

DISASTER RECOVERY WORKFORCE ACT

DECEMBER 18, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 4479]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4479) to temporarily provide Commonwealth-only transitional worker permits for workers in construction occupations involved in disaster recovery, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all that follows after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Disaster Recovery Workforce Act”.

SEC. 2. CONSTRUCTION WORKER PERMITS.

Section 6(d)(3) of the Joint Resolution entitled “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(d)(3)) is amended by adding at the end the following:

“(E) TYPHOON RECOVERY.—

“(i) PERMITS FOR CONSTRUCTION WORKERS.—Notwithstanding any numerical cap set forth in subparagraph (B) for each of fiscal years 2020, 2021, and 2022, the Secretary of Homeland Security shall increase by 3,000, for each such fiscal year, the total number of permits available under this subsection for Construction and Extraction Occupations (as defined by the Department of Labor as Standard Occupational Classification Group 47-0000).

“(ii) PERMIT REQUIREMENTS.—The Secretary may only issue a permit made available under clause (i) to a prospective employer if the permit is for an alien who—

“(I) is a national of a country designated eligible to participate in the program under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during calendar year 2018; and

“(II) is performing service or labor pursuant to a contract or sub-contract for construction, repairs, renovations, or facility services directly connected to, or associated with recovery from a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), or for preparation for a future disaster or emergency.

“(iii) EXCEPTION FOR CONSTRUCTION WORKERS.—Subparagraph (D)(v) shall not apply to a permit made available under clause (i) for any fiscal year described in such clause.”.

PURPOSE OF THE BILL

The purpose of H.R. 4479 is to temporarily provide Commonwealth-only transitional worker permits for workers in construction occupations involved in disaster recovery.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 4479 is intended to address the problem of the lack of construction workers in the Commonwealth of the Northern Mariana Islands (CNMI), which has impeded the islands’ efforts to recover from a series of recent typhoons, including Super Typhoon Yutu in September 2018—the strongest storm on U.S. soil that year and the second strongest in U.S. history. Specifically, the bill allows for 3,000 additional CNMI Transitional Worker permits to be issued during the recovery period for foreign construction workers.

The bill is strongly supported by both public and private sector officials in the CNMI, who pointed out that an insufficient number of construction workers has stymied recovery efforts of government agencies, businesses, and homeowners. A year after Yutu, CNMI individuals and families continued to live in tents, some school-children still attended class in tents at temporary campuses, and business activity and economic growth were dampened by the lack of construction workers. Furthermore, construction costs ballooned, creating additional hardship for all.

COMMITTEE ACTION

H.R. 4479 was introduced on September 24, 2019, by Representative Gregorio Kilili Camacho Sablan (D–CNMI). The bill was referred to the Committee on Natural Resources, and in addition to the Committee on the Judiciary. On December 5, 2019, the Natural Resources Committee met to consider the bill. Representative Sablan offered an amendment in the nature of a substitute, which was agreed to by unanimous consent. No additional amendments were offered, and the bill, as amended, was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

On December 19, 2019, Congress passed H.R. 1865, the Further Consolidated Appropriations Act, 2020, which included the text of H.R. 4479. The bill was enrolled and, on December 20, 2019, presented to and signed into law by the president.¹

¹Pub. L. No. 116 94, div. P, tit. IX, <https://www.congress.gov/116/plaws/publ94/PLAW-116publ94.pdf>, 133 Stat. 2533, 3197 (2019), <https://uscode.house.gov/statviewer.htm?volume=133&page=3197> (codified as 48 U.S.C. § 1801 note).

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearing was used to develop or consider H.R. 4479: full committee markup held on December 5, 2019.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee adopts as its own cost estimate the forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House passage of the bill.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to temporarily provide Commonwealth-only transitional worker permits for workers in construction occupations involved in disaster recovery, and for other purposes.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

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

(Public Law 94-241)

* * * * *

SEC. 6. IMMIGRATION AND TRANSITION.

(a) APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT AND ESTABLISHMENT OF A TRANSITION PROGRAM.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), effective on the first day of the first full month commencing 1 year after the date of enactment of the Consolidated Natural Resources Act of 2008 (hereafter referred to as the “transition program effective date”), the provisions of the “immigration laws” (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) shall apply to the Commonwealth of the Northern Mariana Islands (referred to in this section as the “Commonwealth”), except as otherwise provided in this section.

(2) TRANSITION PERIOD.—There shall be a transition period beginning on the transition program effective date and ending on December 31, 2029, during which the Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of the Interior, shall establish, administer, and enforce a transition program to regulate immigration to the Commonwealth, as provided in this section (hereafter referred to as the “transition program”).

