry, prior to federal control. Now, the proposed legislation strengthens safeguards built into the CNRA. In particular, it sets a more rigorous standard for setting wages, requires businesses to ensure compliance with occupational health and safety standards and requires employers to document employment and payment of workers on a quarterly basis. The key here is going to be enforcement.

Last, on new CW worker designation. Of the roughly 8,200 foreign workers with 2018 permits, about 2,300, or just under 30 percent, had maintained continuous employment since 2014 and would qualify for the three-year permits. A significant percentage of these longer-term workers are from the Philippines and work in the tourist industry.

Finally, Madam Chair, GAO has not looked into the Bikini Resettlement Trust Fund. However, at your request, we have work underway on the use of federal funds under the Compacts of Free Association, including an analysis of the status of the Trust Funds established under the amended Compacts. This work will be provided to you in May.

Madam Chair, this completes my remarks. I'm happy to answer your questions.

[The prepared statement of Dr. Gootnick follows:]

United States Government Accountability Office

Testimony

Before the Committee on Energy and Natural Resources, U.S. Senate

For Release on Delivery
Expected at 10:00 a.m. ET
Tuesday, February 6, 2018

# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

## Recent Economic Trends and Preliminary Observations on Workforce Data

Statement of David Gootnick, Director,
International Affairs and Trade

GAO-18-373T

# GAO Highlights

Highlights of GAO-18-373T, a testimony before the Committee on Energy and Natural Resources, U.S. Senate

February 2018

# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

## Recent Economic Trends and Preliminary Observations on Workforce Data

### Why GAO Did This Study

Pub. L. No. 110-229, enacted in 2008, amended the U.S.-CNMI covenant to apply federal immigration law to the CNMI after a transition period. The law required the Department of Homeland Security (DHS) to establish a temporary work permit program for foreign workers. DHS is required to decrease the number of permits issued annually, reducing them to zero by the end of the transition period, scheduled for December 31, 2019.

To implement the law, DHS established a new work permit program in 2011. Under the program, foreign workers can obtain, through their employers, nonimmigrant CW-1 status that allows them to work in the CNMI. The law was amended in August 2017 to, among other things, restrict future permits for workers in construction and extraction occupations.

Proposed legislation—Senate bill S. 2325—would, among other things, extend the transition period through December 31, 2029; increase the number of available permits from the 2018 level; and set required decreases in the annual numerical limit for the permits. (See figure for past numerical limits established by DHS and future limits proposed by S. 2325.)

This testimony discusses (1) recent trends in the CNMI economy and (2) preliminary observations about the number of approved CW-1 permits and characteristics of permit holders, drawn from GAO's ongoing work. GAO updated information about the CNMI's economy that it reported in May 2017 (see GAO-17-437). GAO also analyzed data and documents from U.S. agencies and the CNMI government.

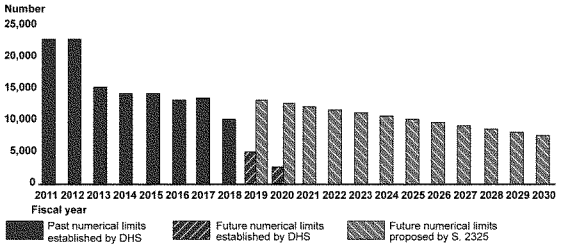
View GAO-18-373T. For more information, contact David Gootnick at (202) 512-3149 or gootnickd@gao.gov.

### What GAO Found

The Commonwealth of the Northern Mariana Islands' (CNMI) inflation-adjusted gross domestic product (GDP) has grown each year since 2012, according to the Bureau of Economic Analysis. In 2016, the CNMI's GDP rose by 29 percent, partly as a result of construction investment. While tourism has fluctuated in recent years, visitor arrivals in the CNMI rose by nearly a third from 2016 to 2017. After nearly a decade of annual decline, the total number of workers employed in the CNMI increased from 2013 through 2016, according to the most recent available CNMI tax data. Foreign workers made up 53 percent of those employed in 2016, compared with roughly 75 percent in 2002.

GAO's preliminary analysis indicates that the number of approved CNMI-Only Transitional Worker (CW-1) permits for foreign workers in the CNMI grew from over 7,100 for fiscal year 2012 to nearly 13,000 for fiscal year 2017. In addition, GAO identified trends in the country of birth, occupation, and employment duration of foreign workers with CW-1 permits approved for fiscal years 2012 through 2018. Workers born in the Philippines received the highest number of CW-1 permits each year. As of January 2018, 750 CW-1 permits had been granted to construction workers for fiscal year 2018—a 75 percent decline from the prior fiscal year. GAO estimated that approximately 2,350 foreign workers with approved CW-1 permits maintained continuous employment in the CNMI from fiscal year 2014 through January 2018. About 80 percent of these workers were born in the Philippines.

**Numerical Limits on CNMI-Only Transitional Worker Permits Established by DHS and Proposed by Senate Bill S. 2325, Fiscal Years 2011–2030**




Legend: CNMI = Commonwealth of Northern Mariana Islands

Source: GAO analysis of numerical limits specified by the Department of Homeland Security (DHS) and Senate bill S. 2325. | GAO-18-373T

Notes: Numerical limits are set on a fiscal year basis. Under current law, a transition period is set to end on Dec. 31, 2019, or 3 months into fiscal year 2020; after this date, no permits shall be valid. In November 2017, DHS set the limit for permits for fiscal years 2018 through the end of the program. Under S. 2325, the transition period would be effective through Dec. 31, 2029, or 3 months into fiscal year 2030; after this date, no permits shall be valid. S. 2325 would require that the number of permits issued during fiscal year 2019 not exceed 13,000 and, starting in fiscal year 2020, not exceed a number 500 fewer than those issued during the immediately preceding fiscal year. The limits shown for S. 2325 assume that employers would petition for, and DHS would issue, the maximum number of available permits for fiscal year 2019 and for each subsequent year.

Chairman Murkowski, Ranking Member Cantwell, and Members of the Committee:

Thank you for the opportunity to discuss preliminary observations from our ongoing review of workforce data on the Commonwealth of the Northern Mariana Islands (CNMI).

The 1976 covenant defining the political relationship between the CNMI and the United States exempted the CNMI from certain federal immigration laws but reserved the right of the U.S. government to apply federal law in these exempted areas without the consent of the CNMI government.[1]

The Consolidated Natural Resources Act of 2008 amended the U.S.–CNMI covenant to establish federal control of CNMI immigration beginning in 2009. The act required, among other things, that the U.S. Department of Homeland Security (DHS) establish a temporary work permit program for foreign workers and decrease annually the number of permits issued, reducing them to zero by the end of a transition period now set to occur on December 31, 2019.[2] This program enables foreign workers to obtain, through their employers, CNMI-Only Transitional Worker (CW-1) permits that allow them to work temporarily in the CNMI.[3] Senate bill S. 2325 would modify the law by, among other things, extending the transition period by 10 years, or through December 31,

[1]Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, Pub. L. No. 94-241 (Mar. 24, 1976), codified as amended at 48 U.S.C. § 1801 note.

[2]The Consolidated Natural Resources Act of 2008 and its implementing regulations established several other provisions during the transition period. Special provisions include (1) establishing a classification for certain foreign investors lawfully admitted under the CNMI's immigration system—called E-2 CNMI Investor Status (or E-2C)—and (2) providing that asylum is inapplicable to those in the CNMI during the course of the transition period. See Pub. L. No. 110-229, Title VII (May 8, 2008) and 8 C.F.R. § 214.2(e)(23).

[3]DHS deemed CW-1 status to be synonymous with "permit" referenced in the legislation. In this testimony statement, "permit" refers to CNMI-Only Transitional Worker, or CW-1, status except in our discussion of Senate bill S. 2325, when "permit" also refers to the proposed CW-3 permits. Dependents (spouses and minor children) of CW-1 nonimmigrants are eligible for Dependent of a CNMI-Only Transitional Worker (CW-2) status, which derives from, and depends on, the CW-1 worker's status.

2029, and increasing the number of available permits from the fiscal year 2018 level.[4]

As we reported in May 2017, the CNMI's economy is dependent on foreign labor.[5] Although the number of foreign workers fell by nearly two thirds—from over 36,000 to less than 13,000—in 2001 through 2015, foreign workers represented the majority of the CNMI workforce in 2015. We found that the number of unemployed domestic workers in the CNMI, estimated at nearly 2,400 in 2016, was insufficient to replace the foreign workers who had CW-1 permits. We estimated—using the CNMI's 2015 gross domestic product (GDP) and workforce information—that removing all CW-1 workers by 2019 could reduce the CNMI's 2015 GDP by between 26 and 62 percent.[6]

In my statement today, I will discuss (1) recent trends in the CNMI economy and (2) preliminary observations about the number of approved CW-1 permits and characteristics of permit holders from our ongoing work for a forthcoming report.[7]

To identify recent trends in the CNMI economy, we analyzed data from the U.S. Department of Commerce and the CNMI government. We updated our prior analysis of CNMI GDP data for 2002 through 2015 with GDP data for 2016. We added CNMI tourism data for 2017 to our prior analysis of tourism data for 1990 through 2016. To show employment trends, we updated our prior analysis of CNMI tax records for 2001 through 2015 with tax records for 2016. We determined that the data used in our analyses were sufficiently reliable for our purposes.

To provide preliminary observations on the numbers of CW-1 permits granted for fiscal years 2012 through 2018 and characteristics of foreign workers who held them, we analyzed record-level data for fiscal years 2012 through 2018 provided by DHS's U.S. Citizenship and Immigration Services (USCIS), which administers the CNMI-Only Transitional Worker

[4]Northern Mariana Islands U.S. Workforce Act, S. 2325, 115th Cong. (2018). An identical companion bill (H.R. 4869) has been introduced in the House of Representatives.

[5]GAO, *Commonwealth of the Northern Mariana Islands: Implementation of Federal Minimum Wage and Immigration Laws*, GAO-17-437 (Washington, D.C.: May 18, 2017).

[6]The CNMI's 2015 GDP was the most recent available at the time of our prior review.

[7]We plan to issue a report examining CW-1 permit data, among other topics, later in 2018.

program (CW program).[8] According to USCIS officials, as of January 26, 2018, USCIS was continuing to adjudicate CW-1 petitions for fiscal year 2018.[9] To determine the reliability of the data, we interviewed cognizant USCIS officials in Washington, D.C., and at the USCIS California Service Center, where petitions for CW-1 permits are adjudicated. We also discussed our methodologies and assumptions for data processing and the results of our preliminary analysis with officials in Washington, D.C., who used their own methodologies to conduct a technical review of our tables showing numbers of permits approved and permit holders' countries of birth and occupations (see tables 2, 3, and 4). We also conducted electronic testing of the data to identify and resolve inconsistencies in personally identifiable information for permit holders, to ensure accuracy in tracking these individuals over time. We determined that the USCIS CW-1 permit data were sufficiently reliable for our purposes.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Background

Part of the Mariana Islands Archipelago, the CNMI is a chain of 14 islands in the western Pacific Ocean, just north of Guam and about 3,200 miles west of Hawaii. The CNMI has a total population of 53,890, according to the CNMI's 2016 Household, Income, and Expenditures Survey. Almost 90 percent of the population (48,200) resided on the island of Saipan, with an additional 6 percent (3,056) on the island of Tinian and 5 percent (2,635) on the island of Rota.

[8]Although in 2011 DHS set the permit allocation for fiscal year 2011 and DHS granted several CW-1 permits for that fiscal year, we did not include fiscal year 2011 CW-1 permit data in our analysis.

[9]The CW-1 permit data were generated by the Computer Linked Application Information Management System 3 (CLAIMS 3), the case management system that USCIS uses for the CW and other programs. The CW-1 permit data we requested were provided by USCIS's Office of Performance and Quality, Performance Analysis and External Reporting Branch. Data for fiscal years 2012 to 2017 were provided on December 5, 2017. Data for fiscal year 2018—which were current as of January 17, 2018—were provided on January 23, 2018. USCIS began accepting CW-1 petitions for fiscal year 2018 on April 3, 2017.

## Application of Federal Immigration Laws to the CNMI

The Consolidated Natural Resources Act of 2008 amended the U.S.–CNMI covenant to apply federal immigration law to the CNMI after a transition period. To provide for an orderly transition from the CNMI immigration system to the U.S. federal immigration system under the immigration laws of the United States, DHS established the CW program in 2011.[10] Under the program, foreign workers are able to obtain, through their employers, nonimmigrant CW-1 status that allows them to work in the CNMI for up to a year.[11]

The Consolidated Natural Resources Act of 2008 requires DHS to annually reduce the number of CW-1 permits until the number reaches zero by the end of the transition period. The act was amended in December 2014 to extend the transition period through December 31, 2019.[12] The act was further amended in August 2017 to, among other things, (1) add 350 CW-1 permits to the fiscal year 2017 cap;[13] (2) restrict

[10]On September 7, 2011, DHS issued a final rule establishing a transitional work permit program in the CNMI for foreign workers not otherwise admissible under federal law.

[11]According to DHS regulations, CW-1 permits may be valid for up to 1 year. DHS deemed CW-1 status to be synonymous with "permit" referenced in the legislation. In this testimony, "permit" refers to CNMI-Only Transitional Worker (CW-1) status, except in our discussion of Senate bill S. 2325, when "permit" also refers to the proposed CW-3 permits. An employer must petition for a worker to obtain CW-1 status by submitting Form I-129CW and all necessary fees to DHS. According to USCIS, in the initial phase of the CW program, employers were able to request a "grant of status" that allowed eligible foreign workers to obtain CW status without departing the CNMI and obtaining a CW-1 visa from the Department of State at a U.S. embassy or consulate. After required security checks, if the employer's Form I-129CW is approved, DHS will mail an approval notice to the employer who should provide a copy to the worker. The approval notice indicates whether the worker has been granted CW-1 status in the CNMI or whether the worker may apply for a CW-1 visa at a U.S. embassy or consulate abroad.

[12]See Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, § 10 (Dec. 16, 2014). In addition, the act eliminated the U.S. Secretary of Labor's authority to provide for future extensions of the CW program. Previously, the Secretary of Labor was authorized to extend the program for up to 5 years at a time. For additional information, see GAO, *Commonwealth of the Northern Mariana Islands: Additional DHS Actions Needed on Foreign Worker Permit Program*, GAO-12-975 (Washington, D.C.: Sept. 27, 2012).

[13]The act requires that DHS reserve no fewer than 60 of these permits for "healthcare practitioners and technical operations" and no fewer than 10 for "plant and system operators" as those terms are defined in the U.S. Department of Labor's Standard Occupational Classification (SOC) system.

future permits for workers in construction and extraction occupations;[14] and (3) increase the CNMI education funding fee that employers must pay for each permit from $150 to $200.[15]

DHS determines the annual cap on CW-1 permits and the terms and conditions of the CW program. In November 2017, DHS set the cap for CW-1 permits for fiscal year 2018 through the end of the program (see table 1).

**Table 1: DHS Numerical Limits on CW-1 Permits for the Commonwealth of the Northern Mariana Islands (CNMI), Fiscal Years 2011–2020**

| Fiscal year | CW-1 numerical limit |
|---|---|
| 2011 | 22,417 |
| 2012 | 22,416 |
| 2013 | 15,000 |
| 2014 | 14,000 |
| 2015 | 13,999 |
| 2016 | 12,999 |
| 2017 | 13,348[a] |
| 2018 | 9,998 |
| 2019 | 4,999 |
| 2020 (Oct. 1–Dec. 31, 2019)[b] | 2,499 |

Source: U.S. Department of Homeland Security (DHS). | GAO-18-373T

Note: On September 7, 2011, DHS issued a final rule establishing a transitional work permit program in the CNMI for foreign workers not otherwise admissible under federal law. Under the CNMI-Only Transitional Worker permit program, qualified nonimmigrant workers are able to obtain, through their employers, nonimmigrant CW-1 status that allows them to work in the CNMI.

[a]On August 22, 2017, Congress amended legislation to add 350 CW-1 permits to the fiscal year 2017 cap, thus raising the total number of permits that may be issued from 12,998 to 13,348, among other changes.

[b]Under 48 U.S.C. § 1806(d)(2), a transition period is set to end on Dec. 31, 2019, or 3 months into fiscal year 2020; after this date, no permits shall be valid.

[14]Under the act, a permit for construction and extraction occupations (as defined in the U.S. Department of Labor's SOC system) may be issued only to extend a permit that was first issued before October 1, 2015. See Northern Mariana Islands Economic Expansion Act, Pub. L. No. 115-53, § 2 (Aug. 22, 2017) (amending 48 U.S.C. § 1806).

[15]The base filing fee for Form I-129CW is $460. Additionally, employers filing CW-1 petitions must submit a $200 CNMI education funding fee per worker, per year.

## Proposed Legislative Changes Affecting the CW Program

The proposed bill, the Northern Mariana Islands U.S. Workforce Act (S. 2325), includes the following provisions, among others, that would affect the CW program: (1) the number of permits to be allocated each year, (2) the distribution of the permits, and (3) a new CW-3 worker designation.[16]

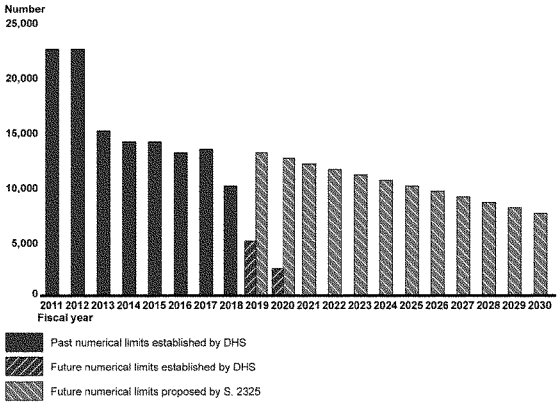
### Number of Permits Allocated

Under the terms of S. 2325, the number of permits issued may not exceed 13,000 during fiscal year 2019. Starting in fiscal year 2020, the number of permits issued may not exceed a number that is 500 fewer than the number issued during the immediately preceding fiscal year.

Figure 1 shows the past and future numerical limits on CNMI-Only Transitional Worker permits established by DHS and the proposed numerical limits for permits under S. 2325. The limits shown for S. 2325 in figure 1 assume that employers would petition for, and DHS would issue, the maximum number of available permits for fiscal year 2019 and for each subsequent year.

[16]S. 2325 would also establish requirements for employers to receive a foreign labor certification from the U.S. Department of Labor before filing a CW-1 petition with USCIS and would establish additional minimum wage requirements for employers of CNMI-Only Transitional Workers. We found in 2008 that decisions about the number of permits allocated, the distribution of the permits, and the terms and conditions of the permit program would affect CNMI employers' access to foreign workers, among other decisions. See GAO, *Commonwealth of the Northern Mariana Islands: Managing Potential Economic Impact of Applying U.S. Immigration Law Requires Coordinated Federal Decisions and Additional Data*, GAO-08-791 (Washington, D.C.: Aug 4, 2008).

**Figure 1: Numerical Limits on CNMI-Only Transitional Worker Permits Established by DHS and Proposed by Senate Bill S. 2325, Fiscal Years 2011–2030**




Legend: CNMI = Commonwealth of the Northern Mariana Islands

Source: GAO analysis of numerical limits specified by the Department of Homeland Security (DHS) and Senate bill S. 2325. | GAO-18-373T

Notes: Numerical limits are set on a fiscal year basis. Under current law, a transition period is set to end on Dec. 31, 2019, or 3 months into fiscal year 2020; after this date, no permits shall be valid. Also, current law requires DHS to decrease the number of permits issued annually, reducing them to zero by the end of the transition period. In November 2017, DHS set the CW-1 cap for fiscal years 2018 through the end of the current transition period.

Under S. 2325, the transition period would be effective through Dec. 31, 2029, or 3 months into fiscal year 2030. Starting in fiscal year 2020, the number of permits issued under S. 2325 may not exceed a number that is 500 fewer than the number issued during the immediately preceding fiscal year. The limits shown for S. 2325 assume that employers would petition for, and DHS would issue, the maximum number of available permits for fiscal year 2019 and for each subsequent year.

## Distribution of Permits

Under S. 2325, as under the current law, a permit for construction and extraction occupations would be issued only to extend a permit that was first issued before October 1, 2015. Also, S. 2325 would require the Secretary of Homeland Security to consider, in good faith, any comments or advice submitted by the CNMI governor, including any recommendation to reserve a number of permits each year for

occupational categories necessary to maintain public health or safety in the commonwealth.[17]

### CW-3 Permits

S. 2325 proposes a new CW-3 worker designation. Foreign workers who are otherwise admissible would be eligible for CW-3 permits if they were admitted to the CNMI as CW-1 workers during fiscal year 2014 and every subsequent fiscal year beginning before the date of the enactment of S. 2325. These workers would receive a permit to remain in the CNMI for a 3-year period beginning on the date of S. 2325's enactment. CW-3 permits could be renewed in 3-year increments during the transition period for workers who remain outside the United States for a continuous period of not less than 30 days during the 180-day period immediately preceding each such renewal. CW-3 permits would count against the numerical caps specified in S. 2325.

## Recent Trends in the the CNMI Economy

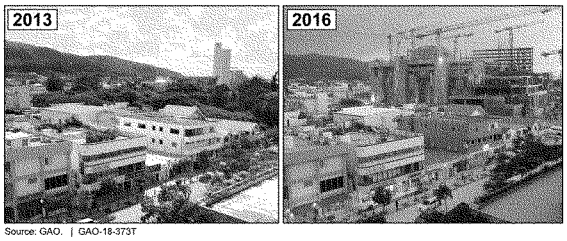
### CNMI GDP

The CNMI's inflation-adjusted gross domestic product (GDP) has grown each year since 2012. The U.S. Department of Commerce's Bureau of Economic Analysis (BEA) estimates that the CNMI's GDP increased by almost 29 percent in 2016 after increasing by about 4 percent in 2015.[18] BEA attributes this economic growth to a significant increase in visitor spending, particularly for casino gambling, and investment in the construction of a casino resort in Saipan and other hotel construction. Figure 2 shows the casino's development site in Saipan before and during construction. The new casino opened for business on July 6, 2017.

[17]Our 2008 report discusses four examples of permit distribution methods available to DHS: (1) by lottery; (2) among certain industries based on some measure of those industries' importance to the CNMI economy; (3) through a combination of permits reserved for priority businesses and a lottery; and (4) a market-based approach of permit trading, predetermining the number of permits to be allocated annually but allowing employers to trade permits depending on their need for foreign workers. See GAO-08-791.

[18]By comparison, the United States' inflation-adjusted GDP (excluding the territories) increased by less than 2 percent in 2016 after increasing by almost 3 percent in 2015.

**Figure 2: Construction of New Casino in Saipan, Commonwealth of the Northern Mariana Islands**

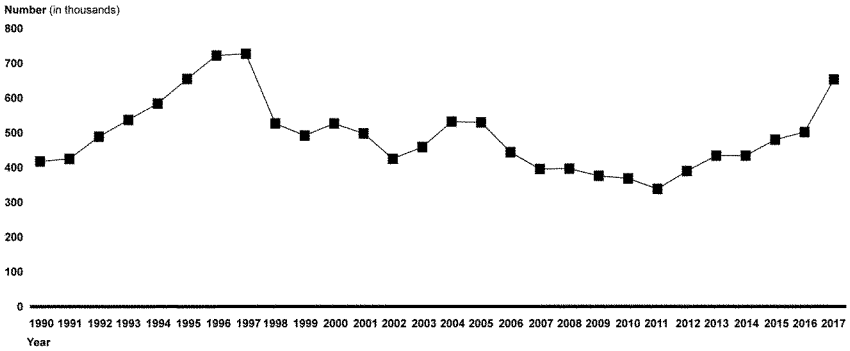



Source: GAO. | GAO-18-373T

## CNMI Tourism Trends

Since 1990, the CNMI's tourism market has experienced considerable fluctuation, as evidenced by total annual visitor arrivals (see fig. 3). Visitor arrivals to the CNMI declined from a peak of 726,690 in fiscal year 1997 to a low of 338,106 in fiscal year 2011, or by 53 percent. However, since 2011, visitor arrivals have nearly doubled, reaching 653,150 in fiscal year 2017, and increased by 30 percent from 2016 to 2017.

**Figure 3: Annual Visitor Arrivals in the Commonwealth of the Northern Mariana Islands, Fiscal Years 1990–2017**




Source: GAO analysis of Marianas Visitors Authority data. | GAO-18-373T

Data from the Marianas Visitors Authority show that the downward trend in Japanese arrivals from 2013 to 2017 was offset by the growth in arrivals from China and South Korea. While eligible Japanese and South Korean visitors enter the CNMI under the U.S. visa waiver program,[19] Chinese visitors are not eligible for the program and are allowed to be temporarily present in the CNMI under DHS's discretionary parole authority, according to DHS officials. DHS exercises parole authority to allow, on a case-by-case basis, eligible nationals of China to enter the CNMI temporarily as tourists when there is significant public benefit, according to DHS.[20]

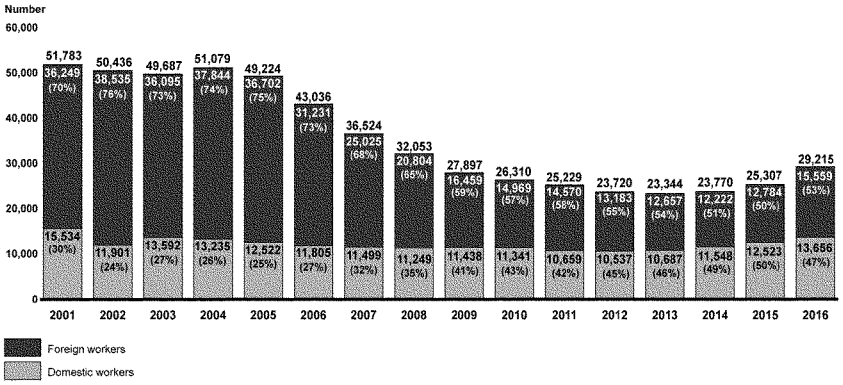
## CNMI Labor Market

Following consecutive annual decreases in the total number of employed workers from 2005 through 2013, employment has increased annually since 2014, according to CNMI tax data. Figure 4 shows the numbers of employed workers, both foreign and domestic, in the CNMI from 2001 through 2016. From 2013 to 2016, the number of employed workers increased by approximately 25 percent, from 23,344 to 29,215.

[19]Eligible citizens or nationals of the 38 countries included in the general U.S. Visa Waiver Program may stay for up to 90 days for business or pleasure in the United States without obtaining a nonimmigrant visa. These countries are Andorra, Australia, Austria, Belgium, Brunei, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Taiwan, and the United Kingdom.

[20]In fiscal years 2013 through 2017, the number of visitors to the CNMI from Japan dropped by 65 percent from 148,423 to 52,227. Meanwhile, the number of Chinese visitors rose by 104 percent (from 112,570 to 229,389) and the number of South Korean visitors rose by 146 percent (from 135,458 to 333,069).

**Figure 4: Employed Workers in the Commonwealth of the Northern Mariana Islands (CNMI), Calendar Years 2001–2016**




Source: GAO analysis of Commonwealth of the Northern Mariana Islands (CNMI) tax data. | GAO-18-373T

Notes: Domestic workers include U.S. citizens and citizens of the freely associated states—the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, as reported by CNMI employers on employee W-2 forms.

Reductions in the number of employed workers from 2007 through 2013 were likely a result of many factors, such as the disappearance of the garment industry and decline of the tourism industry.

As figure 4 shows, while the number and percentage of foreign workers fell between 2001 and 2016, foreign workers still constitute the majority of the CNMI workforce. Of the nearly 30,000 employed workers in the CNMI in 2016, more than half were foreign workers, according to CNMI tax data. The number of foreign workers fell from a peak of over 38,000 in 2002—roughly 75 percent of employed workers—to fewer than 16,000 in

2016.[21] In contrast, since 2002, the number of domestic workers has fluctuated from year to year, ranging from about 10,500 to almost 13,700, but increased by 28 percent from 2013 to 2016.

## Preliminary Observations on CW-1 Permits for Fiscal Years 2012-2018

### Numbers of CW-1 Permits

The CNMI economy continues to experience growing demand for workers. In fiscal years 2012 through 2016, the number of CW-1 permits almost doubled, and since fiscal year 2016, the number of permits has approached the numerical limits on permits for those years.[22] Our preliminary analysis indicates that the number of approved CW-1 permits grew from 7,127 in fiscal year 2012 to more than 13,000 in fiscal year 2016. On October 14, 2016—2 weeks into fiscal year 2017—USCIS announced that it had received enough petitions to reach the CW-1 cap for fiscal year 2017 and would not accept requests for new permits for that year during the remaining 11 months. In May 2017, USCIS announced that it had received a sufficient number of petitions to reach the CW-1 cap for fiscal year 2018.[23] Table 2 shows the CW-1 permit caps and numbers of permits approved for fiscal years 2012 through 2018.

[21]The decline in the number of foreign workers from 2002 through 2016 is likely a result of the declining garment industry, which dominated the CNMI's manufacturing sector from 2002 through 2009. Although the garment industry was able to flourish in the CNMI by exporting products to other parts of the United States largely unconstrained by import quotas and duties, several developments in international trade caused the industry to decline dramatically. In January 2005, in accordance with a World Trade Organization 10-year phase-out agreement, the United States eliminated quotas on textile and apparel imports from other textile-producing countries, exposing the CNMI apparel industry's shipments to the United States to greater competition. Subsequently, the value of CNMI textile exports to the United States dropped from a peak of $1.1 billion in 1998 to $677 million in 2005 and to close to zero in 2010.

[22]The number of CW-1 permits exceeded the cap in 2016 because USCIS made allowances for foreign workers requesting consular processing whose visas would be refused or otherwise unused.

[23]USCIS began accepting CW-1 petitions for fiscal year 2018 on April 3, 2017, and received a sufficient number of petitions to reach the fiscal year cap on April 11, 2017.

According to USCIS officials, as of January 26, 2018, fiscal year 2018 petitions were still being adjudicated.

**Table 2: DHS Numerical Limits on CW-1 Permits for the Commonwealth of the Northern Mariana Islands and Estimated Numbers of Permits Approved for Fiscal Years 2012–2018**

| Fiscal year | Numerical limit on CW-1 permits | Approved CW-1 permits |
|---|---|---|
| 2012 | 22,416 | 7,127 |
| 2013 | 15,000 | 9,035 |
| 2014 | 14,000 | 8,537 |
| 2015 | 13,999 | 9,681 |
| 2016 | 12,999 | 13,417[a] |
| 2017 | 13,348 | 12,862 |
| 2018 | 9,998 | 8,228[b] |

Legend: CNMI = Commonwealth of the Northern Mariana Islands; CW-1 = CNMI-Only Transitional Worker classification.

Source: Preliminary GAO analysis of U.S. Department of Homeland Security (DHS) data. | GAO-18-373T

Notes: On September 7, 2011, DHS issued a final rule establishing a transitional work permit program in the CNMI for foreign workers not otherwise admissible under federal law. Under the CNMI-Only Transitional Worker program, which is administered by U.S. Citizenship and Immigration Services (USCIS), qualified nonimmigrant workers are able to obtain nonimmigrant CW-1 status through their employers that allows them to work in the CNMI.

The numbers of approved permits shown differ from the USCIS data we reported in 2017 (see GAO-17-437). According to USCIS officials, in its reporting for fiscal years 2015 through 2017, USCIS assigned permits to fiscal years based on the employment start date; in its reporting for prior years, USCIS assigned permits to fiscal years based on the permit's approval date. In our analysis, we assigned permits to fiscal years based on the employment start date. Other data differences reflect revocations of permits over time and different methods for addressing missing or duplicate observations.

In our analysis, each foreign worker counts only once toward the cap on CW-1 permits that USCIS sets for each fiscal year.

[a]In 2016, USCIS approved several CW-1 permits in excess of the numerical limit to compensate for the expected number of visa denials by the Department of State.

[b]According to USCIS officials, as of January 26, 2018, USCIS had not yet adjudicated all CW-1 petitions for fiscal year 2018.

## Characteristics of Foreign Workers with CW-1 Permits

Our preliminary analysis of USCIS CW-1 permit data for fiscal years 2012 through 2018 identified trends in CW-1 workers' country of birth, occupation, and duration of employment.[24]

### Country of Birth

USCIS data showed a decline in the numbers of CW-1 permits for fiscal years 2017 through 2018 for workers born in each of the five countries listed most frequently on the petitions—the Philippines, China, South Korea, Bangladesh, and Japan (see table 3). As of January 17, 2018, the number of permits approved for workers born in the Philippines, who received the most permits for all 7 years of the CW program, had declined by 13 percent from fiscal year 2017 to fiscal year 2018 and by 26 percent from fiscal year 2015 to fiscal year 2018. Concurrent with construction of the casino and other tourism infrastructure, the number of CW-1 permits for workers born in China increased by almost 3,800 from fiscal year 2015 to fiscal year 2016 and declined by about 3,500 from fiscal year 2017 to fiscal year 2018.

[24]According to USCIS officials, as of January 26, 2018, DHS had not yet adjudicated all CW-1 petitions for fiscal year 2018.

**Table 3: Estimated Numbers of Approved CW-1 Permits, by Workers' Country of Birth, Fiscal Years 2012–2018**

| Country of birth | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018[a] |
|---|---|---|---|---|---|---|---|
| Philippines | 5,367 | 6,889 | 6,407 | 7,180 | 7,035 | 6,146 | 5,322 |
| China | 828 | 1,032 | 1,006 | 1,229 | 5,023 | 5,039 | 1,591 |
| South Korea | 346 | 400 | 442 | 487 | 433 | 372 | 369 |
| Bangladesh | 155 | 211 | 234 | 330 | 480 | 340 | 180 |
| Japan | 218 | 229 | 203 | 195 | 141 | 129 | 93 |
| All others | 213 | 274 | 245 | 260 | 305 | 836 | 673 |
| **Total** | **7,127** | **9,035** | **8,537** | **9,681** | **13,417** | **12,862** | **8,228** |

Legend: CNMI = Commonwealth of the Northern Mariana Islands; CW-1 = CNMI-Only Transitional Worker classification.

Source: Preliminary GAO preliminary analysis of U.S. Department of Homeland Security (DHS) data. | GAO-18-373T

Notes: On September 7, 2011, DHS issued a final rule establishing a transitional work permit program in the CNMI for foreign workers not otherwise admissible under federal law. Under the CNMI-Only Transitional Worker program, which is administered by U.S. Citizenship and Immigration Services (USCIS), qualified nonimmigrant workers are able to obtain nonimmigrant CW-1 status through their employers that allows them to work in the CNMI.

The numbers of approved permits shown differ from the USCIS data we reported in 2017 (see GAO-17-437). According to USCIS officials, in its reporting for fiscal years 2015 through 2017, USCIS assigned permits to fiscal years based on the employment start date; in its reporting for prior years, USCIS assigned permits to fiscal years based on the permit's approval date. In our analysis, we assigned permits to fiscal years based on the employment start date. Other data differences reflect revocations of permits over time and different methods for addressing missing or duplicate observations.

In our analysis, each foreign worker counts only once toward the cap on CW-1 permits that USCIS sets for each fiscal year.

[a]According to USCIS officials, as of January 26, 2018, USCIS had not yet adjudicated all CW-1 petitions for fiscal year 2018.

## Occupation

Our preliminary analysis indicates that as of January 17, 2018, USCIS had approved 750 CW-1 permits for construction workers for fiscal year 2018.[25] This number represents a 75 percent decline from the nearly 3,000 permits approved for fiscal year 2017 (see table 4). This decline

[25]According to USCIS officials, as of January 26, 2018, USCIS had not yet adjudicated all CW-1 petitions for fiscal year 2018. In implementing the Northern Mariana Islands Economic Expansion Act, Pub. L. No. 115-53 (Aug. 22, 2017), USCIS applied the restriction to petitions for construction permits that were pending and those filed on or after August 22, 2017. According to USCIS, previously approved petitions for CW-1 construction workers were not to be reopened or revoked.

reflects new restrictions on future permits for workers in construction occupations.[26]

**Table 4: Estimated Number of CW-1 Permits for Construction and Other Occupations, Fiscal Years 2015–2018**

| Occupation | 2015[a] | 2016 | 2017 | 2018[b] |
|---|---|---|---|---|
| Construction[c] | 1,057 | 3,486 | 2,987 | 750 |
| Other | 8,624 | 9,931 | 9,875 | 7,478 |
| **Total** | **9,681** | **13,417** | **12,862** | **8,228** |

Legend: CNMI = Commonwealth of the Northern Mariana Islands; CW-1 = CNMI-Only Transitional Worker classification.

Source: Preliminary GAO analysis of U.S. Department of Homeland Security (DHS) data. | GAO-18-373T

Notes: On September 7, 2011, DHS issued a final rule establishing a transitional work permit program in the CNMI for foreign workers not otherwise admissible under federal law. Under the CNMI-Only Transitional Worker program, which is administered by the U.S. Citizenship and Immigration Services (USCIS), qualified nonimmigrant workers are able to obtain nonimmigrant CW-1 status through their employers that allows them to work in the CNMI.

The numbers of approved permits shown differ from the USCIS data we reported in 2017 (see GAO-17-437). According to USCIS officials, in its reporting for fiscal years 2015 through 2017, USCIS assigned permits to fiscal years based on the employment start date; in its reporting for prior years, USCIS assigned permits to fiscal years based on the permit's approval date. In our analysis, we assigned permits to fiscal years based on the employment start date. Other data differences reflect revocations of permits over time and different methods for addressing missing or duplicate observations.

In our analysis, each foreign worker counts only once toward the cap on CW-1 permits that USCIS sets for each fiscal year.

[a]Occupation is listed as "unknown" for about 11 percent of permits approved for fiscal year 2015 in the data we analyzed. We included these in our total for "other" occupations. According to USCIS, CW-1 occupation information was not consistently captured until October 2014.

[b]According to USCIS officials, as of January 26, 2018, USCIS had not yet adjudicated all CW-1 petitions for fiscal year 2018.

[c]"Construction" refers to the occupational category "construction trade." When adjudicating CW-1 petitions, USCIS assigns occupational categories on the basis of information that employers provide in the petitions.

## Duration of Employment

Of the 8,228 foreign workers who had been granted fiscal year 2018 permits as of January 17, 2018,[27] 2,352 had maintained continuous employment in the CNMI since fiscal year 2014 (see table 5).[28]

[26]A permit for construction and extraction occupations (as defined in the U.S. Department of Labor's SOC system) may be issued only to extend a permit that was first issued before October 1, 2015. See Northern Mariana Islands Economic Expansion Act, Pub. L. No. 115-53, § 2 (Aug. 22, 2017) (amending 48 U.S.C. § 1806).

[27]According to USCIS officials, as of January 26, 2018, USCIS had not yet adjudicated all CW-1 petitions for fiscal year 2018.

**Table 5: Estimated Numbers of Foreign Workers with CW-1 Permits for Fiscal Year 2018 Who Maintained Continuous Employment in the CNMI in Prior Fiscal Years**

| Continuous employment since: | Foreign workers |
|---|---|
| 2018[a] | 8,228 |
| 2017 | 4,961 |
| 2016 | 3,298 |
| 2015 | 2,668 |
| 2014 | 2,352 |
| 2013 | 2,118 |
| 2012 | 1,385 |

Legend: CNMI = Commonwealth of the Northern Mariana Islands; CW-1 = CNMI-Only Transitional Worker classification.

Source: Preliminary GAO analysis of U.S. Department of Homeland Security (DHS) data. | GAO-18-373T.

Notes: On September 7, 2011, DHS issued a final rule establishing a transitional work permit program in the CNMI for foreign workers not otherwise admissible under federal law. Under the CNMI-Only Transitional Worker program, which is administered by U.S. Citizenship and Immigration Services (USCIS), qualified nonimmigrant workers are able to obtain nonimmigrant CW-1 status through their employers that allows them to work in the CNMI.

In January 2018, Senate bill S. 2325 proposed a new designation, CW-3, for foreign workers in the CNMI. Under S. 2325, CW-3 permits would be issued to otherwise admissible workers admitted to the CNMI through the CW-1 program during fiscal years 2014 and every subsequent fiscal year beginning before the date of enactment.

[a]According to USCIS officials, as of January 26, 2018, USCIS had not yet adjudicated all CW-1 petitions for fiscal year 2018. If the number of foreign workers with fiscal year 2018 CW-1 permits increases, the numbers shown for other years could also change.

Of the 2,352 workers with continuous employment in fiscal years 2014 through 2018, 1,900 workers (81 percent) were born in the Philippines.

Chairman Murkowski, Ranking Member Cantwell, and Members of the Committee, this concludes my prepared statement. I would be pleased to respond to any questions you may have at this time.

[28]Under S. 2325, foreign workers who are otherwise admissible would be eligible for CW-3 permits if they were admitted to the CNMI as CW-1 workers during fiscal year 2014 and every subsequent fiscal year beginning before the date of the enactment of S. 2325. These workers would receive a permit to remain in the CNMI for a 3-year period beginning on the date of S. 2325's enactment.

## GAO Contacts and Staff Acknowledgments

For further information regarding this statement, please contact David Gootnick, Director, International Affairs and Trade at (202) 512-3149 or gootnickd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals making key contributions to this testimony included Emil Friberg (Assistant Director), Julia Ann Roberts (Analyst-in-Charge), Sada Aksartova, Andrew Kurtzman, Reid Lowe, Moon Parks, and John Yee. Technical support was provided by Chris Keblitis, Mary Moutsos, and Alexander Welsh.

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

| | |
|---|---|
| GAO's Mission | The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability. |
| Obtaining Copies of GAO Reports and Testimony | The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (https://www.gao.gov). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to https://www.gao.gov and select "E-mail Updates." |
| Order by Phone | The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, https://www.gao.gov/ordering.htm.<br>Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.<br>Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information. |
| Connect with GAO | Connect with GAO on Facebook, Flickr, Twitter, and YouTube.<br>Subscribe to our RSS Feeds or E-mail Updates. Listen to our Podcasts.<br>Visit GAO on the web at https://www.gao.gov. |
| To Report Fraud, Waste, and Abuse in Federal Programs | Contact:<br>Website: https://www.gao.gov/fraudnet/fraudnet.htm<br>E-mail: fraudnet@gao.gov<br>Automated answering system: (800) 424-5454 or (202) 512-7470 |
| Congressional Relations | Orice Williams Brown, Managing Director, WilliamsO@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548 |
| Public Affairs | Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800<br>U.S. Government Accountability Office, 441 G Street NW, Room 7149<br>Washington, DC 20548 |
| Strategic Planning and External Liaison | James-Christian Blockwood, Managing Director, spel@gao.gov, (202) 512-4707<br>U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548 |

Please Print on Recycled Paper.

The CHAIRMAN. Thank you, Dr. Gootnick.

Mr. Niedenthal, welcome to the Committee.

**STATEMENT OF JACK NIEDENTHAL, MEMBER, BIKINIAN ELDER COMMUNITY**

Mr. NIEDENTHAL. Thank you, Madam Chairman.

My name is Jack Niedenthal. I have lived in the Marshall Islands for the past 37 years. I am a U.S. citizen, and in 2000 I was given honorary Marshall Islands citizenship for the work I have done for the Marshallese people. I have been a member of the Bikini Atoll community since 1984 when I served as a teacher on Kili Island, where much of the Bikini community still resides. My wife of 30 years, Regina, is a Bikinian, as are my five children and two grandchildren, and I am fluent in Marshallese.

I served as the trust liaison for the Bikini Council from 1986 until 2016, during which time I helped to manage the Resettlement Trust Fund for the people of Bikini. I also served as translator for the Council in meetings with U.S. Government officials and I worked with the Bikinians' outside advisors, trustees, money managers and lawyers to help preserve the trust for the Bikinian people.

I appear here today as a private citizen. I flew 8,000 miles to get here at my own expense because I am very concerned about the future of the Resettlement Trust Fund, of which my family and I are beneficiaries.

As the trust liaison, I served as the go-between with the Council and the Office of Insular Affairs as we hashed out the Council's annual budget under a 1990 agreement with Interior requiring that all requests for expenditures from the Trust Fund, and I quote, "would require written Interior approval."

Every year from 1990 until 2016, the Council submitted proposed budgets to the Office of Insular Affairs that were millions of dollars more than wise, given the size of the trust. And every year, responsible officials there, knowing that the trust was the Bikinians' only long-term nest egg, pared down the total budget number in order to ensure the long-term viability of the trust. The Bikinians were never entirely happy with this arrangement. Beneficiaries of a trust almost always want the money now, and there were many times when the Bikinians were no different. However, in the end, our past leaders also remembered how long our community had gone without anything. They understood that these funds would one day have to take care of their children and grandchildren because they knew a return to Bikini would be many years away.

Those days of cooperation with the Interior Department are gone. A recent Council resolution demanded an end to the Department's oversight role with regard to expenditures from the trust. It declared the Mayor fully responsible for drawdowns of the money and stated that the trustee would no longer have any right to question any drawdown requests.

On November 16 of last year, the Interior Department capitulated to this demand and simply withdrew completely from its oversight role over the trust. And as far as I know, the trustee, a division of M&T Bank, capitulated as well and simply wires out whatever funds it is told to without asking the purpose of the ex-

penditure or even asking for receipts. I can't tell you why the Department abdicated its responsibility over the trust. I tried to get that question answered publicly in Majuro three weeks ago today, on January 16, when Assistant Secretary Domenech, along with some other U.S. officials, came to the Bikini Town Hall in Majuro. However, a stairwell full of police refused to let me or any other Bikinian with questions in, including elected members of the Council. He said he met with the Council. He did not meet with the Council. My son is a Council member. He was not allowed to go to that meeting. Yeah, okay.

In the past, all meetings between our leaders and high-ranking U.S. Government officials, when they were in the Marshalls, had been open to all, and the people, especially our elders, had been encouraged to ask questions.

I can tell you that the Trust Fund that I worked for for over 30 years and which has provided over $220 million to the people of Bikini is in danger of disappearing. Assistant Secretary Domenech won't be here when that happens. He will have moved on. You may call in the new Assistant Secretary and ask, "How could this trust, set up almost four decades ago with U.S. taxpayer money, have disappeared?" He or she will answer, "That didn't happen on my watch, so I can't really tell you why."

Well you've got the responsible official here in front of you today, so maybe he can answer that question. I can assure you that all the money in this trust will disappear quickly if Congress does not intervene to stop the flow of money out of it.

Having said that, I believe that S. 2182 is too restrictive. Rather than set a specific limit of annual expenditures from the trust not to exceed five percent of its principal, I would instead propose legislation that directs the Office of Insular Affairs to do exactly what the 1990 agreement said, to require written Interior Department approval of the annual budget and since this is now needed, to ensure the long-term viability of the trust for our people.

Attached to my testimony is a draft of a proposed alternative to S. 2182 that I believe will ensure U.S. Government oversight and preserve the trust, but in a less rigid manner so as to allow the Bikini local government to set their own priorities with regard to taking care of their people.

And this is my last point. Some might say that U.S. participation in the budget process of this Trust Fund represents a form of colonialism. I would argue that U.S. involvement in the trust is actually colonialism in reverse.

In 1946, the U.S. made a promise to the Bikinian people, which in my decades of translating for elders has been quoted as if it were a verse from the Bible, when they were told that, "No matter where the Bikinian people found themselves, even if they were adrift on a raft at sea or on a sandbar, they would be taken care of as if they were America's children."

I was deeply offended by the last paragraph of the Assistant Secretary's letter to the Mayor this past November in which he stated that the Bikinians could "never interact again" with the Interior Department with any issues pertaining to the trust. No American official should ever have the right to tell the Bikinians not to come back to them for help for whatever, any reason whatsoever, after

what the people of Bikini have sacrificed for the United States and the world.

And with regard to my title here, Bikinian Elder. My wife's grandmother had 14 children. My wife's mother had nine. My wife and I have five children and two grandchildren. All of those people call me Grandpa and Uncle and Brother and I can tell you right now that quite honestly, I have plenty of Bikinian blood that I need to, that I'm responsible for, and that I need to take care of. And the person that told me to use this title of Bikinian Elder was my wife. And if you understand what it's like living in a maternal lineal society, when your wife tells you to do something, you do it.

