

S. RES. 480

Whereas the Senate has always honored the sacrifices made by the wounded and ill members of the Armed Forces;

Whereas the Silver Star Service Banner has come to represent the members of the Armed Forces and veterans who were wounded or became ill in combat in the wars fought by the United States;

Whereas the Silver Star Families of America was formed to help the people of the United States remember the sacrifices made by the wounded and ill members of the Armed Forces by designing and manufacturing Silver Star Service Banners and Silver Star Flags for that purpose;

Whereas the sole mission of the Silver Star Families of America is to evoke memories of the sacrifices made by members of the Armed Forces and veterans on behalf of the United States through the presence of a Silver Star Service Banner in a window or a Silver Star Flag flying;

Whereas the sacrifices made by members of the Armed Forces and veterans on behalf of the United States should never be forgotten; and

Whereas May 1, 2018, is an appropriate date to designate as "Silver Star Service Banner Day": Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of May 1, 2018, as "Silver Star Service Banner Day"; and

(2) calls upon the people of the United States to observe Silver Star Service Banner Day with appropriate programs, ceremonies, and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2239. Mr. McCONNELL (for Ms. MURKOWSKI) proposed an amendment to the bill S. 2325, to incentivize the hiring of United States workers in the Commonwealth of the Northern Mariana Islands, and for other purposes.

TEXT OF AMENDMENTS

SA 2239. Mr. McCONNELL (for Ms. MURKOWSKI) proposed an amendment to the bill S. 2325, to incentivize the hiring of United States workers in the Commonwealth of the Northern Mariana Islands, and for other purposes; as follows:

On page 21, line 25, strike "issued" and insert "requested".

On page 25, line 12, insert "with petitions filed with employment start dates" after "Beginning".

On page 31, line 8, strike "or".

On page 31, line 11, insert ", or otherwise ceases to operate as a legitimate business (as defined in clause (iv)(II))" before the semicolon.

On page 33, line 18, strike "and Commonwealth" and insert ", Commonwealth, and local".

On page 33, line 22, insert ", or knowingly benefit from," after "engage in".

On page 33, line 25, strike "or Commonwealth law; and" and insert ", Commonwealth, or local law;".

On page 34, line 3, strike "program." and insert "program;".

On page 34, between lines 3 and 4, insert the following:

"(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)."

On page 35, line 12, insert "prior to the submission of a renewal petition on their behalf" after "30 days".

At the end of the bill, add the following:

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as specifically otherwise provided, this Act and the amendments made by this Act—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to petitions for Commonwealth Only Transitional Workers filed on or after such date.

(2) AUTHORITY OF SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security, in the Secretary's discretion, may delay the effective date of any provision of this Act relating to Commonwealth Only Transitional Workers until the effective date of the interim final rule described in subsection (b), except for provisions providing annual numerical caps for such workers.

AUTHORITY FOR COMMITTEES TO MEET

Mr. WICKER. Mr. President, I have a request for one committee to meet during today's session of the Senate. It has the approval of the Majority and Minority leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committee is authorized to meet during today's session of the Senate:

COMMITTEE ON FOREIGN RELATIONS

The Committee on Foreign Relations is authorized to meet during the session of the Senate on Monday, April 23, 2018, at 5 p.m., to hold a hearing.

NATIONAL DONATE LIFE MONTH

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 479, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 479) designating April 2018 as "National Donate Life Month."

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 479) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

EXPRESSING SUPPORT FOR THE DESIGNATION OF MAY 1, 2018, AS "SILVER STAR SERVICE BANNER DAY"

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 480, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 480) expressing support for the designation of May 1, 2018, as "Silver Star Service Banner Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 480) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

NORTHERN MARIANA ISLANDS U.S. WORKFORCE ACT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 354, S. 2325.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 2325) to incentivize the hiring of United States workers in the Commonwealth of the Northern Mariana Islands, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

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 longer than 1 year shall pay the fee for each year of requested validity at the time the permit is issued.