(3) DELAY OF COMMENCEMENT OF TRANSITION PERIOD.—

(A) IN GENERAL.—The Secretary of Homeland Security, in the Secretary's sole discretion, in consultation with the Secretary of the Interior, the Secretary of Labor, the Secretary of State, the Attorney General, and the Governor of the Commonwealth, may determine that the transition program effective date be delayed for a period not to exceed more than 180 days after such date.

(B) CONGRESSIONAL NOTIFICATION.—The Secretary of Homeland Security shall notify the Congress of a determination under subparagraph (A) not later than 30 days prior to the transition program effective date.

(C) CONGRESSIONAL REVIEW.—A delay of the transition program effective date shall not take effect until 30 days after the date on which the notification under subparagraph (B) is made.

(4) REQUIREMENT FOR REGULATIONS.—The transition program shall be implemented pursuant to regulations to be promulgated, as appropriate, by the head of each agency or department of the United States having responsibilities under the transition program.

(5) INTERAGENCY AGREEMENTS.—The Secretary of Homeland Security, the Secretary of State, the Secretary of Labor, and the Secretary of the Interior shall negotiate and implement agreements among their agencies to identify and assign their respective duties so as to ensure timely and proper implementation of the provisions of this section. The agreements should address, at a minimum, procedures to ensure that Commonwealth employers have access to adequate labor, and that tourists, students, retirees, and other visitors have access to the Commonwealth without unnecessary delay or impediment. The agreements may also allocate funding between the respective agencies tasked with various responsibilities under this section.

(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 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 one or more nonimmigrant workers, a \$50 fraud prevention and detection fee; and

(II) shall deposit and use the fees collected under subclause (I) for the sole purpose of preventing and detecting immigration benefit fraud in the Northern Mariana Islands, 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.

(7) ASYLUM.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) shall not apply during the transition period to persons physically present in the Commonwealth or arriving in the Commonwealth (whether or not at a designated port of arrival), including persons brought to the Commonwealth after having been interdicted in international or United States waters.

(b) NUMERICAL LIMITATIONS FOR NONIMMIGRANT WORKERS.—

(1) IN GENERAL.—

(A) NONIMMIGRANT WORKERS GENERALLY.—An alien, if otherwise qualified, may seek admission to Guam or to the Commonwealth during the transition program as a non-immigrant worker under section 101(a)(15)(H) of the Immigration and Nationality Act (8 USC 1101(a)(15)(H))

without counting against the numerical limitations set forth in section 214(g) of such Act (8 USC 1184(g)).

(B) H-2B WORKERS.—In the case of an alien described in subparagraph (A) who seeks admission under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)), the alien, if otherwise qualified, may, before December 31, 2023, be admitted under such section, notwithstanding the requirement of such section that the service or labor be temporary, for a period of up to 3 years—

(i) to perform service or labor on Guam or in the Commonwealth pursuant to any agreement entered into by a prime contractor or subcontractor calling for services or labor required for performance of a contract or subcontract for construction, repairs, renovations, or facility services that is directly connected to, or associated with, the military realignment occurring on Guam and in the Commonwealth; or

(ii) to perform service or labor as a health care worker (such as a nurse, physician assistant, or allied health professional) at a facility that jointly serves members of the Armed Forces, dependents, and civilians on Guam or in the Commonwealth, subject to the education, training, licensing, and other requirements of section 212(a)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(C)), as applicable, except that this clause shall not be construed to include graduates of medical schools coming to Guam or the Commonwealth to perform service or labor as members of the medical profession.

(2) LOCATIONS.—Paragraph (1) does not apply with respect to the performance of services of labor at a location other than Guam or the Commonwealth.

(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.

(c) NONIMMIGRANT INVESTOR VISAS.—

(1) IN GENERAL.—Notwithstanding the treaty requirements in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), during the transition period, the Secretary of Homeland Security may, upon the application of an alien, classify an alien as a CNMI-only nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien—

(A) has been admitted to the Commonwealth in long-term investor status under the immigration laws of the Commonwealth before the transition program effective date;

(B) has continuously maintained residence in the Commonwealth under long-term investor status;

(C) is otherwise admissible; and

(D) maintains the investment or investments that formed the basis for such long-term investor status.

(2) REQUIREMENT FOR REGULATIONS.—Not later than 60 days before the transition program effective date, the Secretary of Homeland Security shall publish regulations in the Federal Register to implement this subsection.

