

STATEMENT
OF
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BEFORE THE
U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
REGARDING
S. 2360, THE OMNIBUS TERRITORIES ACT OF 2015
AND
S. 2610, APPROVAL OF THE AGREEMENT BETWEEN THE UNITED
STATES AND THE REPUBLIC OF PALAU
APRIL 5, 2016

Chairman Murkowski and Members of the Committee on Energy and Natural Resources, thank you for the opportunity to testify on S. 2360, the Omnibus Territories Act of 2015, and S. 2610, legislation to implement the 2010 agreement between the United States and the Republic of Palau.

S. 2360 – OMNIBUS TERRITORIES BILL

The Administration supports S. 2360 with its provisions for broadening Bikini resettlement options, promoting reliable air transportation services within American Samoa, and amending the Real ID Act to ensure drivers' licenses and personal identification cards remain available for the citizens of the three freely associated states.

Relocation and Resettlement for the people of Bikini

Section 2 of the bill would lift the statutory limitation on the use of resettlement funds for the people of Bikini. Eliminating this restriction would allow the people of Bikini to resettle outside of the Republic of the Marshall Islands, giving them more relocation options and improving their quality of life. There is an immediate need for this option given recent extreme weather events, which have threatened the health and safety of the people of Bikini.

The United States is committed to ensuring adequate resettlement opportunities for the people of Bikini. From June 1946 through August 1958, the United States conducted nuclear weapons testing in the northern islands and atolls of the Marshall Islands. In advance of the testing, the people of Bikini Atoll were forced to relocate several times before finally staying on Ejit Island in Majuro Atoll and Kili Island. In 1982, Congress, provided funds (Public Law 97-257) for a relocation and resettlement trust fund that could be used by the people of Bikini in the Marshall Islands, primarily on Kili and Ejit Islands.

Bikini Atoll has 23 islands and a lagoon of 243 square miles, which provided essential sheltered fishing grounds for the people of Bikini. In contrast, Kili is a single island sheltering 800 people of Bikini on approximately 0.36 square miles. Since Kili is not a part of any atoll or sheltering lagoon, it also does not provide much needed sheltered fishing grounds to sustain its residents. While Ejit Island is part of Majuro Atoll, it too provides less than one square mile of living space for the 300 people who live on Ejit.

The people of Bikini living on both Kili and Ejit Islands have been suffering from recurrent flooding that covers major parts of both islands. More frequent storms and King Tides have resulted in salt water inundation and the destruction of crops. These developments have raised deep concerns about public health and safety. For decades, after having been disconnected from traditional lifestyles on Bikini, the lack of appropriate space, suitable fishing grounds, and limited crops has encouraged dependence on imported supplies.

The Administration supports enactment of section 2 of S. 2360.

Reliable Air Service in American Samoa

Section 3 of the bill would facilitate reliable air service within American Samoa between the islands of Tutuila and Manu'a.

Currently, Hawaiian Airlines is the only U.S. airline to service American Samoa from Hawaii and the U.S. mainland. No U.S. airlines provide service within American Samoa between the main island of Tutuila and the islands of Manu'a. That service currently is being provided by Polynesian Airlines, a company of the neighboring independent country of Samoa. While permitting this service on a temporary basis, U.S. law requires the renewal of the permit every 30 days.

The lack of reliable air service within American Samoa impedes the development of its full economic potential. Tourism, an essential economic driver for island communities, cannot thrive without frequent and regular air service. Social development and quality of life are negatively affected, especially essential educational and health care services for the residents of Manu'a.

Section 3 would allow a foreign air carrier to sustain service between Tutuila and Manu'a. Such a provision is necessary because no U.S. airline provides service between Tutuila and Manu'a. The removal of the requirement for a new application every 30 days will bring certainty to the route and allow reservations to be made far in advance of expected travel, aiding tourism and economic development in American Samoa, especially Manu'a.

The Administration supports the enactment of section 3 of S. 2360.

Drivers' Licenses and Personal Identification Cards

Section 4 of the bill would amend the Real ID Act of 2005 to improve the availability of drivers' licenses and identification documents to freely associated state (FAS) citizens living in the United States as legal migrants. These FAS individuals are citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Under the Compacts of Free Association, FAS citizens, who are otherwise eligible, are admitted without visa to study, work and reside in the United

States and its territories. Admission at ports of entry in the Pacific, especially Guam and Hawaii, seldom pose a problem for legal FAS migrants. Once in the continental United States, however, FAS migrants can encounter state, local and private authorities who are not aware of their Compact privileges to study, work and live in the United States.

