

Congress of the United States  
House of Representatives  
Washington, DC 20515-990

June 4, 2020

The Honorable Régine Biscoe Lee  
Chairwoman, Committee on Federal and Foreign Affairs,  
Telecommunications, Technology, and Labor  
*I Mina' Trentai Singko Na Liheslaturan Guåhan* | 35<sup>th</sup> Guam Legislature  
163 Chalan Santo Papa  
Hagåtña, GU 96910

Transmitted via Email to: [senatorbiscoelee@guamlegislature.org](mailto:senatorbiscoelee@guamlegislature.org)

Dear Senator Lee:

This letter marks my third correspondence to *i Liheslatura* on this issue, and I am addressing it to you directly as Chair of Labor, that a direct communication may render necessary action.

Based on most recently available public information, 3,493 businesses have availed of pandemic assistance in the form of SBA guaranteed loans and grants we secured for Guam in the CARES Act passed by the Congress. According to public reports, this represents 70% of all small businesses on Guam.

Mathematically, we can determine based on this information that there are approximately 4,990 small businesses on Guam ( $3,493 / 70\% = 4,990$ ); however, based on most recently available Department of Labor information on the number of employers registered for the unemployment program, only 1,106 businesses have so registered.

These 1,106 businesses registered for unemployment represents only 22% of the approximately 4,990 small businesses on Guam, and only 28% of the 3,493 businesses that availed of SBA guaranteed pandemic loans. Consequently, as much as 2,387 - 3,884 businesses may remain unregistered.

It can further be reasonably extrapolated that most if not all the businesses availing of SBA guaranteed pandemic loans would have experienced payroll distress, and thus reduced the hours, wages, or changed the entire employment status of their respective employees.

Given that such registration and necessary certification by an employer is required for impacted workers to apply for relief through the Pandemic Unemployment Assistance program, a 22% to 28% registration rate by employers is alarmingly low. These figures are even more alarming as it further represents ONLY 21,076 workers. The Guam Department of Labor estimated that approximately 58,000 workers on Guam were directly impacted by the pandemic. If close to 78% of businesses on the island remain unregistered, tens of thousands of dislocated workers on Guam may be unable to receive unemployment benefits.

With the low registration rates for unemployment relative to the number of SBA loans and small businesses registered on Guam, the Legislature MUST ACT to mandate that every business register their

pandemic unemployment circumstance with the Guam Department of Labor, and further mandate that every business on the island is required to provide any employee with the certifications necessary to apply for unemployment assistance.

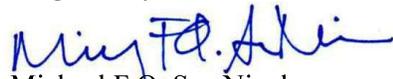
These circumstances are not entirely theoretical. Attached please find real examples of redacted messages from affected employees who will likely be unable to apply for unemployment benefits due to the non-registration of their employers.

As the Legislative Chair of the Department of Labor and also as Chair of Federal Affairs the need to ensure our local workers are not left out, and to further ensure that Guam avails of the maximum amount of federal pandemic assistance secured, rests in your leadership to enact local law. This mandate is needed in addition to the Governors Executive Order 2020-07, as such a mandate inclusive of clearly delineated fines and penalties will enhance the consequence of non-compliance and afford employees recourse in the Courts.

Please reference my two prior correspondences (attached) on this issue sent to your office and all Senators of the 35th Guam Legislature for advised provisions to address these circumstances.

Our people need our local government to address impediments to their relief before they occur, and not wait for further harm to present itself in additional delays or frustrations that could have been addressed because they were clearly known.

Respectfully,



Michael F.Q. San Nicolas  
Member of Congress  
Guam

CC: All Senators, *I Mina' Trentai Singko Na Liheslaturan Guåhan*

Attached: 1) Redacted Constituent Messages

2) MSN Letter 1 to ILG dated April 29, 2020

3) MSN Letter 2 to ILG dated May 12, 2020

# ATTACHMENT 1

WED AT 12:29 AM

Hafa adai Congressman.. i just want to ask.. me as an employee has the right to ask my employer if they register to GDOL?

2:26 AM

You can ask them yes

I ask them but they said I don't have to know

I am pressing the local government to make it local law for businesses to report and assist with unemployment

hi mr congressan\

are you open to any questions to today its really important for me

my employer is denying me a furlough letter and i have no idea why ive been out of work since middle of march and i still havent recieved a letter for my keeping.. i went to request for one but he is not being cooperative and is rejecting my request. loosing work or being furloughed has everything to do with covid 19 and i was told i would need this letter for applying for unemployment but he is doesnt want to give it to me. i told him almost every one i know recieved one and his reply was just because their company is giving a letter doesnt mean i should to. he said untill the government tells me to give you one then i will give you one. i thought that was mandatory what actions should i take in order to recieve it from my boss

SUN AT 7:36 PM

Goodmornin sir...i lost my job in [redacted] when this pandemic happened but im asking them the form and papers that they should give me ...but they said they will not do it...i didnt register in DOL for the unemployment how is that?even the [redacted]....we the workers who lost our jobs want to get the un employment benefits but theyre not helping us...i know we cant sign in for that if they will first register...what can we do?