(d) SPECIAL PROVISION TO ENSURE ADEQUATE EMPLOYMENT; COMMONWEALTH ONLY TRANSITIONAL WORKERS.—An alien who is seeking to enter the Commonwealth as a nonimmigrant worker may be admitted to perform work during the transition period subject to the following requirements:

(1) Such an alien shall be treated as a nonimmigrant described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), including the ability to apply, if otherwise eligible, for a change of nonimmigrant classification under section 248 of such Act (8 U.S.C. 1258) or adjustment of status under this section and section 245 of such Act (8 U.S.C. 1255).

(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 stand-

ards 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.

(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;

(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).

(E) TYPHOON RECOVERY.—

(i) PERMITS FOR CONSTRUCTION WORKERS.—*Notwithstanding any numerical cap set forth in subparagraph*

(B) for each of fiscal years 2020, 2021, and 2022, the Secretary of Homeland Security shall increase by 3,000, for each such fiscal year, the total number of permits available under this subsection for Construction and Extraction Occupations (as defined by the Department of Labor as Standard Occupational Classification Group 47-0000).

(ii) *PERMIT REQUIREMENTS.*—The Secretary may only issue a permit made available under clause (i) to a prospective employer if the permit is for an alien who—

(I) is a national of a country designated eligible to participate in the program under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during calendar year 2018; and

(II) is performing service or labor pursuant to a contract or subcontract for construction, repairs, renovations, or facility services directly connected to, or associated with recovery from a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), or for preparation for a future disaster or emergency.

(iii) *EXCEPTION FOR CONSTRUCTION WORKERS.*—Subparagraph (D)(v) shall not apply to a permit made available under clause (i) for any fiscal year described in such clause.

(4) The Secretary of Homeland Security shall set the conditions for admission of such an alien under the transition program, and the Secretary of State shall authorize the issuance of nonimmigrant visas for such an alien. Such a visa shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)), except admission to the Commonwealth or to Guam for the purpose of transit only. An alien admitted to the Commonwealth on the basis of such a visa shall be permitted to engage in employment only as authorized pursuant to the transition program.

(5) Such an alien shall be permitted to transfer between employers in the Commonwealth during the period of such alien's authorized stay therein, without permission of the employee's current or prior employer, within the alien's occupational category or another occupational category the Secretary of Homeland Security has found requires alien workers to supplement the resident workforce. 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.

(6) The Secretary of Homeland Security may authorize the admission of a spouse or minor child accompanying or following to join a worker admitted pursuant to this subsection.

(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 two 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 of 2018, 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.

(e) PERSONS LAWFULLY ADMITTED UNDER THE COMMONWEALTH IMMIGRATION LAW.—

(1) PROHIBITION ON REMOVAL.—

(A) IN GENERAL.—Subject to subparagraph (B), no alien who is lawfully present in the Commonwealth pursuant to the immigration laws of the Commonwealth on the transition program effective date shall be removed from the United States on the grounds that such alien's presence in the Commonwealth is in violation of section 212(a)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)), until the earlier of the date—

(i) of the completion of the period of the alien's admission under the immigration laws of the Commonwealth; or

(ii) that is 2 years after the transition program effective date.

(B) LIMITATIONS.—Nothing in this subsection shall be construed to prevent or limit the removal under subparagraph 212(a)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)) of such an alien at any time, if the alien entered the Commonwealth after the date of enactment of the Consolidated Natural Resources Act of 2008, and the Secretary of Homeland Security has determined that the Government of the Commonwealth has violated section 702(i) of the Consolidated Natural Resources Act of 2008.

(2) EMPLOYMENT AUTHORIZATION.—An alien who is lawfully present and authorized to be employed in the Commonwealth pursuant to the immigration laws of the Commonwealth on the transition program effective date shall be considered author-

ized by the Secretary of Homeland Security to be employed in the Commonwealth until the earlier of the date—

(A) of expiration of the alien’s employment authorization under the immigration laws of the Commonwealth; or

(B) that is 2 years after the transition program effective date.

(3) REGISTRATION.—The Secretary of Homeland Security may require any alien present in the Commonwealth on or after the transition period effective date to register with the Secretary in such a manner, and according to such schedule, as he may in his discretion require. Paragraphs (1) and (2) of this subsection shall not apply to any alien who fails to comply with such registration requirement. Notwithstanding any other law, the Government of the Commonwealth shall provide to the Secretary all Commonwealth immigration records or other information that the Secretary deems necessary to assist the implementation of this paragraph or other provisions of the Consolidated Natural Resources Act of 2008. Nothing in this paragraph shall modify or limit section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or other provision of the Immigration and Nationality Act relating to the registration of aliens.

(4) REMOVABLE ALIENS.—Except as specifically provided in paragraph (1)(A) of this subsection, nothing in this subsection shall prohibit or limit the removal of any alien who is removable under the Immigration and Nationality Act.