As lawful nonimmigrants, FAS citizens admitted under the Compacts are eligible (if otherwise qualified under state law) to be issued state driver's licenses compliant with the Real ID Act of 2005. However, because their admission to the United States is not for a specific time period, they are subject to a provision of the REAL ID Act that in many cases limits the validity period of the driver's license to one year, rather than the period of up to eight years otherwise authorized by the REAL ID Act. Although the Department of Homeland Security has provided guidance to state motor vehicle authorities advising them that FAS citizens presenting a U.S. Citizenship and Immigration Services employment authorization document may be issued a REAL ID-compliant driver's license valid until the expiration date of the employment authorization document which may be several years in the future, a more comprehensive statutory fix to this problem is appropriate.

Section 4 of the bill would provide a special provision for FAS Compact nonimmigrants exempting them from the provision otherwise limiting nonimmigrants without evidence of a specific period of authorized stay to a temporary driver's license valid only for one year. This provision would reduce unnecessary burden on FAS citizens in the United States, their employers, and state agencies alike by allowing them to obtain driver's licenses on the same basis as other long-term migrants in the United States.

The Administration supports the enactment of section 4 of S. 2360.

S. 2610 – AGREEMENT WITH PALAU

S. 2610 would approve the 15-year review agreement under the Compact of Free Association between the United States and the Republic of Palau.

As required in the original Compact (Public Law 99-658), a 15-year review was conducted, after which the review agreement was signed on September

3, 2010, primarily revising the U.S. economic assistance aspects of the Compact. The review agreement called for a U.S. appropriation for Palau of \$229 million through 2024. Instead, because the agreement has not yet been brought into force, the United States, through the U.S. Department of the Interior, has made annual payments, beginning with fiscal year 2010, of approximately \$13.1 million a year for a total of \$92 million in discretionary funds thus far. S. 2610 would fund the remaining amount of \$149 million, which includes remaining moneys for the U.S. Postal Service.

Just as important as the U.S. economic assistance aspects of the agreement and this legislation is the commitment of Palau to the economic, legislative, financial, and management reforms contained in the 2010 agreement. These reforms would ensure that Palau continues to take meaningful steps toward financial accountability and efficiency to increase Palau's long-term economic stability.

On February 22, 2016, the Secretary of the Interior re-transmitted draft legislation to Congress, along with the Departments of State and Defense, to implement the review agreement.

The relationship between the United States and the Republic of Palau is grounded in shared history, friendship, and a strong partnership in national security, especially with respect to the Asia-Pacific region. In the Battle of Peleliu, in Palau, more than 1,500 American servicemen lost their lives, and more than 8,000 were wounded, resulting in one of the costliest battles in the Pacific in World War II. After the war, the United States assumed administrative authority over Palau as part of the Trust Territory of the Pacific Islands and in 1994 the people of Palau expressed their desire, in plebiscite, to become a sovereign nation in free association with the United States under a Compact of Free Association.

The Compact provides U.S. military forces full authority and responsibility for security and defense matters in and relating to Palau. Conversely, the United States has the extraordinary advantage of being able to deny other nations' military forces access to Palau, an important element of our Pacific strategy for defense in the Pacific. The Compact has also helped strengthen democratic principles and economic stability in Palau, and stabilizing the larger Micronesia region which includes the U.S. territory of Guam and the Kwajalein Missile Range in the Marshall Islands.

In addition to the important historical and security relationship, Palau has consistently demonstrated a commitment to the U.S.-Palau partnership under the Compact. Palauan nationals have served in U.S. coalition missions and participated in U.S. led combat operations. Palauan citizens volunteer in disproportionately large numbers in the U.S. military compared to its population. At the United Nations, Palau has voted with the United States more than 95 percent of the time.

Approving the agreement with Palau is important to the national security of the United States, our bilateral relationship with Palau, and stability in the Western Pacific Region.

The Administration supports enactment of S. 2610.

ADDITIONAL INSULAR ISSUES

Besides the issues in S. 2360 and S. 2610, I would like to raise other matters of importance to the insular areas that have been raised by their leaders.

Compact Impact Aid

The first issue is the growing number of migrants under the Compacts of Free Association to U.S. jurisdictions, particularly Guam and Hawaii, and its financial impacts on these affected jurisdictions.

As noted earlier, the Compacts of Free Association allows FAS citizens to live and work in the United States as legal nonimmigrants. The Compact of Free Association Amendments Act, Public Law 108-188, included provisions to address the impact the Compacts are having on U.S. jurisdictions.

The law provides \$30 million in mandatory funds annually to defray costs associated with Compact impact. Congress has also provided approximately \$3 million in discretionary funds for the last several years to help meet education needs. However, the Governors of Guam and Hawaii combined have reported spending well in excess of \$200 million each year on services for FAS citizens, far exceeding the \$33 million federal contribution against costs.