[Laughter.]

Thank you, Madam Chairman. I'll be happy to answer any questions.

[The prepared statement of Mr. Niedenthal follows:]

Testimony of Jack Niedenthal
Before the Senate Energy and Natural Resources Committee
February 6, 2018

Thank you, Madam Chairman. My name is Jack Niedenthal. I have lived in the Marshall Islands for the past 37 years. I am a U.S. citizen and in 2000 I was given honorary Marshall Islands citizenship for the work I have done for the Marshallese people. I have been a member of the Bikini Atoll community since 1984 when I served as a teacher on Kili Island, where much of the Bikini community still resides. My wife of 30 years, Regina, is a Bikinian, as are my 5 children and 2 grandchildren, and I am fluent in Marshallese. I served as the trust liaison for the Bikini Council from 1986 until 2016, during which time I helped to manage the Resettlement Trust Fund for the People of Bikini. I also served as translator for the Council in meetings with U.S. Government officials, and I worked with the Bikinians' outside advisors – trustees, money managers, and lawyers – to help preserve the trust for the Bikinian people.

I appear here today as a private citizen. I flew 8,000 miles to get here at my own expense because I am very concerned about the future of the Resettlement Trust Fund, of which my family and I are beneficiaries.

As the trust liaison, I served as the go-between with the Council and the Office of Insular Affairs as we hashed out the Council's annual budget under a 1990 agreement with Interior requiring that all requests for expenditures from the trust fund – and I quote – "would require written Interior approval." Every year from 1990 until 2016, the Council submitted proposed budgets to the Office of Insular Affairs that were millions of dollars more than was wise, given the size of the trust. And every year, responsible officials there, knowing that the trust was the Bikinians' only long-term nest egg, pared down the budget in order to ensure the long-term viability of the trust.

The Bikinians were never entirely happy with this arrangement. Beneficiaries of a trust almost always want the money now – and there were many times when the Bikinians were no different. However, in the end our past leaders also remembered how long our community had gone without anything, they understood that these funds would one day have to take care of their children and grandchildren because they knew a return to Bikini would be many years away.

Those days of cooperation with the Interior Department are gone. A recent Council resolution demanded an end to the Department's oversight role with regard to expenditures from the trust. It declared the Mayor fully responsible for drawdowns of the money and stated that the trustee would no longer have any right to question any drawdown requests. On November 16 of last year, the Interior Department capitulated to this demand and simply withdrew completely from its oversight role over the trust. And as far as I know, the trustee, a division of M&T Bank, capitulated as well and simply wires out whatever funds it is told to without asking the purpose of the expenditure or even asking for receipts.

I can't tell you why the Department abdicated its responsibility over the trust. I tried to get that question answered publicly in Majuro three weeks ago today – on January 16 – when Assistant Secretary Domenech, along with some other U.S. officials, came to the Bikini Town Hall in Majuro. However, a stairwell full of police refused to let me – or any other Bikinian with questions, including elected members of the Council – up the stairs of the Town Hall even just to listen. In the past, all meetings between our leaders and high-ranking U.S. government officials when they were in the Marshalls had been open to all, and the people – especially our elders – had been encouraged to ask questions.

I can tell you that the trust fund that I worked on for over 30 years – and which has provided over $220 million to help the people of Bikini – is in danger of disappearing. Assistant Secretary Domenech won't be here when that happens. He will have moved on. You may call in the new Assistant Secretary and ask: "How could this trust, set up almost four decades ago with U.S. taxpayer money, have disappeared?" He or she will answer, "That didn't happen on my watch, so I can't really tell you why."

Well, you've got the responsible official in front of you today, so maybe he can answer that question. I can assure you that all the money in this trust will disappear quickly if Congress does not intervene to stop the flow of money out of it. Having said that, I believe that S. 2182 is too restrictive. Rather than set a specific limit of annual expenditures from the trust not to exceed 5 percent of its principal, I would instead propose legislation that directs the Office of Insular Affairs to do exactly what that 1990 agreement said – to require written Interior Department approval of the annual budget and – since this is now needed – to ensure the long-term viability of the trust for our people. Attached to my testimony is a draft of a proposed alternative to S. 2182 that I believe will ensure U.S. Government oversight and preserve the trust, but in a less rigid manner so as to allow the Bikini local government to set their own priorities with regard to taking care of their people.

Some might say that U.S. participation in the budget process of this trust fund represents a form of colonialism. I would argue that U.S. involvement in the trust is actually colonialism in reverse. In 1946 the U.S. made a promise to the Bikinian people, which in my decades of translating for the elders has been quoted as if it were a verse from the Bible, when they were told that "No matter where the Bikinian people found themselves, even if they were adrift on a raft at sea or on a sandbar, they would be taken care of as if they were America's Children." I was deeply offended by the last paragraph of the Assistant Secretary's letter to the Mayor this past November in which he stated that the Bikinians could "never interact again" with the Interior department with any issues pertaining to the trust. No American official should have the right to tell the Bikinians not to come back to them for help for any reason whatsoever after what the people of Bikini have sacrificed for the United States and the world.

Thank you. I would be pleased to answer any questions you might have.

# S. 2182

To provide for the resettlement and relocation of the people of Bikini.

---

# A BILL

To provide for the resettlement and relocation of the people of Bikini.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Bikini Resettlement and Relocation Act".

**SEC. 2. RESETTLEMENT AND RELOCATION FOR THE PEOPLE OF BIKINI.**

The matter under the heading "TRUST TERRITORY OF THE PACIFIC ISLANDS" under the heading "OFFICE OF TERRITORIAL AFFAIRS" under the heading "DEPARTMENT OF THE INTERIOR" in chapter VIII of title I of the Supplemental Appropriations Act, 1982 (Public Law 97–257; 96 Stat. 840), is amended by striking the first proviso and inserting "*Provided*, That such funds, including funds provided pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1989 (Public Law 100–446; 102 Stat. 1774), shall be available for the relocation and resettlement of the Bikini people living on Kili and Ejit Islands, subject to the right of disapproval of the Secretary of the Interior, with the exercise of the right to continue until the date on which the Secretary of the Interior submits to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a resettlement plan developed in coordination with the Bikini Atoll leadership: *Provided further*, That, until the date on which a resettlement plan approved by the Secretary of the Interior has been submitted to each of the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, for any fiscal year, annual expenditures from the Resettlement Fund established by this section and pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1989 (Public Law 100–446; 102 Stat. 1774), **must be approved by the Department of the Interior, which, in reviewing the proposed expenditures, shall ensure the long-term viability of the Resettlement Fund.**

The CHAIRMAN. Thank you, Mr. Niedenthal.

Okay, we have some stuff to work on here.

First of all, thank you all for your statements here. I do recognize that five minutes is a limited opportunity. Hopefully, we can get more of the information out through the questions and answers.

I am going to begin my first round just focused on the issue that has been raised as it relates to the Trust Fund. So I will begin with you, Assistant Secretary Domenech.

In the past, there has been an informal notification process with the Congress when it comes to expenditures from the Trust Fund. But with this situation neither I nor my staff were given any notice of the Department's new position. We learned about this letter and this, really, reversal of decades-long practice by way of a press release which is not a good way to work through the responsibilities that we have with Congress.

Is there some reason that we were not notified in advance? Is there some reason that the Department just unilaterally decided that we were out of the picture here?

Mr. DOMENECH. Madam Chairman, thank you for giving me the opportunity to make a public apology to you and to the Committee and to your staff for that oversight.

When all this initially happened, I was completely unaware of the Committee's interest in this particular issue.

The CHAIRMAN. Well, it is not necessarily the Committee's interest, it has just been a matter of fact that every year there is basically a heads up. And so, not something about whether or not I am interested or my staff is interested, but that is just how it has been handled.

Mr. DOMENECH. Sure.

The CHAIRMAN. Until it was not.

Mr. DOMENECH. Well, and I don't have a good answer to that. It was not raised by my staff at the time. I'm not blaming them. I'm the one who made the decision, but I was just completely unaware, having only been sworn in a couple months before that and primarily working on hurricane recovery. It was just something I didn't ask. I can assure you that going forward, I will ask about every particular decision, just to at least find out the level of interest, but it was a mistake.

The CHAIRMAN. But you would recognize that this was a considerable reversal of policy when that letter was sent out?

Mr. DOMENECH. I do now.

The CHAIRMAN. Do you believe that the U.S. Government still has an obligation to the people of Bikini, or do you think that our obligation has been met?

Mr. DOMENECH. I do think we have an obligation to help them in every possible way we can.

The Trust Fund, of course, was provided by Congress 30 years ago. That's their money, in our view, their money to spend on their own behalf——

The CHAIRMAN. Let me ask about that, about, "it is their money to spend." The understanding now is that the Mayor, almost unilaterally, has that discretion now to spend however much he wants. I understand that there's some $57 million that is now remaining in the account.

Do you feel that there is no limitation or no restriction that should come with these dollars that came from the Federal Government as part of this agreement, as part of this Trust Fund, that that $57 million could be spent tomorrow in one lump sum by the Mayor, if he should determine that he wants to spend it on whatever it is he wants to spend it on?

Mr. DOMENECH. I would say that we're not aware. I have no knowledge of exactly the decision-making in the Bikini Council of how they decide to spend the money. We're just not engaged in those kinds of decisions.

The CHAIRMAN. Do you think that we should be engaged?

Mr. DOMENECH. Well, as long as the, again, CBO has said that the money is theirs. So I'm not sure by what mechanism we would be involved?

Even in the earlier decision, the discretionary right of veto was really based on having a relationship. In other words, I can't tell the bank to tell us how much money is in the account. I can't tell them to give me a budget. I don't have a way to compel a foreign entity that it's to do that.

The CHAIRMAN. But a discretionary right of veto, essentially, assumes that the Department, specifically your oversight here, that you at least know what is going on, what is going out the door in terms of expenditures, just as the process has always been that there would be, whether it is a memo going back and forth saying that this is how much is being requested on an annual basis.

That discretionary right of veto has always been in place, and now you are suggesting that we don't have a role. You say there is still an obligation to the people of Bikini, but I am confused by what you believe the role of the Department of the Interior is at this point.

Mr. DOMENECH. Well, I would say, again, we don't have a way to compel the Bikini Town Council and the Mayor to give us those expenditures. I can't make them do it. So for the last 30 years there has been a cooperative arrangement where those kinds of things would happen.

The CHAIRMAN. Then what has changed in the last 30 years that would shake up that cooperative arrangement?

Mr. DOMENECH. In August they passed a resolution to amend the agreement. And so, that's what actually changed in this relationship. And after, again, working with our Solicitor's Office, they agreed it was a rightful amendment, that we could accept that amendment and there was no other statutory regulation that would allow us to do additional oversight. So we were, we felt, like we had to agree to those terms because there was no other alternative.

The CHAIRMAN. Well, I have more questions. My time is out, so I will turn to Senator Cantwell, but we will come back on this.

Mr. DOMENECH. Thank you.

The CHAIRMAN. Thank you.

Senator CANTWELL. Thank you, Madam Chair.

Governor Torres, last year when you were here we discussed the Best Sunshine Live Casino which was operated by Imperial Pacific International Holdings—and it was supposedly under federal investigation for money laundering. And as you know, in September 2016, the casino was operating out of a strip mall on Saipan and

was reporting earnings that were eight times that of Macau's largest casino.

In your response to questions, you talked about local mechanisms to prevent this type of fraud. You said the Commonwealth casinos were preparing legislation to present to the legislature, and you stated it would be a two- to four-month process. Can you update us on that effort?

Mr. TORRES. Sure. Thank you very much.

We have learned our issue with Tinian Dynasty of money laundering. What I'm proud to say that the regulatory structure and state of technology the CNMI has put into place to protect our people by having the gaming commission work with our federal agencies in making sure that all those regulatories that have been in place are followed through. We continue to work with our federal agencies in all the monies that has been rolling in the CNMI. So I'm proud to announce that.

Senator CANTWELL. So, you consider the problem fixed?

Mr. TORRES. Well, I think, I believe, that the problem has been addressed more seriously by having our federal partners be part of our gaming industry on any issues that they have concern, it's open. We have open books. They are always welcome to come and join the gaming commission on the floor or the vault or any issues that the federal agencies have.

Senator CANTWELL. I understand that you have a lobbyist and that they file disclosure reports that they met with the U.S. Department of Treasury. To your knowledge, did they meet with the Financial Crimes Enforcement Network?

Mr. TORRES. I don't believe I have a lobbyist in terms of—I'm not aware that there's a lobbyist. But I might find out and get that to you at the end of the week.

Senator CANTWELL. These are the lobbying disclosure forms.

[The information referred to follows:]

| Clerk of the House of Representatives | Secretary of the Senate |
|---|---|
| Legislative Resource Center | Office of Public Records |
| B-106 Cannon Building | 232 Hart Building |
| Washington, DC 20515 | Washington, DC 20510 |
| http://lobbyingdisclosure.house.gov | http://www.senate.gov/lobby |

# LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - **All Filers Are Required to Complete This Page**

**1. Registrant Name** ☑ Organization/Lobbying Firm ☐ Self Employed Individual
Turnberry Solutions, LLC

2. Address
Address1 1002 Pennsylvania Avenue, SE Address2
City Washington State DC Zip Code 20003 Country USA

3. Principal place of business (if different than line 2)
City State Zip Code Country

4a. Contact Name
Mr. Mike Rubino
b. Telephone Number 3347590451
c. E-mail mike@turnberrysolutionsllc.com

5. Senate ID# 401104581-63

7. Client Name ☐ Self ☑ *Check if client is a state or local government or instrumentality*
Commonwealth of the Northern Mariana Islands

6. House ID# 437600006

**TYPE OF REPORT** 8. Year 2017 Q1 (1/1 - 3/31) ☐ Q2 (4/1 - 6/30) ☐ Q3 (7/1 - 9/30) ☐ Q4 (10/1 - 12/31) ☑

9. Check if this filing amends a previously filed version of this report ☐

10. Check if this is a Termination Report ☐ Termination Date 11. No Lobbying Issue Activity ☐

## INCOME OR EXPENSES - YOU MUST complete either Line 12 or Line 13

**12. Lobbying**

**INCOME** relating to lobbying activities for this reporting period was:

Less than $5,000 ☐

$5,000 or more ☑ $ 20,000.00

Provide a good faith estimate, rounded to the nearest $10,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

**13. Organizations**

**EXPENSE** relating to lobbying activities for this reporting period were:

Less than $5,000 ☐

$5,000 or more ☐ $

**14. REPORTING** Check box to indicate expense accounting method. See instructions for description of options.

☐ **Method A.** Reporting amounts using LDA definitions only

☐ **Method B.** Reporting amounts under section 6033(b)(8) of the Internal Revenue Code

☐ **Method C.** Reporting amounts under section 162(e) of the Internal Revenue Code

**Signature** Digitally Signed By: Mike Rubino **Date** 1/23/2018 6:56:51 AM

**LOBBYING ACTIVITY.** Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Add additional page(s) as needed.

15. General issue area code ECN

16. Specific lobbying issues

Workforce, visa and economic development policy issues

17. House(s) of Congress and Federal agencies ☐ Check if None

U.S. SENATE, U.S. HOUSE OF REPRESENTATIVES, Treasury - Dept of

18. Name of each individual who acted as a lobbyist in this issue area

| First Name | Last Name | Suffix | Covered Official Position (if applicable) | New |
|---|---|---|---|---|
| Jason | Osborne | | See prior filing | ☐ |
| Mike | Rubino | | See prior filing | ☐ |
| Ryan | O'Dwyer | | Special Assistant to Sec. USDA | ☑ |

19. Interest of each foreign entity in the specific issues listed on line 16 above ☑ Check if None

**Information Update Page - Complete ONLY where registration information has changed.**

20. Client new address

Address _____

City _____ State _____ Zip Code _____ Country _____

21. Client new principal place of business (if different than line 20)

City _____ State _____ Zip Code _____ Country _____

22. New General description of client's business or activities

## LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

| | First Name | Last Name | Suffix | | First Name | Last Name | Suffix |
|---|---|---|---|---|---|---|---|
| 1 | | | | 3 | | | |
| 2 | | | | 4 | | | |

## ISSUE UPDATE

24. General lobbying issue that no longer pertains

## AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Internet Address:

| Name | Address<br>Street Address<br>City State/Province Zip Country | Principal Place of Business (city and state or country)<br>City<br>State Country |
|---|---|---|

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

1 2 3

## FOREIGN ENTITIES

27. Add the following foreign entities:

| Name | Address<br>Street Address<br>City State/Province Country | Principal place of business (city and state or country) | Amount of contribution for lobbying activities | Ownership percentage in client |
|---|---|---|---|---|
| | | City<br>State Country | | % |

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization

1 3 5
2 4 6

Senator CANTWELL. Did they meet with others at Treasury regarding lobbying on money laundering violations?

Mr. TORRES. Not that I am aware of.

Senator CANTWELL. Can you get back to us on that?

Mr. TORRES. I will definitely get back to you. I would——

Senator CANTWELL. I guess the issue that we want to see, we don't want to see the Mariana Islands trying to get Treasury to not enforce the law.

As you said in the last hearing you attended, we need strong action here. The violations were outrageous. So we need to keep moving forward on this issue.

Mr. TORRES. Thank you, Senator.

And I'm proud to announce that because of our learning of our issue that was experienced last year, we have signed a U.S. contractor to finish the hotel of the casino that was signed, I believe, less than a month ago. They will be hiring more U.S. workers to finish the construction at the hotel site.

Senator CANTWELL. Where are we with labor practices? How are you ensuring that employers are held accountable for predatory practices against workers?

Mr. TORRES. Madam, I thank you again for the question.

As was stated earlier, we do have the Department of Labor Secretary here today with us, along with our businesses, Marianas Alliance.

We mandate our employers to have their employees' documentation available at any given time that those documentations are requested. We have met with the major industries. We are strict on making sure that those employees, the continuous U.S. workers, but also that their documentation are legitimate.

Senator CANTWELL. Do you believe that there are still unpaid workers remaining on the Island?

Mr. TORRES. I would have to say that I'm not sure. I know that those issues that was addressed last year were being paid. I'm not aware of any other labor that are not being paid.

Senator CANTWELL. Dr. Gootnick, do you have any comments here?

Dr. GOOTNICK. With respect to the issue of financial crimes, there is no Treasury representative in the Marianas, so a lot of the weight of enforcement is going to fall on the U.S. Attorney. We haven't formally studied that issue.

With respect to the worker abuses that were identified last year, I think that the sunshine, the sunlight that was shined on that problem last year was significant. It got a lot of public exposure and a lot of public attention. And I think that, in addition to the enforcement concerns, was helpful in raising the awareness of the Federal Government and many others about these concerns.

Senator CANTWELL. Well, Madam Chair, I know my time is expired, but I will just say that these lobbying reports say the client is the Commonwealth of the Northern Marianas Islands. So, Governor, if you didn't hire them, I would like to know who did.

Thank you.

The CHAIRMAN. Thank you, Senator Cantwell.

Senator Heinrich.

Senator HEINRICH. Thank you, Madam Chair.

Welcome back, Congressman Sablan. It has been a long time since we served together on the House Natural Resources Committee, but you have been incredibly dogged and determined into moving legislation for CNMI over the years through some pretty hard to navigate Congresses. And I think you deserve credit for that.

I want to step back for a moment from this legislation that we have in front of us and just ask you, what else would be useful in the relationship between the U.S. and CNMI in terms of creating a more sustainable economy that benefits the citizens of CNMI?

Mr. SABLAN. Thank you very much.

I agree that, at the moment, the Northern Marianas does need access to workers, their country, national workers. We have spent months in trying to come to agreement on what is now the product of the February hearing. It hasn't been easy.

There's been, at the beginning, the word I received was, last summer, was no extension and thank God for a lot of people who allowed me to speak. We do need this extension and the reduction of workers on an annual basis because we do need to get U.S. workers into the workforce.

And I know that the last time we had a hearing, we were told there's no U.S. workers. We've done everything, we've tried, we've reached as far as Puerto Rico.

The GAO report just showed that we had an increase of ten percent in U.S. workers where 1,000 U.S. workers were added to the workforce in each of the past three years. The termination of the program in 2019, which is the product of the Chairwoman, was to put a hammer down that said, you get this program fixed.

Senator HEINRICH. Right.

Mr. SABLAN. And it has forced employers to get serious and to look at U.S. workers.

Senator HEINRICH. Yes.

Mr. SABLAN. Now, there are many programs, apprenticeships that I would hope that would get U.S. workers into the workforce and train them. That's the intention of even the local law, when we had U.S. immigration, I mean, when we have control of immigration.

But for non—for third country nationals to come to work in the Marianas and train U.S. workers, but they were very lax. It wasn't the time. It wasn't Governor Torres' time in office. But the training is very important.

Now the continuing thing is to drop our arms and say, we can't find U.S. workers. That needs to stop.

Senator HEINRICH. Right.

Mr. SABLAN. It needs to stop, and it needs to stop now.

Now this bill, I think, is the product of that. It would spur us into getting a Northern Marianas economy that would have U.S. workers as the main workforce and the third country nationals who come in to fill the gaps——

Senator HEINRICH. Right.

Mr. SABLAN. ——where there are really no U.S. workers. I hope that answered your question.

Senator HEINRICH. That is helpful.

Madam Chair, my time is quickly expiring here, but I want to just say a word about the Bikini Trust Fund issue and thank you for your interest in it.

I have to say how disappointed in Interior I am. You know, my father was in the Marshall Islands for several of those nuclear tests. And I think just having a little window into what our atomic veterans bear gives us an understanding and not a full understanding of the incredible things that we wrought on the people of Bikini and their island.

I get the sense that this Administration cannot wait to wash their hands of that responsibility. I think this has been mishandled. And I would just say to Mayor Jibas, I respect you, but be careful what you wish for.

Thank you.

The CHAIRMAN. Thank you, Senator Heinrich.

Senator Hirono.

Senator HIRONO. Thank you, Madam Chair, and a special aloha to my friend, Kilili Sablan. It is good to see you.

I have a question for Mayor Jibas. As an official responsible for the administration of the Trust Fund, are you concerned about the long-term viability of the Fund?

Mr. JIBAS. Thank you, Senator.

I'm sorry I didn't finish off the statement so we have—and I'm sure you will get a copy of it. But we have other plans for Bikini, and we want to make sure that we can invest for the future of the people.

And it's not like we're just going to take the money and just use it all at the same time, but we have future plans and other visionary projects planned to make sure that we cannot use up all of our Trust Funds.

Senator HIRONO. So you have a plan for the long-term viability of the Fund?

Mr. JIBAS. Yes.

Senator HIRONO. Do you see any continuing role for the Department of the Interior in assisting and carrying out your long-term plans?

Mr. JIBAS. Oh, yes.

In our relationship in the past two years we have come to an agreement and with the good relationship and the support of Hawaii and Interior, to us, the people of the South Pacific and Bikini Atoll, we're partners in doing this matter, in any way all of our activities and fund movements, we have come to an agreement that we can work along one another.

Senator HIRONO. That is not the impression given to us by the testimony from the Assistant Secretary, Mr. Domenech.

What will be your continuing role with regard to the CNMI and the Trust Fund?

Mr. DOMENECH. Bikini, I assume you mean Bikini?

Senator HIRONO. Bikini, yes.

Mr. DOMENECH. As I said earlier, of course, Interior has an ongoing relationship with the people of the Marshall Islands. So we do that through a number of other funds and that impacts the Bikini citizens as well.

So, we do, of course, the larger funds are all wrapped up in the Compact of Free Association which was structured in a completely different way with significant oversight of the spending by a number of federal agencies. That Trust Fund was structured in a completely different way than the Bikini Trust Fund that didn't have those safeguards 30 years ago.

Senator HIRONO. Well, I know that there is a Trust Fund with regard to the Compact, and the Trust Fund is very minimal, by the way.

I hope that you are aware that many of us, particularly from the Hawaii delegation, have been working very hard to restore Medicaid eligibility for Compact citizens.

And if you are aware of that, I would appreciate your support in restoring Medicaid eligibility for them because it costs in certain places, such as Hawaii and Guam, millions of dollars, much, much more than what is in the $30 million appropriated every year for that particular Trust Fund. I have a familiarity with that.

And you are nodding your head. Can I count on you for support for restoring Medicaid funding or Medicaid eligibility?

Mr. DOMENECH. I'd have to go back, I'm sorry.

I'm happy to look at that and work with your staff on it. I just honestly don't know enough about it.

But just to differentiate slightly, of course, we're talking about Compact impact funding.

Senator HIRONO. Yes.

Mr. DOMENECH. That's the $30 million that is distributed based on population——

Senator HIRONO. Yes.

Mr. DOMENECH. ——to Hawaii and other places.

Senator HIRONO. Yes, I am very familiar, Mr. Assistant Secretary.

Mr. DOMENECH. I know, I'm just, for the record.

Senator HIRONO. So, yes.

Mr. DOMENECH. And I would——

Senator HIRONO. I want to, excuse me.

Mr. DOMENECH. Okay.

Senator HIRONO. My time is running out.

I want to thank the Chair for her indulgence because she knows that some of us have been working on this for a long time.

For Congressman Sablan, regarding the worker permit. I think you mentioned that you are talking about a need to increase the CW visa cap for public health reasons.

Can you talk a little bit more about the situation in the CNMI and why you need to raise the cap so that you can take care of the residents' health?

Mr. SABLAN. You're asking me, right Mazie?

Senator HIRONO. Yes.

Mr. SABLAN. Okay, Senator.

Senator HIRONO. Yes, I am asking you.

Mr. SABLAN. Yeah, in H.R. 339, which is now public law, we actually gave USCIS, we reserve a number of permits for public health and engineers for our power plant. That bill took a lot of time in getting through Congress and when the time came it was a little, just a little bit late. We had a month and many of them

didn't use it. Many of the nurses actually at the hospital decided that hey, they actually got time off, vacation time off. They just got paid a retroactive pay for back pay and so, many of them decided to go home for 30 days for, you know, vacation and get reapproved, other than using the permits that started in the next fiscal year.

Madam Chair, if I may, because I forgot to do earlier. If I may insert for the record, I have 14 letters here, and I think you have more testimonies of people supporting your bill.

Thank you.

The CHAIRMAN. Those will be accepted without objection.

[The information referred to follows:]

From: Joseph K. Butters
P. O. Box 5421 CHRB
Saipan, MP 96950

To: Chair:
Senator Lisa Murkowski
Ranking Member:
Senator Maria Cantwell
Senate Committee on Energy and Natural Resources
304 Dirksen Senate building
Washington, DC 20510

Dear Senator:

I am writing this in support of the C. N. M. I. Work Force Act

The lack of qualified labor here on the Island has reached a critical stage. This Act will provide the Island population the additional qualified personnel that are required.

I am a 31 year Navy vet. My wife and I are both 82 years old and have been married for 61 years. During a tour in Vietnam. I contacted Agent Orange, as a result I have diabetes, skin cancer and I have had a Quadruple Heart Bypass. My wife is bed ridden from a fall she experienced five months ago.

We need care givers on a 24 hour basis. They are impossible to find on the island. The present cap prevents them from being hired elsewhere.

We need this bill I beg your favorable consideration in this matter.

Very Respectfully,

Joseph K. Butters RetLCDRUSN

PMB 364 PPP
PO Box 10000
Saipan, MP 96950-8900

February 4, 2018

Chairman Lisa Murkowski and Ranking Member Maria Cantwell
Senate Committee on Energy and Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

Dear Senators,

I am an American overseas voter, and have lived in Saipan, in the Commonwealth of the Northern Marianas Islands since October 1996. I am a self-employed business owner.

The situation in the NMI, in regards to the CW visas, is becoming a disaster, with small businesses being seriously threatened and affected, downsizing and even closing.

It would be "nice" to think that there is a sufficient local workforce to fill all the skilled and unskilled jobs here in Saipan: carpenters, electricians, bookkeepers, dental hygienists, computer technicians, etc. Adding to those requirements, the opening of new hotels and restaurants will increase the number of workers needed tremendously.

But there are not enough in the local workforce to fill the growing needs.

It's been a long time coming, for our economy to recover from the past downturns. And now we need help to continue the prosperity that has been building for the last few years.

We are asking for your help and support in speedily passing the Northern Mariana Islands U.S. Workforce Act. As things stand now, as I understand it, October 1 will see many, many of our long-time workers losing their jobs and their life here in Saipan. Hard working employees who have helped and supported the economy and continued growth requires their presence continue, at least for some years to come.

Thank you for your consideration.

Sincerely,

Jill Derickson

**Written testimony in support of S.2325**
**'The Northern Mariana Islands U.S. Workforce Act'**
**Provided to the Senate Committee on Energy and Natural Resources**

The Honorable Lisa Murkowski
U.S. Senate
Washington, DC 20510

The Honorable Maria Cantwell
U.S. Senate
Washington, DC 20510

The Saipan Portopia Hotel Corporation, dba Hyatt Regency Saipan wishes to be recorded in strong support of S.2325, 'The Northern Mariana Islands U.S. Workforce Act'. We thank the Chairman and Ranking Member for the opportunity to provide this testimony.

S. 2325 would provide immediate relief for skilled, long term workers within our organization that currently face the likelihood of departing our island due to the FY2019 numerical cap on CW-1 visas. These associates hold positions such as electricians, plant room operators, engineers, carpenters and managers within our organization.

In 2009, our organization began to develop a plan to reorganize our workforce prior to the timeline set by PL 110-229. We set goals and a mission for the coming four years for our Human Resources team. We reviewed our local labor pool and identified positions where we found interest from our U.S. eligible workforce irrespective of the applicant's qualification. Our team prepared a workforce plan as required by the Department of Labor, listing all positions that we believed to be trainable within 90 to 120 days. This workforce plan was used as our guide to hire locally, phasing out a portion of our dominant CW-1 workforce.

To support our efforts, we initiated a partnership with the Northern Mariana Trades Institute, implementing a hotel and restaurant program in 2010 and a culinary program in 2011. Our managers became instructors for these programs working side by side as a way to train and recruit individuals that developed the basic skills necessary for our operation. Today, students completing these courses are being placed at our hotel as well as other businesses island wide.

The transition was not an easy journey. Our organization went from a 40% local workforce prior to 2009 to an 80% local workforce today. The remaining 20% of our non US workforce consists of management team members on L and H visas as well the previously mentioned skilled positions. The CW-1 visa category makes up only 16% of our workforce, an extremely important group of associates in our operation. In our transition, we lost institutional knowledge and a workforce that had been a part of our team for fifteen or more years.

**NICK K. NISHIKAWA**
*General Manager*
**HYATT REGENCY SAIPAN**

P.O. BOX 5087 CHRB
Saipan, MP 96950
USA

T: +1 670 234 1234
F: +1 670 234 7745
E : nick.nishikawa@hyatt.com

To assist our transition, we turned to U.S. mainland sister properties and hospitality institutions. Of those recruited, many had a difficult time adjusting to the islands culture, proximity to home and lifestyle. Some were successful however, most were unable to fulfill their commitment, leaving our island before their contracted date. Our turnover following the transition went as high as 36%. However, through the process we have gained an authentic and motivated workforce. We have reaped positive benefits from our decision and actions in 2009.

Despite our efforts there remains a skills gap on our island. There is not yet a pool of U.S. eligible workers to take the place of electricians, plumbers, power plant operators, refrigeration & appliance repair or HVAC professionals. While we continue to work toward developing these skills and transition to other visa options, the immediate relief provided by S. 2325 will help to ensure that we are able to maintain our operation while moving responsibly toward our goal. Following the reduction of CW-1 visas in FY 2018, our team have been approached by several key vendors questioning their ability to continue providing services. The threat of losing ancillary support industries will cause disruption for our business as tourists visiting the CNMI will not have the full experience of a thriving tourism industry.

There are however a few specific items that we believe would help to improve the bills overall effect in advancing a U.S. workforce in the CNMI.

- Delaying the annual adjustment to begin in 2023 will allow business to continue to train and recruit U.S. qualified workers. Many of the existing roles do not qualify for other visa categories yet may require significant training in order to be filled by a U.S. qualified worker. This additional time will also assist the CNMI in continuing its economic momentum after the loss of 3,000 CW-1 employees in FY 2018.
- We foresee potential lag time between when this bill becomes law and when the required regulatory actions are in place. We believe that having departments within the CNMI government and CNMI leadership involved in the regulatory process will assist in setting procedures for U.S. Department of Labor certification and wage determinations.
- The addition of 2,000 permits beyond the 13,000 currently in the bill for the initial cap (totaling 15,000) will allow business developments currently in progress to have an adequate workforce to complete and open these projects.

Hyatt Regency Saipan urges the Senate Committee on Energy and Natural Resources to support S. 2325 taking into consideration the above recommendations and advance the bill out of committee favorably.

Thank you again for the opportunity to share our experience with the committee.

Warm Regards,

**Nick K. Nishikawa**
*General Manager*

**NICK K. NISHIKAWA**
*General Manager*
**HYATT REGENCY SAIPAN**

P.O. BOX 5087 CHRB
Saipan, MP 96950
USA

T: +1 670 234 1234
F: +1 670 234 7745
E : nick.nishikawa@hyatt.com

**Written testimony in support of HR 4869**
**'The Northern Mariana Islands U.S. Workforce Act'**
**Provided to the House Committee on Natural Resources**

The Honorable Rob Bishop
U.S. House of Representatives
Washington, DC 20510

The Honorable Raúl Grijalva
U.S. House of Representatives
Washington, DC 20510

The Saipan Portopia Hotel Corporation, dba Hyatt Regency Saipan wishes to be recorded in strong support of HR 4869, 'The Northern Mariana Islands U.S. Workforce Act'. We thank the Chairman and Ranking Member for the opportunity to provide this testimony.

HR 4869 would provide immediate relief for skilled, long term workers within our organization that currently face the likelihood of departing our island due to the FY 2019 numerical cap on CW-1 visas. These associates hold positions such as electricians, plant room operators, engineers, carpenters and managers within our organization.

In 2009, our organization began to develop a plan to reorganize our workforce prior to the timeline set by PL 110-229. We set goals and a mission for the coming four years for our Human Resources team. We reviewed our local labor pool and identified positions where we found interest from our U.S. eligible workforce irrespective of the applicant's qualification. Our team prepared a workforce plan as required by the Department of Labor, listing all positions that we believed to be trainable within 90 to 120 days. This workforce plan was used as our guide to hire locally, phasing out a portion of our dominant CW-1 workforce.

To support our efforts, we initiated a partnership with the Northern Mariana Trades Institute, implementing a hotel and restaurant program in 2010 and a culinary program in 2011. Our managers became instructors for these programs working side by side as a way to train and recruit individuals that developed the basic skills necessary for our operation. Today, students completing these courses are being placed at our hotel as well as other businesses island wide.

The transition was not an easy journey. Our organization went from a 40% local workforce prior to 2009 to an 80% local workforce today. The remaining 20% of our non US workforce consists of management team members on L and H visas as well the previously mentioned skilled positions. The CW-1 visa category makes up only 16% of our workforce, an extremely important group of associates in our operation. In our transition, we lost institutional knowledge and a workforce that had been a part of our team for fifteen or more years.

NICK K. NISHIKAWA
*General Manager*
HYATT REGENCY SAIPAN

P.O. BOX 5087 CHRB
Saipan, MP 96950
USA

T: +1 670 234 1234
F: +1 670 234 7745
E : nick.nishikawa@hyatt.com

To assist our transition, we turned to U.S. mainland sister properties and hospitality institutions. Of those recruited, many had a difficult time adjusting to the islands culture, proximity to home and lifestyle. Some were successful however, most were unable to fulfill their commitment, leaving our island before their contracted date. Our turnover following the transition went as high as 36%. However, through the process we have gained an authentic and motivated workforce. We have reaped positive benefits from our decision and actions in 2009.

Despite our efforts there remains a skills gap on our island. There is not yet a pool of U.S. eligible workers to take the place of electricians, plumbers, power plant operators, refrigeration & appliance repair or HVAC professionals. While we continue to work toward developing these skills and transition to other visa options, the immediate relief provided by HR 4869 will help to ensure that we are able to maintain our operation while moving responsibly toward our goal. Following the reduction of CW-1 visas in FY 2018, our team have been approached by several key vendors questioning their ability to continue providing services. The threat of losing ancillary support industries will cause disruption for our business as tourists visiting the CNMI will not have the full experience of a thriving tourism industry.

There are however a few specific items that we believe would help to improve the bills overall effect in advancing a U.S. workforce in the CNMI.

- Delaying the annual adjustment to begin in 2023 will allow business to continue to train and recruit U.S. qualified workers. Many of the existing roles do not qualify for other visa categories yet may require significant training in order to be filled by a U.S. qualified worker. This additional time will also assist the CNMI in continuing its economic momentum after the loss of 3,000 CW-1 employees in FY 2018.
- We foresee potential lag time between when this bill becomes law and when the required regulatory actions are in place. We believe that having departments within the CNMI government and CNMI leadership involved in the regulatory process will assist in setting procedures for U.S. Department of Labor certification and wage determinations.
- The addition of 2,000 permits beyond the 13,000 currently in the bill for the initial cap (totaling 15,000) will allow business developments currently in progress to have an adequate workforce to complete and open these projects.

Hyatt Regency Saipan urges the House Committee on Natural Resources to support HR 4869 taking into consideration the above recommendations and advance the bill out of committee favorably.

Thank you again for the opportunity to share our experience with the committee.

Warm Regards,

**Nick K. Nishikawa**
*General Manager*

NICK K. NISHIKAWA
*General Manager*
HYATT REGENCY SAIPAN

P.O. BOX 3087 CHRB
Saipan, MP 96950
USA

T: +1 670 234 1234
F: +1 670 234 7745
E : nick.nishikawa@hyatt.com

January 29, 2018

Honorable Gregorio Kilili Camacho Sablan
P.O. Box 504879
Saipan, MP 96950

RE: The Micronesian Telecommunications Corporation dba IT&E's Support of House Resolution (HR) 4869, The Northern Mariana Islands U.S. Workforce Act

Dear Honorable Sablan:

The Micronesian Telecommunications Corporation dba IT&E, as the largest telecommunications company in the Northern Marianas Islands, strongly supports HR 4869, The Northern Marianas Islands U.S. Workforce Act.

As a company that has been on this island since 1989, IT&E has seen the ups and downs of the CNMI economy. Without the passage of HR 4869, we fear the worst. At no time that we can remember, has the CNMI been without foreign workers – realistically, at least in the near future, we cannot operate without them. We maybe a protectorate of the U.S., but we by no means can be compared to the U.S. or function like the U.S. We are a small chain of islands in the remote Western Pacific that has about 55,000 people on it. We are closer to Asian countries such as Japan, Philippines and Korea than we are to the U.S. Getting U.S. workers to come and stay here to work is difficult because they are not used to the island lifestyle or weather. But we have companies, such as IT&E, which require workers who have at least bachelors' degrees in computer science, engineering, accounting, marketing, etc. We also need skilled workers in specific trades such as wireless transmission technicians, outside plant technicians, electricians, switching technicians, etc. We maybe a small telecommunications company in comparison to Verizon and AT&T, but we still require similar facilities and equipment, and specialized and skilled workers to build, operate and maintain them.

The CNMI currently does not have the educational level or training programs needed to support the island at 100% U.S. workers. The Northern Marianas Trade Institute (NMTI), a relatively new trade school, has helped primarily in the hotel industry and it is starting to offer technical training such as the Electronics Systems Technician Certification, but it still has a long ways to go before it can graduate students and groom them to do all the trades that are needed on this island. In the CNMI, the highest education is at the Northern Marianas College (NMC), which is equivalent to

a junior college. We do not have private universities such as Yale, Harvard, Stanford, or Princeton. We also do not have public universities or colleges that have the same caliber as found in the U.S. The nearest university to the CNMI is University of Guam. Unfortunately for the CNMI, those who graduate from University of Guam prefer to work in Guam. Many of our own children who have gone to the States for college prefer to stay there because of bigger and better opportunities for them there. Some return to Saipan, but they are the exception. The U.S., itself, has far more public and private universities and colleges, junior colleges and trade schools than the CNMI, yet it still relies heavily on foreign workers. How, then, do you expect the CNMI, remotely situation in the Western Pacific, with one junior college, one nearby university in Guam, and a fairly new trade school to carry on without foreign workers?

For our part, IT&E has always supported the hiring of local residents and we continue to do so. The Company has consistently had 90% or more locally hired employees. Of the current 216-employee workforce, 202 or 94% employees are U.S. citizens, permanent resident holders or from the freely associated states (FAS).

In 2000, even before the U.S. began overseeing immigration, IT&E sponsored six of our foreign workers for permanent residency. Of the six, four are now U.S. citizens and two have permanent resident status. They all are still working for IT&E. In November 2011, when the U.S. began overseeing immigration, IT&E immediately processed six of our employees under H1B Visas. Of the six, four are in the last stage of their permanent resident processing. We will continue to sponsor more U.S. visa holders for permanent residency, as needed.

Up until 2014 we had zero CW1 workers. However, in 2014, IT&E began upgrading its copper fiber cable to fiber optic cable around the islands of Rota, Tinian and Saipan. We needed more skilled manpower to complete this project. We started by hiring one CW-1 as a Combination Technician who required no training, but we also did an internal posting to cross-train employees to become either a Combination Technician or Cable Splicer. We cross-trained two employees to be Combination Technicians and one to be a Cable Splicer. Eventually, one of the cross-trained Combination Technicians was promoted to Cable Splicer. Because we still needed more help, we advertised externally for Combination Technicians and Cable Splicers. Our ad stated that we were willing to train if the applicant could show some type of technical experience. We hired two Combination Technician trainees, two experienced Combination Technicians, and two experienced Cable Splicers locally. We also hired two more CW1 workers as Combination Technicians for a total of three CW1 workers.

On the island of Rota, we also offered crossing-training to one of our locally hired part-time employees, and he is now a full-time, regular, Technical Specialist.

In September 2017, IT&E and the Northern Marianas Trade Institute (NMTI) formed a partnership to help improve the skill sets of our technical employees and those wishing to change their careers. We began by offering an Electronic Systems Technician certification program. This nationally recognized certification is approximately a 2-year program (a total of four levels). IT&E is assisting the employees financially to attend this program. 10 employees completed and passed the first level and the second level is scheduled to begin in March 2018. We plan to continue offering the Electronic Systems Technician certification to other employees, as well as offer and assist employees in other programs as they are developed and offered by NMTI.

Other programs that IT&E either offer or participate in to help employ and train our local community:

**Summer Work Program for High School and College Students**

Beginning May 2002, the Company launched the Summer Work Program geared to giving high school and college students the opportunity to learn what it is like to work in the telecommunications industry and to get paid. Students are not required to have work experience, although some computer experience is necessary. Each year the Company opens training positions in Sales, Marketing, Engineering, Customer Service, Customer Care, Human Resources, Accounting and Network. IT&E hires at least 10 employees, sometimes more. The first program was a big success and it became an annual program. The program is also now offered annually at IT&E in Guam.

**CNMI Public School System Cooperative Education Program**

IT&E has been an active participant of the CNMI Public School System, Cooperative Education Program since 2000. We usually hire 2-4 students (sometimes more depending on the need) per semester. We interview all students who are interested in applying at IT&E so that the students can gain the experience of interviewing for a job, and those hired are usually placed in their preferred area for the semester.

**Northern Marianas College (NMC) Internship Program**

During the periods of time NMC had the Internship Program, IT&E has participated. In the last two years, IT&E has hired 2-4 interns per semester.

IT&E has a number of students from the Summer Program, Co-op Program, NMC Internship Program who are now working for IT&E:

- Veronica Acosta – Product Manager (NMC Internship Program)
- Jean Ballesteros – Human Resource Administrator (NMC Internship Program)
- Nick Carreon – Supervisor OSP/Engineer (NMC Internship Program)

- Laarni Zapanta – Accounting Support Specialist (Co-op Program)
- Margie Camu – Inventory Coordinator (Co-op Program)
- Jose Rabago – Graphic Artist (Co-op Program and IT&E Summer Work Program)
- Rebekka King – Systems Specialist (NMC Internship Program)
- Christopher Wu – Systems Specialist (NMC Internship Program)
- Bofan Cabrera – Systems Administrator (IT&E Summer Work Program)
- Jason Forrester – Sr. Engineer – IP (IT&E Summer Work Program)
- Jessica Estrada – Helpdesk (IT&E Summer Work Program)
- Mikee Campo – Inventory Assistant (Co-op Program and IT&E Summer Work Program)
- Jim Lacsina – (Part-time) Accounting Clerk (IT&E Summer Work Program)
- Jeremie Tanghal – (Part-time) Telemarketer (IT&E Summer Work Program)
- Kai Taivera – (Part-time) Office Clerk (IT&E Summer Work Program)
- Patrick Agustin (Part-time) Accounting Assistant (NMC Internship Program)

IT&E also recognizes employees who have the potential to succeed. Mr. Edilberto Javier, Jr. has been with the Company for more than 20 years. He started as an Operator while also attending school at NMC. He eventually graduated with an Associate's Degree in Business. He continued working his way up in the company and he is now the Manager of our General Service Department.

Mr. Nick Carreon is another employee who the Company saw as having high potential. He has been with the Company for 16 years. Mr. Carreon was part of the NMC Internship program back in 2000. We eventually hired him as Assistant for the Outside Plant/Plant Service Center. He is now the Supervisor of Outside Plant and he also is one of our Engineers.

Ms. Veronica Acosta has been working for the Company for 17 years. She started as an NMC intern and worked her way up to Product Manager.

Sometimes training individuals isn't always practical if the skills needed are immediate or require specific education and years of experience that we cannot find on island. But IT&E will always look at our current workforce and local community before seeking workers elsewhere.

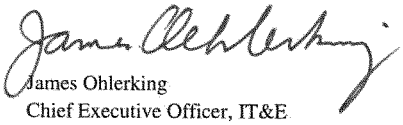
But IT&E, as one of the largest companies on island, has the financial means to sponsor employees for permanent residency and to help them financially so that they can improve their skills. We will do what is necessary to support our business and the community. Smaller companies and the 'mom & pop-type' businesses are not so fortunate. The CNMI is made up of small islands and we have many small businesses. Those are the business that will suffer and most likely close business if HR 4869 does not pass or we are made to wait too long for it to pass.

We are already seeing the repercussions of the decrease in CW workers, not only our businesses and economy, but also our foreign workers who have been on this island 20, 30 or more years, workers who we call our friends and colleagues. Recently, we know of one family whose mother and father were recently denied their CW1 visas because of the cap and they will be required to leave island. Their children are U.S. citizens. Their 18 year old son was accepted to Columbia University. Instead of going to Columbia, he has opted to stay on island and to get a job to support himself and his sister who is still in high school. He hopes to continue his education at the Northern Marianas College. Another case has affected our contracted cleaners. We have known the workers for over 15 years. They received notice that their CW-1 Visas have not been renewed because of the cap. One of the cleaners is the sole supporter for her family. Her family member is a senior in college but she now cannot finish because they no longer have the funds to support her last year of education.

If businesses close, that will affect not only the foreign workers who have to leave island but also any U.S. workers who are working for that company because they will also lose their job. IT&E is not immune to what is happening. As businesses close and CW1 workers leave the islands, our own company will suffer in loss of revenues, loss of employees and loss of friends. And for the future of the CNMI, what new businesses will want to come to the CNMI to open if they cannot find the skilled workers needed to run their businesses? The General Accounting Office submitted a report about what will happen if all the foreign workers leave. We hope that report does not go unnoticed because it is the truth. IT&E has done its best to hire U.S. workers but even we are having problems hiring 100%.

IT&E supports HR 4869 because we have to in order to survive. We are relying heavily on the U.S. Congress to pass this bill. We invite any U.S. Congress person to the CNMI to see first-hand what is happening here and what will happen here if HR 4869 is not passed – and soon.