“(ii) INFLATION ADJUSTMENT.—Beginning in fiscal year 2020, the Secretary, through notice in the Federal Register, may annually adjust the supplemental fee imposed under clause (i) by a percentage equal to the annual change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

“(iii) USE OF FUNDS.—Amounts collected pursuant to clause (i) shall be deposited into the Treasury of the Commonwealth Government for the sole and exclusive purpose of funding vocational education, apprenticeships, or other training programs for United States workers.

“(iv) FRAUD PREVENTION AND DETECTION FEE.—In addition to the fees described in clause (i), the Secretary—

“(I) shall impose, on each prospective employer filing a petition 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 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 Health, Education, Labor, and Pensions of the Senate and the Chair and Ranking Member of the Committee on Education and the Workforce of the House of Representatives that identifies the ratio between United States workers and other workers in the Commonwealth’s workforce during each of the previous 5 calendar years.

“(D) PETITION; ISSUANCE OF PERMITS.—

“(i) SUBMISSION.—A prospective employer may submit a petition for a permit under this paragraph not earlier than—

“(I) 120 days before the date on which the prospective employer needs the beneficiary’s services; or

“(II) if the petition is for the renewal of an existing permit, not earlier than 180 days before the expiration of such permit.

“(ii) EMPLOYMENT VERIFICATION.—The Secretary shall establish a system for each employer of a Commonwealth Only Transitional Worker to submit a semiannual report to the Secretary and the Secretary of Labor that provides evidence to verify the continuing employment and payment of such worker under the terms and conditions set forth in the permit petition that the employer filed on behalf of such worker.

“(iii) REVOCATION.—

“(I) IN GENERAL.—The Secretary, in the Secretary’s discretion, may revoke a permit approved under this paragraph for good cause, including if—

“(aa) the employer fails to maintain the continuous employment of the subject worker, fails to pay the subject worker, fails to timely file a semiannual report required under this paragraph, or commits any other violation of the terms and conditions of employment;

“(bb) the beneficiary of such petition does not apply for admission to the Commonwealth by the date that is 10 days after the period of petition validity begins, if the employer has requested consular processing; or

“(cc) the employer fails to provide a former, current, or prospective Commonwealth Only Transitional Worker, not later than 21 business days after receiving a written request from such worker, with the original (or a certified copy of the original) of all petitions, notices, and other written communication related to the worker (other than sensitive financial or proprietary information of the employer, which may be redacted) that has been exchanged between the employer and the Department of Labor, the Department of Homeland Security, or any other Federal agency or department.

“(II) REALLOCATION OF REVOKED PETITION.—Notwithstanding subparagraph (C), for each permit revoked under subclause (I) in a fiscal year, an additional permit shall be made available for use in the subsequent fiscal year.

“(iv) LEGITIMATE BUSINESS.—

“(I) IN GENERAL.—A permit may not be approved for a prospective employer that is not a legitimate business.

“(II) DEFINED TERM.—In this clause, the term ‘legitimate business’ means a real, active, and

operating commercial or entrepreneurial undertaking that the Secretary, in the Secretary's sole discretion, determines—

“(aa) produces services or goods for profit, or is a governmental, charitable, or other validly recognized nonprofit entity;

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

“(cc) has substantially complied with wage and hour laws, occupational safety and health requirements, and all other Federal and Commonwealth requirements related to employment during the preceding 5 years;

“(dd) does not directly or indirectly engage in prostitution, human trafficking, or any other activity that is illegal under Federal or Commonwealth law; and

“(ee) is a participant in good standing in the E-Verify program.

“(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.

“(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).”.

(b) RULEMAKING.—

(1) SECRETARY OF HOMELAND SECURITY.—Notwithstanding the requirements under section 553(b) of title 5, United States Code, the Secretary of Homeland Security shall publish in the Federal Register, not later than 180 days after the date of the enactment of this Act, an interim final rule that specifies how the Secretary intends to implement the amendments made by subsection (a) that relate to the responsibilities of the Secretary.

(2) SECRETARY OF LABOR.—Notwithstanding the requirements under section 553(b) of title 5, United States Code, the Secretary of Labor shall publish in the Federal Register, not later than 180 days after the date of the enactment of this Act, an interim final rule that specifies how the Secretary intends to implement the amendments made by subsection (a) that relate to the responsibilities of the Secretary.