The Governors, as well as other officials from these jurisdictions, seek additional funds to defray the increasing financial cost of migration. In addition to funding offsets, the affected jurisdictions have also advocated policy changes. In particular, officials propose eliminating restrictions contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This would reinstate direct assistance for FAS citizens through Medicaid, Temporary Assistance for Needy Families, the Supplemental Nutrition Assistance Program, and other means-tested public assistance programs.

The Department of the Interior believes the concerns of the affected jurisdictions deserve attention. The Department concurs that the current allocation of mandatory and discretionary funds are insufficient to defray costs and welcomes revisiting the exclusion of FAS citizens from Federal public benefits with Congress and other Federal departments.

CNMI-Only Transitional Worker Visa Classification

The second issue I would like to raise is the elimination of the Commonwealth of the Northern Mariana Islands (CNMI) CNMI-Only Transitional Worker (CW) visa classification in 2019.

When the CNMI established a political union with the United States in 1986, the territory retained jurisdiction and control over immigration and allowed an influx of foreign contract workers. By the year 2000, 58 percent of the CNMI's population was born in a foreign country, illustrating the heavy reliance on foreign contract workers by the CNMI economy.

In 2008, Public Law 110-229, the Consolidated Natural Resources Act of 2008 (CNRA), extended Federal immigration law to the CNMI beginning in November of 2009, but provided for a transition period through December 31, 2014 (with possible extensions), during which foreign contract workers admitted under the former CNMI immigration laws would be phased out in favor of full implementation of the Immigration and Nationality Act and other Federal immigration laws. As part of the transition program, the CNRA provided for the CW nonimmigrant visa classification to provide necessary workers for the CNMI economy who would not be available under other federal immigration law.

On June 3, 2014, the U.S. Secretary of Labor exercised the authority provided to him under the CNRA to extend the CW program for five years, through December 31, 2019, because of an “insufficient number of U.S. workers to meet CNMI businesses’ current needs.” Following that decision, Congress extended the entire transition period through that same date of December 31, 2019, but removed the authority of the U.S. Secretary of Labor further to extend the CW program beyond that date.

Despite efforts by the CNMI Governor to increase the available U.S. workforce in the territory, current estimates predict that over ten thousand foreign workers will still be needed to meet the projected demands of the CNMI’s tourism and construction industries. The CNMI economy is just beginning to recover from the closure of all its garment factories in 2009, and the viability of the CNMI pension system is dependent on the construction of several proposed hotels and casinos. The recovery of the CNMI economy and efforts to train the CNMI workforce continues to be an issue of utmost importance.

Puerto Rico Tax and Health Legislation

In October 2015, the Administration forwarded a roadmap to the Congress outlining measures to deal with the economic and fiscal crisis in Puerto Rico. The plan contained four key elements, two of which are applicable to the other U.S. territories.

One element is to strengthen the Medicaid program in Puerto Rico and stabilize Federal funding so that it does not contribute to Puerto Rico’s fiscal challenges. The plan specifically notes that Medicaid funding in Puerto Rico is capped, U.S. citizens in Puerto Rico are offered fewer benefits, and the federal government contributes less on a per capita basis in Puerto Rico than in the remainder of the nation.

Another element recognizes the Earned Income Tax Credit (EITC) as one of the strongest policy tools for rewarding work and supporting economic growth. Providing Puerto Rico access to the EITC would put the territory on equal footing with the 50 states and the District of Columbia. Fully extending the Child Tax Credit to Puerto Rico would provide another incentive for workers while supporting growth.

Similar to Puerto Rico, the other four U.S. territories – Guam, American Samoa, the U.S. Virgin Islands, and the CNMI – face capped Medicaid funding from the Federal government and a lower per capita contribution than the 50 states and the District of Columbia. Recognizing the need to elevate healthcare services in the territories, the Administration’s fiscal year 2017 budget proposes a path for the territories to establish Medicaid programs that offer similar benefits and receive Federal funding contributions like the 50 states. Extending the EITC and Child Tax Credit to the other four territories would also promote economic expansion and support workers in the islands who continue to face challenges in growing and diversifying their economies.

As the Congress addresses the crisis situation in Puerto Rico, the Department believes the other territories should be considered for inclusion in health and tax provisions that may be extended to Puerto Rico. This would equalize treatment among the territories and the states as well as take steps to prevent a crisis, based on unequal treatment, from developing in the other territories.

I appreciate the opportunity to testify and urge expeditious approval of S. 2360 and S. 2610.