

**AMENDMENT TO THE RULES COMMITTEE PRINT**

**117-54**

**OFFERED BY MR. SAN NICOLAS OF GUAM**

Add at the end of title LVIII the following new section:

1 **SEC. 58\_\_\_\_\_ . WORKFORCE ISSUES FOR MILITARY RE-**  
2 **ALIGNMENT IN THE PACIFIC.**

3 Section 6(b)(1) of the Joint Resolution titled “A  
4 Joint Resolution to approve the ‘Covenant To Establish  
5 a Commonwealth of the Northern Mariana Islands in Po-  
6 litical Union With the United States of America’, and for  
7 other purposes”, approved March 24, 1976 (48 U.S.C.  
8 1806(b)(1)), is amended—

9 (1) in subparagraph (B), in the matter pre-  
10 ceding clause (i)—

11 (A) by inserting “ during the transition pe-  
12 riod described in subsection (a)(2)” after “ad-  
13 mission”; and

14 (B) by striking “, before December 31,  
15 2023,”; and

16 (2) by adding at the end the following new sub-  
17 paragraphs:

1           “(C) PORTABILITY.—A Federal contractor  
2           or subcontractor providing services or labor  
3           under subparagraph (B) pursuant to a Federal  
4           contract or subcontract that has obtained ap-  
5           proval of the contractor’s or subcontractor’s ap-  
6           plication for temporary labor certification, and  
7           on the basis of such approved certification has  
8           properly filed with U.S. Citizen and Immigra-  
9           tion Services a petition to classify a worker or  
10          workers under section 101(a)(15)(H)(ii)(b) of  
11          the Immigration and Nationality Act (8 U.S.C.  
12          1101(a)(15)(H)(ii)(b)) and implementing regu-  
13          lations, may recruit and, upon filing of such pe-  
14          tition, immediately employ persons on Guam or  
15          in the Commonwealth who were validly em-  
16          ployed in H–2B status with another employer  
17          on Guam or the Commonwealth at the time of  
18          filing of the petition, in accordance with sub-  
19          paragraph (B), with respect to performance of  
20          the Federal contract or subcontract. The re-  
21          cruitment and subsequent employment by such  
22          a Federal contractor or subcontractor shall be  
23          subject to all existing laws and regulations, ex-  
24          cept that such persons shall be allowed to begin  
25          employment with the Federal contractor or sub-

1 contractor prior to approval of the Federal con-  
2 tractor's or subcontractor's petition, and that  
3 such persons are not required to depart from  
4 Guam or the Commonwealth before com-  
5 mencing such employment. The beneficiaries of  
6 the new petition shall be authorized to continue  
7 to be employed by the Federal contractor or  
8 subcontractor until the earliest of—

9 “(i) the final date of employment stat-  
10 ed in the Federal contractor's or sub-  
11 contractor's new petition;

12 “(ii) the date the Federal contractor's  
13 or subcontractor's new petition is denied or  
14 revoked; or

15 “(iii) the date the Federal contractor's  
16 or subcontractor's new approved temporary  
17 labor certification is revoked.

18 Nothing in this subparagraph shall be inter-  
19 preted to prohibit, or otherwise restrict the abil-  
20 ity of, an alien who obtains admission as an H-  
21 2B nonimmigrant under subparagraph (B)  
22 from applying for, and if determined by the De-  
23 partment of Homeland Security to be eligible  
24 under law, being admitted to any other part of  
25 the United States (as such term is defined in

1 section 101(a)(38) of the Immigration and Na-  
2 tionality Act (8 U.S.C. 1101(a)(38)).

3 “(D) EMPLOYERS OF H-2B WORKERS.—An  
4 employer who employs an alien worker de-  
5 scribed in subparagraph (A) and a prospective  
6 employer who applies for temporary labor cer-  
7 tification for an alien worker described in sub-  
8 paragraph (A) shall—

9 “(i) through the Secretary of Labor,  
10 the Guam Department of Labor, or a  
11 third-party training provider approved by  
12 the Secretary of Labor, provide annual  
13 training on human trafficking and applica-  
14 ble United States law to all employees of  
15 the employer and employees of any sub-  
16 contractors;

17 “(ii) remain neutral with respect to  
18 the choice of employees to form or join a  
19 labor organization;

20 “(iii) make available safe and sanitary  
21 housing, which shall, at a minimum—

22 “(I) be made available to all  
23 workers, including United States  
24 workers, at no cost to the worker;

1                   “(II) meet Occupational Safety  
2                   and Health Administration Standards  
3                   for temporary labor camps or Depart-  
4                   ment of Labor farmworker housing  
5                   standards; or

6                   “(III) at employer expense, be in-  
7                   spected by the Secretary of Labor, the  
8                   Guam Department of Labor, or a  
9                   third-party inspector approved by the  
10                  Secretary of Labor—