(3) RECOMMENDATIONS OF THE GOVERNOR.—In developing the interim final rules under paragraphs (1) and (2), the Secretary of Homeland Security and the Secretary of Labor—

(A) shall each consider, in good faith, any 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).

(d) OUTREACH AND TRAINING.—Not later than 120 days after the date on which the Secretary of Labor publishes an interim final rule in the Federal Register in accordance with subsection (b)(2), the Secretary shall conduct outreach and training in the Commonwealth of the Northern Mariana Islands for employers and workers on the foreign labor certification process set forth in 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”, as amended by subsection (b), including the minimum wage requirement set forth in subsection (d)(2)(C) of such section.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Murkowski amendment at the desk be

agreed to and the committee-reported amendment, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2239) was agreed to, as follows:

(Purpose: To make technical amendments to the bill)

On page 21, line 25, strike “issued” and insert “requested”.

On page 25, line 12, insert “with petitions filed with employment start dates” after “Beginning”.

On page 31, line 8, strike “or”.

On page 31, line 11, insert “, or otherwise ceases to operate as a legitimate business (as defined in clause (iv)(II))” before the semicolon.

On page 33, line 18, strike “and Commonwealth” and insert “, Commonwealth, and local”.

On page 33, line 22, insert “, or knowingly benefit from,” after “engage in”.

On page 33, line 25, strike “or Commonwealth law; and” and insert “, Commonwealth, or local law;”.

On page 34, line 3, strike “program.” and insert “program;”.

On page 34, between lines 3 and 4, insert the following:

“(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).

On page 35, line 12, insert “prior to the submission of a renewal petition on their behalf” after “30 days”.

At the end of the bill, add the following:

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as specifically otherwise provided, this Act and the amendments made by this Act—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to petitions for Commonwealth Only Transitional Workers filed on or after such date.

(2) AUTHORITY OF SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security, in the Secretary's discretion, may delay the effective date of any provision of this Act relating to Commonwealth Only Transitional Workers until the effective date of the interim final rule described in subsection (b), except for provisions providing annual numerical caps for such workers.

The committee-reported amendment in the nature of a substitute, as amended, was agreed to.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill, as amended, be considered read a third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. McCONNELL. Mr. President, I know of no further debate on the bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 2325), as amended, was passed, as follows:

S. 2325

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 work-

er—
(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 non-immigrant 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 longer than 1 year shall pay the fee for each year of requested validity at the time the permit is requested.

“(ii) INFLATION ADJUSTMENT.—Beginning in fiscal year 2020, the Secretary, through notice in the Federal Register, may annually adjust the supplemental fee imposed under clause (i) by a percentage equal to the annual change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

“(iii) USE OF FUNDS.—Amounts collected pursuant to clause (i) shall be deposited into the Treasury of the Commonwealth Government for the sole and exclusive purpose of funding vocational education, apprenticeships, or other training programs for United States workers.

“(iv) FRAUD PREVENTION AND DETECTION FEE.—In addition to the fees described in clause (i), the Secretary—

“(I) shall impose, on each prospective employer filing a petition 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 Common-

wealth 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 non-immigrant 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 pre-

vailing 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 Health, Education, Labor, and Pensions of the Senate and the Chair and Ranking Member of the Committee on Education and the Workforce of the House of Representatives that identifies the ratio between United States workers and other workers in the Commonwealth’s workforce during each of the previous 5 calendar years.

“(D) PETITION; ISSUANCE OF PERMITS.—

“(i) SUBMISSION.—A prospective employer may submit a petition for a permit under this paragraph not earlier than—

“(I) 120 days before the date on which the prospective employer needs the beneficiary’s services; or

“(II) if the petition is for the renewal of an existing permit, not earlier than 180 days before the expiration of such permit.

“(ii) EMPLOYMENT VERIFICATION.—The Secretary shall establish a system for each employer of a Commonwealth Only Transitional Worker to submit a semiannual report to the Secretary and the Secretary of Labor that provides evidence to verify the continuing employment and payment of such worker under the terms and conditions set forth in the permit petition that the employer filed on behalf of such worker.