(5) PRIOR ORDERS OF REMOVAL.—The Secretary of Homeland Security may execute any administratively final order of exclusion, deportation or removal issued under authority of the immigration laws of the United States before, on, or after the transition period effective date, or under authority of the immigration laws of the Commonwealth before the transition period effective date, upon any subject of such order found in the Commonwealth on or after the transition period effective date, regardless whether the alien has previously been removed from the United States or the Commonwealth pursuant to such order.

(6) SPECIAL PROVISION REGARDING LONG-TERM RESIDENTS OF THE COMMONWEALTH.—

(A) CNMI RESIDENT STATUS.—An alien described in subparagraph (B) may, upon the application of the alien, be admitted in CNMI Resident status to the Commonwealth subject to the following rules:

(i) The alien shall be treated as an alien lawfully admitted to the Commonwealth only, including permitting entry to and exit from the Commonwealth, until the earlier of the date on which—

(I) the alien ceases to reside in the Commonwealth; or

(II) the alien’s status is adjusted under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) to that of an alien lawfully admitted for permanent residence in accordance with all applicable eligibility requirements.

(ii) The Secretary of Homeland Security—

(I) shall establish a process for such alien to apply for CNMI Resident status during the 180-day period beginning on a date determined by the Secretary but not later than the first day of the sixth month after the date of the enactment of this paragraph; and

(II) may, in the Secretary's discretion, authorize deferred action or parole, as appropriate, with work authorization, for such alien beginning on the date of the enactment of this paragraph and continuing through the end of such 180-day period or the date of adjudication of the alien's application for CNMI Resident status, whichever is later.

(iii) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

(iv) An alien granted status under this paragraph—

(I) is subject to all grounds of deportability under section 237 of the Immigration and Nationality Act (8 U.S.C. 1227);

(II) is subject to all grounds of inadmissibility under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) if seeking admission to the United States at a port of entry in the Commonwealth;

(III) is inadmissible to the United States at any port of entry outside the Commonwealth, except that the Secretary of Homeland Security may in the Secretary's discretion authorize admission of such alien at a port of entry in Guam for the purpose of direct transit to the Commonwealth, which admission shall be considered an admission to the Commonwealth;

(IV) automatically shall lose such status if the alien travels from the Commonwealth to any other place in the United States, except that the Secretary of Homeland Security may in the Secretary's discretion establish procedures for the advance approval on a case-by-case basis of such travel for a temporary and legitimate purpose, and the Secretary may in the Secretary's discretion authorize the direct transit of aliens with CNMI Resident status through Guam to a foreign place;

(V) shall be authorized to work in the Commonwealth incident to status; and

(VI) shall be issued appropriate travel documentation and evidence of work authorization by the Secretary.

(B) ALIENS DESCRIBED.—An alien is described in this subparagraph if the alien—

(i) was lawfully present on the date of the enactment of this paragraph or on December 31, 2018, in the Commonwealth under the immigration laws of the

United States, including pursuant to a grant of parole under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) or deferred action;

(ii) is admissible as an immigrant to the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), except that no immigrant visa is required;

(iii) resided continuously and lawfully in the Commonwealth from November 28, 2009, through the date of the enactment of this paragraph;

(iv) is not a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau; and

(v) in addition—

(I) was born in the Northern Mariana Islands between January 1, 1974, and January 9, 1978;

(II) was, on November 27, 2009, a permanent resident of the Commonwealth (as defined in section 4303 of title 3 of the Northern Mariana Islands Commonwealth Code, in effect on May 8, 2008);

(III) is the spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))) of an alien described in subclause (I) or (II);

(IV) was, on November 27, 2011, a spouse, child, or parent of a United States citizen, notwithstanding the age of the United States citizen, and continues to have such family relationship with the citizen on the date of the application described in subparagraph (A); or

(V) had a grant of parole under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) on December 31, 2018, under the former parole program for certain in-home caregivers administered by United States Citizenship and Immigration Services.

(C) **AUTHORITY OF ATTORNEY GENERAL.**—Beginning on the first day of the 180-day period established by the Secretary of Homeland Security under subparagraph (A)(ii)(I), the Attorney General may accept and adjudicate an application for CNMI Resident status under this paragraph by an alien who is in removal proceedings before the Attorney General if the alien—

(i) makes an initial application to the Attorney General within such 180-day period; or

(ii) applied to the Secretary of Homeland Security during such 180-period and before being placed in removal proceedings, and the Secretary denied the application.