11                  “(aa) prior to occupation;  
12                  and

13                  “(bb) at least once every six  
14                  months during occupancy;

15                  “(iv) at employer expense, through  
16                  the Secretary of Labor, the Guam Depart-  
17                  ment of Labor, or a third-party training  
18                  provider approved by the Secretary of  
19                  Labor, provide training on labor and em-  
20                  ployment rights under this section to all  
21                  employees of the employer and employees  
22                  of any subcontractors during the first full  
23                  week after commencement of employment  
24                  or not later than one week after the execu-  
25                  tion of the employment contract, and at

1 least once every six months during employ-  
2 ment;

3 “(v) provide to all employees—

4 “(I) at least one one-half hour  
5 unpaid meal break per workday;

6 “(II) at least two paid 10-minute  
7 rest breaks per eight-hour workday;  
8 and

9 “(III) at least one additional paid  
10 10-minute rest break for each hour  
11 beyond eight in a workday;

12 “(vi) provide to all employees—

13 “(I) not less than seven paid sick  
14 days per year;

15 “(II) not less than four addi-  
16 tional paid sick leave hours (per dose)  
17 to receive a COVID–19 vaccine if it is  
18 not made available on the jobsite or at  
19 the site of employee-provided housing  
20 without charge to leave; and

21 “(III) not less than 20 additional  
22 paid sick leave hours (per dose) to re-  
23 cover from an adverse reaction to a  
24 COVID–19 vaccine;

1           “(vii) make available unpaid family  
2           and medical leave for up to 12 weeks for  
3           any employee who needs leave at any point  
4           during the employment of such employee  
5           for qualifying reasons under the Family  
6           and Medical Leave Act of 1993 (29 U.S.C.  
7           2601 et seq.) under the condition that  
8           such unpaid leave shall be available, en-  
9           tirely at the election of such employee, in  
10          full or in part as paid leave to the extent  
11          that—

12                       “(I) such employee has available  
13                       paid annual or sick leave; or

14                       “(II) other employees voluntarily  
15                       donate accrued annual or sick leave to  
16                       such employee;

17           “(viii) create a formalized safety and  
18           health management system that complies  
19           with either International Organization for  
20           Standardization 45001 or American Na-  
21           tional Standards Institute Z10 and obtain  
22           certification of such system by a recog-  
23           nized third-party certification entity. The  
24           Secretary of Labor may issue a citation  
25           under the Occupational Safety and Health

1 Act of 1970 (29 U.S.C. 651 et seq.) to any  
2 employer that does not have a safety and  
3 health management system that complies  
4 with such standards;

5 “(ix) provide overtime pay for all  
6 workers at a rate of one-and-one-half times  
7 the regular rate of pay for the employee  
8 for any hours beyond—

9 “(I) eight hours per day, and

10 “(II) 40 hours per week;

11 “(x) provide pay at an hourly rate to  
12 all employees at a rate not lower than the  
13 highest of—

14 “(I) the minimum wage applica-  
15 ble to Federal contractor employees;

16 “(II) the wages not less than  
17 those prevailing on projects of a char-  
18 acter similar in the locality as deter-  
19 mined by the Secretary of Labor in  
20 accordance with subchapter IV of  
21 chapter 31 of Title 40;

22 “(III) the applicable statutory  
23 minimum wage of Guam or the Com-  
24 monwealth; or



1                   “(IV) an applicable McNamara-  
2                   O’Hara Service Contract Act pre-  
3                   vailing wage rate in the locality;

4                   “(xi) provide physical pay stubs to all  
5                   employees at the end of each pay period  
6                   that includes hours worked, rate of pay,  
7                   itemized deductions from pay, and any  
8                   other information determined necessary by  
9                   the Secretary of Labor; and

10                  “(xii) with respect to the preceding  
11                  five-year period, in the case of an employer  
12                  that violated a law under the jurisdiction  
13                  of the Secretary of Labor, National Labor  
14                  Relations Board, or Equal Employment  
15                  Opportunity Commission, not later than 90  
16                  days after the commencement of employ-  
17                  ment of an alien worker under subpara-  
18                  graph (A), such employer shall—

19                  “(I)(aa) enter into a compliance  
20                  agreement with the Secretary of  
21                  Labor to resolve such violations to the  
22                  satisfaction of the agency that issued  
23                  the citation; or

24                  “(bb) require the employer to pay  
25                  the Secretary of Labor a fine of

1 \$1,000 per worker per each week past  
2 90 days that such agreement is not  
3 entered into unless an extension is  
4 granted by the Secretary of Labor;  
5 and

6 “(II) implement additional meas-  
7 ures designed by the Secretary of  
8 Labor to prevent such violations in  
9 the future.