“(iii) REVOCATION.—

“(I) IN GENERAL.—The Secretary, in the Secretary’s discretion, may revoke a permit approved under this paragraph for good cause, including if—

“(aa) the employer fails to maintain the continuous employment of the subject worker, fails to pay the subject worker, fails to timely file a semiannual report required under this paragraph, commits any other violation of the terms and conditions of employment, or otherwise ceases to operate as a legitimate business (as defined in clause (iv)(II));

“(bb) the beneficiary of such petition does not apply for admission to the Commonwealth by the date that is 10 days after the period of petition validity begins, if the employer has requested consular processing; or

“(cc) the employer fails to provide a former, current, or prospective Commonwealth Only Transitional Worker, not later than 21 business days after receiving a written request from such worker, with the original (or a certified copy of the original) of all petitions, notices, and other written communication related to the worker (other than sensitive financial or proprietary information of the employer, which may be redacted) that has been exchanged between the employer and the Department of Labor, the Department of Homeland Security, or any other Federal agency or department.

“(II) REALLOCATION OF REVOKED PETITION.—Notwithstanding subparagraph (C), for each permit revoked under subclause (I) in a fiscal year, an additional permit shall be made available for use in the subsequent fiscal year.

“(iv) LEGITIMATE BUSINESS.—

“(I) IN GENERAL.—A permit may not be approved for a prospective employer that is not a legitimate business.

“(II) DEFINED TERM.—In this clause, the term ‘legitimate business’ means a real, active, and operating commercial or entrepreneurial undertaking that the Secretary, in the Secretary’s sole discretion, determines—

“(aa) produces services or goods for profit, or is a governmental, charitable, or other validly recognized nonprofit entity;

“(bb) meets applicable legal requirements for doing business 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).”.

(b) RULEMAKING.—

(1) SECRETARY OF HOMELAND SECURITY.—Notwithstanding the requirements under section 553(b) of title 5, United States Code, the Secretary of Homeland Security shall publish in the Federal Register, not later than 180 days after the date of the enactment of this Act, an interim final rule that specifies how the Secretary intends to implement the amendments made by subsection (a) that relate to the responsibilities of the Secretary.

(2) SECRETARY OF LABOR.—Notwithstanding the requirements under section 553(b) of title 5, United States Code, the Secretary of Labor shall publish in the Federal Register, not later than 180 days after the date of the enactment of this Act, an interim final rule that specifies how the Secretary intends to implement the amendments made by subsection (a) that relate to the responsibilities of the Secretary.

(3) RECOMMENDATIONS OF THE GOVERNOR.—In developing the interim final rules under paragraphs (1) and (2), the Secretary of Homeland Security and the Secretary of Labor—

(A) shall each consider, in good faith, any 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).

(d) OUTREACH AND TRAINING.—Not later than 120 days after the date on which the Secretary of Labor publishes an interim final rule in the Federal Register in accordance with subsection (b)(2), the Secretary shall conduct outreach and training in the Commonwealth of the Northern Mariana Islands for employers and workers on the foreign labor certification process set forth in 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”, as amended by subsection (b), including the minimum wage requirement set forth in subsection (d)(2)(C) of such section.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as specifically otherwise provided, this Act and the amendments made by this Act—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to petitions for Commonwealth Only Transitional Workers filed on or after such date.

(2) **AUTHORITY OF SECRETARY OF HOMELAND SECURITY.**—The Secretary of Homeland Security, in the Secretary's discretion, may delay the effective date of any provision of this Act relating to Commonwealth Only Transitional Workers until the effective date of the interim final rule described in subsection (b), except for provisions providing annual numerical caps for such workers.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADMIRAL LLOYD R. "JOE" VASEY PACIFIC WAR COMMEMORATIVE DISPLAY ESTABLISHMENT ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 360, H.R. 4300.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 4300) to authorize Pacific Historic Parks to establish a commemorative display to honor members of the United States Armed Forces who served in the Pacific Theater of World War II, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4300) was ordered to a third reading, was read the third time, and passed.