(D) **JUDICIAL REVIEW.**—Notwithstanding any other law, no court shall have jurisdiction to review any decision of the Secretary of Homeland Security or the Attorney General on an application under this paragraph or any other action or determination of the Secretary of Homeland Se-

curity or the Attorney General to implement, administer, or enforce this paragraph.

(E) PROCEDURE.—The requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act), or any other law relating to rulemaking, information collection or publication in the Federal Register shall not apply to any action to implement, administer or enforce this paragraph.

(f) EFFECT ON OTHER LAWS.—The provisions of this section and of the immigration laws, as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)), shall, on the transition program effective date, supersede and replace all laws, provisions, or programs of the Commonwealth relating to the admission of aliens and the removal of aliens from the Commonwealth.

(g) ACCRUAL OF TIME FOR PURPOSES OF SECTION 212(A)(9)(B) OF THE IMMIGRATION AND NATIONALITY ACT.—No time that an alien is present in the Commonwealth in violation of the immigration laws of the Commonwealth shall be counted for purposes of inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)).

(h) REPORT ON NONRESIDENT GUESTWORKER POPULATION.—The Secretary of the Interior, in consultation with the Secretary of Homeland Security, and the Governor of the Commonwealth, shall report to the Congress not later than 2 years after the date of enactment of the Consolidated Natural Resources Act of 2008. The report shall include—

- (1) the number of aliens residing in the Commonwealth;
- (2) a description of the legal status (under Federal law) of such aliens;
- (3) the number of years each alien has been residing in the Commonwealth;
- (4) the current and future requirements of the Commonwealth economy for an alien workforce; and
- (5) such recommendations to the Congress, as the Secretary may deem appropriate, related to whether or not the Congress should consider permitting lawfully admitted guest workers lawfully residing in the Commonwealth on such enactment date to apply for long-term status under the immigration and nationality laws of the United States.

(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).

* * * * *

COMMITTEE CORRESPONDENCE

RAÚL M. GRIJALVA OF ARIZONA
CHAIRMAN

DAVID WATKINS
STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

ROB BISHOP OF UTAH
RANKING REPUBLICAN

PAINEH BRADEN
REPUBLICAN STAFF DIRECTOR

December 18, 2020

The Honorable Jerrold Nadler
Chair
Committee on the Judiciary
U.S. House of Representatives
2141 Rayburn House Office Building
Washington D.C. 20515

Dear Chair Nadler:

I write to you concerning H.R. 4479, the "Disaster Recovery Workforce Act."

I appreciate your willingness to work cooperatively on this legislation. I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on the Judiciary. I acknowledge that your Committee will not formally consider H.R. 4479 and agree that the inaction of your Committee with respect to the bill does not waive any future jurisdictional claim over the matters contained in the bill that fall within your Committee's Rule X jurisdiction.

Furthermore, I confirm our mutual understanding that H.R. 4479 will not be considered on the House floor this Congress because the text of the bill has now become public law as part of H.R. 1865, the Further Consolidated Appropriations Act, 2020 (Pub. L. No. 116-94).

I will ensure that our exchange of letters is included in the bill report when filed. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you.

Sincerely,



Raúl M. Grijalva
Chair
House Natural Resources Committee

Cc: The Honorable Rob Bishop, Ranking Member
The Honorable Jason Smith, Parliamentarian

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Sixteenth Congress

December 18, 2020

The Honorable Raúl M. Grijalva
Chairman
Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, DC 20515

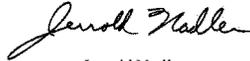
Dear Chairman Grijalva:

This is to advise you that the Committee on the Judiciary has now had an opportunity to review the provisions in H.R. 4479, the "Disaster Recovery Workforce Act," that fall within our Rule X jurisdiction. I appreciate your consulting with us on those provisions.

I understand that H.R. 4479 will not be considered on the House floor this Congress because the text of the bill has now become public law as part of H.R. 1865, the Further Consolidated Appropriations Act, 2020 (Pub. L. No. 116-94). The Judiciary Committee had no objection to including these provisions in H.R. 1865 and was willing to forgo action on them with the understanding that we do not thereby waive any future jurisdictional claim over those provisions or their subject matters. In the event a House-Senate conference on similar legislation is convened, the Judiciary Committee reserves the right to request an appropriate number of conferees to address any concerns with these or similar provisions that may arise in conference.

Please place this letter into the bill report when filed. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our committees.

Sincerely,



Jerrold Nadler
Chairman

c: The Honorable Jim Jordan, Ranking Member, Committee on the Judiciary
The Honorable Jason Smith, Parliamentarian
The Honorable Rob Bishop, Ranking Member, Committee on Natural Resources

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS
None.