Sincerely,



James Ohlerking
Chief Executive Officer, IT&E

# Northern Marianas Trades Institute

P.O. Box 504880 Saipan MP 96950
Telephone No. (670)235-6684
Fax: (670)235-6684
Email address: nmti@pticom.com



*BOARD OF DIRECTORS:*

*John O. DLR. Gonzales*
*Chairman*

*Joseph T. Torres*
*Vice Chair*

*Velma Ann M. Palacios*
*Secretary/ Treasurer*

*Herman B. Cabrera*
*Director*

*Richard P. Kautz Jr.*
*Director*

*Annie Hayes*
*Director*

*Mario Valentino*
*Director*


February 05, 2018

The Honorable Gregorio Kilili Camacho Sablan
U.S. House of Representatives
423 Cannon House Office Building
Washington, DC 20515

**Re: S-2325 & HR4869 – "Northern Marianas Islands U.S. Workforce Act"**

Dear Delegate Sablan:

We are writing this letter supporting the intent and purpose of S-2323 & HR4869. As a recipient of CW funding, NMTI has made significant strides in training U.S. residents so that our islands may develop workforce self sufficiency. This Spring semester, NMTI recorded a phenomenal student enrollment number of close to 600 students throughout its various trades focused mainly on automotive technology, culinary arts, hospitality, and construction trades, etc.

Much of NMTI's growth was accomplished through the establishment of public and private partnerships. With governmental support, we were able to open up a wider range of trades offerings corresponding to the "job priority list" established by the CNMI Department of Labor. The business community for its part has embraced our "paid" internship program, granting students the ability to earn while learning. With both opportunities in our arsenal, we've been able to increase the employment rate among residents.

While we appreciate all the help received to increase our enrollment, we openly admit as a training institution, that we are far from being able to meet the human resource demands entrusted upon us. As most of our program offerings are meant to replace skilled individuals, it requires trainees to embark on an extensive two (2) year program, thus requiring continued patience from local and federal stakeholders. We agree with the intent of increasing our resident workforce, but the realization of a replacement workforce needs further revision at this point, thus requiring us to submit this letter of support for the "Northern Marianas Islands U.S. Workforce Act."

In order for our institute to truly continue its efforts at workforce development, Congress' continued understanding in this matter is necessary. Should you feel the need to discuss our stance on this issue further, please do not hesitate to contact me at (670) 322-6684 or e-mail me at nmti@pticom.com.

Yours truly,

Agnes M. McPhetres
Chief Executive Officer

CC: Ralph Dlg. Torres, CNMI Governor
Victor B. Hocog, CNMI Lt. Governor

AHLEI
AMERICAN HOTEL & LODGING EDUCATIONAL INSTITUTE

*"Creating Career Opportunities."*

**Office of the Senate President**
**Twentieth Northern Marianas Commonwealth Legislature**

**SENATOR ARNOLD I. PALACIOS**
**Senate President**

February 1, 2018

The Honorable Gregorio Kilili Sablan
Congress of the United States
House of Representatives
Washington, D.C. 20515

Dear Congressman Sablan:

I am in receipt of your letter dated January 23, 2018. On behalf of the Senate of the Twentieth Northern Marianas Commonwealth Legislature, I would like to commend and thank you for sponsoring H.R. 4869, the Northern Marianas U.S. Workforce Act, in the United States House of Representatives. The Northern Marianas U.S. Workforce Act adds ten years to the Commonwealth-Only Transitional Worker (CW-1) Program, increases the permit cap to 13,000 for fiscal year 2019, and addresses other critical components of the CW-1 program. This is a monumental step in addressing the U.S. citizen/local workforce shortage in the CNMI as well as securing and protecting our borders at the same time.

After many years of economic decline and recession, the CNMI economy is recovering and progressively growing. In 2016, the CNMI economy grew by 28.6%, up from 3.5% the previous year according to the U.S. Bureau of Economic Analysis. The Marianas Visitors Bureau reported that visitor arrivals to the CNMI increased by 24% in calendar year 2017 despite a slight dip in visitor arrivals in December 2017.

The CNMI's economic growth and development as well as increased visitor arrivals require the availability of qualified workforce in our islands. Notwithstanding the unwavering initiatives taken by the CNMI government and businesses to train and increase the number of U.S. citizen/local workforce, the CNMI continues to have a shortage of U.S. citizen/local workforce to accommodate the work force requirements of the existing and new businesses. The CNMI Senate finds that H.R. 4869 guarantees a stable workforce for public and private employers for another ten years while the CNMI government and businesses continue to train and recruit U.S. citizen/local workforce to replace foreign labor.

The CNMI Senate strongly supports the passage of H.R. 4869, which is critical legislation to ensure the economic stability, promote economic growth, and more importantly to protect the public health and welfare of the people of the CNMI. Along with my colleagues in the CNMI Senate, I have prefiled Senate Resolution 20-21 to express the CNMI Senate's support of the provisions and

passage of S. 2325 and H.R. 4869. We will act on Senate Resolution 20-21 at the Senate's next session on Friday, February 2, 2018. A copy of the adopted resolution will be transmitted to your office for your review.

The Northern Marianas U.S. Workforce Act is a welcome reprieve for the public and private employers and employees of our beautiful islands. Once again, I thank you Congressman Sablan for the introduction of H.R. 4869 and humbly request for the United States House of Representatives' swift passage of the bill. Thank you for your time.

Sincerely,

ARNOLD I. PALACIOS
President of the Senate

*Honorable Jesus P. Mafnas Memorial Building, Capitol Hill*
*P.O. Box 500129 ♦ Saipan, MP 96950*
*Tel. (670) 664—8807/9 ♦ Fax. (670) 664-8810 ♦ Email: aipalacios55@gmail.com*

*House of Representatives*
20th NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500586
SAIPAN, MP 96950

Send Correspondence to:
*The Honorable Rafael S. Demapan*
*Speaker*
*House of Representatives*
*Twentieth Northern Mariana Islands*
*Commonwealth Legislature*
*P.O. Box 500586*
*Saipan, MP 96950*

February 6, 2018

The Honorable Gregorio Kilili C. Sablan
NMI Delegate
U.S. House of Representatives
423 Cannon HOB
Washington, D.C. 20515-5201

Dear Congressman Sablan:

I have the honor of transmitting herewith a certified copy of H. J. R. 20-8 entitled: **"A House Joint Resolution to support the passage of S. 2325, the Northern Mariana Islands U.S. Work Force Act, introduced by Senator Lisa Murkowski in the Senate of the United States Congress."**, which was duly adopted by the House of Representatives and the Senate of the Twentieth Northern Marianas Commonwealth Legislature.

Sincerely yours,

Linda B. Muña
House Clerk

Enclosure

Rep. Rafael S. Demapan, Speaker
Rep. Francisco C. Aguon
Rep. Ivan A. Blanco
Rep. Angel A. Demapan
Rep. Edwin K. Propst
Rep. Janet U. Maratita, Vice Speaker
Rep. Edwin P. Aldan
Rep. Francisco S. Dela Cruz
Rep. Joseph Leepan T. Guerrero
Rep. Gregorio M. Sablan Jr.
Rep. Glenn L. Maratita , Floor Leader
Rep. Blas Jonathan "BJ" T. Attao
Rep. Joseph P. Deleon Guerrero
Rep. Alice S. Igitol
Rep. John Paul P. Sablan
Rep. Edmund S. Villagomez, Minority Leader
Rep. Donald C. Barcinas
Rep. Lorenzo I. Deleon Guerrero
Rep. Jose I. Ribus
Rep. Vinson F. Sablan

*Twentieth Legislature*
*of the*
*Commonwealth of the Northern Mariana Islands*

# IN THE HOUSE OF REPRESENTATIVES

THIRD REGULAR SESSION

**JANUARY 26, 2018**

**REPRESENTATIVE ANGEL A. DEMAPAN** of Saipan, Precinct 1 (*for himself,* Representatives Francisco C. Aguon, Edwin P. Aldan, Blas Jonathan "BJ" T. Attao, Donald C. Barcinas, Ivan A. Blanco, Francisco S. Dela Cruz, Joseph P. Deleon Guerrero, Lorenzo I. Deleon Guerrero, Rafael S. Demapan, Alice S. Igitol, Jose I. Itibus, Glenn L. Maratita, Janet U. Maratita, Edwin K. Propst, Gregorio M. Sablan Jr., John Paul P. Sablan, and Edmund S. Villagomez,) in an open and public meeting with an opportunity for the public to comment, introduced the following House Joint Resolution:

## H. J. R. NO. 20-8

**A HOUSE JOINT RESOLUTION TO SUPPORT THE PASSAGE OF S. 2325, THE NORTHERN MARIANA ISLANDS U.S. WORK FORCE ACT, INTRODUCED BY SENATOR LISA MURKOWSKI IN THE SENATE OF THE UNITED STATES CONGRESS.**

Referred to the House Committee: None
Standing Committee Report: None
**ADOPTED** BY THE **HOUSE OF REPRESENTATIVES** ON **JANUARY 31, 2018;**
*without amendments* and transmitted to the Senate.

Referred to the Senate Committee: None
Standing Committee Report: None
**ADOPTED** BY THE **SENATE** ON **FEBRUARY 2, 2018;**
*without amendments* and returned to the House of Representatives.

**H. J. R. No. 20-8 was duly adopted by the 20th CNMI House of Representatives during its Second Day, Third Regular Session on January 31, 2018.**

**Linda B. Muña, House Clerk**

*Twentieth Legislature*
*of the*
*Commonwealth of the Northern Mariana Islands*

# IN THE HOUSE OF REPRESENTATIVES

SECOND DAY, THIRD REGULAR SESSION

**JANUARY 31, 2018**

## H. J. R. NO. 20-8

**A HOUSE JOINT RESOLUTION**

**TO SUPPORT THE PASSAGE OF S. 2325, THE NORTHERN MARIANA ISLANDS U.S. WORK FORCE ACT, INTRODUCED BY SENATOR LISA MURKOWSKI IN THE SENATE OF THE UNITED STATES CONGRESS.**

1 **WHEREAS**, the United States Congress enacted U.S. Public Law 110-229, the
2 Consolidated Natural Resources Act of 2008 (CNRA), establishing federal control of
3 immigration in the Commonwealth of the Northern Mariana Islands (CNMI) in May of 2008;
4 and
5 **WHEREAS**, the CNRA's intent was to ensure effective border control procedures
6 and protect national and homeland security, while minimizing any potential adverse
7 economic and fiscal effects relating to the phasing out the CNMI's foreign worker permit
8 program and maximizing the CNMI's potential for economic and business growth; and
9 **WHEREAS**, the CRNA provides for a transitional period, requiring the U.S.
10 Department of Homeland Security (DHS) to provide a CNMI-Only Transitional Worker
11 Permit program for foreign workers (CW-1) and to reduce the number of permits issued
12 annually until the end of the transitional period on December 31, 2019; and
13 **WHEREAS**, Members of U.S. Congress requested the United States Government
14 Accountability Office (GAO) to review the implementation and impact of federal
15 immigration laws in the CNMI with a focus on the potential economic impact, if any, due to
16 the complete reduction of CW-1 workers and the federal and CNMI government's efforts to
17 address the CNMI's labor force challenges; and

**WHEREAS**, in May 2017, GAO issued a report analyzing the effects and implementation of PL 110-229 and federal immigration laws in the CNMI; and

**WHEREAS**, GAO found that the CNMI labor market has begun to grow after years of decline, while continuing to rely on foreign workers. By 2015, the number of employed CNMI workers was about 8 percent higher than in 2013, and inflation-adjusted average earnings had risen by 18 percent from 2007 levels; and

**WHEREAS**, GAO further found that in 2015, foreign workers, who totaled 12,784, made up more than half of the CNMI workforce and filled 80 percent of all hospitality and construction jobs, according to GAO's analysis of CNMI tax data; and

**WHEREAS**, the GAO found that the federal and CNMI government, as well as CNMI businesses, have taken steps to train U.S. citizens and to reduce reliance on CW workers; and

**WHEREAS**, GAO, however, concluded that if all workers with CW-1 permits, or 45 percent of total workers in 2015, were removed from the CNMI's labor market, GAO projects a 26 to 62 percent reduction in CNMI's 2015 gross domestic product, resulting in the loss of millions of dollars in revenue; and

**WHEREAS**, GAO further concluded that when the CW-1 permit program ends in 2019, available data show that the unemployed domestic workforce, estimated at 2,386 in 2016, will be well below the CNMI's demand for labor; and

**WHEREAS**, the GAO also concluded that ending the CW program would negatively affect CNMI businesses, resulting in the loss of services and employment to CNMI residents; and

**WHEREAS**, given the GAO's report that the CNMI's economy would be negatively impacted by as much as 62% with a 28.6% GDP growth translates in the potential loss of hundreds of millions, if not billions, of dollars; and

**WHEREAS**, the end of the CW-1 program will more than likely cause irreversible damage to the CNMI economy, countless businesses, adversely impacting the livelihood of every man, woman and child; and

**WHEREAS**, the end of the CW-1 program will more than likely result in in the CNMI government's inability to provide adequate efficient basic public services such as medical care, public safety and reliable utilities; and

**WHEREAS**, the CNMI Governor Ralph DLG. Torres, Members of the CNMI Legislature, the Northern Marians Business Alliance Corporation and other businesses have

been meeting and collaborating with White House officials, federal agencies, and the U.S. Congress in the hopes of amending PL 110-229 to extend the CW program in order to continue the upward mobility of the CNMI economy; and

**WHEREAS**, in July of 2017, U.S. Senator Lisa Murkowski, Chairman of the Senate Energy and Natural Resources Committee Murkowski formed a working group to draft the new policy on a long-term solution to address the CNMI's labor shortage; and

**WHEREAS**, on January 19, 2018, Senator Murkowski introduced S. 2325, the Northern Mariana Islands U.S. Workforce Act, which gives the CNMI access to foreign labor for another 10 years and continues the trend to increase the number of local workers; and

**WHEREAS**, among other things, S. 2325 proposes to extend the CW-1 transitional worker program for another 10 years and establish a cap of 13,000 permits for 2019 and such permit cap shall be reduced by 500 each year beginning 2020;

**WHEREAS**, the CNMI Legislature finds that the provisions of S. 2325 are essential and crucial to the stability and maintenance of the CNMI's labor workforce and economy and to support the economic growth of our fragile economy;

**NOW, THEREFORE, BE IT RESOLVED,** by the House of Representatives, Twentieth Northern Marianas Commonwealth Legislature, the Senate concurring, that the House hereby supports the provisions of S. 2325 and humbly requests for the passage of S. 2325 in both houses of the U.S. Congress; and

**BE IT FURTHER RESOLVED**, that the House of Representatives, the Senate concurring, humbly commend and thank Senator Lisa Murkowski, Governor Ralph DLG. Torres, the members of Congress, the Northern Marianas Business Alliance Corporation, and Delegate Gregorio C. Sablan, for their tireless work and efforts in developing and drafting S. 2325 to support assist the CNMI; and

**BE IT FURTHER RESOLVED**, that the Speaker of the House of Representatives and the President of the Senate shall certify and the House Clerk and the Senate Legislative Secretary shall attest to the adoption of this joint resolution and thereafter the House Clerk shall transmit a certified copy to the Honorable Donald J. Trump, President of the United States of America; the Honorable Mitch McConnell, Senate Majority Leader, 115th United States Congress; the Honorable Paul Ryan, Speaker of the House, 115th United States Congress; the Honorable Ralph DLG. Torres, Governor of the Commonwealth of the Northern Mariana Islands; the Honorable Gregorio C. Sablan, CNMI Delegate to the United States Congress, 115th United States Congress; the Honorable Lisa Murkowski, Chairperson

of the Senate Energy and Natural Resources Committee, 115th United States Congress; the Honorable Rob Bishop, Chairman of the House Committee on Natural Resources, 115th United States Congress; and to the Honorable Edward Manibusan, Attorney General, Commonwealth of the Northern Mariana Islands.

***Duly adopted by the House of Representatives on January 31, 2018 and by the Senate on February 2, 2018.***

*Certified by:*

***Speaker Rafael S. Demapan***
*House of Representatives*

***President Arnold I. Palacios***
*The Senate*

*Attested to by:*

***Linda B. Muña***
*House Clerk*

***Justo S. Quitugua***
*Senate Legislative Secretary*

**Office of the Senate President**
Twentieth Northern Marianas Commonwealth Legislature

**SENATOR ARNOLD I. PALACIOS**
Senate President

February 2, 2018

Honorable Lisa Murkowski
Senator, U.S. Senate
Chairwoman, Senate Committee on Energy
and Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairwoman Murkowski:

Thank you for allowing me to submit comments on S. 2325 and H.R. 4869 respectively entitled, the Northern Mariana Islands U.S. Workforce Act, on behalf of the Senate of the Twentieth Northern Marianas Commonwealth Legislature.

These bills represent the culmination of nearly ten years of dialogue between the United States government and the Commonwealth of the Northern Mariana Islands (CNMI) regarding the pace and efficiency of the CNMI's transition into the U.S. Immigration system. Over the course of these years, I have served in various capacities which have dealt directly with this effort, and have seen both areas that can be strengthened and our tremendous progress as a community toward recruiting, hiring, and training qualified U.S. workers.

As President of the Senate, I have joined my fellow lawmakers in supporting the efforts to extend the transition period as a means to grow our economy and provide more opportunities for U.S. workers to find employment. In House Joint Resolution 20-7, which is attached to this document, you will see the formalization of the Twentieth Northern Marianas Commonwealth Legislature's official support to amending U.S. Public Law 110-229 and allowing for additional time to meet the mandates of the transition period and prevent economic collapse.

In the analysis performed by the legislature and reports regarding the CNMI's current position on the transition period, inclusive of the most recent Government Accountability Office study on the matter, it is clear that the road before us is approaching a fork. One path leads us down a road of continuing economic growth, where our economy is normalizing to and expanding beyond the years before our most recent economic collapse toward a future where U.S. citizens can find the jobs and opportunities that will utilize their skills, and where our people become less reliant on federally funded social programs, such as, food stamps and Section 8 housing. The other path, is one of

severe economic depression, historically low government revenues, decreased services to our people, limited opportunities, and high rates of unemployment and poverty. Your consideration of this bill will decide which road we will take and determine the fate of our economy and our community for years to come.

The Twentieth Northern Marianas Commonwealth Legislature has made it a priority to be responsible partners in this transition. We have allocated local funding toward the training of our U.S. Workers, implemented restrictions on the hiring of foreign workers in certain positions, and have supported Governor Ralph Torres' efforts to explore new and efficient avenues for the distribution of CW worker fees.

We have seen successes in our efforts, but our economy and our hopes for a self-sufficient community remain vulnerable to a dramatic loss of half of our total workforce in 2019. It is simply a loss we cannot withstand. The passage of S.2325 and H.R. 4869 will give us the ability to grow toward a strong and stable workforce of skilled U.S. workers, and the Twentieth Northern Marianas Commonwealth Legislature stands ready to meet the challenge of the next phase in implementing necessary policies that will assist in meeting the mandates of the new law.

Recently, the House of Representatives of the Twentieth Northern Marianas Commonwealth Legislature adopted House Joint Resolution 20-8, entitled "A House Joint Resolution to support the passage of S.2325, the Northern Mariana Islands U.S. Work Force Act, introduced by Senator Lisa Murkowski in the Senate of the United States Congress". Additionally, Senate Resolution 20-21, entitled, "A Senate Resolution to support the passage of S.2325, the Northern Mariana Islands U.S. Workforce Act, introduced by Senator Lisa Murkowski in the United States Senate and H.R. 4689 an identical bill introduced by Congressman Gregorio Kilili Sablan in House of Representatives of the United States Congress" was adopted by the Senate. The members of the Twentieth Northern Marianas Commonwealth Legislature, and on behalf of the people of the Commonwealth, find that S. 2335 and H.R. 4689 provide a reasonable solution to our current workforce needs to ensure economic stability and growth. For your review, both legislations are attached to this document.

I thank the committees for holding a hearing on this important piece of legislation and offer support for its passage on behalf of the Senate of the Twentieth Northern Marianas Commonwealth Legislature.

Sincerely,

ARNOLD I. PALACIOS
President of the Senate

*Honorable Jesus P. Mafnas Memorial Building, Capitol Hill*
*P.O. Box 500129 ♦ Saipan, MP 96950*
*Tel. (670) 664—8807/9 ♦ Fax (670) 664-8810 ♦ Email: aipalacios55@gmail.com*

**Twentieth Northern Marianas Commonwealth Legislature**

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 29, 2017

**SECOND REGULAR SESSION, 2017** **H. J. R. 20-7**

---

**A HOUSE JOINT RESOLUTION**

To support the efforts of the Commonwealth of the Northern Mariana Islands Government and private sector in seeking legislative relief through amendments to U.S. Public Law 110-229 in order to continue the upward growth of the Commonwealth's economy.

1 **WHEREAS**, on May 8, 2008, President George W. Bush signed the
2 Consolidated Natural Resources Act of 2008 or U.S. Public Law 110-229 (PL
3 110-229), amending the CNMI Covenant to establish federal control of the
4 CNMI's Immigration system starting in 2009; and

5 **WHEREAS**, the law provides for a transitional period, requiring the U.S.
6 Department of Homeland Security (DHS) to provide a CNMI-only temporary
7 work permit program for foreign workers (CW) and to reduce the number of
8 permits issued annually until the end of the transitional period on December 31,
9 2019; and

10 **WHEREAS,** the Strategic Economic Development Council (SEDC) was
11 created by the Office of the Governor to bring together business leaders and
12 government agencies to plan for and properly regulate economic development and
13 growth in the CNMI; and

**WHEREAS,** the SEDC formed a CNMI-only transition worker program Committee (CW) to assess PL 110-229 and explore options to mitigate the negative effects when the program ends in 2019, if any; and

**WHEREAS,** neither the SEDC nor the CW Committee could hire professionals to advocate on behalf of the CNMI, so the Northern Marianas Business Alliance Corporation (NMBAC) was created as a non-profit member-funded organization to hire professionals to advocate on behalf of the CNMI; and

**WHEREAS**, in May 2017, the United States Government Accountability Office (GAO) issued a report analyzing the effects of PL 110-229 on the CNMI; and

**WHEREAS**, Members of Congress requested the GAO to review the implementation and impact of federal immigration laws in the CNMI with a focus on the potential economic impact, if any, due to the complete reduction of CW workers and the federal and CNMI government's efforts to address the CNMI's labor force challenges; and

**WHEREAS**, the GAO concluded that if no CW workers were available to supplement the workforce, the CNMI's economy will be affected 26 to 62 percent, resulting in the loss of millions of dollars in revenues; and

**WHEREAS**, the GAO also concluded that ending the CW program would negatively affect CNMI businesses, resulting in the loss of services and employment to CNMI residents; and

**WHEREAS**, the GAO found that the federal and CNMI government, as well as CNMI businesses, have taken steps to train U.S. citizens and to reduce reliance on CW workers; and

**WHEREAS**, on October 15, 2017, the U.S. Department of Commerce's Bureau of Economic Analysis released its real Gross Domestic Product (GDP); GDP adjusted to remove price changes, increased 28.6% in 2016 as compared to the 3.8% increase in 2015. In fact, the U.S. GDP, excluding territories, increased 1.5% in 2016 as compared to 2.9% increase in 2015; and

**WHEREAS**, the CNMI is geographically located in the northwestern Pacific Ocean and is the closest United States jurisdiction to Asia. Los Angeles to New York flying distance is 2,451 miles and driving distance is 2,797 miles. There are 5,972 miles between the CNMI and Los Angeles, California, or twice as far the distance between Los Angeles and New York; and

**WHEREAS**, the CNMI's geographical location makes it extremely difficult to convince U.S. citizens to relocate from the mainland to Saipan for employment; and

**WHEREAS**, given the GAO's report that the CNMI's economy would be negatively impacted by as much as 62% with a 28.6% GDP growth translates in the potential loss of hundreds of millions, if not billions, of dollars; and

**WHEREAS**, the effects of ending the CW program will more than likely cause irreversible damage to the CNMI economy, impacting the livelihood of every man, woman and child; and

**WHEREAS**, the end of the CW program will more than likely result in the closure of countless businesses in the CNMI resulting in unemployment, and significant decrease of tax payments to the federal and local government; and

**WHEREAS**, the end of the CW program will more than likely result in the loss of basic public services such as medical care, public safety and reliable utilities; and

**WHEREAS**, the Governor has traveled to Washington, D.C. to attend meetings with the President of the United States of America, White House officials, federal agencies, and the U.S. Congress in the hopes of amending PL 110-229 to extend the CW program in order to continue the upward mobility of the CNMI economy; and

**WHEREAS**, business leaders, through the NMBAC, have collaborated with the Governor and the CNMI Legislature to educate CNMI residents on the results of the GAO report and the CNMI's GDP growth in order to explain the need to continue to maintain the CW program;

**NOW, THEREFORE, BE IT RESOLVED,** by the House of Representatives, Twentieth Northern Marianas Commonwealth Legislature, the Senate concurring, that the House hereby support the efforts of the Commonwealth of the Northern Mariana Islands Government and private sector in seeking legislative relief through amendments to U.S. Public Law 110-229 in order to continue the upward growth of the Commonwealth's economy; and

1 **BE IT FURTHER RESOLVED**, that the Speaker of the House of
2 Representatives and the President of the Senate shall certify and the House Clerk
3 and the Senate Legislative Secretary shall attest to the adoption of this joint
4 resolution and thereafter the House Clerk shall transmit a certified copy to
5 the Honorable Donald J. Trump, President of the United States of America; the
6 Honorable Mitch McConnell, Senate Majority Leader, 115th United States
7 Congress; the Honorable Paul Ryan, Speaker of the House, 115th United States
8 Congress; the Honorable Ralph DLG. Torres, Governor of the Commonwealth of
9 the Northern Mariana Islands; the Honorable Victor B. Hocog, Lieutenant
10 Governor of the Commonwealth of the Northern Mariana Islands; the Honorable
11 Gregorio Kilili Camacho Sablan, CNMI Delegate to the United States Congress,
12 115th United States Congress; the Honorable Lisa Murkowski, Chairperson of the
13 Senate Energy and Natural Resources Committee, 115th United States Congress;
14 the Honorable Rob Bishop, Chairman of the House Committee on Natural
15 Resources, 115th United States Congress; and to the Honorable Edward
16 Manibusan, Attorney General, Commonwealth of the Northern Mariana Islands.

Prefiled: 11/29/17

Date: 11/29/17 Introduced By: /s/ Rep. Angel A. Demapan

/s/ Rep. Francisco C. Aguon
/s/ Rep. Edwin P. Aldan
/s/ Rep. Blas Jonathan "BJ" T. Attao
/s/ Rep. Donald C. Barcinas
/s/ Rep. Ivan A. Blanco
/s/ Rep. Francisco S. Dela Cruz
/s/ Rep. Joseph P. Deleon Guerrero
/s/ Rep. Lorenzo I. Deleon Guerrero
/s/ Rep. Rafael S. Demapan
/s/ Rep. Alice S. Igitol
/s/ Rep. Jose I. Itibus
/s/ Rep. Glenn L. Maratita
/s/ Rep. Janet U. Maratita
/s/ Rep. Edwin K. Propst
/s/ Rep. Gregorio M. Sablan, Jr.
/s/ Rep. John Paul P. Sablan
/s/ Rep. Vinson F. Sablan
/s/ Rep. Edmund S. Villagomez

Reviewed by:

/s/ John F. Cool
House Legal Counsel

**Twentieth Northern Marianas Commonwealth Legislature**

**IN THE HOUSE OF REPRESENTATIVES**

**JANUARY 26, 2018**

**THIRD REGULAR SESSION, 2018** **H. J. R. 20-8**

---

**A HOUSE JOINT RESOLUTION**

To support the passage of S. 2325, the Northern Mariana Islands U.S. Work Force Act, introduced by Senator Lisa Murkowski in the Senate of the United States Congress.

1 **WHEREAS**, the United States Congress enacted U.S. Public Law 110-
2 229, the Consolidated Natural Resources Act of 2008 (CNRA), establishing
3 federal control of immigration in the Commonwealth of the Northern Mariana
4 Islands (CNMI) in May of 2008; and
5 **WHEREAS**, the CNRA's intent was to ensure effective border control
6 procedures and protect national and homeland security, while minimizing any
7 potential adverse economic and fiscal effects relating to the phasing out the
8 CNMI's foreign worker permit program and maximizing the CNMI's potential
9 for economic and business growth; and
10 **WHEREAS**, the CRNA provides for a transitional period, requiring the
11 U.S. Department of Homeland Security (DHS) to provide a CNMI-Only
12 Transitional Worker Permit program for foreign workers (CW-1) and to reduce
13 the number of permits issued annually until the end of the transitional period on
14 December 31, 2019; and

1 **WHEREAS**, Members of U.S. Congress requested the United States
2 Government Accountability Office (GAO) to review the implementation and
3 impact of federal immigration laws in the CNMI with a focus on the potential
4 economic impact, if any, due to the complete reduction of CW-1 workers and the
5 federal and CNMI government's efforts to address the CNMI's labor force
6 challenges; and
7 **WHEREAS**, in May 2017, GAO issued a report analyzing the effects and
8 implementation of PL 110-229 and federal immigration laws in the CNMI; and
9 **WHEREAS**, GAO found that the CNMI labor market has begun to grow
10 after years of decline, while continuing to rely on foreign workers. By 2015, the
11 number of employed CNMI workers was about 8 percent higher than in 2013, and
12 inflation-adjusted average earnings had risen by 18 percent from 2007 levels; and
13 **WHEREAS**, GAO further found that in 2015, foreign workers, who
14 totaled 12,784, made up more than half of the CNMI workforce and filled 80
15 percent of all hospitality and construction jobs, according to GAO's analysis of
16 CNMI tax data; and
17 **WHEREAS**, the GAO found that the federal and CNMI government, as
18 well as CNMI businesses, have taken steps to train U.S. citizens and to reduce
19 reliance on CW workers; and
20 **WHEREAS**, GAO, however, concluded that if all workers with CW-1
21 permits, or 45 percent of total workers in 2015, were removed from the CNMI's
22 labor market, GAO projects a 26 to 62 percent reduction in CNMI's 2015 gross
23 domestic product, resulting in the loss of millions of dollars in revenue; and

1 **WHEREAS**, GAO further concluded that when the CW-1 permit
2 program ends in 2019, available data show that the unemployed domestic
3 workforce, estimated at 2,386 in 2016, will be well below the CNMI's demand
4 for labor; and
5 **WHEREAS**, the GAO also concluded that ending the CW program would
6 negatively affect CNMI businesses, resulting in the loss of services and
7 employment to CNMI residents; and
8 **WHEREAS**, given the GAO's report that the CNMI's economy would be
9 negatively impacted by as much as 62% with a 28.6% GDP growth translates in
10 the potential loss of hundreds of millions, if not billions, of dollars; and
11 **WHEREAS**, the end of the CW-1 program will more than likely cause
12 irreversible damage to the CNMI economy, countless businesses, adversely
13 impacting the livelihood of every man, woman and child; and
14 **WHEREAS**, the end of the CW-1 program will more than likely result in
15 in the CNMI government's inability to provide adequate efficient basic public
16 services such as medical care, public safety and reliable utilities; and
17 **WHEREAS**, the CNMI Governor Ralph DLG. Torres, Members of the
18 CNMI Legislature, the Northern Marians Business Alliance Corporation and
19 other businesses have been meeting and collaborating with White House officials,
20 federal agencies, and the U.S. Congress in the hopes of amending PL 110-229 to
21 extend the CW program in order to continue the upward mobility of the CNMI
22 economy; and

1 **WHEREAS**, in July of 2017, U.S. Senator Lisa Murkowski, Chairman of
2 the Senate Energy and Natural Resources Committee Murkowski formed a
3 working group to draft the new policy on a long-term solution to address the
4 CNMI's labor shortage; and
5 **WHEREAS**, on January 19, 2018, Senator Murkowski introduced S.
6 2325, the Northern Mariana Islands U.S. Workforce Act, which gives the CNMI
7 access to foreign labor for another 10 years and continues the trend to increase the
8 number of local workers; and
9 **WHEREAS**, among other things, S. 2325 proposes to extend the CW-1
10 transitional worker program for another 10 years and establish a cap of 13,000
11 permits for 2019 and such permit cap shall be reduced by 500 each year
12 beginning 2020;
13 **WHEREAS**, the CNMI Legislature finds that the provisions of S. 2325
14 are essential and crucial to the stability and maintenance of the CNMI's labor
15 workforce and economy and to support the economic growth of our fragile
16 economy;
17 **NOW, THEREFORE, BE IT RESOLVED,** by the House of
18 Representatives, Twentieth Northern Marianas Commonwealth Legislature, the
19 Senate concurring, that the House hereby supports the provisions of S. 2325 and
20 humbly requests for the passage of S. 2325 in both houses of the U.S. Congress;
21 and
22 **BE IT FURTHER RESOLVED**, that the House of Representatives, the
23 Senate concurring, humbly commend and thank Senator Lisa Murkowski,

1 Governor Ralph DLG. Torres, the members of Congress, the Northern Marianas
2 Business Alliance Corporation, and Delegate Gregorio C. Sablan, for their tireless
3 work and efforts in developing and drafting S. 2325 to support assist the CNMI;
4 and

5 **BE IT FURTHER RESOLVED**, that the Speaker of the House of
6 Representatives and the President of the Senate shall certify and the House Clerk
7 and the Senate Legislative Secretary shall attest to the adoption of this joint
8 resolution and thereafter the House Clerk shall transmit a certified copy to
9 the Honorable Donald J. Trump, President of the United States of America; the
10 Honorable Mitch McConnell, Senate Majority Leader, 115th United States
11 Congress; the Honorable Paul Ryan, Speaker of the House, 115th United States
12 Congress; the Honorable Ralph DLG. Torres, Governor of the Commonwealth of
13 the Northern Mariana Islands; the Honorable Gregorio C. Sablan, CNMI
14 *Delegate* to the United States Congress, 115th United States Congress; the
15 Honorable Lisa Murkowski, Chairperson of the Senate Energy and Natural
16 Resources Committee, 115th United States Congress; the Honorable Rob Bishop,
17 Chairman of the House Committee on Natural Resources, 115th United States
18 Congress; and to the Honorable Edward Manibusan, Attorney General,
19 Commonwealth of the Northern Mariana Islands.

Prefiled: 1/26/18

Date: 1/26/18 Introduced by: /s/ Rep. Angel A. Demapan

/s/ Rep. Francisco C. Aguon
/s/ Rep. Edwin P. Aldan
/s/ Rep. Blas Jonathan "BJ" T. Attao
/s/ Rep. Donald C. Barcinas
/s/ Rep. Ivan A. Blanco
/s/ Rep. Francisco S. Dela Cruz
/s/ Rep. Joseph P. Deleon Guerrero
/s/ Rep. Lorenzo I. Deleon Guerrero
/s/ Rep. Rafael S. Demapan
/s/ Rep. Alice S. Igitol
/s/ Rep. Jose I. Itibus
/s/ Rep. Glenn L. Maratita
/s/ Rep. Janet U. Maratita
/s/ Rep. Edwin K. Propst
/s/ Rep. Gregorio M. Sablan, Jr.
/s/ Rep. John Paul P. Sablan
/s/ Rep. Edmund S. Villagomez

Reviewed for Legal Sufficiency by:

/s/ John F. Cool
House Legal Counsel

**TWENTIETH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE**

**THIRD REGULAR SESSION, 2018** **S.R. NO. 20-21**

---

**A SENATE RESOLUTION**

To support the passage of S. 2325, the Northern Mariana Islands U.S. Workforce Act, introduced by Senator Lisa Murkowski in the United States Senate and H.R. 4689 an identical bill introduced by Congressman Gregorio Kilili Sablan in House of Representatives of the United States Congress.

**WHEREAS**, the United States Congress enacted U.S. Public Law 110-229, the Consolidated Natural Resources Act of 2008 (CNRA), establishing federal control of immigration in the Commonwealth of the Northern Mariana Islands (CNMI) in May of 2008; and

**WHEREAS**, the CNRA's intent was to ensure effective border control procedures and protect national and homeland security, while minimizing any potential adverse economic and fiscal effects relating to the phasing out the CNMI's foreign worker permit program and maximizing the CNMI's potential for economic and business growth; and

**WHEREAS**, the CRNA provides for a transitional period, requiring the U.S. Department of Homeland Security (DHS) to provide a CNMI-Only Transitional Worker Permit program for foreign workers (CW-1) and to reduce the number of permits issued annually until the end of the transitional period on December 31, 2019; and

**WHEREAS**, Members of U.S. Congress requested the United States Government Accountability Office (GAO) to review the implementation and impact of federal immigration laws in the CNMI with a focus on the potential economic impact, if any, due to the complete reduction of CW-1 workers and the federal and CNMI government's efforts to address the CNMI's labor force challenges; and

**WHEREAS**, in May 2017, GAO issued a report analyzing the effects and implementation of PL 110-229 and federal immigration laws in the CNMI; and

**WHEREAS**, GAO found that the CNMI labor market has begun to grow after years of decline, while continuing to rely on foreign workers. By 2015, the number of employed CNMI workers was about 8 percent higher than in 2013, and inflation-adjusted average earnings had risen by 18 percent from 2007 levels; and

**WHEREAS**, GAO further found that in 2015, foreign workers, who totaled 12,784, made up more than half of the CNMI workforce and filled 80 percent of all hospitality and construction jobs, according to GAO's analysis of CNMI tax data; and

**WHEREAS**, the GAO also found that the federal and CNMI government, as well as CNMI businesses, have taken steps to train U.S. citizens and to reduce reliance on CW workers; and

**WHEREAS**, GAO, however, concluded that if all workers with CW-1 permits, or 45 percent of total workers in 2015, were removed from the CNMI's labor market, GAO projects a 26 to 62 percent reduction in CNMI's 2015 gross domestic product, resulting in the loss of millions of dollars in revenue; and

**WHEREAS**, GAO further concluded that when the CW-1 permit program ends in 2019, available data show that the unemployed domestic workforce, estimated at 2,386 in 2016, will be well below the CNMI's demand for labor; and

**WHEREAS**, the GAO also concluded that ending the CW program would negatively affect CNMI businesses, resulting in the loss of services and employment to CNMI residents; and

**WHEREAS**, given the GAO's report that the CNMI's economy would be negatively impacted by as much as 62% with a 28.6% GDP growth translates in the potential loss of hundreds of millions, if not billions, of dollars; and

**WHEREAS**, the end of the CW-1 program will more than likely result in in the CNMI government's inability to provide adequate efficient basic public services such as medical care, public safety and reliable utilities; and

**WHEREAS**, the end of the CW-1 program will more than likely cause irreversible damage to the CNMI economy, countless businesses, adversely impacting the livelihood of every man, woman and child; and

**WHEREAS**, the CNMI Governor Ralph DLG. Torres, U.S. Congressman Gregorio Kilili Sablan, Members of the CNMI Legislature, the Northern Marians Business Alliance Corporation and many businesses have been meeting and collaborating with White House officials, federal agencies, and the U.S. Congress in the hopes of amending PL 110-229 to extend the CW program in order to continue the upward mobility of the CNMI economy; and

**WHEREAS**, in July of 2017, U.S. Senator Lisa Murkowski, Chairman of the Senate Energy and Natural Resources Committee Murkowski formed a working group to draft the new policy on a long-term solution to address the CNMI's labor shortage; and

**WHEREAS**, Congressman Gregorio Kilili has been working with Senator Murkowski and key Republicans and Democrats from the U.S. Senate and the House to help ensure success of the legislation; on

**WHEREAS**, on January 19, 2018, Senator Murkowski introduced S. 2325, the Northern Mariana Islands U.S. Workforce Act, which reflects an agreement with Congressman Gregorio Kilili Sablan and leading members of Congress on legislation that gives the CNMI access to foreign labor for another 10 years and continues the trend to increase the number of local workers; and

**WHEREAS**, at the same time, Congressman Gregorio Kilili Sablan introduced H.R. 4869, the Northern Mariana Islands U.S Workforce Act, which mirrors Sen. Murkowski's bill and allows both houses of the U.S. Congress to review the same provisions; and

**WHEREAS**, among other things, S. 2325 and H.R. 4869 propose to extend the CW-1 transitional worker program for another 10 years and establish a cap of 13,000 permits for 2019 and such permit cap shall be reduced by 500 each year beginning 2020;

**WHEREAS**, the CNMI Legislature finds that the provisions of S. 2325 and H.R. 4869 are essential and crucial to the stability and maintenance of the CNMI's labor workforce and economy and to support the economic growth of our fragile economy;

**NOW, THEREFORE, BE IT RESOLVED**, by the Senate of the Twentieth Northern Marianas Commonwealth Legislature that the Senate hereby strongly supports the provisions of S. 2325 and H.R. 4869 and respectfully requests for the passage of S. 2325 and H.R. 4869 in the respective houses of the United States Congress; and

**BE IT FURTHER RESOLVED**, that the Senate humbly commends and thanks Senator Lisa Murkowski, Congressman Gregorio Kilili Sablan, and all the members of the United States Congress and their staff for their tireless work and efforts in developing and drafting S. 2325 and H.R. 4869 to support and assist the CNMI; and

**BE IT FURTHER RESOLVED** that the President of the Senate shall certify, and the Senate Legislative Secretary shall attest to the adoption of this resolution and thereafter the Senate Clerk shall transmit a certified copy to the Honorable Lisa Murkowski, Chairperson of the Senate Energy and Natural Resources Committee, 115th United States Congress; the Honorable Gregorio Kilili Camacho Sablan, CNMI Delegate to the United States Congress, 115th United States Congress; the Honorable Mitch McConnell, Senate Majority Leader, 115th United States Congress; the Honorable Paul Ryan, Speaker of the House, 115th United States Congress; the Honorable Rob Bishop, Chairman of the House Committee on Natural Resources, 115th United States Congress; the Honorable Donald J. Trump, President of the United States of America; and the Honorable Ralph DLG. Torres, Governor of the Commonwealth of the Northern Mariana Islands.

Date: 01/29/18

Introduced By: /s/
Sen. Arnold I. Palacios
/s/ Sen. Sixto K. Igisomar
/s/ Sen. Justo S. Quitugua
/s/ Sen. Francisco M. Borja
/s/ Sen. Francisco Q. Cruz
/s/ Sen. Jude U. Hofschneider
/s/ Sen. Paul A. Manglona

/s/ Sen. Steve K. Mensgon
/s/ Sen. Teresita A. Santos

# SAIPAN CHAMBER OF COMMERCE

P.O. Box 500806 Saipan, MP 96950 • Tel: (670) 234-7150 • Fax: (670) 234-7151
www.saipanchamber.com info@saipanchamber.com

**2018**
**Board of Directors**

President
Velma Palacios

Vice President
Ron Smith

Secretary
Kevin McCale

Treasurer
Michael Johnson

Directors
Perry Inos Jr.
Tyrell Pauling
Donna Krum
Alex Youn
Alex Sablan

Executive Director
Jill M. Arenovski

Administrator
Mercilynn K. Palec

Coordinator
Christine S. Tadeo

February 1, 2018

The Honorable Senator Lisa Murkowski
522 Hart Senate Office Building
Washington, DC 20510
Via fax: (202) 224-5301

Re: S-2325 & HR4869 - "Northern Marianas Islands U.S. Workforce Act" to incentivize the hiring of United States workers in the CNMI

Dear Senator Murkowski:

We are writing to you as the collective voice of the business community on Saipan. Our Chamber comprises more than 160 private businesses, government agencies and nonprofit organizations. As our island is small and remote, our Chamber makes great strides to work with our whole community, as we are interdependent and our workforce issues affect not only our businesses, but our entire economy.

We wish to express our strong support of the "Northern Marianas Islands U.S. Workforce Act". Our Chamber believes that the provisions in this bill will allow our economy to continue to grow while we work toward training the current and future available local workforce, as well as the recruitment and retention of additional U.S. qualified workers.

We would, however, like to request the following additional considerations:

- We believe that delaying the reduction of 500 per year for the cap from 2020 until 2023 would allow businesses to continue to train and recruit without being significantly affected by a workforce reduction. Many of the existing job positions do not qualify for H visa categories, yet will require 3 months to 3 years of additional training to be filled by a U.S. qualified workers. We need the additional years to continue the economic momentum we were experiencing prior to the loss of 3,000 CW-1 employees in FY 18, and as wages exponentially rise in an improved economy we anticipate former U.S. Citizen residents to return to meet the impact of future CW-1 reductions.
- We would like to request an additional 2,000 permits for the initial cap (to 15,000), which would allow business developments currently in the planning stages to have an adequate workforce prior to opening.

- Additionally, we foresee a potential lag time between when this legislation may be made into law and when the parties involved begin to implement the requisite actions. We ask to be involved in the regulatory processes, which will aid in setting procedures for U.S.DOL certification and wage determinations.

We truly appreciate your efforts in addressing our workforce issues and humbly ask for your assistance in moving this legislation forward.

Regards,

Velma M. Palacios, Chamber Board President

**TANO Group, Inc.**
P.O. Box 5017 CHRB, Saipan MP 96950
Tel. No. (670) 323-6652~53
email add. : tanogroup@gmailcom

**Ms. Lisa Murkowski, United States Senator**

*January 25, 2018*

(AK) Senate Committee on Energy
522 Hart Senate Office Building
Washington, DC 20510

**Subject:** LETTER IN SUPPORT OF REQUEST BY THE CNMI BUSINESS ALLIANCE FOR EXTENSION OF THE CW GUEST WORKER PROGRAM IN THE NORTHERN MARIANA ISLANDS.