WED AT 5:23 AM

Mr. Congress man . I was asking my husband work to write out the letter that he needs to apply for the unemployment stuff. And his work said that they are not going to give him a letter that they put him on standby. So how do i go about a applying for him since he is not working can he still apply for it

7:02 AM

Hello Congressman Michael San Nicolas,Hope all is well...I had a question,I work for [redacted] at the [redacted].so when this pandemic happened they cut our hours drastically where it was only paying for our insurance now that the unemployment is coming out they gave us our regular hours back without OT ( May 28, 2020) and said we can apply for unemployment but they will not provide the paper stating we were reduced hours for when this pandemic first broke out...So with that being said Are they wrong for that?I know we are owed money for our hours being cut...And also they didn't register the company with unemployment

WED AT 3:41 AM

Sir my boss said she did not applied un from unemplyment now i she told that i cannot apply for it cause she applied somwthng and shes theonw giving us money and she told us well till employoed to her and were working but actually not working march 18 2019 she said we cannot apply for unemployment can u help me wjat to do aboutit

WED AT 6:00 PM

I advise you inform Department of labor

WED AT 8:14 PM

Sir i called they said they cant do anything bout it if my employer wont apply us for unemployment

What am i going to do sir we need help

6:34 AM

Good evening . For the unemployment assistance program. What if we got reduced hours for my work and only me. So I asked my boss to file me in on hire Guam and he let me go and now I am no longer unemployed. He said I'll make more from the benefits anyways. He doesn't want anything to do with me anymore and now I don't know what to do. He gave me a paper to sign that I am no longer employed there. I asked them to sign me and file me at hireguam but they said that they can't do it because they're busy and have nothing to do with me anymore. How am I suppose to sign up?

MON AT 1 30 AM

Hafa adai Congressman San Nicolas i just want clarify regarding the small business pandemic loan because we are currently furloughed and have not been receiving salary, my employer got approved on small business pandemic loan and we are being offered to be given as some amount of dollars now and then will be taken off of our pay checks once we resume work it's like advance salary to be deducted later on. We just want to clarify if that loan for small businesses is forgiven loan. Are we required to take that offer? We want to know more details regarding this. Thank You for answering our question. Have a nice day!

9:12 AM

Hi sir just wondering if it's mandatory for employer's to register their employees for the unemployment? My son works for [redacted] and they haven't registered their employees on DOL, but his employer is telling them to apply for the unemployment. He was out of work for about a month and a half and is now back on schedule but with reduced hours.

Please help as I've been telling him to let his employer know. Thank you.

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-990**

April 29, 2020

Speaker Tina Muna-Barnes  
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[speaker@guamlegislature.org](mailto:speaker@guamlegislature.org)

Senator Joe S. San Augustin  
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[senatorjoesanagustine@gmail.com](mailto:senatorjoesanagustine@gmail.com)

Senator William M. Castro  
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Vice Speaker Telenia Nelson  
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Senator Therese M. Terlaje  
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Senator Louise Borja Muna  
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Senator Amanda Shelton  
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Senator Clynton E. Ridgell  
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[sen.cridgell@teleguam.net](mailto:sen.cridgell@teleguam.net)

Senator Telo Taitague  
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Senator Kelly Marsh Taitano  
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Senator Jose "Pedo" Terlaje  
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Senator James C. Moylan  
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Senator Regine Biscoe-Lee  
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Senator Sabina Flores Perez  
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Senator Mary Camacho Torres  
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Dear Senators,

As you consider action and legislation in the next immediate days to ensure public trust and accountability as well as provide protections for our working population who have been greatly impacted by the coronavirus pandemic, I would like to propose the following to (1) ensure government accountability and (2) safeguard the ability for our valued workers to avail of eligible federal Pandemic Unemployment Assistance benefits that we in Congress passed last month.

First, there have been many calls for accountability and transparency of the unprecedented amount of federal funds our island will be receiving to address the COVID-19 pandemic. I applaud the Guam Legislature's action to my personal call for government accountability on these funds, and thank Senators Therese Terlaje, Perez, and Moylan for introducing a measure that would have mandated full accounting and auditing of these funds. While the Governor has declared that the Guam Legislature, and by extension the Office of Public Accountability, has no oversight authority on these federal programs, on the contrary, the funds that have been used for the initial start up of some programs come directly from your local coffers.