ORDERS FOR TUESDAY, APRIL 24, 2018

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, April 24; further, that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed. I further ask that following leader remarks, the Senate proceed to executive session and resume consideration of the Duncan nomination; further, that all time during recess, adjournment, morning business, and leader remarks count postcloture on the Duncan nomination. Finally, I ask that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly conference meetings.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. Mr. President, if there is no further business to come be-

fore the Senate, I ask unanimous consent that it stand adjourned under the previous order, following the remarks of Senator DURBIN and Senator WHITEHOUSE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

DARK MONEY

Mr. DURBIN. Mr. President, I thank the majority leader for allowing Senator WHITEHOUSE and myself to conclude today's session.

I want first to salute my colleague, Senator WHITEHOUSE, who will be on the floor momentarily. He has come to the floor many times to talk about issues relative to climate change and global warming. He has come on so many occasions that I have lost track, but it shows his dedication to this issue.

He has also been outspoken on the issue of campaign financing and what is happening in America today. We all know that it takes big money to run big campaigns, and we all know that many people are put off by politicians who are waiting on wealthy donors to give them the money to make it across the finish line. That is a fact.

I have always said that in this business of politics, there are two categories. There are multimillionaires and mere mortals, and I am in the second category, never having enough money to finance my own campaign, prevailing on my friends to help. It is too bad that politics has reached the level where campaigns are so long and so expensive.

Tonight Senator WHITEHOUSE and I will highlight one aspect of that issue that is particularly worrisome and really should be front and center; that is, the so-called secret contributions, the dark money—money that is being spent on political campaigns with no fingerprints. It is a growing phenomenon, and it is troublesome to think that our democracy has reached that point.

I am going to speak about one aspect of it, and Senator WHITEHOUSE will follow me on the topic. I thank him for initiating this opportunity this evening.

Let me tell my colleagues what my topic is about. It is one aspect of it. We know that the United States leads the world in medical research. Because of the U.S. scientific community, HIV/AIDS is no longer a death sentence, polio has been eradicated in this country, people survive cancer and heart attacks in record number, and a child born today will likely live to be 78 years of age—nearly three decades longer than a baby born in 1900.

Thanks to the U.S. scientific community, we know the true dangers of tobacco. Now we are learning about the dangers related to e-cigarettes. But it was not always the case that the dangers of cigarette smoking were commonly accepted knowledge. For years,

the tobacco industry claimed to be interested in rigorous, independent science. They wanted to sell less harmful products, and they wanted to support scientific research. Evidence has now been disclosed which unequivocally demonstrates that tobacco companies, by funding alternate research and funneling money into front organizations to do their bidding, have literally corrupted the science on this issue. They produced products they knew were no less hazardous and sought to influence elections to ensure the friendliest voices supporting tobacco were elected to office at Federal, State, and local levels all across the country.

If this tactic sounds familiar, it should. It is exactly what the Koch brothers are currently doing with respect to sowing seeds of doubt about the causes of climate change and helping to elect Republicans who are climate change deniers.

I have said repeatedly on the floor of the Senate and I will repeat this evening: The Republican Party of the United States of America is the only major political party in the world today that denies climate change. I have said that repeatedly, expecting some Republican to come to the floor and say it is not true. One of them whispered to me in the elevator after I said this a few times: I think there is a party in Australia that also denies climate change. That is the best they could come up with.

How did this happen? There was a time when Republicans were the leaders when it came to environmental protection. If I am not mistaken, I say to my colleague, I think it was President Richard Nixon who created the Environmental Protection Agency.

When I look back on my own experience in Congress, there were Republicans who stood up and spoke up on the issue of climate change. I remember when JOHN MCCAIN and Joe Lieberman were the two lead sponsors on a bill dealing with global warming. It has been within my period of time serving in the Senate, but not anymore. It has changed dramatically. The Koch brothers, I think, are behind it. They didn't come up with this strategy on their own. They were able to look at Big Tobacco's playbook from years gone by.

The first thing Big Tobacco did was to question legitimate science. The Koch brothers got right in line. They have been questioning legitimate science when it comes to global warming, and they pioneered efforts to use dark money to influence America's public opinion and to sway elections without ever really revealing their true identities or motivations.

I look back on tobacco and cancer. I am one—probably, like most Americans—who has lost a dearly loved member of my family to tobacco and cancer. My father died when he was 53 years of age from lung cancer. I was 14 years old. He smoked two packs of Camels a day. It was a horrible death.