**Dear Senator Murkowski:**

**Greetings from the Commonwealth of the Northern Mariana Islands ("CNMI").**

*First of all, I, along with many others that call the CNMI their home, sincerely appreciate you and your Staff's time to work with our Delegate, Congressman Kilili Sablan listen to our unique situation, and the actions your Committee have taken thus far to seek a positive social and economic Political solution that shall meet our needs into the future.*

*By this letter, myself and on behalf of Tano Group Inc., as a co-founder of this Company that has been doing business in the CNMI and the Pacific Rim for 28 years, we are submitting this letter of support to your CNMI Business Alliance and the Government of the CNMI for an extension of the CW guest worker program in the CNMI. We sincerely believe that this solution, once passed into law will allow the CNMI and the neighboring island communities, that we are knitted together with culturally, socially and economically to prosper and grow and come into the same opportunities that are afforded to our fellow Americans on the Mainland.*

*Life in the Islands, is much the same as in many ways as your Frontier Alaska, with that comment put to paper the following bullet points for our company apply, along with other businesses that provide essential services that support international trade that benefit US Mainland Manufacturing and Supply Companies. In other words, US Citizens, benefit from business activities.*

*For Tano Group Inc. it is:*

*Trade Skilled Mechanical Building and Repair Services for the Electric Water and Power Generation, Fuel Oil and Gas Storage and delivery systems businesses rely upon from Saipan, Tinian, Rota, The Federated States of Micronesia, all the way to Majuro Island, Republic of the Marshal Islands.*

*In 1989~1991 Tano Group Inc., started on a journey, to undertake and completed many infrastructure projects within the Pacific Region utilizing a Skilled Trade Employee Base, consisting of many nationalities, including US Citizens. We enjoyed an international, mostly Asian Unrestricted Skilled and an Apprentice Labor pool combination without regional travel restrictions and a Home Base, called Saipan, CNMI.*

*Our Company economically survived the first Gulf War, in 1991 which was witness to a severe Japanese economic down turn, and retraction of ongoing investment in the Pacific Islands, Saipan included. Our most important investment, our Trade Skilled Employees allowed Tano Group to survive this regional poor economic environment.*

*Fortunately, for the CNMI, the Trade Textile Garment Industry was granted manufacturing rights in the CNMI and the economy stabilized and grew until liberal US Political interference, along with trade tariffs took away our competitive advantage, and we again, were kicked backwards economically. The last Garment manufacturer closed doors in 2007, close to the same time as the Federal Government claiming security issues removed the immigration and labor provisions granted in the Covenant Agreement, this along with escalating energy cost, caused our regional island economies to retract. The CNMI was faced with accepting transitioning from dealing with a simple, humanitarian, understanding CNMI Labor and Immigration system to a USCIS Draconian, rude, Federally bureaucratic enforced, foreign national labor regional travel restrictive system. Resulted in a real, negative, economic shock to our (CNMI) economy, something the CRNA promised not to do. The economic declines continued until.*

*The Chinese Casino industry saved our economy from total economic ruin in 2014. The failing CNMI retirement fund received the millions of dollars needed from the Chinese Casino Industry to pay retirement benefits.*

*Back to surviving you all, Tano Group Inc., currently has 44 full time employees, 11 are US Citizens, the remainder are Trade Skilled Workers, consisting of Welders, Pipe fitters, Carpenters, Masons, Electricians, and administrative folks. Two of which are dedicated to USCIS/Renewals to deal with RFE's and the like, until we give up and hand the chore over to our Congressman. Comment: We sincerely appreciate our Delegate's support, regarding our dealings with USCIS, however, as a US resident of the CNMI, I believe that our Congressman's resources could best be utilized in other more beneficial ways than to ask USCIS to do their damn job, and to do it correctly.*

*For example, during each one of Tano's Batch Petitions, we write a cover letter, attaching every request for evidence (RFE) that has been requested from prior petitions, in an attempt to reduce the RFE's and allow for the petition to be granted. In every single case, we receive a RFE for the same evidence already submitted with the original petition. Tells me, n body ever reads the original petitions. Perhaps, it is a rote way of USCIS to deal with the petition acceptance process. However, with families, and people livelihoods, along with business bottom lines, as an American, Viet Nam era Veteran it is embarrassing and deportable customer service, and should not be allowed to continue. Further, and many are of the same opinion, USCIS should not be allowed to decide who or what is a legitimate business. This will only result in additional busy administrative bureaucratic work for our Delegate. Personally, following your example of developing and harvesting natural resources to become economically independent from federal assistance programs is a better path forward and more deserving our Delegates time and efforts.*

*Over the years, here on Saipan, we have been blessed with participation with many Federal Infrastructure projects, most recently New Build CUC Fuel Storage Tank 102, and Refurbish CUC Fuel Storage Tank 103 under Department of Justice Stipulated Order 9SO2/Honorable Judge David Carter). We have involved US Mainland Business and their US Citizen Work force, and from time to time, we have had Special Industry "Training Staff" visit our project sites and provide specialty training for our Field Crews,*

*Tano Group has a reputation of offering the highest paid construction wages in the market place. We offer the opportunity to anyone that wishes to work, a job.*

*We, as individuals, and a respected, reputable, responsible tax paying business respectfully support your efforts to end this madness that we must deal with to perform duties, safely, without fear of having our workforce removed from legally contracted projects.*

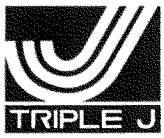
*For the reasons noted above, we applaud you for your efforts on this matter, and wish you much success.*

Be well, be safe.

Very truly yours,

Robert J. Bracken
Principal/Tano Group Inc.

*Customers First*




February 1, 2018

The Honorable Senator Lisa Murkowski
Chairman
Energy and Natural Resources Committee
United States Senate
394 Dirksen Senate Building
Washington, DC 20510

The Honorable Senator Maria Cantwell
Ranking Member
Energy and Natural Resources Committee
United States Senate
394 Dirksen Senate Building
Washington, DC 20510

**Re: Support for Northern Mariana Islands U.S. Workforce Act**

Dear Madame Chair Murkowski and Ranking Member Cantwell,

I am writing to you today as Chairman and CEO of Triple J Enterprises, Inc. to express my unequivocal support for "S.2325 – 115th Congress: Northern Mariana Islands U.S. Workforce Act" introduced and its counterpart bill "H.R.4869 – 115th Congress." I would like to extend my sincere gratitude for your efforts and those of Congressman Gregorio Kilili Camacho Sablan in preparing and introducing this legislation and in working countless hours with the working group, which includes Governor Ralph Deleon Guerrero Torres with the support of the Northern Marianas Business Alliance Corporation. Without your assistance the current immigration policy will have an immediate, dramatic, and disastrous impact on the local economy.

Triple J Enterprises began as a small auto dealership on the island of Guam in 1984 and subsequently formed Triple J Saipan, Inc. 1985. The company has since grown to become one of the largest corporations in Micronesia and includes businesses in Guam, the CNMI, Palau, the Marshall Islands, Japan, China, California, and North Carolina. Triple J Enterprises' diverse portfolio includes wholesale, retail, auto distribution, car rental, real estate development, construction, and hotel operations. The group's revenue in 2017 reached close to $200 million.

In the CNMI, Triple J Saipan and its affiliates comprise one third of all the group-wide business revenues and employee base. Triple J Saipan is one of six large organizations in the Northern Marianas Business Allicance Corporation, which represents approximately 75% of the CNMI's GDP but only 25% of the CNMI's CW workforce. In FY 2017, the Triple J Saipan group paid almost $3 million in taxes to the CNMI government. This represents 1.2% of the CNMI government's total revenue base. Of 921 employees company-wide, 324 employees work in the group's business establishments on Saipan. These employees paid over $400,000 in income tax to the CNMI's coffers in FY 2017. Thirty percent of our employee base on Saipan, or 97 employees, are foreign workers who hold CNMI-Only Transitional Worker (CW-1) visas. These are highly skilled employees who occupy hard to fill positions such as Accountants, Auto

TRIPLE J SAIPAN, INC.
P.O. BOX 500487 SAIPAN, MP 96950 TEL (670) 234-1795 • FAX: (670) 234-7347

Mechanics, Butchers, Bakers, Carpenters, Masons, Electricians, Refrigeration Technicians, Plumbers, among many others.

Triple J Saipan consistently attempts to identify and employ qualified local U.S. citizens. We have done better than many other businesses in this regard as evidenced by our current U.S. to foreign worker ratio of sixty-six percent. We have implemented training programs in-house and in partnership with CNMI educational institutions including the Northern Marianas Trades Institute, and we continue aggressive recruitment and outreach efforts on Saipan, Guam, Puerto Rico, and the mainland U.S.

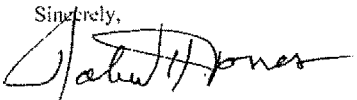
Despite these ongoing efforts, Triple J Saipan continues to experience serious labor problems due the current restrictions in place by CW Program. Recruitment of eligible U.S. workers domestically continues to be a major challenge. The Government Accountability Office concluded in its 2017 work that current and planned demand for labor exceeds the current supply. We have firsthand anecdotal evidence of these challenges with the limited number of qualified applicants we received in response to vacancy announcements. In addition, when we interview and attempt to place workers from the existing pool of available domestic labor, we find the majority of these individuals ill-equipped with the skills and mindset necessary to succeed in the workplace. Moreover, employee retention, particularly among the restaurants we operate, continues be a challenge. Many employees only stay for a few months, resulting in ongoing and constant costs for recruitment and training, greatly affecting our operations' quality control and consistency.

It is critical that Triple J Saipan maintains its current number of CW-1 employees for the continuity of our operations and for our future growth and expansion plans. Triple J Saipan estimates that if the CW Program is eliminated in its entirety in 2019, our company will need to significantly curtail the operations of several of our businesses, including likely closing the doors of three of our restaurants and our hotel, in addition to experiencing a reduction in sales for our wholesale and car dealership businesses, resulting in a total estimated revenue loss of $13 million. Moreover, we estimate a loss of $7 million in sunk costs on projects we have initiated but will be unable to complete without sufficient labor force. The potential impact this will have our company and its ability to keep jobs and contribute towards the CNMI economy is staggering.

The existing CW Program in its current state is the principal obstacle facing Triple J Saipan and other businesses in the CNMI to sustaining existing operations and proceeding with expansion plans. The CNMI is fortunate to have a significant opportunity for new investments after so many years of stagnation, but the current limitations to a sufficient work force make it difficult, if not impossible, to put this new capital to use. Without changes to the current CW Program, I fear the worst for the future of Triple J Saipan and the CNMI economy.

I am very hopeful that this critical piece of legislation will be acted upon favorably by your colleagues in the U.S. Congress. I am confident that this legislation will help begin to correct the problems we are currently facing, and I thank you for your continued and steadfast support of the people here in the CNMI. Thank you.

Sincerely,



Robert H. Jones
Chairman & CEO

cc: Congressman Gregorio Kilili Camacho Sablan
Governor Ralph Dlg. Torres
CNMI Department of Labor

Mr. SABLAN. But that's why, Senator Hirono, we tried to support that. It was for nurses and engineers at our public power plant.

Senator HIRONO. Thank you.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Hirono.

And thank you for raising the issue of Medicaid out there. We recognize the importance there.

Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, and thank you all for being here today. I know many of you have traveled a long way.

I am new to the Committee so I am trying to understand the history and, more importantly, our obligation here in Congress.

So, Assistant Secretary, I would like to start with you. You cite Public Law 100–446. I have that in front of me, trying to understand your authority over this Trust Fund for Bikini. Let me make sure I understand what you are saying, because in the actual law it states that under the terms of the Settlement Trust Fund, the Secretary may approve expenditures not to exceed $2 million in any year from income for projects on Kili or Ejit. Do you now say that you no longer have that authority or you are not going to follow that authority?

Mr. DOMENECH. Well, thank you for that question.

According to our solicitors, as I said, their analysis of the resolution that was passed by the town council was that this was an informal agreement that required their cooperation. In other words, we don't, we can't compel them to give us a budget.

Senator CORTEZ MASTO. No, I understand that. But an informal agreement does not trump Congress' law and this public law. You would agree with that? This is the law.

Mr. DOMENECH. Yes.

Senator CORTEZ MASTO. This is what is mandated under the law of Congress when we allocated the funds to the Trust Fund. Correct?

Mr. DOMENECH. Yes.

Senator CORTEZ MASTO. Okay. So this law basically gives the Department of the Interior that authority over that $2 million. Are you saying you are no longer going to follow that obligation under public law?

Mr. DOMENECH. We are not going to follow that based on the fact that the law did not require them to give us a budget and it didn't require the bank to tell us how much money was in there. So, I can't compel those things to happen.

Senator CORTEZ MASTO. It also says that one year prior to completion of the rehab and resettlement program the Secretary of the Interior shall report to Congress on future funding needs on Bikini Atoll.

Mr. DOMENECH. That's correct.

Senator CORTEZ MASTO. You are no longer going to do that?

Mr. DOMENECH. No, we are going to do that.

Senator CORTEZ MASTO. Okay, so you are going to exercise, so you are going to choose what to follow under the public law is what it sounds like to me. Some you are going to exercise, some you are not which I do not really quite understand, particularly as an attorney, practicing since 1990.

Let me follow up a little bit more here because it also says one final thing here which is interesting to me—that following completion of the rehabilitation and resettlement program, funds remaining in the Resettlement Trust Fund in excess of the amount identified by the Secretary as required for future funding needs shall be deposited in the United States Treasury as miscellaneous receipts. How do you interpret that?

Mr. DOMENECH. Just the way you've read it that at the end of this whole process that whatever funds are left will come back to the Treasury.

Senator CORTEZ MASTO. But your argument is saying they are not federal funds, so we do not have any authority over them. But at some point in time, they become federal funds again and we get to put them back in the Treasury?

Mr. DOMENECH. Well, I mean, that's a reasonable question, I'm happy to take to our solicitor.

[The information referred to follows:]

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

DEC 1 2 2019

The Honorable Catherine Cortez Masto
United States Senate
Washington, DC 20510

Dear Senator Cortez Masto:

On February 6, 2018, the Senate Committee on Energy and Natural Resources held a Legislative Hearing on S. 2182, the Bikini Resettlement and Relocation Act, and S. 2325, the Northern Mariana Islands U.S. Workforce Act.

During that hearing, you posed a question regarding the status of funds in the Resettlement Trust Fund as addressed in Public Law 100-446. In discussing those funds, you asked:

> So, but your argument is saying is they're not federal funds, so we don't have any authority over them. But at some point in time, they become federal funds again and we get to put them back in the Treasury?

I promised to consult with the Department of the Interior's Office of the Solicitor to provide you a response to your question. The promised response is below:

> The funds (be they either part of the corpus or attributable to income generated by the corpus) residing in the Resettlement Trust Fund for the People of Bikini are not U.S. federal funds. Nevertheless, if upon completion of the Kili-Bikini-Ejit Local Government's rehabilitation and resettlement program any funds remain in the Resettlement Trust Fund, then the Marshall Islands Government would return such funds to the U.S. Government for deposit in the U.S. Treasury as miscellaneous receipts. (The Kili-Bikini-Ejit Local Government is a political subdivision of the Marshall Islands Government, and it would be the Marshall Islands Government which would carry out this transfer of funds.)

Thank you for your question.

Sincerely,

Doug Domenech
Assistant Secretary
Insular and International Affairs

Senator CORTEZ MASTO. Yes, listen, I appreciate all the comments today. I appreciate your rights to control to your destiny and protect your communities. I absolutely support that. But at the end of the day, I also am an attorney and the law is the law, and there are things that have to be followed for a reason. That is really what I am trying to get an understanding of.

I am going to further get information to really find out what is our obligation which it sounds like to me, we have more of an obligation than what is happening here, but I am open to it and further exploring that.

I have about a minute left, so let me jump over to Governor Torres. Governor, this is a difficult problem. It is about the supply and trying to get workers there and doing everything you can to, obviously, make sure there are American workers. But if American workers are not coming to do the job, you need somebody to do it. Is that correct?

Mr. TORRES. Yes.

Senator CORTEZ MASTO. I understand that you also held off-island recruitment of U.S. eligible workers, including in Las Vegas where I represent Nevada, and I am from Las Vegas. Is that correct?

Mr. TORRES. Yes.

Senator CORTEZ MASTO. Can you talk a little bit about the challenges you are having in getting people and recruiting Americans to come to the island to work?

Mr. TORRES. Sure.

So, we're 8,000 miles away from here, traveling just so that—it took me about 30 hours to travel here to DC. We have, in fact, collective knowledge of the Northern Marianas Business Alliance with us, one of it is the Pacific Imperial which is our casino.

A couple years ago they spent close to $1.5 million going to Las Vegas, Atlanta, New Jersey, trying to recruit for their gaming because gaming in Saipan is obviously the first industry. We don't have the experience. We don't have the knowledge on operating the—dealers and so forth.

Out of $1.5 million, I believe they only were able to hire 147 employees. Six months into the recruitment we were hit by the worst typhoon in history, and it was a disaster for the CNMI. It took about six months to restore back the power. Right after the disaster, 90 percent of them left within 30 days.

We have other casino and other industry that went down to FSM has also tried to get employees which is very difficult to get U.S. workers out here in the mainland because of our minimum wage and, of course, it's far from home.

Senator CORTEZ MASTO. Minimum wage is not as competitive as some of the islands around, correct?

Mr. TORRES. Well, Guam is about $14 or $12.

Senator CORTEZ MASTO. Okay

Mr. TORRES. Ours is $7.55.

Senator CORTEZ MASTO. Thank you.

I know my time is running out.

Dr. Gootnick, did you have anything to add to that?

Dr. GOOTNICK. Only that, along with federal control of immigration, there was the application of minimum wage laws in the Mar-

iana Islands in 2009, I believe. And at the time, the wage was $3.00 an hour. It's now, this fall, going to merge with the federal minimum wage at $7.25. There was a belief, at the time, that raising the minimum wage to the U.S. minimum wage would attract U.S. workers to the Commonwealth.

I'm not sure that there's a lot of evidence that it's done that, partially because of Guam and Hawaii minimum wage. But we still see that a very high percentage of the workers in the Mariana Islands are making the minimum wage. I believe it's roughly 60 percent and at foreign workers, it's a higher percentage. So, it's hard to get people to come all that way for U.S. minimum wage.

Senator CORTEZ MASTO. Yes. No, and I appreciate that.

Thank you for the conversations today. Let me just finally add, labor protections, obviously, are so important. I know that you not only have a U.S. Attorney there, but you have an Attorney General, who I have worked with in the past.

I think it's so, to me, this is my concern and many of my colleagues, to make sure we are not exploiting the labor. I don't care whether they are American workers or foreign workers. We need to do everything we can to protect that labor force.

Thank you for coming today.

The CHAIRMAN. Thank you, Senator Cortez Masto, and thank you for asking some of the questions that I had in terms of what that legal obligation is and understanding, clearly, the parameters of the law.

Senator Smith.

Senator SMITH. Thank you very much, Chair Murkowski. And thank you, all of you, for being here and testifying before us today. I appreciate it very much.

Governor Torres, I have a question for you. I understand that last year I saw a report that OSHA, the federal agency that oversees worker safety, of course, in the United States has found extremely dangerous working conditions at one of the largest construction sites in the CNMI. In fact, I understand that three employees died after being exposed to hydrogen sulfide gas in a confined space. And also, that apparently the FBI raided the construction site after reports of worker's deaths. I know that everybody on this Committee believes that any workers, anywhere in the United States, should have a safe workplace to be in. Could you just tell us a little bit about what has been done since last year to stop this kind of abuse?

Mr. TORRES. Thank you for the concern and the question.

Senator, that issue was a rude awakening for the whole community, especially for me, as well as the Governor. We've worked well, since then, with the owners of the industry. We've worked with Department of Labor, to make sure we meet on a monthly basis making sure that those construction workers are treated fairly, right, the right way and making sure that their wages are being paid on time.

We have the Department of Labor here as well as our Secretary, and we mandate the employers to provide proper documentation on all the employees whether they're construction workers or working in the casino industry. I believe that since then, we've been, we've

met those regulations and we've been good in making sure that we don't repeat those.

Senator SMITH. Can you see some evidence of improvements?

Mr. TORRES. Sure.

Yes, yes, Senator, sorry.

Senator SMITH. Fine, thank you.

I have another question that relates to the challenges around like who gets temporary work, who gets the visa? How do you work around the visa caps issue that you are dealing with?

I understand that last year foreign construction workers claimed many of the allocation of visas and I understand that you have high need for this, but that that has also caused some shortages in other areas that are particularly important, especially in the public health arena. Could you tell me whether the bill that you are talking about supporting today which includes provisions to make sure that CW visas don't all go to one industry and leave a shortage in other areas—can you tell me how you think that might help?

Mr. TORRES. Thank you very much.

What we have here is a bill that gives protection for U.S. workers and also the need of continued contract workers. The construction workers that we have are not allowed or banned into the CW workers and they're—we're moving forward in giving them the H-2B visa. That will open up more occupations to address our shortfall on other areas of occupation whether it's nurses, engineers.

But I want to just point out that we do need construction workers for our government projects like for EPA regulations that are mandated. We need those construction workers to fill out our infrastructures.

Senator SMITH. Are you looking for some consultation between you and Homeland Security on how this all ought to work?

Mr. TORRES. Yeah, we continue to have a good dialogue with our Secretary and our Assistant Secretary——

Senator SMITH. Okay.

Mr. TORRES. ——in addressing those issues of occupations and how do we best make our CW workers in the CNMI with occupations.

Senator SMITH. And you are getting the assurances that you would hope for that because it seems to me that it is important that local understanding and wishes are considered. Are you getting what you need, do you think?

Mr. TORRES. Yes.

Senator SMITH. Okay.

Thank you very much.

The CHAIRMAN. Thank you, Senator Smith.

Let me just continue on with some of the questions as they surround our situation in the CNMI.

Dr. Gootnick, you had mentioned in your testimony the discrepancy between the number of unemployed. You had cited 2,400. The Governor had cited a figure of 1,800. But as I understand from that, your numbers include the FAS workers in addition to the U.S.

Dr. GOOTNICK. That's correct.

The CHAIRMAN. Okay.

And then based on the data that you have provided us, you estimate that 2,352 CW workers would be eligible for the proposed new CW-3 permit. Does the data that you have been reviewing indicate what kind of occupation those permit holders are engaged in?

Dr. GOOTNICK. Yeah, we have some very preliminary data on that and, not surprisingly, these are workers from the Philippines and workers in the tourist industry.

Now, I did take a look, again, very preliminarily yesterday at the number of construction workers who would qualify under the three-year permit. And there's a very limited number, 160 or so.

Now, the restriction in H.R. 339 is for folks who have been there from 2015. The restriction in this for the three-year permit is folks who have been there for 2014. So they're not exactly analogous numbers. But the point is the three-year permits will not go to construction workers, by and large. And they will typically go to the workers that are the core of the main industry of the main economic engine in the Commonwealth.

The CHAIRMAN. Great. Thank you, I appreciate that.

A question directed to either you, Governor, or the Congressman. With a ten-year extension of the transition period as we are proposing in our legislation, do you know of any reason why employers would not seek to move long-term CW workers over to an employment-based, permanent worker visa? My understanding is, as we have talked through this, that this could take, maybe three to four years, maybe four years at most. It would then free up additional CW permits for other employment needs. Could you speak to this?

Mr. TORRES. Let me take first, Senator, then I'll have Congressman. I would like to, Madam Chair, thank you again.

We have the Northern Marianas Business Alliance with us today. They have assured us, they're 80 percent of our total revenue, yet they only constitute 25 percent of their contract workers are CW. So that makes a big difference on how they approach U.S. workers versus CW workers. They continue, for the last three years or so, we have more U.S. workers today than we've ever had in the past 10, 15 years.

The importance of this extension will continue our success on what we have done in the last several years because it is important for us, as a community, as an island and also business partners, to understand how important it is for just workers to be part of the community. Yet, in order for us to continue increasing U.S. workers, we need the additional extension and, of course, the number of CW workers.

The CHAIRMAN. Congressman, do you want to add anything?

Mr. SABLAN. Yes, if I may, thank you very much.

And this is apropos, I guess. Two weeks ago, a man who came to our office some four years ago asking on how he could convert into a status that is no longer temporary. And of course, we don't provide legal opinions or provide legal advice, but we did tell him that there are programs, EV programs that takes three, four years. And we provided this gentleman the forms. Only lo and behold, two weeks ago he came into our office and was just gleeful and he gave us a copy of his green card that—he copied his green card and showed us and said, well it was because I came to your office and

that I'm no longer a CW worker. I finally, I have a green card and went through the EV process and it took some four years. And he actually hired a lawyer to help him do it. And so, there are many who could qualify, but Madam Chair, when people are just dependent on CW, people are just really saying this program will continue to be on in 2019.

Your decision to stop it. And I hope that it doesn't now come to, well, when we come to 2020 and there will be another Congress and we could just get another extension. That is the least of my desire is we, this bill is designed to encourage U.S. workers and that non-U.S. workers, third country nationals, will fill in the gap where they are needed. That has to revert. That's a reversal of the present condition or working environment in the Northern Marianas now. And I know it for a fact. And everybody hates me for saying these things, but it's the truth and no one here can deny that.

Now, is there a shortage of—do we still have a need for third country nationals? Yes, we do. That's why I'm supporting this bill. That's why I spend months since last summer working on this bill because yes, there is still a shortage. But in the next ten years, Madam Chair, God forbid, that we will come back here or somebody will come back here and say that we still need U.S. workers because I will, like that gentleman, spend my own money to come here and remind Congress of what we've gone through, 20 years of transition and not just that, another 20 years of control over immigration. When they passed that legislation in the third legislature, I was the only member who voted against that bill because it didn't have controls. And I saw that the influx, the door was going to open and own the influx. I voted no against that bill that opened the Northern Marianas to third country nationals, not because we didn't need it, but because there were no controls.

But this bill, the one we've worked on, I think, provides sufficient controls to encourage, to suggest, to urge companies to hire U.S. workers. They have done so in the past three years, an increase of 1,000 every year of U.S. workers in the workforce, U.S. workers. And that's only because, thanks to you, you have set 2019 as the timeline and a timeline that's not going to move.

Fortunately, we're here and I agree we need another ten years, but again, God forbid that we ask for more after this.

The CHAIRMAN. I agree. I don't want us to be here ten years from now saying, we have not yet addressed the issue that we see very well in front of us.

Let me ask you, Assistant Secretary, the role that the Office of Insular Affairs plays in the CW permit program. What role, if any, and what are the efforts, well, CNMI, obviously, is working to hire U.S. workers, but does the Office of Insular Affairs play in that at all?

Mr. DOMENECH. We really do not.

We, as long as there is a moment here, strongly support a vibrant economy for CNMI and all the territories and freely associated states. These are very challenged areas that we all care about, and so that's why we do the funding that we do with your providing the money and try to work hard to increase their economy.

They need labor on the island. They have a huge expansion going on which is great news for them.

And but, you're correct, we do not have a direct role. It's Labor or DHS or others.

The CHAIRMAN. Thank you just for clarifying that.

I mentioned that Senator Cortez Masto had asked several questions along the line that I was going to proceed. This is, again, directed to you, Assistant Secretary.

Just in terms of the Trust Fund itself and, I think, some real contradictions in terms of the position of the Department with regards to control. On the one hand, the statute says that the Secretary may approve expenditures not to exceed $2 million in any year for income from projects, and yet you maintain that in terms of what you are going to follow and how you are going to follow it, there is, in my view, what you have shared with the Committee has been less than consistent. Also, reconciling the terms of section 4 of the amended resettlement trust, in terms of what happens then with regards to any unused funds to be deposited to the U.S. Treasury. I don't think that the answer that you gave Senator Cortez Masto was very clear. You have indicated that perhaps you need to visit with your solicitor, but know that this Committee is very interested in understanding, clearly, where the lines are being drawn. And if you are selectively interpreting different or aspects of the statute, we certainly want to know and understand the logic there.

I want to turn to you, Mayor Jibas. With the resolution that you all passed, you essentially say in that resolution nothing in the applicable public laws gives the Secretary of the Interior a statutory authority to approve of the budget. The 1990 Memorandum of Agreement which lays out that approval process and that was signed by the Bikini leadership is null and void, that that no longer is in place. Is that a correct statement as your understanding and that of the Council?

Mr. JIBAS. Thank you, Madam Chair.

The CHAIRMAN. Go ahead and push that button, thank you.

Mr. JIBAS. First of all, I want to thank you for the opportunity, once again, for the question.

I just want to get it straight on record that we operate on a budget that's approved by the elected council and late, as in the recent resolution passed was passed by the Council for the Rescript from DOI.

The CHAIRMAN. Right. And when you passed that resolution you effectively said, or determined by resolution, that the 1990 Memorandum of Agreement that sets out the approval process is no longer applicable.

Mr. JIBAS. Yes, correct.

The CHAIRMAN. So, within the laws, the applicable public laws that provided for the funding of the Trust Fund, they state what the purpose of the Trust Fund is. When this was established and when those federal dollars were put in this Trust Fund, that the purpose of the Fund is, and I am going to quote here, "That the terms of such Resettlement Trust Fund are hereby modified to provide that the corpus and income may be expended for rehabilitation and resettlement of Bikini Atoll."

What I want to understand here is if we are looking at what is authorized, what is appropriate for using the Trust Funds for, is for rehabilitation and resettlement of Bikini Atoll? How, with these expenditures that you have just made in these past couple months, that you have indicated in your testimony, you have indicated that the dollars have been spent for, the $11 million, not all of that has been spent, I understand that. But that you have directed dollars for renovation and building of houses that were damaged by tides and for providing health care for those outside of Marshall Islands and providing for educational scholarships. You have indicated in your testimony that that is where these funds have been spent but how does that expenditure relate to the purpose of the Trust Fund which is rehabilitation and resettlement of Bikini Atoll?

Mr. JIBAS. Thank you, Madam Chair.

First of all, we look at the Bikini Claim Resettlement Trust Fund, a trust fund that is supposed to resettle the people of Bikini.

The CHAIRMAN. Right.

Mr. JIBAS. And as we both understand this money is not enough to resettle the people of Bikini. At the same time, as we encounter many challenges through the time of climate change and as we try to survive on these isolated islands, with not enough financial and facing health issues and education problems, all this comes together and we try to make sure we provide for the people. And this money is not enough to relocate, if that answered the question.

The CHAIRMAN. Well, I understand what you are saying, that $11 million is not sufficient to relocate, but again, these are funds that have been placed in a trust and over the years the purpose here, again, according to the Resettlement Trust Fund, was to provide for the rehabilitation and the resettlement. I guess I am trying to get specific rationale for the decisions that you have made recently with these expenditures of funds.

Mr. JIBAS. Thank you, Madam Chair.

In recent years, we are trying to live off the Resettlement Trust Fund for the people of Bikini. And as I stated in my statement earlier that the U.S. claim tribunal awarded the people of Bikini $300 and some million, but it came only $110 million.

So, I notice that in this Administration we cannot relocate on this such amount of money, but with all the challenges we're facing we come as one as the Council has approved the Rescript by trying to make sure they can create income-generating projects.

And I heard in your earlier statement that we were trying to buy a ship and we're trying to buy an airplane. We're trying to lease an airplane if we can get such amount of money from our Trust Fund. With the limitation of the five percent we cannot get any money as such amount to try to lease a ship or an airplane, trying to create other income, other shores, try to make sure that we can, our people, can live off of some of these interests in the next few years or decades.

We try and look and oversee our future encounters for our younger generation. And we see that with the limited Trust Fund and with the restructuring of the Trust Fund and this is why we don't agree with S. bill 2182.

The CHAIRMAN. Well, let me ask the question then because it was Mr. Niedenthal who suggested that while he, I think, I'm going

to sum your statement here, that you agree that there needs to be oversight, that you think that S. 2182 is a little bit too restrictive with the specific draw down cap. You have suggested that we need to ensure that the long-term viability of the trust is still feasible. I think you have suggested that written approval of a long-term budget is appropriate.

Mr. Mayor, would you agree that approval of a long-term budget would be a responsible level of oversight or not?

Mr. JIBAS. Excuse me, Madam Chair.

Thank you, Madam Chair.

We do not look at long-term budget at this time.

The CHAIRMAN. Well, have you as a Council compiled a budget, short-term and long-term, for purposes of the trust? You have drawn down $11 million of it. You have indicated that you haven't spent all of that, but do you have a budget for that?

Mr. JIBAS. Yes. We draw on $11 million in the last few months, just under the indication that we were trying to create these, generating projects for future income, but at the same time, we only did this because we notice there was a rumor that the office was going to stop us and restrict us on the limitations.

And I cannot feel——

The CHAIRMAN. What office?

Mr. JIBAS. The designated office who is, has the approval of the budgets. Could be Hawaii and Interior or we heard that somebody was going to put a restriction on our budget and we cannot get out. We will put, with the limitation of the budget, we cannot live off that and——

The CHAIRMAN. Isn't it accurate though that, on average, the distribution on an annual basis has been about $5 million?

Mr. JIBAS. On average, yes, maybe six.

The CHAIRMAN. On average.

So you were worried that it was going to be limited to less than $5 million?

Mr. JIBAS. Right. Correct.

The CHAIRMAN. And you were concerned about that from who?

Mr. JIBAS. Through the Council, as we have worked along this year trying to find the best way to make sure our people can survive. Because, no question, if the Interior gives us a budget of $4 million or $3 million, I will have to cut off the power and make sure everybody is not on payroll and no food, no fuel, no education requests, nothing because it's not enough.

And we had to take our $10 million, put it in one of the banks. We know that we could have put it on the market and make the interest, the returns better, but because of the rumors that the Office or somebody in the Departments, I'm not sure, that want to put the restriction on our money so we can only get $3 million or $4 million a year.

The CHAIRMAN. But you recognize that that Trust Fund is limited?

Mr. JIBAS. Yes.

The CHAIRMAN. Right.

And that maybe putting you on a budget at less than the people would want, is financial stewardship and recognizing that the Trust Fund is not just available for full consumption and disposal

for the people today, but that the people of tomorrow and future generations would hopefully be able to derive some benefit.

Mr. JIBAS. Yes. Thank you, Madam, again.

Yes, that's both you and the Council of the people of Bikini's main concern. How can the people of Bikini return to Bikini? It's been 72 years.

How can we feed the people now that the Trust Fund is lower and the interests are not as good? And we are trying to so we come together and pass the resolution that we should create generating income projects.

The CHAIRMAN. And how is—and I understand that communities that are threatened by climate change are vulnerable, that repairing or rebuilding new houses is expensive, but the purpose in my questioning is this is the first time that you have not had any oversight. And again, the oversight has been minimal. It is a discretionary right of veto. And yet, you have drawn down more than twice, more than twice, almost three times, as much as has been afforded on an annual basis. You have a Fund that is limited. And I am trying to understand why the KBE Local Government Council believes that this level of funding is necessary? Why you would object to oversight by way of a long-term budget?

And just making sure that there is an appropriate process because what has happened with the Department of the Interior's very sudden and unannounced decision that they were going to completely withdraw, although I think it has been confusing, Secretary Domenech, about how much completely withdraw means with the Department here in terms of your oversight.

And this Committee has a responsibility. This Committee has a responsibility, not only to the people of Bikini, but to the federal taxpayers as well.

So I am just trying to make sure that I understand, fully, what is going on and that there is a fair process moving forward.

Mr. Niedenthal, I wanted to ask you because I mentioned your suggestion and your statement that you think that, perhaps, the approach that we have taken with a limitation on the draw down, a cap on the draw down, might be too restrictive.

Given the current level of the Fund, is it possible to ensure the long-term viability of the trust, in your opinion?

Mr. NIEDENTHAL. Thank you, Madam Chair.

I think what's being ignored here quite a bit, and I'm a little concerned about this, is the history of this. You had 40 years where the people of Bikini had nothing. They were starving. They were struggling. And then this Trust Fund came into being. A lot of people, and this has been completely ignored, a lot of our people worked really hard, Senator Tomaki Juda, who is struggling with his life right now in Hawaii. We had former Henchi Balos, Senator Henchi Balos, Nathan Note, Kataejar Jibas. We had all these people who worked so hard, Ralph Waltz, Neerja Jamari, Johnny Johnson. All these Bikinians who worked so hard to get this money. We traveled thousands of miles. We don't have a representative in Congress. We had to lobby for that. And we're in the middle of nowhere and nobody cares. I mean, the seats are all empty except for you. Thank you very much. And this is like, it's always like this for us.

And so, what happens is, for us, when we were out there and we saw this happen, this all happened. I saw this resolution. There was no public hearing for that resolution for the people of Bikini. They passed it in an hour and a half in a little room above the Town Hall. No Bikinians got to say, hey, what's going on here? And I saw it. My son showed it to me. And I said, there's no way that, that doesn't even pass the laugh test. And then along comes Interior and says, yeah, it's okay. It took us several days to get the secret letter. And he already contradicted what her, the Senator's, question was. In his own letter, he says they do have a responsibility for that $2 million on Kili.

So, I'm, sort of, like really confused about how all this came down. And then you talk about how they didn't inform Congress, how they didn't inform the RMI government. They didn't inform the State Department, the embassies out there. Nobody knew what was going on.

We're all of sudden hearing all this stuff and then all of a sudden there's $11 million in a bank account and there's, like, no public information about this. We kept saying, hey, let's have a public hearing. Let's talk about this. This is our future. I'm a grandfather.

And when you talk about the long-term viability of the trust, I mean, it's outrageous that Interior would do this to us.

That Trust Fund, those people worked so hard for this. It provided $220 million over 30 years, and they're trying to say, oh, they never had contact with Interior. That's completely false. We were in contact all the time. We had no choice. And that system, they had total independence and total freedom over that money. The only number that was negotiated every year was the total amount. Interior would look at it. Talk to our money advisors and get them an amount that would assure the long-term viability of the trust and then the Bikinians were free to do anything they wanted within that number. It was a system that worked.

And suddenly, everybody decided to break it. And now, all of sudden, as you said, $15 million, that's 20 percent of the Trust Fund. And you're talking about is there long-term viability?

I'm really scared because what's going to happen and they can say whatever they want. You have Assistant Secretary Domenech saying the Bikinians are not going to come back to us anymore for money. And Mayor Jibas' testimony, at the end, he says, we're not coming back to the U.S. for money anymore. But I'm going to read this again, "No matter where the Bikini people found themselves, even if they were adrift on a raft at sea or in a sand bar, they would be taken care of as if they were America's children."

Nobody in this room has the right to break that promise that was made to the people of Bikini in 1946, not the Mayor, not the Assistant Secretary. When that money runs out and these people are starving. He's talking about, oh, we're not going to have payroll if we this or that. When this money runs out, no payroll, no power plant, no anything. Where do you think those people are going to go to, the RMI government?

There's no choice here. There has to be made, the suggestion I'm making is go back to the system that produced $220 million over 30 years. It's not—it wasn't broken. I'm just astounded that the In-

terior Department would come in and do what they did. It's the worst thing to happen since the Bravo shot in 1954, in my opinion.

They have threatened the people of the viability, not of the Trust Fund, they threaten the viability of the people of Bikini to survive. What's going to happen to these people when there's nothing left and you have a bunch of rusted ships, rusted cars, a plane?

I mean, these aren't, I mean, if you've lived in the Marshall Islands for as long as I have, no one out there runs a successful shipping business, zero. No one makes money on that stuff. Planes? Come on. This has to be—there has to be oversight for everybody's sake, for the United States Government and the commitment they made to the people of Bikini, and there has to be oversight for the people of Bikini to survive. And if you don't do it, believe me, the first door I'm coming back to with my five grandchildren by the end of this year, God willing, I'm coming to the United States Government and I'm knocking on that door. You're not going to have a choice but to answer me. And if you don't take care of this now, you're going to be taking care of it later. And that's all I have to say. I'm sorry if I'm little—I'm the son of a ball turret gunner from World War II, so——

The CHAIRMAN. Thank you.

Let me ask just a couple more questions to wrap up here.

This goes to you, Mr. Domenech. So you made a decision with this letter with regards to the Bikini Resettlement Trust Fund. But we've got other trusts, Resettlement Trust Funds, that are out there. We've got the Rongelap. We've got the Marshall Islands Trust Fund.

Given the position that you have taken with this Administration, do you, would you expect that there be a similar view of these other settlement trust funds?

Mr. DOMENECH. Well, thank you for that question, Senator, Chairman.

That you're right, there are a number of trust funds that exist all in the Marshall Islands, actually it's a surprisingly large number that relate either to the nuclear, specifically to the nuclear testing and/or the larger Compact agreements that are in place. I assume that's the one you mean by the Marshall Islands Trust Fund would be the Compact Trust Fund.

And as I mentioned earlier, that is structured completely different up front by Congress in terms of who manages the money, and it's very robust and meant to last forever, et cetera.

The CHAIRMAN. What about Rongelap?

Mr. DOMENECH. Yeah, on Rongelap, my understanding, again at this point, is that it is structured very similar to the Bikini Trust Fund with the discretionary right of veto for the Secretary over the budgets. However, that process has never worked. There's not been a, not in a bad way, they've just, there has not been a need for that kind of oversight for the Rongelap community. And so, we have no sense of whether they would come and ask for the same.

The CHAIRMAN. Just so that I can understand, I understand that the cleanup on Rongelap and the ability to resettle on Rongelap is further along than we are with Bikini. Is there a reason for that? Is there a significant difference in the level of funding that we have with the annual budget for Rongelap? What's the differential here?

Mr. DOMENECH. It's, that's a good question.

Of course, the cleanup of both Bikini and Rongelap are really run separately in a separate appropriation by the Department of Energy. So they're the ones actually cleaning the islands.

And in the case of Rongelap, they have been able to clean it to a level that people can actually live there and the Rongelapese want to live there. So 40 some odd citizens have already relocated back to Rongelap.

It's a little different for Bikini. The likelihood, just historically, at one point they were moved back to Bikini and then it was determined that it was not clean enough for human habitation so they moved back off. And that's my understanding the status of the moment.

The CHAIRMAN. But it is because of funding in their, again, their annual budgets, that Rongelap budgeted more or can you give me more there?

Mr. DOMENECH. Yeah, I think it's—and again, I apologize, I believe that is done by the Energy Department. I don't think the Rongelap people used their trust fund for the purpose of cleaning the island, just like the Bikini——

The CHAIRMAN. But you mentioned that you have, structurally, the trust funds are much the same. So, there is a discretionary right of veto that DOI or the Office of Insular Affairs has had.

Mr. DOMENECH. That's my understanding.

The CHAIRMAN. So you must look at that on an annual basis, that longer-term budget?

Mr. DOMENECH. I apologize. I'll have to ask my staff, but I assume so.

The CHAIRMAN. Well, I do think that we have had some issues raised here that deserve an answer from OIA, from the Department of the Interior here.

I am concerned that you have, I think, confusing interpretations of some of the statutes that are in place here and how those are reconciled.

I understand, again, that from the Mayor's perspective and from those who are on Bikini, the desire to effectively control your own destiny.

I also understand that levels of oversight that allow for that flexibility, while still maintaining some level of appropriate control is something that whether it's Congress through the appropriate committees or our departments typically engage in, that that is appropriate.

So, I have never been one that says that the best decisions are made at the top. I am, kind of, from the ground on up type of a person, but I also recognize that when we put in place trust settlement agreements that there is a purpose, there is a level of oversight that is appropriate, not only for today's leadership, but for subsequent generations. And my interest is ensuring that we are being good stewards, not only for those today, but for those tomorrow.

As it relates to the CNMI and our legislation, again, I thank you, Governor Torres. I thank you, Congressman Sablan, for your willingness to work with us to, I think, get to a good place.

I think we had some good testimony today. I think we recognize that the CNMI has come a long way over the years in terms of labor practices, in terms of working aggressively to ensure that, as you say, Congressman, we have changed the dynamic there in terms of U.S. workers and the expectation that we will have more U.S. workers.

So I feel that we are on a good trajectory here. It would be my hope that we can address this soon because as we have been told by Dr. Gootnick, in terms of the numbers and the applicable visas that are out there, waivers that are out there, those numbers get snapped up pretty quick here.

This is something that we do want to continue our engagement with you and work to define good, solid solutions. Again, as you say, Governor Torres, so we are not back here ten years from now saying we need yet another extension. So we are working on this together, and I appreciate that.

With that, gentlemen, the Committee stands adjourned.

[Whereupon, at 12:11 p.m. the hearing was adjourned.]

## APPENDIX MATERIAL SUBMITTED

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Doug Domenech**

**Questions from Ranking Member Maria Cantwell**

**Question 1:** Mr. Domenech, in your role as the Assistant Secretary for Insular Affairs you are responsible for administration and oversight over the American Insular areas, including the Northern Mariana Islands. While there are several other federal agencies who have been involved with enforcement of labor laws in the Northern Mariana Islands, when push comes to shove the Department of Interior has the ultimate oversight. What actions has the Department of Interior taken to satisfy this authority?

**Answer 1:**
Executive Order 12572 provided the Secretary of the Interior with general administrative supervision for the Commonwealth of the Northern Mariana Islands (CNMI) in all matters not the program responsibility of other Federal departments or agencies. The enforcement of immigration and labor laws in CNMI fall clearly within the realm of other Federal departments and agencies and not within the legal authorities of the Department of the Interior.

The Department of the Interior, through the Office of Insular Affairs, provides technical assistance to the CNMI as called for under the Consolidated Natural Resources Act of 2008 ( Public Law 110-229), with its limited discretionary funding provided by the Congress. Working closely with the CNMI government, the Office of Insular Affairs provides grants for technical assistance and capital improvement projects that have, in one form or other, contributed to enhancing CNMI's employment and economy.

**Question 2:** Two weeks ago, we learned the director of the Center for Disease Controls (CDC) resigned because of problematic stock purchases in companies related to the work of the CDC. Just this week, we learned that one month after your confirmation, in October 2017, you bought stock in Compass Minerals. That same year, the Department of the Interior paid Compass $15,000. In other words, you have the potential to enrich yourself because of decisions of the Department of the Interior. Even if there was nothing illegal committed, there is certainly the appearance of impropriety.

- Why did you enter into a transaction that appears to present a conflict of interest?
- Will you divest of all of your shares in companies that contract with the Department of the Interior?
- How can we trust you will be a responsible steward of taxpayer funds, including funds set up for the people of the Marshall Islands, if you have allowed yourself to be enriched by the Department of the Interior's contracting decisions?

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Doug Domenech**

**Answer 2a:** As the Ranking Member of the Senate Committee with primary congressional oversight of Department of the Interior, I am sure you are very familiar with the Department's stock holdings prohibition list for its employees. As you know, the management of this list is the same now as under the Obama Administration and continues to be updated in the same manner annually by the Department's Office of Ethics. Compass Minerals is not listed, therefore, there is no prohibition to holding this stock, and I am in full compliance with the law and regulations.

The STOCK Act requires all SF 278 filers to report certain transactions within 30 days after receiving notification of any transactions but in no case later than 45 days after such transaction occurred. A transaction report available online (OGE 278 T) covers any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities owned or acquired when the amount of the transaction exceeds $1000.00. Transaction reports are not required for: real property, widely-held diversified mutual funds, treasuries, life insurance, cash accounts, and TSP.

Interior's Designated Ethics Official (DEO) reviews and approves all stock purchases for Senate confirmed (PAS) officials. The ethics agreement signed by all PAS officials, includes a statement that all PAS will ensure that account managers or investment professionals obtain approval for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the exemption at 5 CFR 2640.201(a), and obligations of the US. All stock purchases are reviewed and approved by Interior's DEO.

**Answer 2b:** I am in full compliance with the law and regulations. I do not own stocks of the Department's Prohibited Stocks list.

**Answer 2c:** The Marshall Islands people are a great community and I am honored to work with the President and other elected leaders in managing the various Trust Funds available to them. I am also honored to work with the elected Mayor and Council of Bikini to provide them with control over their Trust Fund.

In accordance with 18 U.S.C. § 208(a), I signed an ethics agreement to not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(l), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). This applies to me, my spouse and any minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Doug Domenech**

I have divested my interests in any stocks on the Department's Prohibited List and I complied with my recusal requirements prior to divestiture.

As a Trump Administration political appointee, I have signed the Ethics Pledge (Exec. Order No. 13770) and I am bound by the requirements and restrictions therein in addition to the commitments that I have made in this and any other ethics agreement. Accordingly, I will not participate personally and substantially, for 2 years after appointment, in any particular matter involving specific parties in which a former employer or client of mine is or represents a party, if I served that employer or client during the 2 years prior to my appointment, unless first authorized to participate, pursuant to Section 3 of Exec. Order No. 13770. Moreover, this 2-year prohibition forbids my participation in any meeting or other communication with these entities unless (1) there are five or more different stakeholders present and (2) no particular matters involving specific parties are discussed.

**Question 3:** In your letter to Mayor Jibas dated November 16, 2017, you explicitly said that the Kili-Bikini-Ejit Council's Rescript does not "affect any statutory provision concerning the Secretary of the Interior's actions with respect to the Trust Fund. Two such provisions are currently extant"; (First), the U.S. Congress enacted legislation whereby the Secretary 'may,' in his discretion, 'approve expenditures not to exceed $2,000,000 in any year from income for projects on Kili or Ejit." Yet in your response to questions from Senator Cortez Masto, you directly contradicted your letter. Which view is that of the Department of the Interior? If it is the view expressed in the letter, why did you disagree in your oral testimony?

**Answer:** PL 100-446 afforded the Secretary of the Interior the discretion to approve expenditures from the Resettlement Trust Fund not to exceed $2 million in any year from income for projects on Kili or Ejit. The Secretary of the Interior is not required to veto expenditures. The Department's decision to accept the August Rescript of the Kili-Bikini-Ejit (KBE) Government was consistent with the Department's discretionary authority. The Rescript itself did not amend any statutory provision concerning the Secretary's actions with respect to the Resettlement Trust Fund; rather, it was informative to the Department in electing to forgo exercising its discretionary veto over the Resettlement Trust Fund.

**Questions from Senator Mazie K. Hirono**

**Question 1:** My legislation, the Covering our FAS Allies Act (S. 1391) would restore Medicaid coverage for citizens of the Freely Associated States lawfully residing in the U.S. under the Compacts of Free Association between the Government of the United States and the Governments of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. As the agency responsible for monitoring and coordinating all U.S. assistance to the FAS, would you support S. 1391 and agree that extending Medicaid coverage to their citizens would help support their welfare as well as the welfare of affected jurisdictions like Hawaii? If a legislative change to Medicaid eligibility is not enacted, could your office provide

financial support to affected jurisdictions to cover health care costs incurred for COFA citizens? Would you need additional resources or legislative changes to facilitate such payments?