For instance, it is widely reported and confirmed that the \$11M used to payout Economic Impact Payments for those individuals who reported an adjusted gross income of less than \$10,000 were taken from local funding, with the hope that the federal government will reimburse the government of Guam. Without accountability and proper oversight to ensure that these funds are being spent according to federal

procedures and requirements, the government of Guam risks losing reimbursement of local funds spent on federal programs.

I strongly urge the Guam Legislature to exercise its full, mandated authority and power to oversee the local funds and local government operations. Calling for oversight hearings, even virtually, must be a priority for your body. The federal government needs the Guam Legislature's help in ensuring full transparency and accountability of these federal funds so that we may protect the availability of future federal programs administered locally. Additionally, the People of Guam deserve the Guam Legislature's initiative to ensure that their tax dollars are being used appropriately and fairly across the board.

Second, the Guam Legislature must address a possible problem for our COVID-19 impacted workers. To apply for temporary unemployment benefits provided by the federal government, the impacted worker is required to submit certification from their employer that their employment status was changed due to a qualified reason. Some local businesses, including those in the hotel and restaurant industry, have generously agreed to provide in advance to the Guam Department of Labor information and certification of their employees whose change in employment was caused directly by the coronavirus pandemic. In order for our local administering agency to process information quickly and provide immediate relief for our worker population, the local government must require registered local businesses, as a condition of maintaining its business license in Guam, to perform the following:

1) Report pandemic related unemployment to the Guam Department of Labor within five (5) business days of the law's passage, with reasonable exceptions; and

2) Provide the necessary certification required by the Guam Department of Labor of each individual employee impacted to such employee, that would satisfy the Guam Department of Labor requirements to determine if such employee qualifies for unemployment compensation. Such certification must be provided to the impacted employee without any conditions.

Further, to deter local businesses from neglecting this mandated responsibility, you must include penalty provisions including:

1) a fine by the Guam Department of Labor Wage and Hour Division, such as \$1,000 for failing to notify the Guam Department of Labor and \$500 for each occurrence an impacted employee does not receive such certification; and

2) rescinding licenses to operate in Guam for failure to comply.

My office has been receiving numerous calls from our constituents concerned that they would not be able to apply for the temporary federal unemployment assistance program as their former employers are not bound to provide this information. We must get ahead of a possible problem that would prevent hundreds, if not thousands, of our dedicated workers from qualifying for this generous federal program.

Respectfully,



Michael F.Q. San Nicolas  
Member of Congress  
Guam

MICHAEL F.Q. SAN NICOLAS  
GUAM

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May 12, 2020

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35<sup>th</sup> Guam Legislature  
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Dear Senators,

Following my letter dated April 29, 2020, I write to once again urge legislative action to provide protections for our working population who have been greatly impacted by the coronavirus pandemic and to safeguard the ability for our valued workers to avail of eligible federal Pandemic Unemployment Assistance benefits that we in Congress passed last month.

As previously mentioned, the Guam Legislature must address a possible problem for our COVID-19 impacted workers. To apply for temporary unemployment benefits provided by the federal government, the impacted worker is required to submit certification from their employer that their employment status was changed due to a qualified reason. Some local businesses, including those in the hotel and restaurant industry, have generously agreed to provide in advance to the Guam Department of Labor information and certification of their employees whose change in employment was caused directly by the coronavirus pandemic. In order for our local administering agency to process information quickly and provide immediate relief for our worker population, the local government must require registered local businesses, as a condition of maintaining its business license in Guam, to perform the following:

1) Report pandemic related unemployment to the Guam Department of Labor within five (5) business days of the law's passage, with reasonable exceptions; and

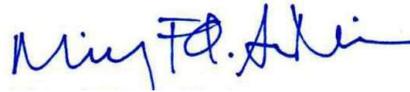
2) Provide the necessary certification required by the Guam Department of Labor of each individual employee impacted by the pandemic via furlough, unemployment, or a reduction in compensation or compensated hours, that would satisfy the Guam Department of Labor requirements to determine if such employee qualifies for unemployment compensation. Such certification must be provided to the impacted employee without any conditions.

Further, to deter local businesses from neglecting this mandated responsibility, it is strongly recommended to include penalty provisions, such as:

- 1) a fine by the Guam Department of Labor Wage and Hour Division of \$1,000 for failing to notify the Guam Department of Labor of pandemic unemployment occurrences, and \$500 for each occurrence an impacted employee does not receive such certification; and
- 2) rescinding or suspending business licenses to operate in Guam for failure to comply.

My office continues to receive numerous calls from our constituents concerned that they would not be able to apply for the temporary federal unemployment assistance program as their former employers are not bound to provide this information. I reiterate the urgency that we get ahead of a possible problem that would prevent hundreds, if not thousands, of our dedicated workers from qualifying for this critical federal program.

Respectfully,

A handwritten signature in blue ink, appearing to read "Michael F.Q. San Nicolas".

Michael F.Q. San Nicolas  
Member of Congress  
Guam