10 “(E) JOINT AND SEVERAL LIABILITY.—An  
11 employer of an alien worker described in sub-  
12 paragraph (A), or a prime contractor or sub-  
13 contractor whose project employees workers de-  
14 scribed in subparagraph (A) on or in connection  
15 with the project, shall be jointly and severally  
16 liable for any labor violation or other violation  
17 of law related to workers, including any recruit-  
18 ment violation or fraud, committed by a subcon-  
19 tractor or recruiter in connection with such em-  
20 ployment or project. Joint and several liability  
21 under this subparagraph shall extend to any  
22 fraudulent or discriminatory practices by con-  
23 tractors, subcontractors, or recruiters, including  
24 the requirements and prohibitions of clauses (i)  
25 through (iv) of this subparagraph. The Sec-

1           retary of Labor shall have the authority to in-  
2           vestigate such conduct and issue citations re-  
3           quiring appropriate remedies and relief. Con-  
4           tractors, subcontractors, and recruiters—

5                   “(i) shall not, in solicitation or re-  
6                   cruitment, target or have a preference in  
7                   favor of male workers or workers without  
8                   spouses or children;

9                   “(ii) shall not solicit or collect money  
10                  from workers in exchange for offering  
11                  them employment contracts or charge  
12                  workers or jobseekers any recruitment fees,  
13                  certification fees, or other related costs;

14                  “(iii) shall not confiscate, destroy, or  
15                  retain workers’ identity documents or con-  
16                  tracts; and

17                  “(iv) shall provide workers with a  
18                  work contract that contains all significant  
19                  conditions of employment, as defined by  
20                  the Secretary of Labor, in a language they  
21                  understand prior to the worker departing  
22                  their country of origin for the United  
23                  States.

24                  “(F) INITIAL RECRUITMENT OF H-2B  
25                  WORKERS.—A prospective employer who applies

1 for an initial temporary labor certification for  
2 an alien worker described in subparagraph (A)  
3 shall, not later than 60 days before the com-  
4 mencement of employment of an alien worker  
5 under subparagraph (A)—

6 “(i) engage in efforts to recruit  
7 United States workers in accordance with  
8 all applicable Guam and the Common-  
9 wealth statutes and regulations as well as  
10 all applicable Federal statutes and regula-  
11 tions, and shall, at a minimum—

12 “(I) submit a job order posting  
13 for each position or category of posi-  
14 tion to the Guam Department of  
15 Labor;

16 “(II) provide written notification  
17 to the American Federation of Labor  
18 and Congress of Industrial Organiza-  
19 tions office in Washington, DC, unless  
20 such notification is waived by the Sec-  
21 retary of Labor;

22 “(III) provide a copy of the job  
23 order posting to any former United  
24 States employee who left a similar po-  
25 sition within the three proceeding

1 years, including any employee laid-off  
2 or furloughed, at their last known ad-  
3 dress; and

4 “(IV) post a copy of the job  
5 order in at least two conspicuous loca-  
6 tions at the place of business or job  
7 site of the employer, or on an internal  
8 or external website maintained by the  
9 employer and customarily used for no-  
10 tices to employees about the terms  
11 and conditions of employment;

12 “(ii) maintain the job order posting in  
13 Guam and the Commonwealth until at  
14 least 21 days before the desired start date;

15 “(iii) continue to accept referrals of  
16 United States workers until at least 21  
17 days before such date;

18 “(iv) interview any qualified and avail-  
19 able United States worker; and

20 “(v) maintain documentation of law-  
21 ful, job-related reasons for any failure to  
22 offer the position to a qualified United  
23 States applicant on terms no less favorable  
24 than those advertised in the posting for at  
25 least three years.

1           “(G) RECRUITMENT FOR H-2B WORKER  
2 EXTENSIONS.—An employer who applies for re-  
3 newal of a temporary labor certification for an  
4 alien worker described in subparagraph (A)  
5 shall—

6           “(i) not earlier than 120 days and not  
7 later than 50 days prior to the date on  
8 which the temporary labor certification ex-  
9 pires, engage in efforts to recruit United  
10 States workers in accordance with all ap-  
11 plicable requirements in subparagraph  
12 (F)(i) and maintain postings in Guam and  
13 the Commonwealth for at least 21 days;

14           “(ii) accept referrals of United States  
15 workers for at least 21 days after the date  
16 of the initial posting;

17           “(iii) interview any qualified and  
18 available United States worker who applies  
19 for such posting; and

20           “(iv) maintain documentation of job-  
21 related reasons for any failure to offer the  
22 position to a United States applicant on  
23 terms no less favorable than those adver-

1 tised in the posting for at least three  
2 years.”.