**Answer 1:** We have initiated a review of your legislation in order to respond to your question. We are presently unable to state a position without consulting with the other federal agencies that have budgetary and operational jurisdiction over the programs named in your legislation. Any expansion of program services to additional populations would require additional resources.

**Question 2:** What is the Administration's position on the legislative proposal to modify S. 2182 as outlined in Mr. Niedenthal's testimony?

**Answer:** The Department only provides formal positions on introduced legislation being considered by the Committee. However, as a general matter, his idea raises additional concerns and has no bearing on the Administration's position on S. 2182.

**Question 3:** Were any of the Bikini Resettlement Trust funds used to provide health care for Bikinians in the United States including the State of Hawaii? If so how much?

**Answer:** The Washington, D.C., office of the prior KBE Government attorney formerly operated a health insurance plan for the People of Bikini, regardless of their location. The application of this health insurance plan was principally for those People of Bikini living in the United States, including Hawaii. However, due to the high costs involved, the KBE government terminated this health insurance plan. At no time during the existence of this health insurance plan did KBE Government officials inform the Office of Insular Affairs of how much money the plan spent for the People of Bikini in Hawaii or any other U.S. jurisdiction.

**Questions from Senator Catherine Cortez Masto**

**Question 1:** In a 2017 report with the Governor of CNMI, your office recommended that long-term guest workers in the CNMI who have strong ties to the community be allowed a pathway to permanent resident status. Do you still agree with Governor Torres that a path to permanent residency for long-term guest workers is important for the success of the CNMI, and if not, what has changed in the Commonwealth between January 2017, when your office and the Governor's office submitted its 902 report, and now?

**Answer 1:** The January 2017, 902 report, that was submitted by the last Administration's Special Representative and Governor Torres recommended that long-term guest workers in the CNMI be allowed a pathway to permanent resident status. This issue is part of the overall immigration issues that this Administration is currently working on.

**Question 2**: Please describe the legal analysis and decision-making process at the DOI that led to the decision to follow the terms of the KBE Council resolution.

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Doug Domenech**

**Answer 2:** In August of 2017, the KBE Council adopted Resolution No. 2017-39 (Rescript), which was transmitted to the Department of the Interior. Under Section 10.1 of the Amended Resettlement Trust Fund Agreement for the People of Bikini, dated October 26, 1988 (the Agreement), the KBE Council had the authority to amend the Agreement. Under the terms of the Agreement, the Department retained the discretion to disapprove of the Rescript. The Department further determined that PL 100-446 granted the Secretary of the Interior the discretionary authority to "approve expenditures not to exceed $2,000,000 in any year from income for projects on Kili or Ejit". The Department determined that this discretionary veto was exercised for more than three decades at the request and acquiescence of successive, elected leaders of the KBE local government. The Department elected to honor the wishes of the people of Bikini and its locally elected representatives by not disapproving of the Rescript. The Department also determined that there was no additional statutory authority that required the Department to disapprove of expenditures from the Resettlement Fund.

**Question 3:** How do you reconcile the Department's current abdication of authority regarding the Resettlement Trust Fund with the Department's statutory authority over the trust fund in the future?

**Answer 3:** The Department has not abdicated its statutory responsibility for the Resettlement Trust Fund. The Department's position is that the August Rescript of the KBE Government does not affect any statutory provision concerning the Secretary's actions with respect to the Resettlement Trust Fund. The Department's accepting the Rescript and thereby returning to the People of Bikini full dominion over their Resettlement Trust Fund is not an abdication of the Secretary's authority for the Trust Fund as outlined in Public Law 100-446 (Sept. 27, 1988), which gives the Secretary the responsibility to identify the future funding needs of the People of Bikini before the Trust Fund is extinguished and before remaining funds, if any, are deposited in the U.S. Treasury.

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Ralph Deleon Guerrero Torres**

**Questions from Ranking Member Maria Cantwell**

**Question 1: At the hearing we held in April of last year we discussed the need for a local role in labor protections. What steps has your government taken since then to prevent these abuses?**

Following the unfortunate discovery of labor violations in the Imperial Pacific International CNMI construction site, I worked with the Commonwealth Casino Commission, CNMI Department of Labor, and the CNMI Lottery Commission to make a requirement that IPI be responsible for creating a system that will check for proper work documents of every construction worker entering the site. Additionally, since the issue of labor violations was brought to my attention, I have restructured the leadership of the CNMI Department of Labor, installed a new Secretary to that department and have worked closely with the new Secretary to ensure local wage and safety protections provided by law are more stringently enforced. The CNMI does not have an on-island Federal OSHA office is working within our available jurisdiction to ensure we do not witness a similar situation occurring again. I believe the provisions of S. 2325 about preventing violators of local or federal law from obtaining workers through the CW program will assist my administration in this effort and will benefit our shared goal of curtailing improper practices from occurring in the future.

**Question 2: How are you ensuring that employers are held accountable for predatory practices against workers, once they are committed?**

The CNMI Department of Labor (DOL) is building a consistent track record of penalizing employers who violate CNMI laws and regulations. Since 2015 to 2017, a total of 23 businesses (employers) have been sanctioned a total of nearly $60,000.00 in fines by the Department of Labor.

Breakdown of Sanctions:

| YEAR | No. of Employers | SANCTIONS |
|---|---|---|
| 2015 | 7 Employers | $9,850 |
| 2016 | 9 Employers | $29,700 |
| 2017 | 7 Employers | $18,500 |

These companies were found guilty of having committed violations of CNMI labor statutes and regulations. Typical cases involve non-payment of regular and overtime wages, illegal deductions, wrongful termination, harassment or retaliation against workers in response to worker complaints. If an employer fails to pay sanctions as ordered, the nonpayment is reported to the Attorney General's Office with a request that the AGO commence action in the Superior Court to enforce the judgment of the DOL. Other predatory practices are handled in other forums. Physical assaults can be handled by the criminal justice system or via a civil suit filed in the Commonwealth Superior Court.

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Ralph Deleon Guerrero Torres**

Additionally, with regard to the IPI project, the requirement for IPI to be responsible for the verification of construction work permits on the site places the accountability on the company and not solely on the sub-contractors performing the work on the site.

Recently DOL conducted meetings with several other construction companies (i.e. RNV, HBR, and Pacific Rim) to ensure their compliance with CNMI labor laws and regulations.

**Question 3: I understand that the lobbying firm you have employed, Turnberry Solutions, LLC, filed a Lobbying Report stating that they had met with the U.S. Department of the Treasury. However, during our hearing you stated that you have not employed a lobbyist, can you please clarify why this firm has listed the Commonwealth of the Northern Mariana Islands as a client?**

Unfortunately, I misunderstood the question. I believed the question asked if I employed a lobbyist to lobby the U.S. Treasury Department which the CNMI does not. The CNMI does employ Turnberry Solutions to help represent the CNMI in Washington D.C. Additionally, the LDA Filing for the CNMI was inaccurate in listing the U.S. Treasury Department as it should list the U.S. Departments of Homeland Security, Interior, and Department of Defense. During the hearing, Jason Osborne of Turnberry Solutions immediately notified Senator Cantwells staff of the mistake in the filing and it is being currently being amended to reflect the agencies they interact with.

**If they are under your employment, to your knowledge did they meet with the Financial Crimes Enforcement Network? Did they meet with others at Treasury to discuss any issue at all? What was discussed? Did any other member of your administration or any individual or entity acting on your administration's behalf either explicitly or implicitly, meet with Treasury? If so, what was discussed?**

I have been assured that no one affiliated with or employed by the CNMI government has met with U.S. Department of Treasury or sub agencies of the Department. I have been made aware that representatives for Tinian Dynasty (a casino in Tinian) and locally elected officials in Tinian met with officials from the Financial Crimes Enforcement Network at some point in 2017. These discussions were not CNMI Government related and the lobbyist hired by them is not affiliated or connected in any way with the CNMI's registered lobbyist. As such, I am only aware of what was discussed through various media reports in the CNMI.

**Question 4: What percentage of the CNMI's workforce are in the private sector? What percentage are government employees?**

According to the most recent, verified data from the CNMI Department of Finance, the total number of employees in the CNMI that are "Government" workers amounts to 12.9% of the total workers. This data is derived from W2 filings by employers.

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Ralph Deleon Guerrero Torres**

**Question 5: You have stated that great progress has been made when it comes to instituting local regulations to prevent labor violations and money-laundering. What percentage of businesses in the CNMI are compliant with these regulations, especially the quarterly workforce listing and annual workforce plan?**

The DOL has implemented a series of public notices in the news media and on the DOL website notifying CNMI employers about compliance with submitting a quarterly workforce listing and their annual workforce plan. The DOL also began a workshop with businesses on Saipan and have scheduled the same for Tinian and Rota. In FY 2017, a total of 771 businesses submitted their quarterly compliance reports, as compared to 244 companies in FY 2016.

This month, the DOL is increasing the number of site inspections at manpower agencies, security and construction companies to ensure their compliance submission of documents. In conjunction with the Business License office and the Department of Finance, we are also verifying the businesses' BGRT and Withholding tax records to confirm the employees on the workforce listing, their job classification and citizenship status.

**Question 6: When companies are found out of compliance with the regulations discussed in question 5, what is the process for addressing such violations?**

For failure to file documents, the DOL Enforcement Division sends the employer a Notice To Correct or a Notice of Violation. If a Notice of Violation is sent, a Notice of Hearing can be attached which sets the case for a hearing in the DOL Hearing Office. The Hearing Officer is authorized to assess monetary sanctions of up to $2,000 for each violation, after a due process hearing.

In any labor investigation in which the Enforcement Section finds that the employer has committed a violation of CNMI labor statutes or regulations, Enforcement may commence an Agency case to seek an order of sanctions against the employer. That case would be heard with the Labor case in a consolidated hearing.

**Question 7: At the hearing, you indicated that there was a development in the way that the CNMI regulates anti-money laundering regulations. Please provide any and all information about the development.**

My office and the Commonwealth Casino Commission have spent months working toward a comprehensive set of amendments to the law governing the Casino operation to increase enforcement authority, prevent criminal activities, and expand the investigative abilities of our important enforcement arm. I have worked closely with the legislature on the attached bill and anticipate its passage this month. The bill is attached to these responses.

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Ralph Deleon Guerrero Torres**

**Question 8: At the hearing, you indicated that the floor of the CNMI casinos would be open to U.S. Treasury officials. Have U.S. Treasury officials spent any time in CNMI casinos since January 1, 2016?**

Since January 1, 2016, I have been informed that officials from the U.S. Internal Revenue Service sent a "Letter of Examination" to Imperial Pacific International CNMI in March 2017.

This letter was followed by a on-site inspection, review, and examination of IPI's financial reporting process (and other IRS-related matters) from July 6 through July 22, 2017.

I have been told that the IRS is working toward a report of its findings, but the final report has yet to be completed and the Commonwealth Casino Commission has requested that this report be made available to the CNMI.

**Questions from Senator Catherine Cortez Masto**

**Question 1: This bill would require all visa fees to be used for vocational education and other training programs for U.S. workers. Can you describe the education and training programs you have in place right now, the level of success they see, and how would you be able to grow these programs with additional funding?**

Since I came into office, I have had the privilege of witnessing more training institutions come to life to support the needs of our US worker population and have supported these efforts with both CW worker fees and locally appropriated funds. Under the CNMI Department of Labor, we are working to create a collaborative network of training institutions to ensure funds are being used toward obtaining substantial outcomes toward our US worker population in the labor force, without any unnecessary duplication of efforts. It is important to me that the needs of the students be the driving force behind the success or continued funding of training institutions and that we develop a competitive marketplace that meets our community's needs. For that reason, I have worked toward a new system that supplements the student's cost for training and allowing them to choose which training program and institution best meets their individual need. Funding is a consistent struggle, and unlike the larger United States, the CNMI is statutorily ineligible for federal workforce training programs such as Wagner-Peysor. Still, we will work toward using the available funds, paid for by the CNMI private sector, to encourage greater success, new training programs, and monitor the system to ensure it is adapting to changes in the economy and labor force demands.

**Question 2: What would you say is the primary issue affecting U.S. worker unemployment in the CNMI?**

The issues in acquiring labor in the CNMI are complex. Distance is a primary factor in recruiting and, most importantly, retaining workers from the mainland United States. If you drew a straight line between the CNMI and Washington, DC the distance between the two would be nearly

8,000 miles. Adding in the actual travel time, along with the numerous transit points and layovers, it could take one nearly two days to travel from the mainland US to the CNMI. Additionally, the CNMI lies beyond the International Date Line and is 15 hours ahead of Washington, DC. The physical distance, the effort required to travel, and the time difference is unappealing for many who would normally consider moving within the United States for work. Declining rates of labor mobility throughout the nation is an ongoing problem. Americans moving throughout the nation to labor markets with greater demand has been declining for decades. This fact does not have the additional complications of the CNMI's distance considered.

Outside of sourcing labor from the mainland United States, the CNMI does not have a large enough local population to provide labor for all the jobs necessary to operate a viable economy. Estimates show that the population growth rate in the CNMI is -0.51% in 2017. CNMI data shows there is an approximate 1,800 US citizens and Legal Permanent Residents in our workforce who are classified as "Unemployed". The reasons for an unemployed population is manifold, but my administration is working toward addressing some of the major underlying issues at play. Transportation is a consistent issue preventing local residents from obtaining work and traveling within the island to their place of employment. Additionally, substance abuse is a problem that prevents workers from obtaining a job and retaining employment in their current occupations. And, the current state of our economy does not have as wide of a range of jobs categories as a larger economy, reducing the individual motivation to seek out employment when an occupation that suits the individuals interest and skills

To find solutions to this problem, I have focused heavily on instituting the CNMI first public transit system, have created the CNMI's first in-patient drug rehabilitation facility, and we are all looking forward to a strong and diversified economy that can provide greater opportunities to utilize the skills and interests of our people. These efforts will all come to a swift halt if the economy collapses because of the lack of workers to provide for the government's resources.

**Question 3: In a 2017 report with the DOI, you recommended that long-term guest workers in the CNMI who have strong ties to the community be allowed a pathway to permanent resident status. How would allowing long-time Transitional Worker Program employees to earn a path to permanent residency benefit the CNMI economy, and do you have an estimate of how many long-term guest workers have maintained this status and would be eligible for permanent residency?**

Although the presence of long-term guest workers is significant to the fabric of our community and important to the continuity of the vast institutional knowledge in the various specialty occupations throughout the islands, the exact figure of those who would be classified as long-term guest workers is unclear and would depend on what is the acceptable definition of long-term guest worker. Many things have occurred since the enactment of U.S. Public Law 110-229 that have altered the status of those who hold citizenship of another country, but have spent decades in the Commonwealth, including numerical limit contractions that have resulted in individuals returning to their country of origin or losing legal status.

However, I feel that the creation of a CW-3 category is an appropriate step toward recognizing those who have made a significant and long-term contribution to the CNMI's community and economy – many of whom have entered the CNMI prior to 2009 and are important members of our community. I appreciate this provision but see areas that the language can be modified slightly to allow for those who have held legal status in 2014 to continue to remain a part of our community despite momentary lapses in status due to cap limitations in recent years.

**Question 4: After learning of last year's FBI investigation and arrest of a subcontractor operating in CNMI, which was found holding the passports of 400 Chinese workers, I am concerned about the possibility of labor trafficking occurring in the territory. What measures are in place to ensure that all foreign workers have the proper visa or work authorization and are not being taken advantage of by their employers?**

Since hearing of the unfortunate abuses of foreign worker laws, I have made it a point to place greater responsibility of ensuring proper work documentation and workplace safety on the company that hired the subcontractors that engaged in these bad practices by requiring them to check and monitor the work permits of all construction workers entering the work site. This was made as a requirement of the most recent amendments to the Casino License and will ensure greater accountability of workplace practices.

**Question 5: How do you work with the Department of Labor to ensure "bad actor" employers are rooted out and not allowed to use the visa program?**

Previously, I have made effort to encourage the Department of Homeland Security to take a harder stance on those who are engaged in improper practices from participating in the CW program. For instance, in March 2017, I submitted a letter alongside our Congressman Gregorio Sablan to then Secretary of DHS, John Kelly, requesting an intensification of screening of CW-1 petitions to ensure abuses of the program were caught prior to the issuance of permits. I believe the structure set in place by S. 2325 will provide us greater avenues and tools to have these important conversations and to tie the on-the-ground concerns into the enforcement and application of this important program to the CNMI.

**Question 6: Do you believe the bill under consideration does enough to protect against "bad actors" misusing the visa program and what enforcement measures do you think are necessary?**

I support the protections S. 2325 places for U.S. workers and the safeguards it allows to protect our foreign worker population. What has been the consistent refrain from the CNMI and those endeavoring to operate within strict adherence to the law was additional local feedback toward the federal application of the law. The inclusion of consultations with the Governor's Office and an additional step of providing for foreign labor certifications is a new and novel concept that will provide us means for greater input and control over this important program. I intend to direct my administration to keep a vigilant watch over the process and application of this program, if an

extension is passes, and use these additional channels to advocate for administrative adjustments to ensure bad actors cannot profit or misuse the program in unacceptable ways.

More broadly, the structural difficulties in operating an economy in a geographically isolated and small area make the motivation for potentially unlawful behavior greater, and for that reason I hope for a system that can continue to grow our economy, help bring the number of those under the poverty line (most recent estimates calculate the poverty rate as being above 50% of the population) our of poverty, while having our unique circumstances help lead policy discussions on the federal level. I believe this bill makes great steps toward that, and I appreciate the opportunity to discuss changes further as the bill progresses.

**Twentieth Northern Marianas Commonwealth Legislature**

**IN THE HOUSE OF REPRESENTATIVES**

**_____Session, 2017** **H. B. 20-82**

**A BILL FOR AN ACT**

TO CLARIFY THE POWERS OF THE COMMONWEALTH CASINO COMMISSION AND TO MAKE NEEDED CHANGES TO THE COMMONWEALTH CODE GIVEN THE UNIQUE REGULATORY OVERSIGHT OF THE CASINO INDUSTRY IN THE COMMONWEALTH; AND FOR OTHER PURPOSES.

**BE IT ENACTED BY THE TWENTIETH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

**Section 1. Findings and Purpose.** The Commonwealth Casino Commission was established to regulate casino gaming by the exclusive casino licensee. The Commonwealth Casino Commission has since organized and promulgated, on an emergency basis, regulations governing the conduct of casino gaming by the casino licensee and will continue its oversight responsibilities by adopting permanent regulations shortly. In so doing, the Commission has identified, and will continue to identify, areas where further legislation is required to enable the Commission to discharge its obligations to the people of the Commonwealth.

The Legislature finds and declares that this Act is necessary and is a proper use of the legislative power granted by Article II of the Commonwealth Constitution.

**Section 2. Amendment.** Section 1402(a)(8) of Title One of the Commonwealth Code is hereby amended as follows:

"(8) Gambling prohibition and regulation, so long as such regulations are in addition to Commonwealth regulations; except that it shall not include the casino subject to the jurisdiction of the Commonwealth Casino Commission. The Commonwealth Casino Commission shall have sole regulatory oversight over said casino;"

**Section 3.** Amendment. Section 6706(b) of Title 1 of the Commonwealth Code is hereby amended as follows:

"(b) This section shall not apply to concession stands on Managaha Island, CNMI airports, the casino facilities regulated by the Commonwealth Casino Commission, hotels, hotel resorts, or golf course resorts."

**Section 4. Amendment.** Subject to codification by the CNMI Law Revision Commission, the Commonwealth Code is hereby amended by the addition of a section as follows:

"**Section xxxx. Commonwealth Casino Commission agents deemed essential.** Notwithstanding any other provision of law to the contrary, in the event of a budgetary or other crisis which necessitates a temporary closure of the nonessential commonwealth agencies of the Commonwealth the members, employees, and agents of the Commission shall be deemed to be essential and shall continue to perform their duties."

1 **Section 5. Amendment.** Section 9918 of Title One the Commonwealth
2 Code is hereby amended by the additions of new subsections as follows:
3 "(e) Notwithstanding any other provision of law to the contrary all
4 information and data:
5 (1) Required by the Commonwealth Casino Commission to be
6 furnished to it pursuant to law or any regulations adopted
7 pursuant thereto or which may be otherwise obtained relative to
8 the finances, earnings, taxes, or revenue of any applicant or
9 licensee;
10 (2) Pertaining to an applicant's or natural person's criminal record,
11 antecedents, suitability, fitness, reputation and background
12 which have been furnished to or obtained by the
13 Commonwealth Casino Commission from any source;
14 (3) Provided to the members, agents or employees of the
15 Commonwealth Casino Commission by a governmental agency
16 or an informer or on the assurance that the information will be
17 held in confidence and treated as confidential;
18 (4) Obtained by the Commonwealth Casino Commission from a
19 manufacturer, distributor or operator, relating to the
20 manufacturing of casino gaming devices or accessories;
21 (5) Prepared or obtained by an attorney, agent, or employee of the
22 Commonwealth Casino Commission pursuant to an audit,

1 investigation, determination, hearing or otherwise within the
2 course of the attorney's, agent's or employee's representation of
3 or employment with the Commission;
4 are confidential and may be revealed in whole or in part only in the
5 course of the necessary administration of the gaming laws of the
6 Commonwealth or upon the lawful order of a court of competent
7 jurisdiction. The Commonwealth Casino Commission may but need
8 not reveal such information and data to an authorized agent of any
9 agency of the United States Government, any state or any political
10 subdivision of a state or territory of the United States. Such
11 information shall be provided upon request to the Secretary of
12 Finance or the Attorney General. Notwithstanding any other
13 provision of law, such information may not be otherwise revealed
14 without specific authorization by the Commission.
15 (f) Notwithstanding any other provision of law, any and all documents,
16 information, and data prepared or obtained by the Commonwealth
17 Casino Commission or any of its members, agents, or employees
18 relating to an application for a license, a finding of suitability or any
19 approval that is required pursuant to the provisions of the
20 Commonwealth Code or any regulations adopted pursuant thereto, or
21 any documents, data, or information deemed by the Commission to
22 be unsuitable for public inspection, copying or disclosure are

1 confidential and absolutely privileged and may be revealed in whole
2 or in part only in the course of the necessary administration of the
3 regulations of the Commission and with specific authorization and
4 waiver of the privilege by the Commission. The Commission may
5 reveal such information and data to an authorized agent of any
6 agency of the United States Government, any state or any political
7 subdivision of a state or territory of the United States at any time
8 without notice to any party in its sole discretion. Such information
9 shall be provided upon request to the Attorney General.
10 (g) Subsection (b) and (c) shall not apply to the exemptions listed in (e)
11 and (f). The Commission may charge fees to recoup the entire cost of
12 the document review process."
13 **Section 6. Amendment.** Section 2305 of Title Four of the
14 Commonwealth Code is hereby amended by as follows:
15 "**§ 2305. Administrative Procedure.** Unless otherwise provided by law,
16 ~~A~~any action taken by the Commonwealth Casino Commission, including the
17 promulgation of any rule or regulation and the imposition of any civil penalty,
18 shall be subject to the Administrative Procedure Act (1 CMC §§ 9101 *et seq.*)."
19 **Section 7. Amendment.** Section 2307(e) of Title Four of the
20 Commonwealth Code is hereby amended as follows:
21 (e) The Secretary of Finance shall establish and maintain a
22 Commonwealth Casino Application Fee Special Fund (CCAF

Special Fund) to be kept separate and apart from the general funds of the Commonwealth government. The nonrefundable application fees shall be deposited in the CCAF Special Fund and expended by the Commonwealth Lottery Commission, without appropriation, for the investigation of license applicants pursuant to 4 CMC § 2318 and any other costs associated with reviewing the applications, granting or denying applications for the exclusive license. The expenditure authority for the Commonwealth Lottery Commission shall be the Chairman of the Commonwealth Lottery Commission. Any funds remaining in the CCAF Special Fund after the issuance of the exclusive license and payment of all encumbered expenses related to reviewing the application and granting or denying the application for the exclusive license, including travel or meeting cost, shall be transferred to the Commonwealth Casino Commission Regulatory Fee Fund as established by 4 CMC § 2309(f) for disposition without further appropriation or fiscal year limitation.

**Section 8. Repealer.** Sub-sub section 2314(i)(4) of Title Four of the Commonwealth Code is repealed in its entirety.

**Section 9. Amendment.** Section 2309(f) of Title Four of the Commonwealth Code is hereby amended as follows:

"(f) The ~~Secretary of Finance~~ Commonwealth Casino Commission shall establish and maintain a Commonwealth Casino Commission

Regulatory Fee Fund (CCCRF Fund) to be kept separate and apart from the general funds of the Commonwealth government. The non-refundable application fees, investigative fees, casino regulatory fees, and renewal fees for casino employee licenses, casino key employee licenses, casino service provider licenses, casino vendor licenses, casino junket operator licenses, machine and table licenses, casino-related application fees, renewal fees, or casino-gaming related regulatory fees of any kind established by and charged by the Commission shall be deposited into the CCCRF Fund. Regulatory fines or penalties imposed by the Commission shall be deposited into the CCCRF Fund. Any money or property received by the Commission from any other government or governmental agency or entity of any kind whatsoever, except for monies appropriated to the Commission by commonwealth law, shall be deposited into the CCCRF Fund ~~The CCCRF Fund shall be subject to annual appropriation beginning fiscal year 2017.~~ The Secretary of Finance shall transfer any balance in or owed to its CCCRF fund existing on the effective date of this act to the CCCRF Fund established by the Commonwealth Casino Commission. The CCCRF shall be expended by the Commonwealth Casino Commission for the operation, personnel, and all other expenses of the Commission including but not limited to the investigation and licensing of key

employees, employees, service providers, vendors, junket applicants, machines, gaming tables, and any other fees and costs associated with reviewing the applications for various licenses. The expenditure authority for the Commission shall be the Chairperson of the Commonwealth Casino Commission or his designee. The CCCRF Funds are earmarked for the Commission's use in regulating the casino licensee and the casino industry and are not subject to further appropriation in the annual appropriations and are available without fiscal year limitation. The ~~Secretary of Finance~~ Commission shall maintain records and account for the expenditures made from the ~~CCAF and~~ CCCRF Fund."

**Section 10. Amendment.** Section 2309(g) of Title Four of the Commonwealth Code is hereby amended as follows:

"(g) Notwithstanding Section 2309(f) and 2314(l) of this chapter, the casino regulatory fee of $3,000,000.00 for fiscal year 2016 is hereby appropriated to the Commonwealth Casino Commission for its personnel and operations expenditures. The expenditure authority of the funds appropriated herein shall be the chairperson of the Commission or his designee. ~~Subsequent casino regulatory fee payments shall be subject to appropriation as provided in Section 2314(l).~~ The Commission is authorized to hire or fill 35 full-time employee positions for FY2016. Thereafter, as an autonomous

1 agency, the Commission shall determine its staffing levels for full-
2 time, part-time, seasonal and temporary employees."
3 **Section 11. Amendment.** Section 2309 of Title Four of the
4 Commonwealth Code is hereby amended by the addition of a new subsection as
5 follows:
6 "(i) The Commonwealth Casino Commission shall establish and maintain
7 a Commonwealth Casino Commission Appropriations Fund (CCCA
8 Fund) to be kept separate and apart from the general funds of the
9 Commonwealth government. The monies appropriated to it pursuant
10 to law shall be deposited into the CCCA Fund. Unless otherwise
11 directed by the appropriating body, the expenditure authority for the
12 Commission shall be the Chairperson of the Commonwealth Casino
13 Commission or his designee."
14 **Section 12. Amendment.** Section 2313(a) of Title Four of the
15 Commonwealth Code is hereby amended as follows:
16 "(a) The Commonwealth Casino Commission is hereby established as an
17 autonomous public agency of the government of the Commonwealth
18 of the Northern Mariana Islands. As an autonomous public agency,
19 it shall establish and maintain its own bank accounts, process the
20 payroll of its members and employees, process payment for its
21 operational expenses, and handle procurement and travel matters
22 pursuant to regulations enacted therefore. The Commission shall

1 enact its own procurement policy, travel policy, personnel policy,
2 personnel classification structure, and a salary schedule for its
3 employees; 1 CMC §8246, §8248, §8251, and §8252, and 1 CMC
4 §7407 shall not apply to any employee of the Commonwealth Casino
5 Commission."
6 **Section 13. Amendment.** Section 2314 of Title Four of the
7 Commonwealth Code is hereby amended by the addition of subsections as
8 follows:
9 "(m) To require and demand access to and inspect, examine, photocopy,
10 and audit all papers, books and records of the casino licensee or any
11 vendor licensee, service provider licensee, or junket licensee on its
12 premises or elsewhere as practical, including inspecting the gross
13 income produced by the licensee's business and verification of their
14 income, and all other matters affecting the enforcement of the
15 Commission's policy or as required pursuant to this chapter.
16 (n) To conduct investigative hearings which may be conducted by one or
17 more members with the concurrence of a majority of the
18 Commission with public notice, or by a hearing examiner appointed
19 by the Commission, with or without public notice, at such times and
20 places, within or without the Commonwealth, as may be convenient.
21 The Commission may have a working meeting and meet in an open
22 or closed meeting, with or without notice, within or without the

1 Commonwealth, to discuss and deliberate about any matter over
2 which the Commission has jurisdiction. Final action shall only occur
3 in an open meeting after appropriate notice has been given the
4 public.
5 (o) Notwithstanding any other provision of law, to determine which
6 information in its possession, including but not limited to all forms,
7 applications, contracts, security plans, lists, internal procedures of
8 licensees, orders, or documents of any kind, without regard to the
9 manner of storage of the information, be it physical, electronic or
10 otherwise, is unsuitable for public disclosure due to safety concerns
11 or privacy concerns and to withhold the same from public inspection,
12 copying or disclosure. The Commission may determine which
13 information is suitable for disclosure and allow the disclosure and
14 dissemination of the information.
15 (p) To have the sole authority to amend or revoke the license granted to
16 the casino operator by the Commonwealth Lottery Commission for
17 operating in an unsuitable manner due to violations of law, breaches
18 of the license or violations of the Regulations promulgated by the
19 Commission, as well as any other reason for revocation or
20 termination stated in the License. If the Commission revokes the
21 license issued by the Commonwealth Lottery Commission, the
22 Commonwealth Casino Commission shall have the sole authority to

1 re-issue a new casino gaming license. At least four affirmative votes
2 by Commission members shall be required to issue a new casino
3 license. The Commission shall have the sole authority to amend or
4 revoke any other license granted by the Commission.
5 (q) To suspend, from time to time, in whole or in part, in the best interests
6 of the Commonwealth, any provision of any regulation promulgated
7 by the Commission.
8 (r) The Commission or any of its members has full power and authority to
9 issue subpoenas and compel the attendance of witnesses at any place
10 within the Commonwealth, to administer oaths, receive evidence,
11 and to require testimony under oath. The Commission or any
12 member thereof may appoint hearing examiners who may issue
13 subpoenas, administer oaths, and receive evidence and testimony
14 under oath.
15 (s) The Commission may pay transportation and other expenses of
16 witnesses as it may deem reasonable and proper. Notwithstanding
17 any other provision of law, the Commission may require any
18 licensee or applicant which is the subject of the hearing to pay for all
19 costs and expenses of said hearing, including the expenses of any
20 witness.
21 (t) The Commission may initiate regulatory proceedings or actions
22 appropriate to enforce the provisions of the gambling, or gaming

1 laws of the Commonwealth and the regulations promulgated thereto,
2 when appropriate shall, in conjunction with the Attorney General,
3 sue civilly to enforce the provisions of the gambling and gaming
4 laws of the Commonwealth and the regulations promulgated thereto,
5 and may request that the Attorney General prosecute any public
6 offense committed in violation of any provision of gambling or
7 gaming laws of the Commonwealth.
8 (u) To have sole jurisdiction to resolve disputes between patrons of a
9 licensed casino facility subject to regulation by the Commission, and
10 the licensee wherein the patron is attempting to collect a payout or
11 other debt. The Commission shall provide by regulation the
12 procedures by which disputes are to be resolved and may impose
13 charges and fees therefore. Notwithstanding any other law to the
14 contrary, the Commission's decisions on patron disputes may be
15 reviewed by the Commonwealth Superior Court which may affirm
16 the decision and order of the Commission or the hearing examiner,
17 or it may remand the case for further proceedings, or reverse the
18 decision only if the substantial rights of the petitioner have been
19 prejudiced because the decision is:
20 (1) In violation of constitutional provisions;
21 (2) In excess of the statutory authority or jurisdiction of the
22 Commission or the hearing examiner; or

1 (3) Unsupported by any evidence whatsoever.

2 (v) To have sole jurisdiction to determine whether a person or entity
3 requires licensure or a finding of suitability in order to own, be
4 employed by, receive revenue or profits (whether directly or
5 indirectly) from, or do business with, a licensed casino facility
6 subject to regulation by the Commission, regardless of the location
7 of the person or entity. Further, the Commission shall have sole
8 jurisdiction to determine whether a person or entity remains suitable
9 in order to continue to own, be employed by, receive revenue or
10 profits (whether directly or indirectly) from, or continue to do
11 business with, a casino facility regulated by the Commission.
12 Notwithstanding any other law to the contrary, the Commission's
13 decisions on licensure or finding of suitability may be reviewed by
14 the Commonwealth Superior Court which may affirm the decision
15 and order of the Commission or the hearing examiner, or it may
16 remand the case for further proceedings, or reverse the decision only
17 if the substantial rights of the petitioner, applicant or license holder
18 have been prejudiced because the decision is:

19 (1) In violation of constitutional provisions;

20 (2) In excess of the statutory authority or jurisdiction of the
21 Commission or the hearing examiner; or

22 (3) Unsupported by any evidence whatsoever.

(w) The Commission shall have the authority to require performance and completion bonds in any amount agreeable to the Commission or any other means of assurance acceptable to the Commission that the project will be timely and fully completed, free of any mechanic's or other liens, prior to or during the construction of any facility that houses a facility or entity which requires a license from the Commission. The Commission may regulate the interior design, cleanliness or sanitation of any portion of the integrated resort, or other facility which requires or has a license issued by the Commission.

(x) To allow gaming to commence at any time, and in such locations in Saipan, as the Commission deems appropriate.

(y) Notwithstanding any other provision of law, the Commonwealth Casino Commission shall have all oversight responsibility and authority necessary to assure compliance with this chapter, including but not limited to authority over: the commencement of operations and achieving minimum initial investment requirements. The Commission shall approve the casino licensee's set number of games, such as, but not limited to, slot machines or gaming tables, either in total or by category, or by location.

(z) To regulate the advertising, regardless of location, of any casino or other facility subject to licensure by the Commission.

(aa) Self-Exclusion: The Commission may create self-exclusion programs in which problem gamblers or problem gamers, may, and any licensed casino or other facility licensed by the Commission must participate. Such programs may include, but not be limited to, provisions which require problem gamblers to forfeit to the Commonwealth any chips, credits or wagering instruments of any kind on their possession in any facility from which they have been excluded, as well as provisions requiring any licensed facility to forfeit to the Commonwealth any or all of a self-excluded patron's losses if the excluded person is permitted to gamble or game once they have self-excluded.

(bb) The Commission may accept money and property from other governments and governmental agencies and entities as a result in inter- and intra- governmental cooperation.

(cc) The Commission may exercise any proper power and authority necessary to perform the duties assigned to it by the Legislature, and is not limited by any enumeration of powers in this section."

**Section 14.** **Amendment.** Section 10101(y)_of Title Six of the Commonwealth Code is hereby amended by the addition of a new subsection as follows:

1 "(21) Employees of the Commonwealth Casino Commission Division of
2 Enforcement & Investigations-and the Commonwealth Casino
3 Commission's members, executive director, and legal counsel."
4 **Section 15. Amendment.** Section 8282 of Title One of the
5 Commonwealth Code is amended by adding the following new subsection as
6 follows:
7 "(u) Employees of the Commonwealth Casino Commission Division of
8 Enforcement & Investigations-and the Commonwealth Casino
9 Commission's members, executive director, and legal counsel."
10 **Section 16. Amendment.** Title Six of the Commonwealth Code is
11 hereby amended with the addition of a new section as follows:
12 **"Section xxxx: Wearing mask, hood, or other device on licensed**
13 **property.**
14 (a) No person shall enter upon or into any casino gaming establishment in
15 the Commonwealth regardless of location, while wearing any mask,
16 hood, false whiskers, personal disguise (whether complete or partial)
17 or other device whereby any portion of the face is so hidden,
18 concealed, or covered as to conceal the identity of the wearer:
19 (1) With the intent to intimidate, steal from, threaten, abuse, or
20 harass any other person; or
21 (2) While she or he is engaged in conduct that could
22 reasonably lead to the institution of a civil or criminal

1 proceeding against her or him, with the intent of avoiding
2 identification in such a proceeding.
3 (b) This section shall not apply to persons wearing head coverings, veils
4 that do not cover the entire face, or the like pursuant to religious
5 beliefs or customs.
6 (c) Any person who violates (a) shall be punished by imprisonment for not
7 more than 12 months, fined not more than $3,000, or both."
8 **Section 17. Amendment.** The Commonwealth Code is hereby amended
9 by the addition of a section as follows:
10 "**Section xxxx. Order of court for release of confidential information:**
11 **Procedure.**
12 (a) An application to a court for an order requiring the Commission or its
13 members or employees to release any information declared by law or
14 regulation or Commonwealth Casino Commission Order to be
15 confidential or otherwise unsuitable for public copying, review or
16 disclosure shall be made only upon motion in writing on 10 court
17 days' written notice to the Commission, the Attorney General and all
18 persons who may be affected by the entry of such order. Copies of
19 the motion and all papers filed in support of it shall be served with the
20 notice by delivering a copy in person or by certified mail to the last
21 known address of the person to be served.

1 (b) The motion may not be granted over the Commission's objection
2 unless the Court finds by clear and convincing evidence that the
3 substantial rights of the requestor will be gravely prejudiced absent
4 the release of the information, and that no other means to obtain the
5 information sought exist from any other source or combination of
6 sources within or without the Commonwealth. Mere monetary
7 damage, no matter how great, is not grave prejudice to the substantial
8 rights of the requestor.
9 (c) For the purposes of this section, a 'court day' is a day the
10 Commonwealth Superior Court is open to hear cases and transact
11 other business.
12 (d) Notwithstanding any other provision of law to the contrary, in any
13 action to obtain information that the Commission has deemed
14 confidential, or not subject to public inspection, review or copying,
15 each side shall bear its own costs, fees and attorneys fees without
16 regard to who is the prevailing party."
17 **Section 18. Amendment.** The Commonwealth Code is hereby amended
18 by the addition of a section as follows:
19 **"Section xxxx. Commonwealth Casino Commission may refuse to**
20 **reveal certain matters in court or administrative proceedings.** The
21 Commonwealth Casino Commission may refuse to reveal, in any court or
22 administrative proceeding except a criminal proceeding brought by the

1 Commonwealth or the United States, the identity of an informant, or the
2 information obtained from the informant, or both the identity and the
3 information."
4 **Section 19. Amendment.** The Commonwealth Code is hereby amended
5 by the addition of a section as follows:
6 **"Section xxxx. Contracts or agreements with certain unsuitable or**
7 **unlicensed persons prohibited; termination of contract or agreement.**
8 (a) A person who has:
9 (1) Been denied a license by the Commonwealth Casino
10 Commission;
11 (2) Been found unsuitable by the Commonwealth Casino
12 Commission; or
13 (3) Had a license or finding of suitability revoked by the
14 Commonwealth Casino Commission; shall not enter or attempt
15 to enter into any contract or agreement with:
16 (i) a holder of any license granted by the Commonwealth
17 Casino Commission; or
18 (ii) an applicant for any license granted by the Commonwealth
19 Casino Commission; either directly or indirectly, through
20 any business organization under such a person's control,
21 that involves the operations of a licensee or applicant
22 without the prior approval of the Commission. This

provision does not prohibit any person from purchasing any goods or services for personal use from a licensee or applicant at retail prices that are available to the general public.

(b) Every contract or agreement with a person that is subject to the provisions of subsection (a) shall be deemed to include a provision for its termination without liability on the part of the licensee or applicant. Failure to expressly include that condition in the contract or agreement is not a defense in any action brought pursuant to this section to terminate the agreement."

**Section 20. Amendment.** The Commonwealth Code is hereby amended by the addition of a section as follows:

"**Section xxxx. Remedies are cumulative.** The remedies of the Commonwealth Casino Commission, the Commonwealth, its political subdivisions and agencies for the imposition, collection and payment of any penalty, fine, fee, license fees, taxes, and interest provided for in the Commonwealth Code, the regulations of the Commission, and the regulations of any other government agency are cumulative to each other and any action taken or not taken by the Commission, the Commonwealth or any agency does not constitute an election by the Commonwealth, the Commission or any other agency to pursue or not pursue any remedy to the exclusion of any other remedy for which provision is made in the Code or any regulation."

1 **Section 21. Amendment.** The Commonwealth Code is hereby amended
2 by the addition of a section as follows:
3 "**Section xxxx. Remuneration, contracts and employment prohibited**
4 **for certain unsuitable or unlicensed persons.** If any person who is required by
5 law or the regulations promulgated by the Commonwealth Casino Commission to
6 be licensed or found suitable because of the person's connection with a
7 corporation, partnership, limited partnership, limited-liability company or other
8 business organization holding or applying for a license, or a holding company or
9 intermediary company, including a publicly traded corporation, fails to apply for a
10 license or a finding of suitability after being requested to do so by the
11 Commission or is denied a license or a finding of suitability, or if the person's
12 license or finding of suitability is revoked, the corporation, partnership, limited
13 partnership, limited-liability company, business organization, holding company,
14 intermediary company or any person who directly or indirectly controls, is
15 controlled by or is under common control with the corporation, partnership,
16 limited partnership, limited-liability company, business organization, holding
17 company or intermediary company shall not, and any licensee or an affiliate of the
18 licensee shall not, after receipt of written notice from the Commission:
19 (a) Pay the person any remuneration for any service relating to the
20 activities of a licensee, except for amounts due for services rendered
21 before the date of receipt of notice of such action by the Commission.
22 Any contract or agreement for personal services or the conduct of any

activity at a licensed gaming establishment between a former employee whose employment was terminated because of failure to apply for a license or a finding of suitability, denial of a license or finding of suitability, or revocation of a license or a finding of suitability, or any business enterprise under the control of that employee and the licensee, holding or intermediary company or registered publicly traded corporation is subject to termination. Every such agreement shall be deemed to include a provision for its termination without liability on the part of the licensee upon a finding by the Commission that the business or any person associated therewith is unsuitable to be associated with a gaming enterprise. Failure expressly to include such a condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement.

(b) Enter into any contract or agreement with the person or with a business organization that the licensee knows or under the circumstances reasonably should know is under the person's control which involves the operations of a licensee, without the prior approval of the Commission.

(c) Employ the person in any position involving the activities of a licensee without prior approval of the Commission."

1 **Section 22. Amendment.** The Commonwealth Code is hereby amended
2 by the addition of a section as follows:
3 "**Section xxxx. Inspections**
4 (a) The Commonwealth Casino Commission may inspect every game,
5 gaming device, gambling device, electronic table game, and
6 associated equipment which is manufactured, sold or distributed for
7 use in the Third Senatorial District, before it is put into play and may
8 inspect every game, gaming device, gambling device, electronic table
9 game, and associated equipment, which is offered for play or
10 possessed by any person within the Third Senatorial District, by the
11 gaming licensee, or by any other licensee or person required to be
12 licensed by the Commission.
13 (b) The Commission may inspect all associated software and equipment
14 used with a game, gaming device, gambling device, electronic
15 gaming machine, electronic table game, which is manufactured, sold
16 or distributed for use in the Third Senatorial District before the
17 equipment or system is installed or used by a licensee or any other
18 person as well as at any time while the licensee or any other person
19 possesses, tests, validates, or uses the equipment, software, or system.
20 (c) The Commission may determine, charge, and collect an inspection
21 and/or test validation fee from each manufacturer, seller, distributor,
22 casino gaming licensee, other licensee, or independent testing

1 laboratory for the inspection and validation of any game, gaming
2 device, gambling device, electronic gaming machine, electronic table
3 game, or associated software or associated equipment subject to the
4 Commission's authority."

5 **Section 23. Amendment.** The Commonwealth Code is hereby amended
6 by the addition of a section as follows:

7 "**Section xxxx. Contempt.** If any person in proceedings before the
8 Commonwealth Casino Commission disobeys or resists any lawful order or
9 refuses to respond to a subpoena, or refuses to take the oath or affirmation as a
10 witness or thereafter refuses to be examined, or is guilty of misconduct during the
11 hearing or so near the place thereof as to obstruct the proceeding, the Commission
12 may certify the facts to the Commonwealth Superior Court where the proceedings
13 are held. The court shall thereupon issue an order directing the person to appear
14 before the court and show cause why the person should not be punished as for
15 contempt. The court order and a copy of the statement of the Commission must be
16 served on the person cited to appear. Thereafter, the court has jurisdiction of the
17 matter, and the same proceedings must be had, the same penalties may be
18 imposed and the person charged may purge himself or herself of the contempt in
19 the same way as in the case of a person who has committed a contempt in the trial
20 of a civil action before the Superior court."

21 **Section 24. Amendment.** The Commonwealth Code is hereby amended
22 with the addition of a new section as follows:

1 **"Section xxxx. Malfunctions.**

2 (a) When wagering, gambling, gaming or in any way using any gambling
3 machine, gaming machine, electronic gaming machine, or electronic
4 table game, any malfunction of the machine (either hardware or
5 software) voids all plays and pays.

6 (b) The Commonwealth Casino Commission may determine what
7 constitutes a malfunction of gambling machine, gaming machine,
8 electronic gaming machine, or electronic table game hardware and
9 software in the Third Senatorial District."

10 **Section 25. Amendment.** The Commonwealth Code is hereby amended
11 by the addition of a new section as follows:

12 **"Section xxxx. Enforcement.**

13 (a) The Division of Enforcement and Investigations, a division of the
14 Commonwealth Casino Commission, and any other inspector, agent
15 or employee of the Commission appointed by the Executive Director
16 shall have the primary responsibility and authority to enforce the
17 provisions of the gambling and gaming laws of the Commonwealth
18 and the regulations promulgated thereunder. This authority shall be
19 concurrent with the authority of any other law enforcement agency as
20 provided by law.

21 (b) Any agent, inspector or other person who is authorized by the
22 Executive Director of the Commonwealth Casino Commission to

enforce the provisions of: the casino and gambling laws or gaming laws of the Commonwealth; and the regulations promulgated thereunder may:

(1) Arrest any person, if there exists probable cause to believe that such person committed an act in violation of the casino, gambling or gaming laws and regulations of the Commonwealth;

(2) Seize any evidence related to any violation of any provision of the casino, gaming, or gambling laws and regulations of the Commonwealth;

(3) Execute any warrant or other process issued by a court of competent jurisdiction.

(c) If the Commonwealth Casino Commission enters into a mutual agreement with any other casino or gaming commission established by local law or referendum within the CNMI which provides for the rendering of assistance, any agent, inspector or other person who is authorized by the Executive Director of the Commonwealth Casino Commission to enforce the provisions of the casino, gaming, and gambling laws of the Commonwealth, and the regulations promulgated thereunder may assist the other local commission in the enforcement of the local laws and regulations promulgated thereunder both in the Third Senatorial District and the senatorial district in

which the requesting commission is located. Such assistance is hereby declared to be within the scope of the Casino Commission agent's jurisdiction and duties as a law enforcement officer of the Commonwealth.

(d) If the Commonwealth Casino Commission enters into a mutual agreement with any other law enforcement agency which provides for the rendering of assistance, any agent who is authorized by the Executive Director of the Commonwealth Casino Commission to enforce the provisions of the casino, gaming, and gambling laws of the Commonwealth, and the regulations promulgated thereunder may assist the other law enforcement agency in the enforcement of the laws and regulations enforced by the other law enforcement agency in the other agency's jurisdiction within or without the Third Senatorial District. Such assistance is hereby declared to be within the scope of the Casino Commission agent's jurisdiction and duties as a law enforcement officer of the Commonwealth."

**Section 26. Amendment.** The Commonwealth Code is hereby amended by the addition of a new section as follows:

**"Section xxxx. Jurisdiction.**

(a) The jurisdiction of the Commonwealth Casino Commission shall extend throughout the entirety of the Commonwealth of the Northern

1 Mariana Islands as may be necessary to enforce the casino, gambling
2 and gaming laws of the Commonwealth including, but not limited to:
3 (1) all places within the CNMI which are casinos regulated by the
4 Commonwealth Casino Commission;
5 (2) all persons or facilities in the CNMI which are required by law
6 or regulation to be licensed by the Commonwealth Casino
7 Commission;
8 (3) all places in the Third Senatorial District where casino gaming
9 devices, casino gambling devices, or their software or
10 constituent parts (whether licensed or unlicensed) are found.
11 (b) The jurisdiction of the Commonwealth Casino Commission shall
12 extend outside the Third Senatorial District to any location within or
13 without the Commonwealth where any: gambling device; gaming
14 device; (or hardware or software component thereof); or any
15 gambling or gaming accessory; which is to be shipped to the Third
16 Senatorial District is found, or where any applicant for a license
17 issued by the Commission is found."
18 **Section 27. Amendment.** The Commonwealth Code is hereby amended
19 by the insertion of the following Section as follows:
20 "**Section xxxx.** Notwithstanding any other law to the contrary, no person
21 may obtain a lien on any machine or part thereof which is regulated by the
22 Commonwealth Casino Commission unless that person first obtains permission

1 from the Commonwealth Casino Commission and a license from the Commission
2 prior to entering into the transaction which purports to create the security
3 interest."
4 **Section 28. Amendment.** Section 4804 of Title 4 of the Commonwealth
5 Code is hereby amended as follows:
6 **" § 4804. Effect of Operating Agreement; Nonwaivable Provisions.**
7 (a) Except as otherwise provided in subsections (b) and (c), all members
8 of a limited liability company may enter into an operating agreement,
9 which need not be in writing, to regulate the affairs of the company
10 and the conduct of its business, and to govern relations among the
11 members, managers, and company. To the extent the operating
12 agreement does not otherwise provide, this Act governs relations
13 among the members, managers, and company.
14 (b) The operating agreement may not:
15 (1) Unreasonably restrict a right to information or access to records
16 under Section 4858;
17 (2) Eliminate the duty of loyalty under Section 4859(b) or
18 4883(b)(3), but the agreement may:
19 (i) Identify specific types or categories of activities that do not
20 violate the duty of loyalty, if not manifestly unreasonable;
21 and

(ii) Specify the number or percentage of members or disinterested managers that may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(3) Unreasonably reduce the duty of care under Section 4859(c) or 4883(b)(3);

(4) Eliminate the obligation of good faith and fair dealing under section 4859(d), but the operating agreement may determine the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(5) Vary the right to expel a member in an event specified in Section 4881(6);

(6) Vary the requirement to wind up the limited liability company's business in a case specified in Section 4901(a)(3) or (a)(4); ~~or~~

(7) Restrict rights of a person, other than a manager, member, and transferee of a member's distributional interest, under this Act; or

(8) Limit or amend in any way the requirements of (c) or 4 CMC 4823(d).

(c) The operating agreement of any limited liability company which has applied for or been granted by the Commonwealth Lottery Commission or Commonwealth Casino Commission a casino gaming

license or any other license which is now or in the future subject to regulation by the Commonwealth Casino Commission must be in writing and shall include any language required by the Commonwealth Casino Commission by regulation as well as language substantially as follows:

(1) Notwithstanding anything to the contrary expressed or implied in the articles or this agreement, the sale, assignment, transfer, pledge or other disposition of any interest in the limited-liability company is ineffective unless approved in advance by the Commonwealth Casino Commission. If at any time the Commission finds that a member which owns any such interest is unsuitable to hold that interest, the Commission shall immediately notify the limited-liability company of that fact. The limited-liability company shall, within 10 days from the date that it receives the notice from the Commission, return to the unsuitable member the amount of his capital account as reflected on the books of the limited-liability company. Beginning on the date when the Commission serves notice of a determination of unsuitability, pursuant to the preceding sentence, upon the limited-liability company, it is unlawful for the unsuitable member:

1 (A) To receive any share of the distribution of profits or cash
2 or any other property of, or payments upon dissolution
3 of, the limited-liability company, other than a return of
4 capital as required above;
5 (B) To exercise directly or through a trustee or nominee, any
6 voting right conferred by such interest;
7 (C) To participate in the management of the business and
8 affairs of the limited-liability company; or
9 (D) To receive any remuneration in any form from the
10 limited-liability company, for services rendered or
11 otherwise.
12 (2) Any member that is found unsuitable by the Commission shall
13 return all evidence of any ownership in the limited-liability
14 company to the limited-liability company, at which time the
15 limited-liability company shall within 10 days, after the limited-
16 liability company receives notice from the Commission, return
17 to the member in cash, the amount of his capital account as
18 reflected on the books of the limited-liability company, and the
19 unsuitable member shall no longer have any direct or indirect
20 interest in the limited-liability company."

1 **Section 29. Amendment.** Section 4823 of Title Four of the
2 Commonwealth Code is hereby amended by the addition of a new subsection as
3 follows:
4 "(d) The articles of organization of any limited liability company which
5 has been granted a casino gaming license, or any other license which
6 is now or in the future subject to regulation by the Commonwealth
7 Casino Commission must be in writing and shall include any
8 language required by the Commonwealth Casino Commission by
9 Order or regulation as well as language substantially as follows:
10 (1) Notwithstanding anything to the contrary expressed or implied
11 in these articles, the sale, assignment, transfer, pledge or other
12 disposition of any interest in the limited-liability company is
13 ineffective unless approved in advance by the Commonwealth
14 Casino Commission. If at any time the Commission finds that a
15 member which owns any such interest is unsuitable to hold that
16 interest, the Commission shall immediately notify the limited-
17 liability company of that fact. The limited-liability company
18 shall, within 10 days from the date that it receives the notice
19 from the Commission, return to the unsuitable member the
20 amount of his capital account as reflected on the books of the
21 limited-liability company. Beginning on the date when the
22 Commission serves notice of a determination of unsuitability,

pursuant to the preceding sentence, upon the limited-liability company, it is unlawful for the unsuitable member:

(A) To receive any share of the distribution of profits or cash or any other property of, or payments upon dissolution of, the limited-liability company, other than a return of capital as required above;

(B) To exercise directly or through a trustee or nominee, any voting right conferred by such interest;

(C) To participate in the management of the business and affairs of the limited-liability company; or

(D) To receive any remuneration in any form from the limited-liability company, for services rendered or otherwise.

(2) Any member that is found unsuitable by the Commission shall return all evidence of any ownership in the limited-liability company to the limited-liability company, at which time the limited-liability company shall within 10 days, after the limited-liability company receives notice from the Commission, return to the member in cash, the amount of his capital account as reflected on the books of the limited-liability company, and the unsuitable member shall no longer have any direct or indirect interest in the limited-liability company."

1 **Section 30. Repealer.** Section 15 of Public Law 19-24 is hereby repealed
2 in its entirety.
3 **Section 31. Amendment.** The Commonwealth Code is hereby amended
4 by the addition of a new subsection as follows:
5 "**Section xxxx. Sovereign Immunity.** Subject to Article X Section 9 of
6 the Commonwealth Constitution, a person may not sue the Commonwealth
7 Casino Commission, its members, an employee of Commission, or any official or
8 employee of the Commonwealth, in either their official or personal capacities, for
9 performing or omitting to perform any duty, function, or power of the
10 Commonwealth Casino Commission."
11 **Section 32. Amendment.** Section 2317 of Title Four of the
12 Commonwealth Code is hereby amended by the addition of a new subsection (g)
13 as follows:
14 "(g) License not Property Right. A license granted by the Commonwealth
15 Casino Commission:
16 (1) Is a purely personal privilege;
17 (2) Is valid for the period stated in the license, unless sooner
18 revoked;
19 (3) Is renewable only as provided or allowed by the Commission by
20 Regulation;
21 (4) Is revocable or suspendable as provided by the Commission by
22 Regulation;

(5) Is transferable from the premises for which the license was originally issued to another premises subject to the provisions of the gaming laws of the Commonwealth or the regulations promulgated thereunder, and other applicable laws and regulations;

(6) Expires upon the death of the licensee, except as may be provided by the Commission by Regulation;

(7) Does not constitute property;

(8) Is not alienable;

(9) Is not subject to attachment or execution;

(10) Does not descend by the laws of testate or intestate devolution."

**Section 33. Amendment.** Title Six of the Commonwealth Code is hereby amended by the addition of the following Article as follows:

**"Article x Crimes involving gaming**

**Section 1. Definitions.** As used in this Article:

(a) "Associated equipment" means any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming, any game, race or sports book or pool that would not otherwise be classified as a gaming device, including dice, playing cards, links which connect to progressive slot machines, equipment which affects the proper

1 reporting of gross revenue, computerized systems of betting at a race
2 book or sports pool, computerized systems for monitoring slot
3 machines and devices for weighing or counting money.
4 (b) "Cashless wagering system" means a method of wagering and
5 accounting in which the validity and value of a wagering instrument
6 or wagering credits are determined, monitored and retained by a
7 computer operated and maintained by a licensee which maintains a
8 record of each transaction involving the wagering instrument or
9 wagering credits, exclusive of the game or gaming device on which
10 wagers are being made. The term includes computerized systems
11 which facilitate electronic transfers of money directly to or from a
12 game or gaming device.
13 (c) "Cheat" means to alter the elements of chance, method of selection or
14 criteria which determine:
15 (1) The result of a game;
16 (2) The amount or frequency of payment in a game;
17 (3) The value of a wagering instrument; or
18 (4) The value of a wagering credit.
19 (d) "Commission" means the Commonwealth Casino Commission.
20 (e) "Game" means any activity that includes elements of prize,
21 consideration, and chance; or any "game" that is approved by the
22 Commission for the casino's purposes.

(f) "Gaming" means to deal, operate, carry on, conduct, maintain, expose for play, or the playing of any game;

(g) "Gaming device" means any object used remotely or directly in connection with casino gaming or any game which affects the result of a wager by determining win or loss and which does not otherwise constitute associated equipment. The term includes, without limitation:

(1) A slot machines or other electronic gaming machines (EGMs), however styled.

(2) A collection of two or more of the following components:

(A) An assembled electronic circuit which cannot be reasonably demonstrated to have any use other than in a slot machine or in a electronic gaming machine;

(B) A cabinet with electrical wiring and provisions for mounting a coin, token or currency acceptor and provisions for mounting a dispenser of coins, tokens or anything of value;

(C) An assembled mechanical or electromechanical display unit intended for use in gambling or gaming; or

(D) An assembled mechanical or electromechanical unit which cannot be demonstrated to have any practical use other than in a slot machine.

(3) Any object which may be connected to or used with a slot machine to alter the normal criteria of random selection or affect the outcome of a game.

(4) A system for the accounting or management of any game in which the result of the wager is determined electronically by using any combination of hardware or software for computers.

(5) A control program, which includes any software, source language or executable code which affects the result of a wager by determining win or loss as determined pursuant to regulations adopted or orders issued by the Commission.

(6) Any combination of one of the components set forth in paragraphs (A) to (D), inclusive, of this subsection and any other component which the Commission determines by regulation to be a machine used directly or remotely in connection with gaming or any game which affects the results of a wager by determining a win or loss.

(7) Any object that has been determined to be a gaming device pursuant to regulations adopted or orders issued by the Commission.

(h) "Wager" or "Wagering" means a contract in which two or more parties agree that a sum of money or other thing, tangible or intangible, shall be paid or delivered to one of them or that shall gain or lose on the

1 happening of an uncertain event or upon the ascertainment of a fact in
2 dispute.
3 (i) "Wagering credit" means a representative of value, other than a chip,
4 token or wagering instrument approved by the Commonwealth
5 Casino Commission, that is used for wagering at a game, gaming
6 device, race book or sports pool and is obtained by the payment of
7 cash or a cash equivalent, the use of a wagering instrument or the
8 electronic transfer of money.
9 **Section 2. Fraudulent acts.** It is unlawful for any person:
10 (a) To alter or misrepresent the outcome of a game or other event on
11 which wagers have been made after the outcome is made sure but
12 before it is revealed to the players.
13 (b) To place, increase or decrease a bet or to determine the course of play
14 after acquiring knowledge, not available to all players, of the outcome
15 of the game or any event that affects the outcome of the game or
16 which is the subject of the bet or to aid anyone in acquiring such
17 knowledge for the purpose of placing, increasing or decreasing a bet
18 or determining the course of play contingent upon that event or
19 outcome.
20 (c) To claim, collect or take, or attempt to claim, collect or take, money or
21 anything of value in or from a gambling game, with intent to defraud,

without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won.

(d) To place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets.

(e) To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets.

(f) To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

(g) To offer, promise or give anything of value to anyone for the purpose of influencing the outcome of a race, sporting event, contest or game upon which a wager may be made, or to place, increase or decrease a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised or given anything of value for the purpose of influencing the outcome of the race, sporting event, contest or game upon which the wager is placed, increased or decreased.

1 **Section 3. Use or possession of device, lenses, software or hardware to**
2 **obtain advantage at playing game prohibited.** It is unlawful for any person to
3 use, possess with the intent to use or assist another person in using or possessing
4 with the intent to use any computerized, electronic, electrical or mechanical
5 device, or any software or hardware, or any lens, contact lens, or eyeglasses or
6 eyewear, or any combination thereof, which is designed, constructed, altered or
7 programmed to obtain an advantage at playing any game in an establishment
8 licensed by the Commission, including, without limitation, a device that:
9 (a) Projects the outcome of the game;
10 (b) Keeps track of cards played or cards prepared for play in the game;
11 (c) Analyzes the probability of the occurrence of an event relating to the
12 game; or
13 (d) Analyzes the strategy for playing or betting to be used in the
14 game,except as may be made available as part of an approved game
15 or otherwise permitted by the Commission.
16 **Section 4. Counterfeit, unapproved or unlawful instruments or items.**
17 (a) It is unlawful for any person, in playing or using any gambling game,
18 associated equipment or cashless wagering system designed to be
19 played with, receive or be operated by chips, tokens, wagering credits
20 or other wagering instruments approved by the Commission or by
21 lawful coin or bills of the United States of America knowingly to use
22 other than chips, tokens, wagering credits or other wagering

1 instruments approved by the Commission or lawful coin or bills, legal
2 tender of the United States of America, or to use coin or tokens not of
3 the same denomination as the coin or tokens intended to be used in
4 that gambling game, associated equipment or cashless wagering
5 system.
6 (b) It is unlawful for any person, neither a duly authorized employee of a
7 licensee regulated by the Commission nor a law enforcement officer
8 or member or agent of the Commission acting in furtherance of such
9 employment, to have on his or her person or in his or her possession
10 on or off the premises of any licensed gaming establishment any key
11 or device known to have been designed for the purpose of and
12 suitable for opening, entering or affecting the operation of any
13 gambling game, cashless wagering system or drop box, or any
14 electronic or mechanical device connected thereto, or for removing
15 money or other contents therefrom.
16 (c) Possession of more than one of the devices, equipment, products or
17 materials described in this section permits a rebuttable inference that
18 the possessor intended to use them for cheating.
19 **Section 5. Cheating.** It is unlawful for any person, whether the person is
20 a licensee or employee of, or a player in, an establishment licensed by the
21 Commission, to cheat at any game played in an establishment licensed by the
22 Commission.

**Section 6. Unlawful manufacture, sale, distribution, marking, altering or modification of equipment and devices associated with gaming.**

(a) It is unlawful to manufacture, sell or distribute any cards, chips, dice, game or device which is intended to be used to violate any provision of this Article.

(b) It is unlawful to mark, alter or otherwise modify any associated equipment or gaming device which should be or is regulated by the Commission, in a manner that:

(1) Affects the result of a wager by determining win or loss; or

(2) Alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.

**Section 7. Penalties.**

(a) A person who violates any provision of Section 2 through Section 6, inclusive, is guilty of a felony and shall be punished:

(1) For the first offense, by imprisonment for a maximum term of not more than 6 years, or by a fine of not more than $50,000, or by both fine and imprisonment.

(2) For a second or subsequent violation of any of these provisions, by imprisonment for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and shall be further punished by a fine of not more than $50,000. The court

shall not suspend a sentence of imprisonment imposed pursuant to this paragraph, or grant probation to the person convicted.

(3) Notwithstanding the foregoing, for

(b) A person who attempts, or two or more persons who conspire, to violate any provision of Section 2 through Section 6, inclusive, each is guilty of a felony and shall be punished by imposing the penalty provided in subsection 1 for the completed crime, whether or not he or she personally played any gambling game or used any prohibited device."

**Section 34. Amendment.** The Commonwealth Code is hereby amended by the addition of a new section as follows:

"(a) Any entity licensed by the Commonwealth Lottery Commission or Commonwealth Casino Commission shall not deduct from gross revenue an unpaid balance on any credit instrument extended for gambling or gaming."

**Section 35. Amendment.** Subection 2313(b)(4) of Title 4 of the Commonwealth Code is hereby amended as follows:

"(4) Each member shall serve a term of six years, except that of the members first appointed, two shall serve a term of four years, and three shall serve a term of six years~~, however, each member shall serve one term~~. No member shall serve more than two terms. A term of a member is defined as the time a member serves as a Commissioner regardless of the duration. This provision shall be effective as of May 1st, 2014."

1

2 **Section 36. Severability.** If any provisions of this Act or the application
3 of any such provision to any person or circumstance should be held invalid by a
4 court of competent jurisdiction, the remainder of this Act or the application of its
5 provisions to persons or circumstances other than those to which it is held invalid
6 shall not be affected thereby.

7 **Section 37. Savings Clause.** This Act and any repealer contained herein
8 shall not be construed as affecting any existing right acquired under contract or
9 acquired under statutes repealed or under any rule, regulation, or order adopted
10 under the statutes. Repealers contained in this Act shall not affect any proceeding
11 instituted under or pursuant to prior law. The enactment of the Act shall not have
12 the effect of terminating, or in any way modifying, any liability, civil or criminal,
13 which shall already be in existence on the date this Act becomes effective.

14 **Section 38. Effective Date.** This Act shall take effect upon its approval
15 by the Governor, or its becoming law without such approval

Prefiled: 5/20/17

Date: 5/20/17 Introduced By: _____

Reviewed for Legal Sufficiency by:

_____
House Legal Counsel

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Anderson Jibas**

**Questions from Ranking Member Maria Cantwell**

**Question 1:** Mayor Jibas, your written testimony speaks to a plan to revive your tourism, and to initiate income-generating projects that will promote a diving operation and take advantage of the United Nations designation of Bikini Atoll as a World Heritage Site.

I also note that former Senator J. Bennet Johnston who helped establish the trust fund fears the recent actions by the Department of the Interior may result in the fund's depletion. In the event that your tourism plans produce insufficient income and the Trust Fund is depleted, how else will you ensure funding for your people?

**ANSWER TO QUESTION 1:** *The revival and expansion of the tourism potential at Bikini Atoll is just one prong of a many pronged action to produce income that will be sufficient to not only eliminate the need for Resettlement Trust Fund monies in Kili/Bikini/Ejit's ("KBE") annual operating budget, but will also be adding revenue to the KBE accounts. The other prongs of producing income involve: 1) the leasing of KBE's 2 landing crafts that were just acquired. Many atolls and organizations need cargo and passenger transportation from Majuro to their home atolls, and the net revenue expected from the operations of these 2 landing crafts is approximately $1 million per year; 2) Bikinians borrow extensively from local lenders and from the Bank of the Marshall Islands. The local lenders charge exorbitant fees as does the Bank of the Marshall Islands. KBE plans to open up a lending institution that will keep loan fees down, and also bring revenue to KBE. There are other income-generating ideas in the works but will take a year or two to develop, as these ideas involve other investors an as KBE leverages it's money to make the best partnerships that will produce optimum revenue.*

**Question 2:** Are you certain that the people of Bikini are prepared to exhaust the trust fund and not return to the Department of the Interior to ask for additional funds? Are you prepared to exhaust the trust fund and not return to the Congress to ask for additional funds?

**ANSWER TO QUESTION 2:** *The KBE Council and the People of Bikini understand that the United States has made it clear that there is no more money, even in the future. The People of Bikini want the U.S. to return Bikini Atoll back to the condition that Bikini Atoll was before the nuclear testing began in 1946. The People of Bikini want to live on their home island, safely. In a year 2000 Nuclear Claims Tribunal decision, Bikini was awarded $251.5 million toward the cleanup of Bikini Atoll, however the U.S. never funded that award, and may never fund that award. Bikinians understand that the U.S. is walking away from its responsibility because the money in the Resettlement Trust Fund was $251.5 million short of the amount needed to clean up Bikini Atoll, and the U.S. is saying "don't come back for any more money." As such, the People of Bikini are not looking at exhausting the Resettlement Trust Fund, in fact, the opposite is true. The People of Bikini want to take charge of their own future by using the Resettlement Trust Fund to attract more money to KBE so that the People of Bikini can find ways to clean up their beloved homeland, Bikini Atoll, and return home.*

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Anderson Jibas**

**Questions from Senator Mazie K. Hirono**

**Question 1:** You state in your testimony that you will be leveraging Bikini Resettlement Trust funds to attract investments in tourism, infrastructure development, restoration of land and also plan income-generating projects including developing a "world-class diving operation" that will eventually lead to a lesser reliance on the Resettlement Trust Fund. Could you provide details on these plans including a cost-benefit analysis, how these plans were developed, to what extent the Bikinian community provided input as well as projected income, and impacts to the long-term viability of the Resettlement Trust Fund?

**ANSWER TO QUESTION 1**: *We have formed the Bikini Atoll Development Authority ("BADA") chaired currently by former President of the Marshall Islands, Kessai Note. BADA, in conjunction with the Kili/Bikini/Ejit ("KBE") elected Council, are currently developing an overall strategic infrastructure and development plan for Bikini Atoll, with outside consultants. Details of these plans will be forthcoming. Unfortunately, with the limited annual budgets of the past, the People of Bikini were unable to even consider developing projects on Bikini Atoll, but now, understanding the need for proper planning, the People of Bikini see a light at the end of the tunnel, so to speak, where they have a cleaned-up Bikini Atoll, free of radiation that the U.S. placed on their full atoll and never cleaned it up. However, even though Bikini Atoll is still radioactively unsafe for habitation, tourism and other projects can develop. The Bikinian community has elected the KBE Council, and most of the Council live on Kili Island where many meetings are held in public and the KBE Community is made aware of plans and projects. Every project is approved by the KBE elected Council before proceeding.*

**Question 2:** How much of the $11 million you have withdrawn from the Resettlement Trust Fund in Fiscal Year 2018 will be used for health care and how will the funds be distributed for this purpose? How were the funds used in the past as far as covering health care costs? Were any of the Resettlement Trust funds used to provide health care for Bikinians in the United States including the State of Hawaii?

**ANSWER TO QUESTION 2**: *Fiscal Year 2018 will be the first year in a long time that the KBE Council will be able to spend money on health care. This fiscal year, instead of spending money directly to the service provider, KBE Council is paying for premiums for KBE constituents to join the RMI Supplemental Health Care program. This Supplemental Health Care Program offers off-island care in Hawaii, the Philippines, and Taiwan in plans negotiated between the RMI National Government and those health care providers in Hawaii, the Philippines, and Taiwan. To cover one family, KBE spends $180 per month. This year we have budgeted $1,084,000 toward health care premiums. However, we also support the co-payments for off-island care, as well as other lodging and out-of-pocket expenses the patient and one escort would need during the time of service. In the past, KBE set up its own health care plan, but lost too much money in that coverage. Now, joining the RMI's existing Supplemental Health Care Program, KBE constituents can receive good off-island coverage for many health care*

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Anderson Jibas**

*needs. The Basic Health Care program in the RMI covers hospital visits to the hospital in Majuro for $5 per visit, but there is also the 177 clinic which KBE constituents go for free coverage for minor health care needs such as coughs and colds, etc.*

**Question 3:** What specific safeguards do you have in place to ensure the long-term viability of the Bikini Resettlement Trust Fund?

**ANSWER TO QUESTION 3**: *The elected council of the KBE government will always know the balance of the Resettlement Trust Fund as they make decisions on their annual budget, and project budgets. The KBE Council understands that they cannot meet the needs of the displaced KBE community as well as generate income with the budgets of the past years. Those unrealistic budgets caused continued hardships to the displaced population, and problems just kept building up year after year. Now, with proper planning and with vision, the KBE Council can ensure that projects are undertaken that will produce revenue to eventually eliminate the need for reliance on the Resettlement Trust Fund.*

**Questions from Senator Catherine Cortez Masto**

**Question 1:** You have stated that Bikinians themselves should have sole responsibility for deciding how and when to spend the Resettlement Trust Fund. What process does the KBE Council go through to inform or get feedback from the public prior to making spending decisions?

**ANSWER TO QUESTION 1**: *The democratically elected KBE Council approves an annual budget for the KBE community operations each year, just as Congress does in the U.S. This process is open for feedback and then the Council passes a budget. Then when projects come up during the fiscal year that require more spending, then the democratically elected KBE Council holds a meeting to discuss the pros and cons of the project and then passes a resolution to proceed or not to proceed.*

**Question 2:** How does long-term planning and budgeting factor into your expected use of the Trust Fund?

**ANSWER TO QUESTION 3**: *As stated in the answer to one of Senator Hirono's questions, Kili/Bikini/Ejit ("KBE") has formed the Bikini Atoll Development Authority ("BADA") chaired currently by former President of the Marshall Islands, Kessai Note. BADA, in conjunction with the elected KBE Council, are currently developing an overall strategic infrastructure and development plan for Bikini Atoll, with outside consultants. Details of these plans will be forthcoming. Unfortunately, with the limited annual budgets of the past, the People of Bikini were unable to even consider developing projects on Bikini Atoll, but now, understanding the need for proper planning, the People of Bikini see a light at the end of the tunnel, so to speak, where they have a cleaned-up Bikini Atoll, free of radiation that the U.S. placed on their full atoll and never cleaned it up. However, even though Bikini Atoll is still radioactively unsafe for*

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to the Honorable Anderson Jibas**

*habitation, tourism and other projects can develop, using the relatively clean lagoon for fishing and dive and submarine tourism, and also the very good surfing around Bikini Atoll.*

Anderson Jibas
Mayor
Kili/Bikini/Ejit Local Government

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to Dr. David Gootnick**

**Questions from Senator Cortez Masto**

**Question 1: The idea behind gradually decreasing the number of CW visas available is for the CNMI to rely steadily more on an American workforce and less on foreign labor. However, your testimony shows that foreign workers have consistently made up at least half of the CNMI workforce. Do you see a realistic path forward for the commonwealth to make this transition from foreign to domestic workers?**

**Response:** Our May 2017 report[1] outlined several of the challenges for the CNMI to transition from foreign to domestic workers, in particular (1) a lower minimum wage in the CNMI than its U.S. neighbors and (2) difficulty in recruiting domestic residents or other U.S.-eligible workers.

Lower Minimum Wage than U.S. Neighbors

Our 2017 report found that a majority of CNMI workers were paid the minimum wage in 2016. We estimated that by the time the federal minimum wage in the CNMI reaches $7.25 on September 30, 2018, approximately 68 percent of CNMI's wage workers will be directly affected by the wage increase. As of March 2018, the CNMI's minimum wage is $7.05 per hour, or 20 cents lower than the U.S. federal minimum wage of $7.25 per hour. Meanwhile, two of the CNMI's neighbors (Guam and Hawaii) have minimum wages of $8.25 and $10.10 per hour, respectively, according to the U.S. Department of Labor. Hence, wages for construction workers and other occupations offered in the CNMI may not have been sufficiently high to attract domestic or other U.S.-eligible workers. According to the CNMI's 2014 Prevailing Wage Survey, in construction domestic workers were paid an average hourly wage of $9.60, while foreign workers were paid an average hourly wage of $7.20.

Difficulty in Recruiting and Retaining Domestic Residents or Other U.S.-Eligible Workers

Transitioning from foreign to domestic workers would require CNMI employers to recruit (1) unemployed domestic residents in the labor force; (2) domestic residents who are not in the

[1]GAO, *Commonwealth of the Northern Mariana Islands: Implementation of Federal Minimum Wage and Immigration Laws*, GAO-17-437 (Washington, D.C.: May 18, 2017).

labor force; (3) new high school graduates; (4) new college graduates; or (5) other U.S.-eligible workers from the region, such as workers from the freely associated states (the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau).[2] The number of workers in these categories is limited. Specifically,

- *Unemployed domestic residents in the labor force* (2,386 in 2016, according to the CNMI's 2016 Health Survey[3])
- *Domestic residents not in the labor force* (9,272 in 2016, according to the CNMI's 2016 Health Survey)
- *New high school graduates* (678 in 2016, according to data provided by the CNMI's Public School System)
- *New college graduates* (204 in 2016, according to data provided by the Northern Marianas College)
- *Other U.S.-eligible workers from the region* (736 workers from the freely associated states were employed in 2016, according to CNMI tax data, but in previous years the number of such workers was much larger[4])

The CNMI employers we interviewed for our May 2017 report identified multiple challenges in recruiting and retaining domestic residents or other U.S.-eligible workers, such as high costs of recruitment and high turnover, among others.

- *High costs of recruitment*—One employer that recruited nine workers from the U.S. mainland told us that relocation costs were very high. Another large employer told us that costs of relocation to Saipan were extremely expensive and could not be circumvented, particularly for middle-management positions. In addition, a U.S.-CNMI government report released in

[2]Under the Compacts of Free Association, citizens of the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau can move to and work in the CNMI without a visa.

[3]The survey states that "unemployed" consists largely of CNMI residents in the labor force who were not working but were looking for work and who were U.S. citizens and permanent residents aged 16 or over. Of the 2,386 unemployed domestic residents, 1,916 were born in the CNMI, 73 were born in U.S. areas, 136 were naturalized, and 261 were noncitizens who classified themselves as permanent residents. See *Current CNMI Labor Force Participation and Unemployment, Based on the 2016 CNMI Health Survey*, by the Central Statistics Division, CNMI Department of Commerce, and Dr. Michael J. Levin, June 3, 2016.

[4]For example, in 2003, 1,909 workers from the freely associated states were employed in the CNMI, according to CNMI tax data.

January 2017 stated that representatives from one company spent more than $1 million to recruit and relocate 120 U.S. workers to Saipan, but half of them left after a typhoon in 2015.[5]

- *High turnover and low retention*—The geographical distance and remoteness of the CNMI from Hawaii and the U.S. mainland make it difficult to retain U.S. workers. One employer told us that U.S. workers it had successfully recruited from California stayed for less than 3 months because of the long distance from home, among other factors. The four local workers that an employer hired to replace one CW-1 worker each stayed with the employer for 2 weeks or less. Meanwhile, all of the local workers that another employer recruited through an apprenticeship program left within 2 years to take higher-paying jobs with the CNMI government, according to the employer.

- *Lower minimum wage*— In interviews we conducted with CNMI employers, one employer said that if the minimum wage in the CNMI equals the minimum wage in the U.S. mainland, it would be easier to recruit from the mainland. Another employer stated that a higher minimum wage would attract more domestic workers to work in the CNMI who would otherwise take jobs in Guam, Hawaii, or the U.S. mainland, where wages are higher.

These CNMI employers revealed several strategies to recruit U.S. workers to the CNMI: one employer collaborated closely with the Northern Marianas Trades Institute, another relied on an apprenticeship program offered by the Public School System, one tried to recruit workers from Puerto Rico, and another entered into a contract with a labor recruiter in Micronesia. The CW program's education fee ($200 for each foreign worker) provides significant funding for vocational training.[6]

[5]Special Representatives of the United States and the Commonwealth of the Northern Mariana Islands, *Report to the President on 902 Consultations* (U.S. Department of the Interior and Commonwealth of the Northern Mariana Islands: January 2017).

[6]Revenue from the CW program's education fee totaled $1.5 million in 2016.

**Question 2: What would you say is the primary issue affecting U.S. worker unemployment in the CNMI?**

**Response:** As we reported in May 2017, the CNMI's unemployed domestic workforce was estimated at 2,386 in 2016, according to the 2016 Health Survey.[7] While the overall rate of CNMI unemployment was 14 percent in 2016, it was 20 percent for workers born in the CNMI, according to the survey.[8]

Before fiscal year 2016, CNMI employers filled jobs with foreign workers without reaching the numerical limit on available CW-1 permits. In some cases, CNMI employers recruited skilled foreign workers and paid them less than U.S. workers. According to the 2014 CNMI Prevailing Wage Survey, the average wage for U.S. citizens was almost $11, or about $3.50 more than the average wage for noncitizens.

A mismatch between available jobs and the skills of the unemployed domestic workforce is often cited as a possible reason for high unemployment in studies of the labor market.[9] It was also cited by some employers we interviewed as a reason for unemployment in the CNMI. For example, a casino representative noted that domestic workers lacked foreign language and other necessary skills to serve VIP clients and that this required the casino to recruit foreign workers. A CNMI construction employer reported that it is impossible to find thousands of domestic construction workers that are needed for all of the new development and renovation projects on Saipan and that many domestic workers lack relevant technical skills. Approximately 3,486 foreign workers obtained CW-1 permits for constructions jobs in fiscal year 2016.[10]

[7]The unemployment rate was obtained by dividing those not working but looking for work by the number in the labor force.

[8]The survey concluded that while the CNMI has reasonable labor force participation, its unemployment rates by sex, by age, by ethnicity, and by education remain higher than those found in the United States.

[9]See David S. Lourghran, *Why Is Veteran Unemployment So High? Five Hypotheses for High Veteran Unemployment* (RAND Corporation, 2014); and Ayşegül Şahin, Joseph Song, Giorgio Topa, and Giovanni L. Violante, "Mismatch Unemployment," *The American Economic Review*, vol. 104, no. 11 (2014).

[10]Although the Northern Marianas Trades Institute offered courses in construction, among other subjects, the institute's senior officers told us that in fiscal year 2016, 300 students were enrolled in the institute's fall, spring, and summer sessions and as of November 2016, 132 of these students had found employment after completing the training.

In February 2017, the U.S. Department of Justice launched its Protecting U.S. Workers Initiative, aimed at targeting, investigating, and bringing enforcement actions against companies that discriminate against U.S. workers in favor of foreign visa workers. In December 2017, the U.S. Attorney's Office for Guam and the Northern Marina Islands reported that a CNMI employer paid nine U.S. citizen workers pursuant to a settlement with the U.S. Department of Justice. The settlement resolved claims that the CNMI employer discriminated against the U.S. workers in favor of temporary foreign visa workers. The department found in its investigation that the employer routinely refused to hire qualified U.S. citizens and other work-authorized individuals for dishwashing positions, preferring to fill the positions with temporary foreign workers.

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to Mr. Jack Niedenthal**

**Questions from Ranking Member Maria Cantwell**

**Question 1:** Mr. Niedenthal, given our grappling with how to balance Congressional oversight to ensure the fund remains for many years to come with an equally strong deference and respect for the independence of the people of Bikini, what would you suggest as a compromise path forward?

**Response:** The United States made a commitment to the people of Bikini Atoll in 1946 to take care them no matter where they found themselves, be it adrift on a raft at sea or on a sandbar, and that they would be taken care of as if they were "America's children." Although I will be the first to say that the process of going to OIA every year with a proposed budget from the Bikini Council was torturous as it involved a lot of back and forth between the Council and OIA with myself and our attorney Jonathan Weisgall typically caught in the middle, it was necessary on a number of different levels:

1) It kept the US government engaged with the people of Bikini. These negotiations forced an annual discussion that ensured that the US government knew the Bikinians were still out there and still struggling.
2) It ensured the long-term viability of the trust fund, which is in the direct interest of both the US government and the people of Bikini. It was a win-win situation that had produced more than $220 million over 30 years or so. As I said in my testimony, the system wasn't broken, so why did the US Interior Department break it? The US may rightly believe that it no longer has any legal obligations to the people of Bikini, but it does have a moral obligation because of the promises that were made to our elders decades ago on Bikini before they were moved, which at the end of the day will become very meaningful to the public at large if that trust fund is totally squandered and the Bikinians find themselves destitute, with DOI being the ultimate enablers.
3) Congress either deals with this problem now (and believe me, the clock is ticking as this money is getting spent fast), or you will need to deal with it later. The Bikinians passed that resolution in an enormously precarious way, with no public hearing for all the people of Bikini, just a little publicized Council meeting in a tiny room above the Town Hall in Majuro. The resolution was never filed with the RMI government either, as is required under Marshall Islands Government law, which brings into question the validity of the resolution. Why would OIA not do any kind of due diligence before destroying a 30 year-old agreement? OIA did not inform Congress, the US State Department, the RMI government, and most importantly, it did not inform the people of Bikini of these changes as only the very tight circle of the Kili/Bikini/Ejit Local Government Council (KBE) leadership knew of these proposed changes. The new lawyer for the people of Bikini, a former OIA employee, never came out to explain these proposed changes to the people of Bikini.

My solution is a simple one: put into law what we had been doing since 1990. Make OIA approve the overall annual budget each year – not each category – with the long-term viability of the trust as the measure of the amount of money that is approved for the annual budget each year.

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to Mr. Jack Niedenthal**

Then the KBE will decide how to break down the budget amount, category by category. This solution answers your question: It "ensure[s] the fund remains for many years to come with an equally strong deference and respect for the independence of the people of Bikini." It preserves the independence of the Bikinians, yet ensures that the trust will be around for a long time and that the Bikinian people will be cared for. This perpetual trust fund concept is not a new one. There is currently a trust fund in place for the entire Marshall Islands, overseen in part by the U.S. Government. Moreover, under the Compact of Free Association Section 177 Agreement, the U.S. Government created four compensation trust funds for the peoples of the four nuclear atolls that were impacted by the US nuclear testing, including Bikini. All of these nuclear victim groups now have perpetual compensation trust funds. Incidentally, the Bikinians' trust fund, called the Bikini Claims Trust Fund, limits annual distributions to 5% of corpus, and that trust fund has grown steadily since its creation.

**Question 2:** Can you explain to the Committee how the every day Bikinian will experience the consequences of the Department of Interior's decision?

**Response:** In a very short amount of time most Bikinians will have nothing, while the current tight circle of Bikinian leadership, along with their attorney, will become very wealthy. Most Bikinians totally depend on this trust for their livelihoods and to take care of their families (except for small amounts received under the Bikini Claims Trust Fund). As I said in the hearing, my concern about the viability of the trust gets overridden by my concern about the viability of the survival of the people of Bikini should this trust fund disappear in a few years. When the people of Bikini run out of money, you will hear the anguished cries all across the media about how the US Department of Interior destroyed this trust fund. Because of that Domenech letter of November 16, 2017, OIA is now unquestionably the enabler of the demise of this trust fund. I don't know how OIA can claim that it can't continue having oversight over this trust fund by stating that it is "not federal money," but at the same time in Assistant Secretary Domenech's letter to the Mayor of Bikini he mentions that OIA will continue to restrict and monitor the fund in two ways:

**U.S. Senate Committee on Energy and Natural Resources**
**February 6, 2018 Hearing: Pending Legislation**
**Questions for the Record Submitted to Mr. Jack Niedenthal**

Although the Rescript serves to revise the 1988 Amended Resettlement Trust Fund Agreement pursuant to Section 10.1 of that agreement, the Rescript does not and cannot affect any statutory provision concerning the Secretary of the Interior's actions with respect to the Trust Fund. Two

such provisions are currently extant. First, the U.S. Congress enacted legislation whereby the Secretary "may," in his discretion, "approve expenditures not to exceed $2,000,000 in any year from income for projects on Kili or Ejit." Pub. L. No. 100-446, 102 Stat. 1798 (Sept. 27, 1988). And second, the U.S. Congress has directed that "one year prior to the completion of the rehabilitation and resettlement program, the Secretary of the Interior shall report to Congress on future funding needs on Bikini Atoll." *Id.*

Either these are federal funds and can be regulated, or they are not, but they can't be both.

**Question 3:** Is there anything else you feel the Committee needs to know about the implications of the Department of the Interior's decision?

**Response:** I would suggest the following as a way of saving the trust fund. If these actions are not taken immediately, then the trust will be severely damaged and probably won't be recoverable for future generations of Bikinian people.

1) In order to save the financial integrity of the trust, the chairman and ranking member of this committee should direct the Interior Department to freeze all trust fund expenditures until FY2020 (October of 2019) due to the enormous amount of money that has already been taken out of the trust this current fiscal year ($15.7 million, or about 20% of the market value of the trust). The amount already taken out of the trust this fiscal year represents about twice as much as in previous years should be currently expended on an annual basis if you want
2) Require a full report of all expenditures that have been expended from the trust for the current FY2018 by calling for an immediate audit of these funds. I say this because of the shady way this all played out with no warnings, no public hearings, no due diligence by OIA, and no accountability regarding how these large amounts of money have been spent. The people of Bikini, deserve – and the US Congress should want - a full accounting of how all of these funds were spent.

II

115TH CONGRESS
1ST SESSION

# S. 2182

To provide for the resettlement and relocation of the people of Bikini.

---

IN THE SENATE OF THE UNITED STATES

DECEMBER 1, 2017

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

---

# A BILL

To provide for the resettlement and relocation of the people of Bikini.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Bikini Resettlement and Relocation Act".

**SEC. 2. RESETTLEMENT AND RELOCATION FOR THE PEOPLE OF BIKINI.**

The matter under the heading "TRUST TERRITORY OF THE PACIFIC ISLANDS" under the heading "OFFICE OF TERRITORIAL AFFAIRS" under the heading "DEPARTMENT OF THE INTERIOR" in chapter VIII of

1 title I of the Supplemental Appropriations Act, 1982
2 (Public Law 97–257; 96 Stat. 840), is amended by strik-
3 ing the first proviso and inserting "*Provided*, That such
4 funds, including funds provided pursuant to the Depart-
5 ment of the Interior and Related Agencies Appropriations
6 Act, 1989 (Public Law 100–446; 102 Stat. 1774), shall
7 be available for the relocation and resettlement of the Bi-
8 kini people living on Kili and Ejit Islands, subject to the
9 right of disapproval of the Secretary of the Interior, with
10 the exercise of the right to continue until the date on
11 which the Secretary of the Interior submits to the Com-
12 mittee on Energy and Natural Resources of the Senate
13 and the Committee on Natural Resources of the House
14 of Representatives a resettlement plan developed in coordi-
15 nation with the Bikini Atoll leadership: *Provided further*,
16 That, until the date on which a resettlement plan approved
17 by the Secretary of the Interior has been submitted to
18 each of the Committee on Energy and Natural Resources
19 of the Senate and the Committee on Natural Resources
20 of the House of Representatives, for any fiscal year, an-
21 nual expenditures from the Resettlement Fund established
22 by this section and pursuant to the Department of the
23 Interior and Related Agencies Appropriations Act, 1989
24 (Public Law 100–446; 102 Stat. 1774), may not exceed
25 5 percent of the principal of the Fund, based on the aver-

1 age market value of the Fund for the previous 5 fiscal
2 years, as determined as of September 30 of each fiscal
3 year:''.

○

115TH CONGRESS
2D SESSION

# S. 2325

# AN ACT

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

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Northern Mariana Islands U.S. Workforce Act".

**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to increase the percentage of United States workers (as defined in section 6(i) of the Joint Resolution entitled "A Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes" (48 U.S.C. 1806)) in the total workforce of the Commonwealth of the Northern Mariana Islands, while maintaining the minimum number of workers who are not United States workers to meet the changing demands of the Northern Mariana Islands' economy;

(2) to encourage the hiring of United States workers into such workforce; and

(3) to ensure that no United States worker—

(A) is at a competitive disadvantage for employment compared to a worker who is not a United States worker; or

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

**SEC. 3. TRANSITIONAL PROVISIONS.**

(a) IN GENERAL.—Section 6 of the Joint Resolution entitled "A Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes" (48 U.S.C. 1806) is amended—

(1) in subsection (a)—

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

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

"(6) FEES FOR TRAINING UNITED STATES WORKERS.—

"(A) SUPPLEMENTAL FEE.—

"(i) IN GENERAL.—In addition to fees imposed pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) to recover the full costs of adjudication services, the Secretary shall impose an annual supplemental fee of $200 per nonimmigrant worker on each prospective employer who is issued a permit under subsection (d)(3) during the transition program. A prospective employer that is issued a permit with a validity period of

1 longer than 1 year shall pay the fee for
2 each year of requested validity at the time
3 the permit is requested.
4 "(ii) INFLATION ADJUSTMENT.—Be-
5 ginning in fiscal year 2020, the Secretary,
6 through notice in the Federal Register,
7 may annually adjust the supplemental fee
8 imposed under clause (i) by a percentage
9 equal to the annual change in the Con-
10 sumer Price Index for All Urban Con-
11 sumers published by the Bureau of Labor
12 Statistics.
13 "(iii) USE OF FUNDS.—Amounts col-
14 lected pursuant to clause (i) shall be de-
15 posited into the Treasury of the Common-
16 wealth Government for the sole and exclu-
17 sive purpose of funding vocational edu-
18 cation, apprenticeships, or other training
19 programs for United States workers.
20 "(iv) FRAUD PREVENTION AND DE-
21 TECTION FEE.—In addition to the fees de-
22 scribed in clause (i), the Secretary—
23 "(I) shall impose, on each pro-
24 spective employer filing a petition
25 under this subsection for 1 or more

nonimmigrant workers, a $50 fraud prevention and detection fee; and

"(II) shall deposit and use the fees collected under subclause (I) in accordance with section 286(v)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(B)).

"(B) PLAN FOR THE EXPENDITURE OF FUNDS.—Not later than 120 days before the first day of fiscal year 2020, and annually thereafter, the Governor of the Commonwealth Government shall submit to the Secretary of Labor—

"(i) a plan for the expenditures of amounts deposited under subparagraph (A)(iii);

"(ii) a projection of the effectiveness of such expenditures in the placement of United States workers into jobs held by non-United States workers; and

"(iii) a report on the changes in employment of United States workers attributable to expenditures of such amounts during the previous year.

"(C) DETERMINATION AND REPORT.—Not later than 120 days after receiving each expenditure plan under subparagraph (B)(i), the Secretary of Labor shall—

"(i) issue a determination on the plan; and

"(ii) submit a report to Congress that describes the effectiveness of the Commonwealth Government at meeting the goals set forth in such plan.

"(D) PAYMENT RESTRICTION.—Payments may not be made in a fiscal year from amounts deposited under subparagraph (A)(iii) before the Secretary of Labor has approved the expenditure plan submitted under subparagraph (B)(i) for that fiscal year.";

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

"(3) REPORT.—Not later than December 1, 2027, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate, the Committee on the Judiciary of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that—

"(A) projects the number of asylum claims the Secretary anticipates following the termination of the transition period; and

"(B) describes the efforts of the Secretary to ensure appropriate interdiction efforts, provide for appropriate treatment of asylum seekers, and prepare to accept and adjudicate asylum claims in the Commonwealth.";

(3) in subsection (d)—

(A) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively;

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

"(2) PROTECTION FOR UNITED STATES WORKERS.—

"(A) TEMPORARY LABOR CERTIFICATION.—

"(i) IN GENERAL.—Beginning with petitions filed with employment start dates in fiscal year 2020, a petition to import a nonimmigrant worker under this subsection may not be approved by the Secretary unless the petitioner has applied to

the Secretary of Labor for a temporary labor certification confirming that—

"(I) there are not sufficient United States workers in the Commonwealth who are able, willing, qualified, and available at the time and place needed to perform the services or labor involved in the petition; and

"(II) employment of the nonimmigrant worker will not adversely affect the wages and working conditions of similarly employed United States workers.

"(ii) PETITION.—After receiving a temporary labor certification under clause (i), a prospective employer may submit a petition to the Secretary for a Commonwealth Only Transitional Worker permit on behalf of the nonimmigrant worker.

"(B) PREVAILING WAGE SURVEY.—

"(i) IN GENERAL.—In order to effectuate the requirement for a temporary labor certification under subparagraph (A)(i), the Secretary of Labor shall use, or

make available to employers, an occupational wage survey conducted by the Governor that the Secretary of Labor has determined meets the statistical standards for determining prevailing wages in the Commonwealth on an annual basis.

"(ii) ALTERNATIVE METHOD FOR DETERMINING THE PREVAILING WAGE.—In the absence of an occupational wage survey approved by the Secretary of Labor under clause (i), the prevailing wage for an occupation in the Commonwealth shall be the arithmetic mean of the wages of workers similarly employed in the territory of Guam according to the wage component of the Occupational Employment Statistics Survey conducted by the Bureau of Labor Statistics.

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

"(i) the statutory minimum wage in the Commonwealth;

"(ii) the Federal minimum wage; or

"(iii) the prevailing wage in the Commonwealth for the occupation in which the worker is employed.";

(C) by amending paragraph (3), as redesignated, to read as follows:

"(3) PERMITS.—

"(A) IN GENERAL.—The Secretary shall establish, administer, and enforce a system for allocating and determining terms and conditions of permits to be issued to prospective employers for each nonimmigrant worker described in this subsection who would not otherwise be eligible for admission under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

"(B) NUMERICAL CAP.—The number of permits issued under subparagraph (A) may not exceed—

"(i) 13,000 for fiscal year 2019;

"(ii) 12,500 for fiscal year 2020;

"(iii) 12,000 for fiscal year 2021;

"(iv) 11,500 for fiscal year 2022;

"(v) 11,000 for fiscal year 2023;

"(vi) 10,000 for fiscal year 2024;

"(vii) 9,000 for fiscal year 2025;

"(viii) 8,000 for fiscal year 2026;

"(ix) 7,000 for fiscal year 2027;

"(x) 6,000 for fiscal year 2028;

"(xi) 5,000 for fiscal year 2029; and

"(xii) 1,000 for the first quarter of fiscal year 2030.

"(C) REPORTS REGARDING THE PERCENTAGE OF UNITED STATES WORKERS.—

"(i) BY GOVERNOR.—Not later than 60 days before the end of each calendar year, the Governor shall submit a report to the Secretary that identifies the ratio between United States workers and other workers in the Commonwealth's workforce based on income tax filings with the Commonwealth for the tax year.

"(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, the Chair and Ranking Member of the Committee on Natural Resources of the House of Representatives, the Chair and Ranking Member of the Committee on

1 Health, Education, Labor, and Pensions of
2 the Senate and the Chair and Ranking
3 Member of the Committee on Education
4 and the Workforce of the House of Rep-
5 resentatives that identifies the ratio be-
6 tween United States workers and other
7 workers in the Commonwealth's workforce
8 during each of the previous 5 calendar
9 years.
10 "(D) PETITION; ISSUANCE OF PERMITS.—
11 "(i) SUBMISSION.—A prospective em-
12 ployer may submit a petition for a permit
13 under this paragraph not earlier than—
14 "(I) 120 days before the date on
15 which the prospective employer needs
16 the beneficiary's services; or
17 "(II) if the petition is for the re-
18 newal of an existing permit, not ear-
19 lier than 180 days before the expira-
20 tion of such permit.
21 "(ii) EMPLOYMENT VERIFICATION.—
22 The Secretary shall establish a system for
23 each employer of a Commonwealth Only
24 Transitional Worker to submit a semi-
25 annual report to the Secretary and the

1 Secretary of Labor that provides evidence
2 to verify the continuing employment and
3 payment of such worker under the terms
4 and conditions set forth in the permit peti-
5 tion that the employer filed on behalf of
6 such worker.
7 "(iii) REVOCATION.—
8 "(I) IN GENERAL.—The Sec-
9 retary, in the Secretary's discretion,
10 may revoke a permit approved under
11 this paragraph for good cause, includ-
12 ing if—
13 "(aa) the employer fails to
14 maintain the continuous employ-
15 ment of the subject worker, fails
16 to pay the subject worker, fails to
17 timely file a semiannual report
18 required under this paragraph,
19 commits any other violation of
20 the terms and conditions of em-
21 ployment, or otherwise ceases to
22 operate as a legitimate business
23 (as defined in clause (iv)(II));
24 "(bb) the beneficiary of such
25 petition does not apply for admis-

1 sion to the Commonwealth by the
2 date that is 10 days after the pe-
3 riod of petition validity begins, if
4 the employer has requested con-
5 sular processing; or
6 "(cc) the employer fails to
7 provide a former, current, or pro-
8 spective Commonwealth Only
9 Transitional Worker, not later
10 than 21 business days after re-
11 ceiving a written request from
12 such worker, with the original (or
13 a certified copy of the original) of
14 all petitions, notices, and other
15 written communication related to
16 the worker (other than sensitive
17 financial or proprietary informa-
18 tion of the employer, which may
19 be redacted) that has been ex-
20 changed between the employer
21 and the Department of Labor,
22 the Department of Homeland Se-
23 curity, or any other Federal
24 agency or department.

1 "(II) REALLOCATION OF RE-
2 VOKED PETITION.—Notwithstanding
3 subparagraph (C), for each permit re-
4 voked under subclause (I) in a fiscal
5 year, an additional permit shall be
6 made available for use in the subse-
7 quent fiscal year.
8 "(iv) LEGITIMATE BUSINESS.—
9 "(I) IN GENERAL.—A permit
10 may not be approved for a prospective
11 employer that is not a legitimate busi-
12 ness.
13 "(II) DEFINED TERM.—In this
14 clause, the term 'legitimate business'
15 means a real, active, and operating
16 commercial or entrepreneurial under-
17 taking that the Secretary, in the Sec-
18 retary's sole discretion, determines—
19 "(aa) produces services or
20 goods for profit, or is a govern-
21 mental, charitable, or other val-
22 idly recognized nonprofit entity;
23 "(bb) meets applicable legal
24 requirements for doing business
25 in the Commonwealth;

"(cc) has substantially complied with wage and hour laws, occupational safety and health requirements, and all other Federal, Commonwealth, and local requirements related to employment during the preceding 5 years;

"(dd) does not directly or indirectly engage in, or knowingly benefit from, prostitution, human trafficking, or any other activity that is illegal under Federal, Commonwealth, or local law; and

"(ee) is a participant in good standing in the E-Verify program;

"(ff) does not have, as an owner, investor, manager, operator, or person meaningfully involved with the undertaking, any individual who has been the owner, investor, manager, operator, or otherwise meaningfully involved with an undertaking

that does not comply with item (cc) or (dd), or is the agent of such an individual; and

"(gg) is not a successor in interest to an undertaking that does not comply with item (cc) or (dd).

"(v) CONSTRUCTION OCCUPATIONS.—A permit for Construction and Extraction Occupations (as defined by the Department of Labor as Standard Occupational Classification Group 47–0000) may not be issued for any worker other than a worker described in paragraph (7)(B).";

(D) in paragraph (4), as redesignated, by inserting "or to Guam for the purpose of transit only" after "except admission to the Commonwealth";

(E) in paragraph (5), as redesignated, by adding at the end the following: "Approval of a petition filed by the new employer with a start date within the same fiscal year as the current permit shall not count against the numerical limitation for that period."; and

(F) by adding at the end the following:

"(7) REQUIREMENT TO REMAIN OUTSIDE OF THE UNITED STATES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B)—

"(i) a permit for a Commonwealth Only Transitional Worker—

"(I) shall remain valid for a period that may not exceed 1 year; and

"(II) may be renewed for not more than 2 consecutive, 1-year periods; and

"(ii) at the expiration of the second renewal period, an alien may not again be eligible for such a permit until after the alien has remained outside of the United States for a continuous period of at least 30 days prior to the submission of a renewal petition on their behalf.

"(B) LONG-TERM WORKERS.—An alien who was admitted to the Commonwealth as a Commonwealth Only Transitional Worker during fiscal year 2015, and during every subsequent fiscal year beginning before the date of the enactment of the Northern Mariana Islands U.S. Workforce Act, may receive a permit for

a Commonwealth Only Transitional Worker that is valid for a period that may not exceed 3 years and may be renewed for additional 3-year periods during the transition period. A permit issued under this subparagraph shall be counted toward the numerical cap for each fiscal year within the period of petition validity.''; and

(4) by adding at the end the following:

''(i) DEFINITIONS.—In this section:

''(1) COMMONWEALTH.—The term 'Commonwealth' means the Commonwealth of the Northern Mariana Islands.

''(2) COMMONWEALTH ONLY TRANSITION WORKER.—The term 'Commonwealth Only Transition Worker' means an alien who has been admitted into the Commonwealth under the transition program and is eligible for a permit under subsection (d)(3).

''(3) GOVERNOR.—The term 'Governor' means the Governor of the Commonwealth of the Northern Mariana Islands.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

"(5) TAX YEAR.—The term 'tax year' means the fiscal year immediately preceding the current fiscal year.

"(6) UNITED STATES WORKER.—The term 'United States worker' means any worker who is—

"(A) a citizen or national of the United States;

"(B) an alien who has been lawfully admitted for permanent residence; or

"(C) a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau (known collectively as the 'Freely Associated States') who has been lawfully admitted to the United States pursuant to—

"(i) section 141 of the Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia (48 U.S.C. 1921 note); or

"(ii) section 141 of the Compact of Free Association between the United States and the Government of Palau (48 U.S.C. 1931 note).".

1 (b) RULEMAKING.—

2 (1) SECRETARY OF HOMELAND SECURITY.—
3 Notwithstanding the requirements under section
4 553(b) of title 5, United States Code, the Secretary
5 of Homeland Security shall publish in the Federal
6 Register, not later than 180 days after the date of
7 the enactment of this Act, an interim final rule that
8 specifies how the Secretary intends to implement the
9 amendments made by subsection (a) that relate to
10 the responsibilities of the Secretary.

11 (2) SECRETARY OF LABOR.—Notwithstanding
12 the requirements under section 553(b) of title 5,
13 United States Code, the Secretary of Labor shall
14 publish in the Federal Register, not later than 180
15 days after the date of the enactment of this Act, an
16 interim final rule that specifies how the Secretary
17 intends to implement the amendments made by sub-
18 section (a) that relate to the responsibilities of the
19 Secretary.

20 (3) RECOMMENDATIONS OF THE GOVERNOR.—
21 In developing the interim final rules under para-
22 graphs (1) and (2), the Secretary of Homeland Se-
23 curity and the Secretary of Labor—

24 (A) shall each consider, in good faith, any
25 written public recommendations regarding the

implementation of this Act that are submitted by the Governor of the Commonwealth not later than 60 days after the date of the enactment of this Act; and

(B) may include provisions in such rule that are responsive to any recommendation of the Governor that is not inconsistent with this Act, including a recommendation to reserve a number of permits each year for occupational categories necessary to maintain public health or safety in the Commonwealth.

(c) DEPARTMENT OF THE INTERIOR TECHNICAL ASSISTANCE.—Not later than October 1, 2019, and biennially thereafter, the Secretary of the Interior shall submit a report to Congress that describes the fulfillment of the Department of the Interior's responsibilities to the Commonwealth of the Northern Mariana Islands—

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

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

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

1 (d) OUTREACH AND TRAINING.—Not later than 120
2 days after the date on which the Secretary of Labor pub-
3 lishes an interim final rule in the Federal Register in ac-
4 cordance with subsection (b)(2), the Secretary shall con-
5 duct outreach and training in the Commonwealth of the
6 Northern Mariana Islands for employers and workers on
7 the foreign labor certification process set forth in section
8 6 of the Joint Resolution entitled "A Joint Resolution to
9 approve the 'Covenant To Establish a Commonwealth of
10 the Northern Mariana Islands in Political Union with the
11 United States of America', and for other purposes", as
12 amended by subsection (b), including the minimum wage
13 requirement set forth in subsection (d)(2)(C) of such sec-
14 tion.

15 (e) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as specifically other-
17 wise provided, this Act and the amendments made
18 by this Act—

19 (A) shall take effect on the date of the en-
20 actment of this Act; and

21 (B) shall apply to petitions for Common-
22 wealth Only Transitional Workers filed on or
23 after such date.

24 (2) AUTHORITY OF SECRETARY OF HOMELAND
25 SECURITY.—The Secretary of Homeland Security, in

1 the Secretary's discretion, may delay the effective
2 date of any provision of this Act relating to Com-
3 monwealth Only Transition Workers until the effec-
4 tive date of the interim final rule described in sub-
5 section (b), except for provisions providing annual
6 numerical caps for such workers.

Passed the Senate April 23, 2018.

Attest:

*Secretary.*

January 31, 2018

The Honorable Lisa Murkowski
Chairman
United States Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Murkowski:

On behalf of DFS Saipan Limited, I am writing to express our strong support for S. 2325, legislation addressing labor shortage issues in the Commonwealth of the Northern Mariana Islands (CNMI).

DFS is proud to be one of the largest private employers in the CNMI, where we have operated for the past 42 years. I was born in the CNMI and have had the pleasure of working for DFS since it was established 42 years ago.

Your legislation takes an important step in restoring access to labor both for DFS and for many local businesses, large and small. As you know, the CNMI is a remote island chain closer to Asia than the United States, and therefore is is incredibly difficult to recruit and retain domestic labor. Therefore, businesses on our island have historically augmented our labor needs with workers from neighboring Asian countries. We are fortunate to be undergoing an economic expansion for the first time in a decade, and labor is a critical component in ensuring our economy continues to grow. For many years after federalization in 2009, the CNMI's economy was in shambles—there were no jobs and no economic opportunity for our people. Fortunately, now we have many exciting projects underway to attract tourists, which is is the foundation of our economy.

We have appreciated working with your staff and look forward to doing so in the future. We are hopeful that during Committee consideration, the bill could be amended to allow construction workers from any available source regardless of nationality. Currently, the bill as drafted would make it impossible to hire new construction workers from China, which is one of the most important sources for guest labor given China's proximity and desire among its people to find work.

DFS Saipan Limited
Beach Road, Garapan 96950
Commonwealth of the Northern Mariana Islands

Thank you for considering these thoughts. We deeply appreciate your leadership and attention to these matters, and look forward to continuing to work with you and your staff.

Respectfully yours,

Marian Aldan-Pierce
Division President
DFS Saipan Limited
Post Office Box 500528
Saipan, MP 96950-5556

MARIANAS BUSINESS PLAZA

Tel +1.670.234.1610
Cell +1.670.287.4639

PMB 282 Box 10000, Saipan MP 96950
Northern Mariana Islands, USA

eden@marianasbusinessplaza.com
www.marianasbusinessplaza.com

Chwm Lisa Murkowski
Ranking Member Maria Cantwell
Senate Comm. on Energy / Natural Resources
304 Dirksen Senate Bldg
Washington, DC 20510

February 15, 2018

Re: NMI U.S. Workforce Act (HR 4869 and S 2325)

Dear Senators,

I'm writing to express my support for the NMI U.S. Workforce Act (S 2325). Your support is greatly appreciated.

I applaud the bi-partisan efforts for this bill that will mean, quite frankly, the survival of Saipan's way of life.

The economy here has been quite fragile. However, with the passage of this bill into law I believe our island will be able to not only sustain the modest economic growth of the past 3 years, but actually grow much faster. By removing the uncertainty regarding Guest Workers many business owners will make more investment in their businesses. New businesses will spring up as well. Tourism will grow as new and better services and attractions are offered. It goes without saying that this will mean more jobs are available for local families, too.

As business grows, more taxes are generated, particularly Business Gross Revenue Tax, which provides for many island needs. The struggle to upgrade our infrastructure can then move forward with fewer restrictions.

I am also happy to support the training fee program for US workers as provided in the bill. Skilled local workers will do much to improve businesses, and services that they offer.

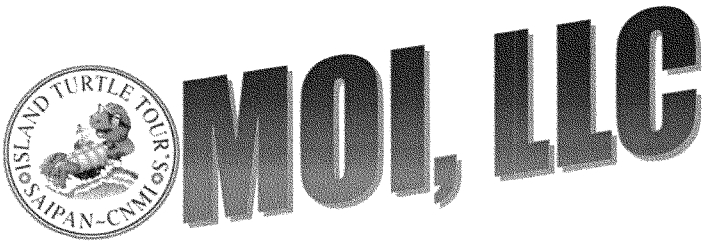
Please urge your colleagues to pass this bill as soon as possible.

Thank you again for your support.

Sincerely yours,

Michael Dilley
MBP Building Manager

cc: US Congressman Gregorio Sablan




PO Box 504704 Saipan, MP 96950
Phone 670.588.2569

Chwm Lisa Murkowski
Ranking Member Maria Cantwell
Senate Comm. on Energy / Natural Resources
304 Dirksen Senate Bldg
Washington, DC 20510

February 15, 2018

Re: NMI U.S. Workforce Act (HR 4869 and S 2325)

Dear Senators,

Please urge your colleagues to pass this bill as soon as possible.

I applaud the bi-partisan efforts for this bill that will mean, quite frankly, the survival of Saipan's way of life.

I'm writing to express my support for the NMI U.S. Workforce Act (S 2325). Your support is also very much appreciated.

The economy here has been quite fragile. However, with the passage of this bill into law I believe our island will be able to not only sustain the modest economic growth of the past 3 years, but actually grow much faster. By removing the uncertainty regarding Guest Workers many business owners will make more investment in their businesses. New businesses will spring up as well. Tourism will grow as new and better services and attractions are offered. It goes without saying that this will mean more jobs are available for local families, too.

As business grows, more taxes are generated, particularly Business Gross Revenue Tax, which provides for many island needs. The struggle to upgrade our infrastructure can then move forward with fewer restrictions.

I am very happy to support the training fee program for US workers as provided in the bill. Skilled local workers will do much to improve businesses, and services that they offer.

Thank you again for your support of this bill.

Sincerely yours,

Michael E. Dilley
Member

cc: US Congressman Gregorio Sablan

PMB 306 P.O. Box 10000
Saipan, MP 96950
Tel.# 234-3600

Chwm Lisa Murkowski
Ranking Member Maria Cantwell
Senate Comm. on Energy / Natural Resources
304 Dirksen Senate Bldg
Washington, DC 20510

February 15, 2018

Re: NMI U.S. Workforce Act (HR 4869 and S 2325)

Dear Senators,

Please urge your colleagues to pass this bill as soon as possible.

I applaud the bi-partisan efforts for this bill that will mean, quite frankly, the survival of Saipan's way of life.

I'm writing to express my support for the NMI U.S. Workforce Act (S 2325). Your support is also very much appreciated.

The economy here has been quite fragile. However, with the passage of this bill into law I believe our island will be able to not only sustain the modest economic growth of the past 3 years, but actually grow much faster. By removing the uncertainty regarding Guest Workers many business owners will make more investment in their businesses. New businesses will spring up as well. Tourism will grow as new and better services and attractions are offered. It goes without saying that this will mean more jobs are available for local families, too.

As business grows, more taxes are generated, particularly Business Gross Revenue Tax, which provides for many island needs. The struggle to upgrade our infrastructure can then move forward with fewer restrictions.

I am very happy to support the training fee program for US workers as provided in the bill. Skilled local workers will do much to improve businesses, and services that they offer.

Thank you again for your support of this bill.

Sincerely yours,

Eden Guillo
Marketing

cc: US Congressman Gregorio Sablan

**Hawaiian Rock Products – Saipan**

Ms. Lisa Murkowski, United States Senator (AK)

Senate Committee on Energy

522 Hart Senate Office Building

Washington, DC 20510

Subject: *CNMI CW WORKER PROGRAM: LETTER IN SUPPORT OF REQUEST BY THE CNMI BUSINESS ALLIANCE FOR EXTENSION OF THE CW GUEST WORKER PROGRAM IN THE NORTHERN MARIANA ISLANDS.*

Dear Senator Murkowski:

Hafa Adai from the Commonwealth of the Northern Mariana Islands ("CNMI"). I am the General Manager for Hawaiian Rock Products (Saipan) and submitting this letter in support of the request by the CNMI Business Alliance and the Government of the CNMI for an extension of the CW guest worker program in the CNMI and the challenges we face in hiring enough qualified employees, both local and guest workers, to operate our business here in the CNMI.

Hawaiian Rock Products (HRP) has been in business in Saipan since 1988. We are well established and the largest supplier of concrete, asphalt, and aggregates in Saipan. In Saipan we have 87 employees that range from quarry operations and crushing, ready mix concrete production and supply, aggregate delivery, and a full mechanic shop to maintain all of our stationary equipment, rolling stock, and track equipment. We are losing 6 CW-1 workers due to the cap on available visas for FY 2018. 4 of our drivers / equipment operators have visas that expire on February 14, 2018 and 2 on March 15, 2018. This may impact our level of service especially on days that customers request larger concrete volumes or may require more time to complete deliveries since we will have fewer trucks available to deliver concrete and aggregates.

We also now fall under the Mining Safety and Health Administration as of April 2017 and are federally registered as a mine. For FY 2019 and beyond HRP will be applying for positions in mining and related occupations.

PMB 139 PPP, P.O. BOX 10000 SAIPAN, MP 96950-8900 * TELEPHONE: (670) 288-0407 * FAX: (670) 288-0408

However, the availability of construction workers for the CNMI, whether categorized as H-2B or CW-1, will determine how our business will be affected. If there are virtually no construction workers then there will be little supply of aggregates or concrete required to be produced by HRP and the impact will be enormous.

In addition to the annual job vacancy announcements through the CNMI Department of Labor, HRP runs ads as necessary during the year to seek candidates for employment. We also have applicants that are encouraged by present employees or by the visibility of our trucks on the road throughout the island. HRP's employment package provides typically higher wages than our competitors, a 401 K program if the employee wishes to participate, company paid single medical coverage to the employee (with an option to pay for coverage for spouse and / or family), accumulated paid vacation, accumulated paid sick leave, and a work environment that meets Mining Safety and Health Administration standards. Our benefit package exceeds most, if not all, that are offered by other private employers.

The CNMI has a very small population, only 53,000 plus according to the 2010 US Census. This does not offer a large enough population base for the types of training programs available in States, whether they be considered technical schools, apprenticeship, or other formal training. Nor is there the technical support for training in the field or in the classroom to teach tradecraft. This limits the number of local residents that are trained in the higher skill level positions.

I personally completed a 4 year carpentry apprenticeship in California in addition to earning a degree in Business Administration and taking Master's courses while attending Golden Gate University night classes so I am well aware of the apprenticeship system and support that would be required to establish apprenticeship programs here, sadly it is just not available nor practical.

The training center or institute in Saipan that is most successful is in the Hotel and Restaurant industry training hospitality workers, chefs, and kitchen workers. These are much easier programs to implement than construction apprenticeships or trade schools for mechanics or other highly technical fields.

There is a fallacy in the "pay more and then you will get people from the US Mainland" statement and position that is often presented when the labor shortages here are discussed. Previously I was in Guam for 34 years and I heard the same statements but even the companies that were successful in bidding Navy and Air Force projects did not bring many employees to Guam, they mainly hired locally or used H-2B workers. Over the past 40 years Guam has a large workforce of naturalized US Citizens, primarily from the Philippines and Korea, that are considered local labor but still is not enough to meet the demand for construction workers in Guam. A similar work force of US citizens does not exist in the CNMI as the labor force here has not been open to immigrate under the visa terms.

Let me pose this to you and your staff. If you were a construction worker, miner, accountant, or any other position available would you leave your extended family, travel 6000 to 9000

miles away, and work in the CNMI, on small islands with very limited population and activities? Especially now with the hurricanes that hit Texas, Florida, and Puerto Rico, the fires and now mudslides in California when those locales are closer and will be paying at least for construction workers $40 to $50 dollars an hour? When the US Government Accountability Office (GAO) was in Saipan I posed this question (but without any of the natural disasters since they occurred later in 2017 and mudslides in 2018). None of the 5 representatives said that they would move to Saipan. In fact, the GAO after reviewing the employment situation and speaking with employers and the CNMI Government supported not cutting the 3,000 visa positions that Homeland Security cut in the USCIS quota for the CNMI in FY 2018.

This is a more realistic way to look at the situation, not someone just saying "pay more" and not recognizing the total scope of what is faced in moving such a great distance and multiple time zones.

We presently have 87 employees, 41 are local US citizens or green card recipients and 46 are CW-1 visa holders. We do aggressively hire local employees. Typically they have little or no experience and if they show the willingness to be responsible, reliable employees and show the aptitude we can train them typically as dump truck and / or mixer truck drivers or crushing machine operators. Some of course remain as laborers.

The more skilled positions that we have are primarily as follows; Mechanics for heavy equipment such as our surface miner, rotomills, crushers, excavators, loaders, backhoe, dump and mixer trucks, and tractors and trailer rigs. Our crushers and processing equipment are typically operated by generators and we require mechanics capable of trouble shooting and repairing the generators and the electric motors, starters, relays, and other components for the crushing and plant operations. Operators for the larger heavy equipment are not available from the local labor force. We have trained some of the local employees that show the aptitude to operate some of the heavy equipment in addition to the CW-1 workers we employ but these are rare cases.

Unfortunately we do lose local or US citizen employees we have spent the time and money to train, most notably to the CNMI Government agencies as government employment here is preferred to private industry due to the historical nature of the government employment and family ties to the government work force.

In summary, despite the best intentions of some of the employers to hire locally and from the Mainland, promotion of hiring local by the Chamber of Commerce, the CNMI Government, the intent of legislation, and all other factors, realistically speaking there cannot possibly be enough labor with US citizens, green card holders, and resident aliens to provide the labor required to maintain the economy here in the CNMI. The solution is not for all workers to be guest workers either but to be a combination of the two groups with proper enforcement of the labor laws to ensure that the guest workers are fully compensated and cared for properly under US law, their employment contracts, and any rules assessed from their home country regarding employment. Employers that do not follow all the laws, regulations, and contract agreements should be dealt with promptly and suffer the proper restitution and, if necessary,

PMB 139 PPP, P.O. BOX 10000 SAIPAN, MP 96950-8900 * TELEPHONE: (670) 288-0407 * FAX: (670) 288-0408

be required to send the workers back to their home country with all back wages and damages paid in full. Otherwise this system is unfair to not only those guest workers but to those of us that are legitimate employers complying with all applicable laws and regulations.

Thank you for your support and your interest in helping the CNMI resolve labor requirements and issues to support the economic growth that is occurring in the CNMI. The US Territories often find that it is hard to find support for our issues since we are such a far distance from Washington DC and our issues may be unusual compared to those faced by the States. I know that Alaska also faces issues that are not related to those of the contiguous 48 states as well and appreciate that you recognize our situation here.

I would happy to speak with you or your staff further to answer any questions you may have if that is appropriate.

Sincerely,

David L. Bush
General Manager
Hawaiian Rock Products
Phone (670) 288-0407 / (670) 288-0409 Fax (670) 288-0408
Cell (671) 788-4141

**HERMAN'S MODERN BAKERY, INC.**
Tun Herman Pan Rd., P.O. Box 500002, Saipan, MP 96950
Tel. No.: 670-234-1726 to 29 Fax No.: 670-288-1726
Email: sales.saipan@hermansbakery.com

January 30, 2018

The Honorable Lisa Murkowski
Chairman, Senate Energy and Natural Resources Committee
United States Senate
522 Hart Senate Office Building
Washington, DC 20510

Re: Northern Mariana Islands U.S. Workforce Act

Dear Senator Murkowski,

We express our appreciation for your efforts and those of Rep. Gregorio Kilili Camacho Sablan in preparing and introducing this very important legislation. The Commonwealth of the Northern Mariana Islands is at a crossroads for the continued sustainability and growth of our economy, and without this vital piece of legislation, our business will suffer and its future viability put at risk.

Herman's Modern Bakery, Inc. has been in business since October 1944, making it the oldest continuous business operating here in the CNMI. It was started by Mr. Herman "Pan" Guerrero in cooperation with the U.S. Navy when, shortly after the invasion of Saipan, Camp Susupe detainees needed food for survival. Bread was the answer since the island's native food sources were decimated by the bombing. Herman had been an apprentice in a Japanese bakery, and upon recommendation by Mr. Gregorio Sablan (Congressman Kilili Sablan's grandfather), Saipan's first appointed Mayor, he volunteered to be the baker for the camp. After the detainees were released, he was encouraged by U.S. Naval Administration to continue to bake bread for the community, thus giving birth to Herman's Bakery. The business continues to be family-owned and operated, under the leadership of Herman's children and grand-children.

The roots of Herman's Bakery with the U.S.Military also continue today, as Herman's has a Resale Ordering Agreement with the Defense Commissary Agency providing bakery products to the Guam and Saipan PX's, as well as the military pre-positioned ships anchored off the western coast of Saipan.

Herman's, as many business here in the CNMI, is experiencing severe labor problems due the current Contract Worker (CW) program. Our company has one hundred sixteen employees, of which sixty four have CW visas, many of whom have been in our employ for more than ten years. All of our CW visa holding employees are employed in specialized roles such as baking and cake decorating, positions for which training is not

currently support by our local educational institutions. Our production manager has been a contract worker with Herman's for almost forty years. While we consistently attempt to identify and employ qualified local U.S. citizens, it is very difficult to retain them due to the nature of bakery work. Many only stay for a month or two, which results in ongoing and constant costs for recruitment and training, not to mention the risk of jeopardizing quality control and consistency.

Our current number of CW employees is critical to our operation just to continue at our current level, not to mention any opportunity for expansion. The process for the annual renewal of their permits is expensive, inefficient and time-consuming. Requests for USCIS renewal applications must be submitted six months in advance of expiration. Applications filed by Herman's in April 2017 were not approved until December 2017. During this processing period, we face the uncertainties of not knowing what our labor force will be. Individual permits expire at the same time, which results in extreme difficulties and manpower shortages for daily operations, as some of these permitted CW workers are required to exit the CNMI and go through the advance parole process in their country of origin for an interview at the U.S. Embassy. The cost of this process is expensive and an additional financial burden; airfare, hotel, per diem, as well as permitting fees of $460 per job category and $200 for CNMI Educational training each, all add up to an investment in each CW employee that Herman's can ill-afford to lose.

In addition to the very costly and inefficient processing of CW permits, USCIS gives no recognition or consideration to long-time contract workers, as everyone competes for the limited number of available permits. The current cap of 9,000 is too low and limits the growth of our economy. The expiration of the CW program and its complete elimination in 2019 will have disastrous effects on the businesses operating here, which then doubles the risk for the many U.S. citizens who are gainfully employed but who will lose their jobs because their employers are run out of business. Many will have to face the reality of the simple reason that Saipan does not have the human resources to fill the jobs needed to staff hotels, restaurants, bakeries and other service industries.

Herman's has been in business in the CNMI for more than seven decades, yet is restricted from hiring directly for some positions, and we are faced with these current difficulties in manpower shortages. Herman's is forced to hire workers to fill the void of our personnel needs from upstart employment agencies that hold a large number of permit slots. This additional expense and the other costs of the current CW program continues to erode our sustainability.

The current CW program and its lack of addressing the labor needs of the Commonwealth economy is the biggest problem facing Herman's and other businesses here struggling to grow and prosper. We are being blessed with new investments to our island, but the current labor difficulties will make it hard, if not impossible, to put this new capital to use. As a consequence, future investment interest will be limited or disappear altogether, the economy will stall, and the ability of the CNMI Government to meet its obligations will falter.

We are very hopeful that this critical piece of legislation, introduced by yourself and Representative Sablan that begins to rectify the current labor shortage situation here in the CNMI, will be well-received by your colleagues in the U.S. Congress. The harsh reality is that the future of Herman's Modern Bakery, Inc. will be in doubt if there is no resolution to the current situation.

We are confident that this legislation will help begin to correct the problems we are currently facing, and thank you for your continued and staunch support of the people here in the CNMI.

Sincerely yours,

Herman T. Guerrero
President

cc: U.S. Representative Gregorio Kilili C. Sablan
CNMI DOL

# *AFH* INC.

AFH, Inc. dba Natural Nail Spa

670-233-6245

mhudkins@pticom.com

Alex Sablan
President
Northern Marianas Business Alliance
Saipan, MP 96950

My name is Merle Hudkins owner of AFH, Inc. dba Natural Nail Spa. I took my passion of nail care and turned into a business three years ago. I have five non-immigrant and four U.S. citizen employees right now including myself. My business started with nail care, waxing and massages. I then added a hair salon a year and a half later.

As the business started to do well, I needed to expand and hire more skilled workers. I sent out a JVA early last year but there were no U.S. citizens qualified for the job. I had to hire non-immigrant workers from the Philippines. I applied for CW-1 permits for three more beauticians using manpower service on island. Unfortunately we received the rejected application on January 4th, 2018. Luckily my present employees' CW-1 permit renewals got approved.

With the limited number of CW permits allowed for 2019 and the conclusion of them by December next year, I am worried that my business will be close because of the lack of qualified U.S. citizens I can hire. Without the skilled workers I won't be able to sell my business and I will be out of a job.

Natural Nail Spa did really well last year; we paid over $10,000.00 worth of CNMI taxes and $16,407 in FICA. These will be a future lost in revenue for CNMI and US, if my business close down.

Sincerely,

**Merle Hudkins**
**Owner**

January 29, 2018

Honorable Lisa Murkowski
United States Senator (AK)
Senate Committee on Energy
522 Hart Senate Office Building
Washington, D.C. 20510

RE: The Micronesian Telecommunications Corporation dba IT&E's Support of Senate Bill (SB) 2325, The Northern Mariana Islands U.S. Workforce Act

Dear Honorable Murkowski:

The Micronesian Telecommunications Corporation dba IT&E, as the largest telecommunications company in the Northern Marianas Islands, strongly supports SB 2325, The Northern Marianas Islands U.S. Workforce Act.

As a company that has been on this island since 1989, IT&E has seen the ups and downs of the CNMI economy. Without the passage of SB2325, we fear the worst. At no time that we can remember, has the CNMI been without foreign workers – realistically, at least in the near future, we cannot operate without them. We maybe a protectorate of the U.S., but we by no means can be compared to the U.S. or function like the U.S. We are a small chain of islands in the remote Western Pacific that has about 55,000 people on it. We are closer to Asian countries such as Japan, Philippines and Korea than we are to the U.S. Getting U.S. workers to come and stay here to work is difficult because they are not used to the island lifestyle or weather. But we have companies, such as IT&E, which require workers who have at least bachelors' degrees in computer science, engineering, accounting, marketing, etc. We also need skilled workers in specific trades such as wireless transmission technicians, outside plant technicians, electricians, switching technicians, etc. We maybe a small telecommunications company in comparison to Verizon and AT&T, but we still require similar facilities and equipment, and specialized and skilled workers to build, operate and maintain them.

The CNMI currently does not have the educational level or training programs needed to support the island at 100% U.S. workers. The Northern Marianas Trade Institute (NMTI), a relatively new trade school, has helped primarily in the hotel industry and it is starting to offer technical training such as the Electronics Systems Technician Certification, but it still has a long ways to go before it can graduate students and groom them to do all the

trades that are needed on this island. In the CNMI, the highest education is at the Northern Marianas College (NMC), which is equivalent to a junior college. We do not have private universities such as Yale, Harvard, Stanford, or Princeton. We also do not have public universities or colleges that have the same caliber as found in the U.S. The nearest university to the CNMI is University of Guam. Unfortunately for the CNMI, those who graduate from University of Guam prefer to work in Guam. Many of our own children who have gone to the States for college prefer to stay there because of bigger and better opportunities for them there. Some return to Saipan, but they are the exception. The U.S., itself, has far more public and private universities and colleges, junior colleges and trade schools than the CNMI, yet it still relies heavily on foreign workers. How, then, do you expect the CNMI, remotely situation in the Western Pacific, with one junior college, one nearby university in Guam, and a fairly new trade school to carry on without foreign workers?

For our part, IT&E has always supported the hiring of local residents and we continue to do so. The Company has consistently had 90% or more locally hired employees. Of the current 216-employee workforce, 202 or 94% employees are U.S. citizens, permanent resident holders or from the freely associated states (FAS).
In 2000, even before the U.S. began overseeing immigration, IT&E sponsored six of our foreign workers for permanent residency. Of the six, four are now U.S. citizens and two have permanent resident status. They all are still working for IT&E. In November 2011, when the U.S. began overseeing immigration, IT&E immediately processed six of our employees under H1B Visas. Of the six, four are in the last stage of their permanent resident processing. We will continue to sponsor more U.S. visa holders for permanent residency, as needed.

Up until 2014 we had zero CW1 workers. However, in 2014, IT&E began upgrading its copper fiber cable to fiber optic cable around the islands of Rota, Tinian and Saipan. We needed more skilled manpower to complete this project. We started by hiring one CW-1 as a Combination Technician who required no training, but we also did an internal posting to cross-train employees to become either a Combination Technician or Cable Splicer. We cross-trained two employees to be Combination Technicians and one to be a Cable Splicer. Eventually, one of the cross-trained Combination Technicians was promoted to Cable Splicer. Because we still needed more help, we advertised externally for Combination Technicians and Cable Splicers. Our ad stated that we were willing to train if the applicant could show some type of technical experience. We hired two Combination Technician trainees, two experienced Combination Technicians, and two experienced Cable Splicers locally. We also hired two more CW1 workers as Combination Technicians for a total of three CW1 workers.
On the island of Rota, we also offered crossing-training to one of our locally hired part-time employees, and he is now a full-time, regular, Technical Specialist.

In September 2017, IT&E and the Northern Marianas Trade Institute (NMTI) formed a partnership to help improve the skill sets of our technical employees and those wishing to change their careers. We began by offering an Electronic Systems Technician certification program. This nationally recognized certification is approximately a 2-year program (a total of four levels). IT&E is assisting the employees financially to attend this program. 10 employees completed and passed the first level and the second level is scheduled to begin in March 2018. We plan to continue offering the Electronic Systems Technician certification to other employees, as well as offer and assist employees in other programs as they are developed and offered by NMTI.

Other programs that IT&E either offer or participate in to help employ and train our local community:

**Summer Work Program for High School and College Students**

Beginning May 2002, the Company launched the Summer Work Program geared to giving high school and college students the opportunity to learn what it is like to work in the telecommunications industry and to get paid. Students are not required to have work experience, although some computer experience is necessary. Each year the Company opens training positions in Sales, Marketing, Engineering, Customer Service, Customer Care, Human Resources, Accounting and Network. IT&E hires at least 10 employees, sometimes more. The first program was a big success and it became an annual program. The program is also now offered annually at IT&E in Guam.

**CNMI Public School System Cooperative Education Program**

IT&E has been an active participant of the CNMI Public School System, Cooperative Education Program since 2000. We usually hire 2-4 students (sometimes more depending on the need) per semester. We interview all students who are interested in applying at IT&E so that the students can gain the experience of interviewing for a job, and those hired are usually placed in their preferred area for the semester.

**Northern Marianas College (NMC) Internship Program**

During the periods of time NMC had the Internship Program, IT&E has participated. In the last two years, IT&E has hired 2-4 interns per semester.

IT&E has a number of students from the Summer Program, Co-op Program, NMC Internship Program who are now working for IT&E:

- Veronica Acosta – Product Manager (NMC Internship Program)
- Jean Ballesteros – Human Resource Administrator (NMC Internship Program)
- Nick Carreon – Supervisor OSP/Engineer (NMC Internship Program)
- Laarni Zapanta – Accounting Support Specialist (Co-op Program)
- Margie Camu – Inventory Coordinator (Co-op Program)
- Jose Rabago – Graphic Artist (Co-op Program and IT&E Summer Work Program)
- Rebekka King – Systems Specialist (NMC Internship Program)

- Christopher Wu – Systems Specialist (NMC Internship Program)
- Bofan Cabrera – Systems Administrator (IT&E Summer Work Program)
- Jason Forrester – Sr. Engineer – IP (IT&E Summer Work Program)
- Jessica Estrada – Helpdesk (IT&E Summer Work Program)
- Mikee Campo – Inventory Assistant (Co-op Program and IT&E Summer Work Program)
- Jim Lacsina – (Part-time) Accounting Clerk (IT&E Summer Work Program)
- Jeremie Tanghal – (Part-time) Telemarketer (IT&E Summer Work Program)
- Kai Taivera – (Part-time) Office Clerk (IT&E Summer Work Program)
- Patrick Agustin (Part-time) Accounting Assistant (NMC Internship Program)

IT&E also recognizes employees who have the potential to succeed. Mr. Edilberto Javier, Jr. has been with the Company for more than 20 years. He started as an Operator while also attending school at NMC. He eventually graduated with an Associate's Degree in Business. He continued working his way up in the company and he is now the Manager of our General Service Department.

Mr. Nick Carreon is another employee who the Company saw as having high potential. He has been with the Company for 16 years. Mr. Carreon was part of the NMC Internship program back in 2000. We eventually hired him as Assistant for the Outside Plant/Plant Service Center. He is now the Supervisor of Outside Plant and he also is one of our Engineers.

Ms. Veronica Acosta has been working for the Company for 17 years. She started as an NMC intern and worked her way up to Product Manager.

Sometimes training individuals isn't always practical if the skills needed are immediate or require specific education and years of experience that we cannot find on island. But IT&E will always look at our current workforce and local community before seeking workers elsewhere.

But IT&E, as one of the largest companies on island, has the financial means to sponsor employees for permanent residency and to help them financially so that they can improve their skills. We will do what is necessary to support our business and the community. Smaller companies and the 'mom & pop-type' businesses are not so fortunate. The CNMI is made up of small islands and we have many small businesses. Those are the business that will suffer and most likely close business if SB 2325 does not pass or we are made to wait too long for it to pass.

We are already seeing the repercussions of the decrease in CW workers, not only our businesses and economy, but also our foreign workers who have been on this island 20, 30 or more years, workers who we call our friends and colleagues. Recently, we know of one family whose mother and father were recently denied their CW1 visas because of the cap and they will be required to leave island. Their children are U.S. citizens. Their 18 year old son was accepted to Columbia University. Instead of going to Columbia, he has opted to stay on island and to get a job to support himself and his sister who is still in high school. He hopes to continue his education at the Northern Marianas College. Another case has affected our contracted cleaners. We have known the workers for over 15 years. They received notice that their CW-1 Visas have not been renewed because of the cap. One of the cleaners is the sole supporter for her family. Her family member is a senior in college but she now cannot finish because they no longer have the funds to support her last year of education.

If businesses close, that will affect not only the foreign workers who have to leave island but also any U.S. workers who are working for that company because they will also lose their job. IT&E is not immune to what is happening. As businesses close and CW1 workers leave the islands, our own company will suffer in loss of revenues, loss of employees and loss of friends. And for the future of the CNMI, what new businesses will want to come to the CNMI to open if they cannot find the skilled workers needed to run their businesses? The General Accounting Office submitted a report about what will happen if all the foreign workers leave. We hope that report does not go unnoticed because it is the truth. IT&E has done its best to hire U.S. workers but even we are having problems hiring 100%.

IT&E supports SB 2325 because we have to in order to survive. We are relying heavily on the U.S. Congress to pass this bill. We invite any U.S. Congress person to the CNMI to see first-hand what is happening here and what will happen here if SB 2325 is not passed – and soon.

Sincerely,

James Ohlerking
Chief Executive Officer, IT&E

JOHNSTON & ASSOCIATES, LLC

January 24, 2018

The Honorable Lisa Murkowski, Chairman
Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Madam Chairman:

I am writing in support of your legislation, S. 2182, to provide for the resettlement and relocation of the people of Bikini, and to ask that this letter of support be made a part of the record of the Committee's hearing on this important and timely legislation.

As a former Chairman of the Senate Committee on Energy and Natural Resources and former Member of the Senate Committee on Appropriations in the 1980s, I was deeply involved in the enactment of several laws (P.L. 97-257, P.L. 99-239, Section 103(l) and P.L. 100-446) to respond to the impact of the U.S. Weapons Testing Program on the people of Bikini and the people of other affected atolls in the Marshall Islands.

I am very concerned that the recent decision by the Secretary of the Interior to end oversight of funding authorized and appropriated for the people of Bikini is inconsistent with the Department's fiduciary responsibility to ensure that taxpayer funds are expended only on authorized purposes. The decision has allowed the misuse of millions of U.S. taxpayer dollars and, without a reversal, it will likely result in the depletion of the entire Resettlement Fund. Finally, the Secretary's decision prevents the achievement of the important U.S. policy objectives set forth in law – providing for the day-to-day needs and eventual orderly resettlement of the people of Bikini who are now living on the islands Ejit and Kili.

Both of these islands are increasingly subject to periodic inundation due to sea-level rise and are becoming uninhabitable. If the funding needed to relocate these communities is allowed to be squandered, then the Bikini people will become destitute and will become victimized, yet again. Future generations of Bikinians, U.S. government officials, the international community and the media will then ask, "How could this have been allowed to happen?"

Your bill would reaffirm and clarify the U.S. government policy established over 30 years ago. First, that subject to disapproval by the Secretary of the Interior, a specified amount of these funds may be budgeted and used for the day-to-day needs of the people of Bikini currently residing on the islands of Ejit and Kili. Second, that the bulk of the funds are to be reserved for the cleanup and permanent resettlement of these communities to their ancestral homeland of Bikini Atoll. However, your bill appropriately recognizes that these communities should not be required to resettle on Bikini Island. The bill would permit the bulk of the funds to, instead, be used to resettle the community elsewhere provided there is a Resettlement Plan developed in coordination with the Bikini Island leadership and approved by the Secretary of the Interior.

1330 CONNECTICUT AVENUE, NW
WASHINGTON, DC 20036
PHONE: (202) 659-8400 • FAX: (202) 204-6260

Given the recent decision of the Secretary to end oversight of these funds without consultation with Congress, I urge that the text of your bill be amended to guard against such unilateral action by the Department in the future, by inserting the words "and Congress", on page 2, line 15, after the word "leadership"; and by inserting the words "after consultation with Congress," on line 17, after the word "Interior".

The injury and damage caused by the U.S. Weapons Testing Program was a tragic failure of U.S. administration of the Marshall Islands during the Cold War. I am proud of the role I played, along with many colleagues in Congress and the Administration, to enact laws to provide compensation for these injuries and to provide additional resources for other needs of those affected such as healthcare, environmental monitoring, radiation cleanup, relocation and resettlement.

I commend you for the introduction of S. 2182 and support its enactment. If enacted, this bill will ensure that these funds will remain available for their authorized purposes and that the people of Bikini will one day be able to resettle on lands they own.

Sincerely,

J. Bennett Johnston

CC: The Honorable Maria Cantwell
Ranking Member
Senate Committee on Energy and Natural Resources

Bridge Investment Group USA
美国路桥投资集团

# Bridge Investment Group, LLC

Hafa Adai and Hello:

I would like to thank this committee for the opportunity to provide my testimony for the support of the Commonwealth of the Northern Mariana Islands U.S. Workforce Act.

My name is Phillip Mendiola-Long, and I am the CEO of Bridge Investment Group, LLC (BIG). Before I begin to discuss our support for the Northern Mariana Islands U.S. Workforce Act, please allow me to provide some context into what I do in the Commonwealth of the Northern Mariana Islands (CNMI), and how I can offer a valid solution to the workforce challenges that the CNMI faces.

BIG operates an EB-5 Regional Center in the Commonwealth of the Northern Mariana Islands (one of seven approved in our region). Our EB-5 project, a $150M entertainment resort complex, is currently under construction on the island of Tinian. Tinian has population of roughly 3,000 people, most of which are unskilled laborers which creates the current dependency on the CW1 program for skilled workers to support the island's struggling economy.

The EB-5 Regional Center program provides 10,000 EB-5 visas a year, leading to green cards for foreigners whose investment in economic projects creates at least 10 U.S. jobs. Three thousand of the 10,000 visas are set aside for targeted employment areas (TEAs). A TEA is a (A) rural area, or (B) an area which has experienced high unemployment of at least 150% of the national average.

If a foreigner invests in a TEA, he or she need only invest $500,000 to qualify for an EB-5 visa. If a foreigner invests in a project outside of a TEA, the amount that must be invested is $1 million. Either investment must yield 10 U.S. jobs in order for a foreign investor to obtain a green card.

Under the EB-5 program as currently administered, unfortunately, the boundaries defining high unemployment areas are too often economically gerrymandered. Census tracts with more than 150% of the national unemployment rate are sometimes included in an area also encompassing wealthier census tracts whose unemployment rates alone do not fit the statutory definition. As a result of this combination, the entire area is deemed to be a TEA, triggering the lower investment level. The project for which the EB-5 visas are sought, however, is built in the wealthier census tracts of the so-called TEA. Developers of projects in the wealthy sections of these gerrymandered TEAs have utilized a substantial number of visas under the program, to the detriment of the rural areas and truly high unemployment areas such as Tinian.

The Government Accountability Office found, for example, that in the fourth quarter of FY15, only 3% of the 6,652 EB-5 petitioners elected to invest in a rural TEA. The result is that communities like Tinian are effectively squeezed out from the EB-5 program, contrary to Congressional intent when the program was created. It is increasingly more difficult, if not impossible, for some EB-5 Regional Centers to compete with the big wealthier cities of the United States.

I would offer that this is not what Congress intended. Instead, my belief is that Congress wanted to drive substantial investment into rural and truly distressed areas of America, by utilizing the "carrot" of the US Green Card to drive foreign investment to areas of our country that our own US Citizens would not go to

P.O. Box 520800, Tinian, Northern Mariana Islands 96952 ~ Tel: (670) 433-2664 ~ Fax: (670) 433-4329
www.BridgeInvestmentUSA.com

# Bridge Investment Group, LLC

invest in. While offering the "carrot" of a pathway to US Citizenship, there was, of course, the "stick" in which US Congress required extreme risk in the investment in rural and distressed areas of America, and utilized that same "stick" to require the investment to create and maintain at least 10 US Citizen jobs. This would increase employment and opportunity in the very communities of our country that need it the most.

Indeed, as a practical matter for the CNMI and more specifically the island of Tinian, in light of the absence of sufficient skilled U.S. workers, the EB-5 program compels (the "stick") an EB-5 developer in the CNMI to **train** U.S. citizen islanders to do the full-time work on its commercial development. Due to the 10-US Citizen job per $500,000 investment metric requirement of the EB-5 Program, each EB-5 developer cannot use foreign workers in large numbers. Each $500,000 investor needs to prove to the USCIS that 10 U.S. jobs have been created as a result of their investment. Therefore, the EB-5 developer is forced to create its own training programs from scratch. This training is the only economical way to achieve the number of U.S. workers justifying the grant of the EB-5 visa and green card to a foreign investor.

Hence, the "carrot" of the Green Card, drives the "stick" requiring the US Job training to achieve it. Thus, I have undertaken precisely this training of CNMI residents for our project. Over the first year of start-up development for our project, we have taken more than 100 unskilled workers and have trained them in accounting, human resources, carpentry, masonry, steel work, heavy equipment operation, welding, safety training, electrical work, and plumbing work. In fact, some of our workers – who later became nationally certified – have moved to the U.S. mainland, and are now working on US construction sites. Additionally, when our project moves into the operation of our resort, this same training imperative will continue to operate at all levels of hospitality service. Again, the EB-5 program effectively requires us to train and create opportunities for U.S. Citizens to be employed in the CNMI because the program effectively mandates it.

It should be noted that the EB-5 Regional Center visa applicants are vetted by the SEC; the U.S. Treasury's Financial Crimes Enforcement Network; the USCIS; and the State Department. In contrast, private foreign investors currently in the CNMI and Guam do not have to be so vetted. Some of those un-vetted "private" investments are the focus of many questions from this very committee.

Thus, the EB-5 investor visa program can be a significant solution by which existing federal policy can drive U.S. citizen employment, and, as a practical matter, compel training for U.S. citizens of the CNMI. Essentially, the EB-5 program, if allowed to flourish in the islands, can be the training component necessary for the CNMI to reduce its dependence on foreign labor and eventually rid itself of the dependency on the CW1 Program altogether.

As an added bonus, the EB-5 Regional Center Program will drive foreign investment for governmental infrastructure projects as well as private commercial projects in the CNMI, which, in turn, reduces the insular area's dependence on U.S. Tax dollars to fill that void. EB-5 Regional Center projects can also provide bond financing at rates of under 3% to government infrastructure developments. Understanding our government's need to reduce our national deficit, raising capital at these low rates in high risk areas of the country can save our government hundreds of millions of tax payer dollars in just the CNMI alone. The average U.S. municipal and state bond rates for the CNMI are 9-11%. Coupled with the pending infrastructure bill being discussed in Congress, the CNMI could finance its required infrastructure build up at rates below inflation. The U.S. EB-5 Regional Center program could provide financing at near 0% rates for the infrastructure developments in all insular areas.

P.O. Box 520800, Tinian, Northern Mariana Islands 96952 ~ Tel: (670) 433-2664 ~ Fax: (670) 433-4329
www.BridgeInvestmentUSA.com

# Bridge Investment Group, LLC

There are especially compelling reasons for Congress to take steps to rapidly increase the size and capabilities of the U.S. workforce in the CNMI. Congress' reluctance in continuing to approve the multiple renewals of the "transitional worker program" (CW1) is one reason that the EB-5 program is a central solution to reducing the CNMI's dependence on foreign workers and compel US workforce training in the CNMI.

The overarching reason, of course, is to improve the lives of the Americans of the CNMI. Moreover, foreign power expansionism in the Western Pacific, including China claiming disputed territories in the South China Sea and militarizing them, and nuclear escalation are a significant threat to U.S. interests and to nations friendly to the United States. Several countries are expanding their military to project power and influence throughout the region. And yes, the Commonwealth of the Northern Mariana Islands is truly in the "thick of it" in the Asia Pacific Region. In response to these developments, the U.S. plans to increase its military footprint in the region – including in the CNMI and Guam – which will require workers to build and maintain these military facilities.

As known by this committee, a sizeable portion of the CNMI workforce - over 50% - consists of foreign workers. Congress, for purposes of protecting National Security (securing foreign labor for military construction) and preserving economic growth in the islands, has exempted the CNMI and Guam from the national cap for H2B temporary foreign workers and created a CNMI-only transitional foreign worker visa, both expiring in 2019. The Northern Mariana Islands U.S. Workforce Act further extends transitional foreign worker visa programs for the CNMI and attempts to foster vocational education, apprenticeships, and other training programs for U.S. workers to increase their percentage of the CNMI workforce. In my opinion, this alone is inadequate. There needs to be a "carrot" to induce investment in the CNMI and a large enough "stick" to require employers to train CNMI residents, such as that provided by the EB-5 Regional Center program.

We do not oppose Congressional extension of temporary foreign worker programs in the CNMI, including the provisions of the "Northern Mariana Islands U.S. Workforce Act". However, we respectfully submit that there are not strong enough provisions currently in the Bill that mandates workforce training by the employer. It makes compelling sense for Congress to utilize the already existing EB-5 Regional Center program, which effectively mandates training a U.S. workforce for EB-5 approved projects in the CNMI. U.S. citizens trained for, and working on, significant commercial developments will then be available to work on U.S. military projects, helping to reduce the need for temporary foreign workers for private and US Military developments.

Rather than U.S. policy relying *solely* on special foreign worker visa programs for the CNMI, which are meant to be temporary but have now turned out to be on-going, it is appropriate *also* to utilize the EB-5 Regional Center program to mandate the creation and training of new U.S. jobs in the CNMI.

We propose to add language to the Northern Mariana Islands U.S. Workforce Act which will set aside a minimal fifty EB-5 visas under the EB-5 Regional Center Program for the CNMI during the period that the law is valid. By adding this provision to the bill, Congress will ensure that: 1) there is a required, existing and measurable local US Citizen hiring and training program which is driven by current USCIS Regulations. 2) That all foreign private investments made through the EB-5 Regional Center program are vetted by four different US Federal Agencies. 3) That set aside access to this EB-5 Regional Center Program will drive further economic development which alleviates dependency on US Tax Dollar appropriations. And 4) That the set aside of only 50 EB-5 Visas will do little to affect the overall EB5

P.O. Box 520800, Tinian, Northern Mariana Islands 96952 ~ Tel: (670) 433-2664 ~ Fax: (670) 433-4329
www.BridgeInvestmentUSA.com

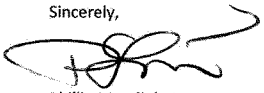
# Bridge Investment Group, LLC

Regional Center Program but will do a tremendous amount within the CNMI to reduce its dependency on foreign workers for both civilian and military projects.

I fear that one of the unfortunate consequences of a failure to quickly develop a trained U.S. workforce in the CNMI will be the spectacle of our U.S. citizen Pacific Islanders of the CNMI now, and in the future, watching foreign workers building private and U.S. military facilities within our homeland. This would be a recipe for the development of ill-will among our citizens here, and potentially create an estrangement of our citizens from the continental U.S. – something some other Nations in the Asia Pacific Region are hoping for.

Thank you for your consideration.

Sincerely,



Phillip Mendiola-Long
CEO
Bridge Investment Group

P.O. Box 520800, Tinian, Northern Mariana Islands 96952 ~ Tel: (670) 433-2664 ~ Fax: (670) 433-4329
www.BridgeInvestmentUSA.com

**Northern Marianas Business Alliance Corp.**
PO Box 10000 PMB 918
Saipan, MP 96950

February 6, 2018

Honorable Lisa Murkowski
Chairwoman
Senate Energy and Natural Resources Committee
304 Dirksen Senate Office Building
Washington DC, 20510

***Re: NMBAC Letter in Support of S. 2325, the Northern Mariana Islands U.S. Workforce Act***

Dear Chairwoman Murkowski,

On behalf of the members of the Northern Marianas Business Alliance Corporation (NMBAC) we respectfully write to acknowledge your unwavering support for the workforce needs of the people of the Commonwealth of the Northern Marianas Islands (CNMI). We truly appreciate your efforts in drafting and introducing S. 2325 (Bill) and we write to extend our strong support.

We also want to take this opportunity to thank you for including Governor Ralph Torres and Delegate Kilili Sablan in your working group process. The NMBAC organized in June 2017 to work with Governor Torres' administration to suggest specific language we believe would more effectively transition the CW foreign national guest worker program while continuing to educate and train our U.S. citizens to secure the labor needs of the CNMI. In our experience, we have never witnessed such a strong and effective collaboration of our CNMI political, education, business and community leaders to strategically tackle the long term workforce development goals. This is a result of your leadership and strong working relationship with Governor Torres

The provisions of the Bill correctly identifies our human resource limitations while encouraging our community to embrace the intended goals of transition pursuant to P.L. 110-229, the 2008 Consolidated Natural Resources Act. It also allows the CNMI to continue the economic momentum we have witnessed over the last four years after almost a decade of deep economic recession. Today, businesses have the ability to expand their operations and in many cases, pay higher salaries and better benefits. Our government set a record 28.6% GDP growth in 2016 and is now able to fully pay retirees their pensions, government salaries and public debt owed to many individuals and corporations that had remained stagnant and unpaid for many years.

It is our collective hope that as our economy improves, many of our friends and family who left during the worst of our economic depression return home to benefit and contribute to the continued success of our economy and community.

NMBAC again thanks you and your staff for the time you have taken to listen to our concerns and suggestions. The continued success of the CNMI economy is truly dependent on passage of S. 2325. The vast majority of the CNMI community wait in the balance and remain hopeful for an expeditious approval process.

Sincerely,

Alexander A. Sablan
Chairman
Tan Holdings Corporation

Velma Palacios
Vice Chairman
IT&E, Saipan Chamber of Commerce

Gloria Cavanaugh
Secretary
Hotel Association of the NMI

Josephine Mesta
Treasurer
NMI Society of Human Resources

Marian Aldan-Pierce
Director
DFS Saipan, LTD

Viola Alepuyo
Director
Imperial Pacific International (CNMI), LLC

Robert Jones
Director
Triple J

Chwm Lisa Murkowski
Ranking Member Maria Cantwell
Senate Comm. on Energy / Natural Resources
304 Dirksen Senate Bldg
Washington, DC 20510

February 15, 2018

Re: NMI U.S. Workforce Act (HR 4869 and S 2325)

Dear Senators,

I'm writing to express my support for the NMI U.S. Workforce Act (S 2325). Your support is greatly appreciated.

I applaud the bi-partisan efforts for this bill that will mean, quite frankly, the survival of Saipan's way of life.

The economy here has been quite fragile. However, with the passage of this bill into law I believe our island will be able to not only sustain the modest economic growth of the past 3 years, but actually grow much faster. By removing the uncertainty regarding Guest Workers many business owners will make more investment in their businesses. New businesses will spring up as well. Tourism will grow as new and better services and attractions are offered. It goes without saying that this will mean more jobs are available for local families, too.

As business grows, more taxes are generated, particularly Business Gross Revenue Tax, which provides for many island needs. The struggle to upgrade our infrastructure can then move forward with fewer restrictions.

I am also happy to support the training fee program for US workers as provided in the bill. Skilled local workers will do much to improve businesses, and services that they offer.

Please urge your colleagues to pass this bill as soon as possible.

Thank you again for your support.

Sincerely yours,

Stephen Nutting
President

cc: US Congressman Gregorio Sablan

**PACIFIC SUBSEA SAIPAN, INC.**
Mangrove Pl, Lower Base, PMB 672 Box 10000, Saipan, MP 96950
Tel. Reservation(670) 322-7746 / 7747 Fax (670) 322-4770 Office (670) 322-7734 Fax (670) 322-7735

# SAIPAN CHAMBER OF COMMERCE

P.O. Box 500806 Saipan, MP 96950 • Tel: (670) 234-7150 • Fax: (670) 234-7151
www.saipanchamber.com info@saipanchamber.com

**2018**
**Board of Directors**

President
Velma Palacios

Vice President
Ron Smith

Secretary
Kevin McCale

Treasurer
Michael Johnson

Directors
Perry Inos Jr.
Tyrell Pauling
Donna Krum
Alex Youn
Alex Sablan

Executive Director
Jill M. Arenovski

Administrator
Mercilynn K. Palec

Coordinator
Christine S. Tadeo

January 31, 2018

The Honorable Gregorio Kilili Camacho Sablan
U.S. House of Representatives
423 Cannon House Office Building
Washington, DC 20515

Re: S-2325 & HR4869 - "Northern Marianas Islands U.S. Workforce Act" to incentivize the hiring of United States workers in the CNMI

Dear Delegate Sablan:

We are writing to you as the collective voice of the business community on Saipan. Our Chamber comprises more than 160 private businesses, government agencies and nonprofit organizations. As our island is small and remote, our Chamber makes great strides to work with our whole community, as we are interdependent and our workforce issues affect not only our businesses, but our entire economy.

We wish to express our strong support of the "Northern Marianas Islands U.S. Workforce Act". Our Chamber believes that the provisions in this bill will allow our economy to continue to grow while we work toward training the current and future available local workforce, as well as the recruitment and retention of additional U.S. qualified workers.

We would, however, like to request the following additional considerations:

- We believe that delaying the reduction of 500 per year for the cap from 2020 until 2023 would allow businesses to continue to train and recruit without being significantly affected by a workforce reduction. Many of the existing job positions do not qualify for H visa categories, yet will require 3 months to 3 years of additional training to be filled by a U.S. qualified workers. We need the additional years to continue the economic momentum we were experiencing prior to the loss of 3,000 CW-1 employees in FY 18, and as wages exponentially rise in an improved economy we anticipate former U.S. Citizen residents to return to meet the impact of future CW-1 reductions.
- We would like to request an additional 2,000 permits for the initial cap (to 15,000), which would allow business developments currently in the planning stages to have an adequate workforce prior to opening.

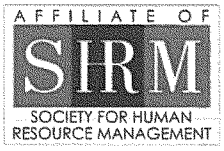
- Additionally, we foresee a potential lag time between when this legislation may be made into law and when the parties involved begin to implement the requisite actions. We ask to be involved in the regulatory processes, which will aid in setting procedures for U.S.DOL certification and wage determinations.

We truly appreciate your efforts in addressing our workforce issues and humbly ask for your assistance in moving this legislation forward.

Regards,

Velma M. Palacios, Chamber Board President

SHRM NMI CHAPTER
P.O. Box 5130 CHRB
Saipan, MP 96950




Ms. Lisa Murkowski
Senator (AK)
Senate Committee on Energy
522 Hart Senate Office Building
Washington, DC 20510

Mr. Gregorio Sablan
Congressman
423 Cannon House Office Building
Washington, DC 20515

RE: *LETTER IN SUPPORT OF THE NORTHERN MARIANA ISLANDS U.S. WORKFORCE ACT, S. 2325 (counterpart bill H.R. 4869)*

Dear Senator Murkowski and Congressman Sablan:

Hafa Adai! Greetings from the Commonwealth of the Northern Mariana Islands (CNMI). This letter is submitted in support of the Northern Mariana Islands U.S. Workforce Act.

We would also like to take this opportunity to thank you and your hard working committee for recognizing and addressing the CNMI's workforce needs by introducing the Northern Mariana Islands U.S. Workforce Act.

The Society of Human Resources Management NMI Chapter (SHRM) was established over 20 years ago. Our purpose as an organization is to provide a better understanding of the challenges affecting those engaged in human resource work in both public and private sectors. SHRM is involved in addressing the needs of the CNMI workforce by hosting or participating in job fairs, offering workforce readiness programs, attending career days at local schools, workshops for managers and business leaders addressing immigration, recruitment, and overall training and development of our workforce.

Our members are very concerned with the economic impact that we are facing with the reduction of CWs in the CNMI. As professionals faced with day to day employment issues, we all agree that this is one of the toughest moments in our career as we address the lack of manpower on island, but most importantly the human factor facing families who are being separated, feeling the uncertainties and insecurities of our current workforce which affect our day to day operations. We all can attest that we have continuously pursued efforts to increase U.S. workers. We all have our own success stories as well as failures. For the most

part, our members have tried to recruit from U.S. mainland and the other neighbor islands, but the majority have not been successful.

We can conclude that factors such as difficulty adjusting to the island culture, home sickness, the lack of shopping malls, movie theaters, night clubs and the high cost of airfares to visit families are just a few of the many reasons for unsuccessful recruitment of U.S. off island workers. Those that say they are successful in recruiting acknowledge contracts are for a limited term usually in one to two years only.

Many of us have shared common issues of hiring local U.S. workers who are capable of working but either refuse to work, or lack the skills to do some of the jobs that are much needed, or do not want to work in certain job categories, such as construction, housekeeping, stewarding or maintenance. In addition, we also have to deal with the increase of substance abuse that prevents the local population from being gainfully employed.

Our organization continues to work with local businesses to improve skills and quality of life in the CNMI. Unfortunately, despite our efforts, there remains a skill gap on our island to provide the necessary pool of U.S. eligible workers to take the place of long term employees such as those who repair our appliances, air conditioners, power plant operators, carpenters, plumbers and electricians. Training institutions such the Northern Marianas College, Northern Marianas Trades Institute and other nonprofit and private training businesses such as Latte Academy, HR Support CNMI and Train Smart have joined the arena of training locally and improving work ethics and skills.

We hope our foreign workers will continue to be a part of our workforce so the future of the CNMI economy will be at a level where we will be able to sustain ourselves.

Thank you again for your support and understanding to the needs of our Commonwealth.

Sincerely,

Francisco S. Ada
President of Board of Directors of SHRM
NMI Chapter
Director of Human Resource of
Triple J Saipan

Catherine J. Cachero, Esq.
Vice President of Board of Directors of
SHRM NMI Chapter
Of Counsel of Marianas Legal Strategy
Group LLC

Pina M. Deleon Guerrero, SHRM-CP
Secretary of Board of Directors of SHRM
NMI Chapter
Senior Human Resources Manager
APHI dba Fiesta Resort & Spa Saipan

Seet Fah W. Montenegro
Treasurer of Board of Directors of SHRM
NMI Chapter
Learning Manager of Hyatt Regency Saipan

Esther S. Ada, SHRM-CP
Past-President, Board Member of SHRM
NMI Chapter
HR Manager
DFS Saipan Limited

Penelope Jones
Board Member
Assistant Manager – HR
Hyatt Regency Saipan

Josephine Mesta, PHR
Past President, Board Member of SHRM
NMI Chapter
Director of Human Resources
Hyatt Regency Saipan

Frank Gibson
Consultant, Advisor and Past President of
SHRM NMI Chapter
Owner of HR Support CNMI

P.O. Box 5093 CHRB Saipan MP 96950
Telephone No. (670) 234-1610 Fax No. (670) 234-1611

Chwm Lisa Murkowski
Ranking Member Maria Cantwell
Senate Comm. on Energy / Natural Resources
304 Dirksen Senate Bldg
Washington, DC 20510

February 15, 2018

Re: NMI U.S. Workforce Act (HR 4869 and S 2325)

Dear Senators,

As you may have been told, the economy here has been quite fragile for some time now. However, with the passage of this bill into law I believe our island will be able to not only sustain the modest economic growth of the past 3 years, but actually grow much faster.

By removing the uncertainty regarding Guest Workers many business owners will make more investment in their businesses. New businesses will spring up as well. Tourism will grow as new and better services and attractions are offered. It goes without saying that this will mean more jobs are available for local families, too.

I applaud the bi-partisan efforts in regard to this bill and feel it will mean nothing less than the survival of Saipan's way of life.

I am happy to support the training fee program for US workers as provided in the bill. Skilled local workers will do much to improve businesses, and services that they offer.

As business grows, more taxes are generated, particularly the BGRT (Business Gross Revenue Tax), which provides for many island needs. The struggle to upgrade our infrastructure can then move forward with fewer difficulties.

These are just a few of the reasons I am writing to express my support for the NMI U.S. Workforce Act (S 2325). Your support is greatly appreciated.

Please urge your colleagues to pass this bill as soon as possible.

Thank you again for your support.

Sincerely yours,

Ronnie Tan
Director

cc: US Congressman Gregorio Sablan

# Office of the Mayor

*Municipality of Tinian and Aguiguan*

**Joey P. San Nicolas**
*Mayor*

February 6, 2018

Senator Lisa Murkowski
Chairman and Member of the
United States Senate Committee
on Energy & Natural Resources
Washington, DC 20510-6150

RE: Letter in Support of S. 2325, the Northern Mariana Islands U.S. Workforce Act

HafaAdai Chairman Murkowski:

On behalf of the people of Tinian and the Tinian leadership, I write to express our support of S. 2325, the Northern Mariana Islands U.S. Workforce Act, which seeks to extend the CNMI's Transition Worker program.

It is our utmost desire and goal to provide every single U.S. citizen residing on the island of Tinian with meaningful employment opportunities. Without a private sector economy, however, the primary means of employment for our people is the government. Without the additional necessary work force that is currently allowed under the CNMI CW program, Tinian cannot have a viable private sector economy that would create private sector employment for our people.

Tinian once had an operational hotel and casino which supported our tourism industry and provided private sector employment to our people. We are currently working aggressively to attract investors to revitalize and reopen the hotel. To sustain a 24-hour operation, the hotel requires approximately 500 workers. Without additional workforce, residents of Tinian alone cannot fill every position available to sustain the operations.

Tinian is a small island community. With a population of approximately 3,000 people, we know every single citizen who lives here, if they are working or not, and more importantly why they are not working. In a recent survey we conducted of 1,436 work eligible adults, we have determined that there are 253 individuals who are considered unemployed. Of that 253 number, 112 are retirees not actively seeking employment, 8 who are care givers for aging or disabled family members, 11 who are self-employed, 29 with long term illness who are unable to work, 12 who are students enrolled at the community college and working part-time, and 5 who are incarcerated. Of that 253 number, we have determined that there are 30 -35 individuals who are either unable to find employment, are unable to maintain employment, or are not actively seeking employment.

P.O. Box 59 San Jose Village, Tinian, MP 96952 Phone: (670) 433-1800 Fax: (670) 433-1819

Since the closure of the hotel and the casino, Tinian has had to rely on the central government to fund the operations and the delivery of municipal programs and services. As indicated in the May 2017 Government Accountability Office (GAO) Study ("COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS Implementation of Federal Minimum Wage and Immigration Laws"), the 3,000 CW-1 permit reduction will result in a 14% reduction of the CNMI's Gross Domestic Product. The GAO study anticipates that a continued permit reduction and end to the CW program as required under U.S. Public Law 110-229 will have a catastrophic effect on the CNMI's economy. We can attest that Tinian is already feeling the impact of the reduction.

Last month, J.C. Café, Tinian's only full service restaurant, received notice that 11 of their CW permit applications were denied. They have given us notice that they will close down the restaurant. J.C. Café has been a place of gathering after church services and a place of celebration for birthdays, christenings and graduations for over 20 years. It has been the establishment that has nourished our visitors and the thousands of men and women in our military who come to Tinian annually to train. Its closure would mean that we will not have a full service restaurant on island. J.C. Café has sought to train and replace all of their CW employees with U.S. Citizens. However, besides our high school students who work there part-time, there is no interest from our people to work at the restaurant. The restaurant's closure would also mean that job opportunities for these high school students who are working and saving for college would be gone.

Last year, SN Five Shipping, our lone locally-owned inter-island shipping services company had to suspend shipping services between Tinian and Saipan for 3 months because the permits for their boat captains were not renewed as result of the 2017 reduction. This financially devastated the company. It also further increased the cost of living for our people. Groceries had to be flown in by air to stock the store shelves and our citizens who needed new basic household furniture and appliances such as stoves and refrigerators had to wait until the services resumed.

These are just a few examples of how the recent 3,000 CW-1 permit reduction has impacted our island. We have no doubt that the end of the program will devastate our island and our people.

In closing, on behalf of the people of Tinian and the Tinian leadership, we thank you for introducing S. 2325. It tells us that you understand and appreciate the unique challenges of our island community. As a young government, it is our aspiration to grow our economy enough to be able to sustain the needs of our people and to provide meaningful employment opportunities for every single citizen who calls the CNMI home. This bill supports those efforts.

Sincerely,

JOEY P. SAN NICOLAS
Mayor
Municipality of Tinian and Aguiguan

P.O. Box 59 San Jose Village, Tinian, MP 96952 Phone: (670) 433-1800 Fax: (670) 433-1819

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**Office of the Governor**
**Office of the Press Secretary**
Caller Box 10007 • Saipan, MP 96950 • Tel: (670) 237-2234 • Fax: (670) 664-2211 • kevin.bautista@gov.mp

**PRESS RELEASE** January 21, 2018
FOR IMMEDIATE RELEASE

**Governor Torres thanks Senator Murkowski for collaboration on Northern Mariana Islands US Workforce Act**

Governor Ralph DLG. Torres thanked Senator Lisa Murkowski in a conference call early Saturday morning for her continual collaboration on the Northern Mariana Islands US Workforce Act, which extends the CW permit program through 2029 and further strengthens ongoing local initiatives to develop the CNMI's US workforce.

Discussions between Governor Torres and congressional leaders in both the House and Senate about a long-term solution to the CW program began as early as June 2016 through the Section 902 Consultations between the CNMI and the US. The consultations resulted in the first report approved by both the CNMI and the White House and transmitted to Congress in January 2017.

Senator Murkowski, who chairs the Senate Committee on Energy and Natural Resources, created the congressional working group in July 2017 to initiate discussions on Governor Torres' recommendations toward legislation that would develop the US workforce substantially over time, secure the CNMI's ability to grow its economy, and ensure that legacy foreign workers will not be capped out during the annual renewal process.

Governor Torres followed this up by several meetings with federal officials from the White House, key departments and agencies, and Congress. The announcement of the reduced numerical CW cap from 12,998 to 9,998 for FY 2018 in late November further stressed the need for a long-term legislative fix soon.

In December 2017, Governor Torres with members of the Northern Marianas Business Alliance then met with Senator Murkowski, Delegate Gregorio Sablan, and members of the working group to help move the bill further. Following the meeting, Governor Torres has been working closely over the last several weeks as a member of the working group resulting in the introduction of the official bill on Friday.

"Senator Murkowski has been very gracious with my staff and I over the last several months on this particular bill, dating as far back as June 2016 when we had our 902 consultations. I thank her and all the members of her working group for their collaboration. I especially want to thank her for holding off on the introduction of the bill until after I provided my input on the draft. I am glad that the bill was able to include some of my recommendations, such as extending the program to 2029, instead of 2024 as previously drafted and eliminating the Guam reference on minimum wage," Governor Torres said.

Governor Torres added that Senator Murkowski informed him of the hearing on the bill scheduled for February 6, 2018, in which further discussions will allow for more additions to the bill about the CNMI's economic needs and its commitment to increasing its US workforce.

"We still have additional recommendations that are being considered and negotiated with the Senate, so the bill remains a solid working document as we move forward. These recommendations include increasing the number of permits to 15,000 to allow Commonwealth employers to sustain newfound growth in the near term, amending the construction ban to ensure that not only our legacy workers, but also our general maintenance workers are no longer denied renewals, and having CW-3 permits include CW permits since the 2017 fiscal year instead of the 2014 fiscal year. We will also request for access to all federal workforce, education, and training programs in order to effectively fulfill our goal of developing a US workforce in line with the legislation's goals and allowed access to data from all federal agencies," Governor Torres noted.

"We are very pleased in what we have been able to accomplish together so far. It is through discussions with everyone in our community—the people in our villages who are actively trying to find a job in our growing economy, our small local businesses that have to make difficult choices, and families and friends that have been affected by the reduction that has already taken place. We will continue to make sure that every able-bodied and willing local worker on island has access to a job in order to be self-sufficient, and we will continue to work towards saving our economy because it provides more opportunities for everyone to succeed as it grows. As we continue to work on this federal issue, I will keep you, our community, informed."

###

**TORRES REFRIGERATION, INC.**
P.O. Box 500714 CK, Saipan, MP 96950
Tel. No.: (670) 234-6098 • Tel/Fax: (670) 235-1662
Email: jttorres@pticom.com

January 18, 2018

Ms. Lisa Murkowski
Senator (AK)
Senate Committee on Energy
522 Hart Senate Office Building
Washington, DC 20510

Subject: *CNMI CW WORKER PROGRAM: LETTER IN SUPPORT OF REQUEST BY THE CNMI BUSINESS ALLIANCE FOR EXTENSION OF THE CW GUEST WORKER PROGRAM IN THE NORTHERN MARIANA ISLANDS.*

Dear Senator Murkowski:

*Hafa Adai* from the Commonwealth of the Northern Mariana Islands ("CNMI"). My name is Joseph T. Torres and I am the President of Torres Refrigeration, Inc. ("TRI"). This is to submit my letter to you in support of the request by the CNMI Business Alliance and the Government of the CNMI for an extension of the CW guestworker program in the CNMI.

TRI is our closely held family corporation on Saipan established in 1991. I myself went to trade school at the JW Perry Institute in Yakima, WA and the College of Southern Idaho in Twin Falls, ID for air-conditioning/ refrigeration, automotive repair. I was born and raised on Saipan and I am a tradesman.

Although I myself am a local U.S. citizen owner operating TRI for over 28 years, it has been and continues to be a challenge to recruit, hire and maintain qualified local tradesmen. Even with the increases in minimum wage I have not increased my local worker population in the company. Today we have eight (8) CW contract workers in automotive, air-conditioning, and refrigeration work. If the CW worker program is terminated, my company will simply go out of business. I alone cannot manage the service and repair.

My commitment to growing our local trade workers is personal. I am a board member of the Northern Marianas Trades Institute ("NMTI") which receives money from the CW worker fees to train local workers. Although we have some talent growing in NMTI, it is not yet enough to meet the demands of our economy and TRI. An extension of the CW worker program as requested is necessary to allow for this development of our workforce and avoid destroying our family business– it is everything that we have and our livelihood.

Thank you for your support and I am happy to speak with you or your staff further to answer any questions you may have.

Sincerely,

JOSEPH T. TORRES
GENERAL MANAGER

Refrigeration Service Engineers Society
BETTER SERVICE RSES THROUGH KNOWLEDGE

HARDI
HEATING, AIRCONDITIONING & REFRIGERATION DISTRIBUTORS INTERNATIONAL

MACS
MOBILE AIR CONDITIONING SOCIETY

**Marianas Pacific Development LLC**

Address:
**Rm.312,Marianas Business Plaza Nauru Loop, Susupe PMB 282 P.O. Box 10000 Saipan, MP 96950, CNMI, USA**

Telephone No.:
**1-670-2341610**

Fax Number:
**1-670-2341611**

February 15, 2018

Chwm Lisa Murkowski
Ranking Member Maria Cantwell
Senate Comm. on Energy / Natural Resources
304 Dirksen Senate Bldg
Washington, DC 20510

Re: NMI U.S. Workforce Act (HR 4869 and S 2325)

Dear Senators,

As you may have been told, the economy here has been quite fragile for some time now. However, with the passage of this bill into law I believe our island will be able to not only sustain the modest economic growth of the past 3 years, but actually grow much faster.

By removing the uncertainty regarding Guest Workers many business owners will make more investment in their businesses. New businesses will spring up as well. Tourism will grow as new and better services and attractions are offered. It goes without saying that this will mean more jobs are available for local families, too.

I applaud the bi-partisan efforts in regard to this bill and feel it will mean nothing less than the survival of Saipan's way of life.

I am happy to support the training fee program for US workers as provided in the bill. Skilled local workers will do much to improve businesses, and services that they offer.

As business grows, more taxes are generated, particularly the BGRT (Business Gross Revenue Tax), which provides for many island needs. The struggle to upgrade our infrastructure can then move forward with fewer difficulties.

These are just a few of the reasons I am writing to express my support for the NMI U.S. Workforce Act (S 2325). Your support is greatly appreciated.

Please urge your colleagues to pass this bill as soon as possible.

Thank you again for your support.

Sincerely yours,

Erick Van Der Maas
President/General Manager

cc: US Congressman Gregorio Sablan

# YANTAI SAIPAN, INC.

PMB 282 PPP P.O. Box 10000 Saipan MP 96950
Telephone No. (670) 234-1610 Fax No. (670) 234-1611

Chwm Lisa Murkowski
Ranking Member Maria Cantwell
Senate Comm. on Energy / Natural Resources
304 Dirksen Senate Bldg
Washington, DC 20510

February 15, 2018

Re: NMI U.S. Workforce Act (HR 4869 and S 2325)

Dear Senators,

I wish to applaud the bi-partisan efforts for the NMI U.S. Workforce Act (S 2353). This bill will mean the survival of Saipan's way of life.

The economy here has been quite fragile for some time. However, with the passage of this bill into law our island will be able to not only sustain the modest economic growth of recent years, but actually grow much faster. By removing the uncertainty regarding Guest Workers many business owners will make more investment in their businesses. New businesses will spring up as well. Tourism will grow as new and better services and attractions are offered. It goes without saying that this will mean more jobs are available for local families, too.

I would like to go on record with my support for this bill. And please know that your support is very much appreciated.

I am happy to support the training fee program for US workers as provided in the bill. Skilled local workers will do much to improve businesses, and services that they offer.

As businesses grow, more taxes are generated, particularly Business Gross Revenue Tax, which provides for many island needs. The struggle to upgrade our infrastructure can then move forward with fewer problems.

Thank you again again for your support.

Please urge your colleagues to pass this bill as soon as possible.

Sincerely yours,

Jasper Van Der Maas
Vice President

cc: US Congressman Gregorio Sablan

**Written Support of S.2325**
**'The Northern Mariana Islands U.S. Workforce Act'**

**To:**
**The Honorable Lisa Murkowski**
**U.S. Senate**
**Washington D.C. 20510**

**Courtesy Copy Provided to:**
**The Honorable Gregorio Kilili Sablan**
**U.S. House of Representatives**
**Washington D.C. 20510**

**From:**
**A lowly public school teacher, fighting for his scholars**

Dear Senator Murkowski,

My name is Gerard van Gils and I am the 2017 Teacher of the Year from the Northern Mariana Islands. I have asked my friend, James Harris, the 2017 Alaska State Teacher of the Year to pass my letter to your staff as I am 8,000 miles away on my home island of Saipan. While we are on the topic of James Harris, I would just like to inform you that he is a tribute to the state of Alaska and a tribute to the teaching profession. You could ask for no better advocate for your people than he, which is also why I am asking him to advocate on behalf of my people too.

I work at Kagman High School a public school on the island of Saipan. I teach Career and Technical Education, primarily in preparing students for higher education. I also teach Cooperative Education which is job skills training and placement. In short, I prepare our young people for higher education and to enter our workforce. I am good at what I do and I have been widely championed for my work. Which is why, Senator, from the front lines of my classroom, I can confidently report that my students and their families will suffer greatly without the passage of the Northern Mariana Islands U.S. Workforce Act. So I thank you for sponsoring the bill and I encourage you to keep working diligently with Congressman Sablan for its passage.

You have received much notice from my friends in the business community and government of the Northern Mariana Islands. While their messages are more technically pure, more logical and perhaps thoughtful, my message is simpler and from my heart.

My job title is "teacher", but what I do is I fight poverty. Fighting poverty is my job from start to finish and poverty fights me back by striking at the vulnerable and needy whom I love. It's a bloody fight and I'm exhausted. Sometimes I win, but to be honest, poverty wins more. If our economy is not given the chance to build a U.S. workforce over the times and conditions that your bill provides, our economy will lose not only workers but businesses. These businesses

provide jobs, goods, and services to our people, but also tax revenue to our government. So if this bill does not pass, then our businesses suffer, our people suffer, our government suffers, and directly my students will suffer.

That's how poverty wins.

Our islands are making tremendous progress. I see my students working at every store and hotel on the island. When I go on a date with my wife, my students are cooking the food. When I pay for groceries, it is my students providing my change. We are building our workforce, but we simply cannot build it fast enough to meet the needs of our labor-heavy tourism industry. My students have an honest to goodness shot of exiting the cycles of poverty which have kept their people down for generations. Let me help them. Work for the passage of this bill which will further stabilize our growing economy, provide resources for the training of a U.S. workforce, and tax revenue to our local economy (so that teachers like me have a little help in accomplishing such a difficult task).

That's how we win!

Thank you for your work thus far. Please know that we islanders are few, but we are relying on this bill to save our people from economic crisis. Every teacher, and every student, in our little far-flung branch of the U.S. family tree is counting on you and your peers in Washington. Fight hard, as am I, to help our people.

Thank you sincerely,

Si, G

Mr. G
2017 CNMI Teacher of the Year
2017 PREL Pacific Teacher of the Year

LAW OFFICES
JONATHAN M. WEISGALL, CHARTERED
1800 M STREET, NW
SUITE 330N
WASHINGTON, DC 20036-5844

TELEPHONE: (202) 828-1378 • FACSIMILE: (202) 828-1380 • EMAIL: jmweisgall@midamerican.com

February 19, 2018

The Honorable Lisa Murkowski
Chair, Senate Energy and Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

VIA E-MAIL

Re: S. 2182 Hearing

Dear Chairwoman Murkowski:

Thank you for the opportunity to respond to the February 6, 2018 testimony of Kili/Bikini/Ejit Local Government Council Mayor Anderson Jibas before your committee. I do not take a position on S. 2182, but I would ask that this letter be made part of the committee's record on this bill.

The greatest honor of my legal career was my representation of the people of Bikini for 42 years, starting in 1975. That work involved four lawsuits against the U.S. Government and lobbying the U.S. Congress on the Bikinians' behalf, as we;; as representing them in litigation in the High Court of the Republic of the Marshall Islands, in negotiations on the Compact of Free Association, and for nearly eight years before the Marshall Islands Nuclear Claims Tribunal. In addition, I testified on their behalf several dozen times before U.S. House and Senate authorizing and appropriations committees, including this one.

During this four-plus decade period, I made dozens of trips to the Marshall Islands to meet with the Kili/Bikini/Ejit Local Government Council and the rest of the Bikini community (most meetings were attended by several hundred Bikinians, as they were open to all). Moreover, whenever Bikini leaders came to Washington, DC I arranged for them to meet with congressional leaders (including you) and officials from eight presidential administrations, from Presidents Ford to Trump. This also included a meeting at the White House with Vice President George H.W. Bush in 1982.

I am deeply saddened by Mayor Jibas' testimony about me, which is as follows:

> We have discovered that it is best for the KBE Council to deal directly with the Resettlement Trust Fund, because the way things were before, there were too many discrepancies and issues in dealing with two non-RMI natives who were, frankly, condescending to us. The Trust Liaison Agent [Jack Niedenthal] and the lawyer in D.C. [myself] did not allow interaction between us and the Department [of Interior],

> and many times we would hear "DOI said NO" or DOI said this or that, but when we were finally able to check with DOI, DOI said they were never contacted. . . . . Relationship now with the DOI is now direct, good, open, and transparent. The Council began dealing directly with DOI without these middle-men who scrambled our messages, and who did not really present or represent the real needs of the People of Bikini. . . . We feared DOI because our Liaison and Lawyer told us we were not allowed to interact with DOI.

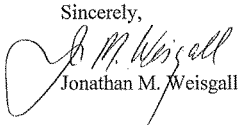
At no point did I prevent the Bikinians from interacting with any U.S. Government official, including ones from the Department of the Interior. To the contrary, I encouraged it and arranged these meetings whenever possible, either in Washington, DC, Hawaii or the Marshall Islands. Regarding the mayor's charge that "DOI said they were never contacted," I suggest you ask their career officials, some of whom have served there for decades (such as Joseph McDermott or Nikolao Pula) to determine if this is true.

My record speaks for itself. I find it hard to reconcile the mayor's statement that I "did not really present or represent the real needs of the People of Bikini" with the fact that I obtained over $200 million in appropriations from Congress on behalf of the Bikinians in 1975, 1978, 1980, 1981, 1982, and every single year from 1984-1993. Moreover, most of these appropriations went into two trust funds, which were well invested and provided even more funds for the Bikinians. One, the Resettlement Trust Fund for the People of Bikini, has paid out approximately $220 million for the Bikinians since it was created in 1982. The second, the Bikini Claims Trust Fund – which limits annual distributions to no more than 5% of corpus, along the lines of S. 2182 – has seen its corpus grow from $39 million to well over $60 million and has paid out approximately $70 million to the Bikinians since it was created in 1986.

So there you have it – over $200 million in appropriations and, in addition, payouts of approximately $290 million from trust funds created by some of these appropriations. That's about half a billion dollars of benefits for the Bikinians. Did I not "really present or represent the real needs of the People of Bikini"? I will let others decide that. I will only add that, if I had been, as Mayor Jibas said, "frankly, condescending to" the Bikinians, you would think I would have been fired at some point during the 42 years before this mayor arrived on the scene.

Thank you for including this letter in the Committee's record on S. 2182.

Sincerely,



Jonathan M. Weisgall

**WRITTEN STATEMENT OF GERALD M. ZACKIOS**
**REPUBLIC OF THE MARSHALL ISLANDS AMBASSADOR TO THE UNITED STATES**
**TO THE UNITED STATES SENATE ENERGY AND NATURAL RESOURCES COMMITTEE**
**FEBRUARY 6, 2018**

Madame Chairwoman, Distinguished Members, Ladies and Gentlemen:

On behalf of President Hilda Heine, I am honored to present the views of the Government of the Republic of the Marshall Islands on Senate Bill S. 2182, the Bikini Resettlement and Relocation Act.

I would like to thank you Madame Chairwoman for your request to the GAO to provide an updated study on several aspects of the Compact, including the Compact Trust Fund and other issues of great importance to my Government and the Marshallese people. We look forward to receiving a draft of the GAO report for comment and working with the Administration and Congress on several important issues as 2023 approaches.

I would also like to take this opportunity to thank you for all of your assistance and help from your staff to support the effort to amend the REAL ID Act so that Marshallese citizens who reside in the United States can obtain important identification documents to facilitate timely and lasting employment as provided in the Compact.

Madam Chairwoman, the Government and the People of the Marshall Islands want to thank you for carrying on the tradition of support for the Marshall Islands established by your father, the Honorable Frank Murkowski. As a Member of this Committee in the 1980s, he supported the two laws that created and funded the Bikini Resettlement Trust Fund ("the Fund") and, as Chairman, he visited Bikini in 1996. Please extend our warm regards to him.

The legal Compact obligation of the United States to provide funding for the resettlement of Bikini Atoll is found at Article VI, Section 1 of the Section 177 Agreement to the Compact which states:

"The Government of the United States reaffirms its commitment to provide funds for the resettlement of Bikini Atoll by the people of Bikini Atoll at a time which cannot now be determined".

A few years after the Compact came into effect, Congress supplemented the Bikini Resettlement Trust Fund established in 1982 with U.S. PL 100-446 and added $90 million to the Fund bringing the total to $109 million. The Resettlement Trust Fund was administered by the Department of Interior who worked with the representatives of Bikini in carrying out the purposes of the Fund. For historical purposes it is worth noting that while the RMI Government did not have any role in the administration, investment and use of these funds, it did express it's hope that the Resettlement Trust Fund would fulfill its purpose although it was certainly not clear at that time when resettlement of Bikini could occur because of the need to clean up and restore Bikini Atoll.

Unfortunately, although the Fund grew in value from $109 million or so to more than $124 million, that amount was far from being sufficient to conduct a thorough radiological cleanup and restoration of the atoll. In determining the amount needed for such a program, the Nuclear Claims Tribunal considered over 20 different strategies ranging in cost from $218 million to $1.4 billion.

Ultimately, in March 2001 and with acceptance from the Bikini community, the Tribunal selected an option involving a combination of soil excavation and removal and application of potassium which was estimated to cost $360.5 million. After adjusting that amount to reflect the $109 million appropriated by Congress for resettlement, the Tribunal awarded $251.5 million for the restoration of Bikini. Since that time, the RMI national government has sought and will continue to seek funding to support the cleanup of Bikini and will work with the elected leaders and the people of the atoll toward that end.

Thus, when we learned this past November, after almost thirty years that the Department of Interior was largely relinquishing its responsibility of administration and oversight of these funds, the RMI was quite surprised. We honestly believe that had some prior consultations taken place before this action, arrangements could have been made in the RMI to provide a proper framework to assure accountability of the Bikini Resettlement Fund. Nonetheless, we are pleased to see that the people of Bikini will have the ability to determine their future course on the resettlement or relocation issues facing their community.

The RMI Government is also prepared to work with the people of Bikini to assist them with their more immediate objectives. The Cabinet met with the Mayor and the atoll's Executive Council in Majuro last month and the national government looks forward to reviewing the "Rescript Resolution" adopted by the Council last August regarding the resettlement fund.

Importantly, we are also obligated to assist in ensuring accountability and, in addition to the annual audits which local governments must undergo, our Cabinet is working on the introduction of legislation that will mandate better accountability of all existing trust funds in the Marshall Islands. We are open to working with the U.S. Government on important accountability issues should S. 2182 become law.

Madam Chairwoman, I am obligated to point out that even as we work on a way forward for the Bikini Resettlement Trust Fund, there continue many unaddressed issues in the RMI relating to our nuclear legacy. There has been no substantive response to our Government's Petition regarding Changed Circumstances as set forth in the Section 177 Agreement and lodged with the U.S. Congress in 2000. Nuclear health issues continue to be inadequately addressed with current funding and compensation awards made by the Nuclear Claims Tribunal for personal injury and damage to property, including Bikini's, remain unfunded.

Finally, I would like to take this opportunity to stress some of the important issues both governments face in the near future. Issues raised during the 10 year review of the Compact as required in Section 104 of the PL 108-188 such as improving the viability and sustainability of the Compact Trust Fund by seeking certain amendments to the Trust Fund Agreement are pressing and essential if we are to avoid highly likely zero distribution years in the future. We also await appropriation for a $20 million contribution owed to the Trust Fund pursuant to Section 216(b) of the Compact and Section 108(b) of PL 108-188. We continue to be hopeful and require greater US participation in attracting more subsequent contributors to the Trust Fund, and taking measures to deal with trust fund governance and future distribution policy and accountability.

I will end my remarks here by once again noting that the U.S. and RMI have the closest of relationships as allies under Compact, and we continue to provide close and reliable support to US policy with our participation at the United Nations and elsewhere. Our sons and daughters are proud to serve in the United States Armed Forces. We know and trust that this relationship will continue to grow and strengthen.

Thank You Madam Chairwoman for the opportunity to provide this written testimony.



○