

**STATEMENT OF
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**BEFORE THE
SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND INSULAR AFFAIRS
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES**

**LEGISLATIVE HEARING ON
H.R. 4296, TO AMEND PUBLIC LAW 94-241 WITH RESPECT TO THE NORTHERN
MARIANA ISLANDS**

TUESDAY, APRIL 29, 2014

Mr. Chairman and members of the Subcommittee, I am Megan Uzzell, Deputy Assistant Secretary for Policy at the U.S. Department of Labor (the Department). I am pleased to testify before you today on provisions in H.R. 4296, a bill “[t]o amend Public Law 94-241 with respect to the Northern Mariana Islands,” that address the extension of the CNMI – Only Transitional Worker Program until December 31, 2019.

In 2008, Congress passed and President Bush signed the Consolidated Natural Resources Act (CNRA) which applies the immigration laws of the United States to the CNMI. To minimize the potential adverse economic effects of such application, the CNRA provides for a five-year transitional worker program ending on December 31, 2014. However, the CNRA authorizes the Secretary of Labor to extend this transition period for up to five years based on the labor needs of the CNMI to ensure that an adequate number of workers are available for legitimate businesses. The CNRA requires the Secretary of Labor, in consultation with the Departments of Homeland Security, Defense, and the Interior, and the Governor of the CNMI, to ascertain the current and anticipated labor needs of the CNMI before determining whether to extend the program. The law requires the Secretary of Labor’s decision to be made by July 4, 2014.

The CNRA stipulates that in making the determination of whether foreign workers are necessary to ensure an adequate number of workers in the CNMI, the Secretary of Labor may consider several factors. The Secretary may consider 1) government, industry, or independent workforce studies reporting on the need, or lack thereof, for alien workers in the Commonwealth’s businesses; 2) the unemployment rate of U.S. citizen workers residing in the Commonwealth; 3) the unemployment rate of aliens in the Commonwealth who have been lawfully admitted for permanent residence; 4) the number of unemployed alien workers in the Commonwealth; 5) any

good faith efforts to locate, educate, train, or otherwise prepare U.S. citizen residents, lawful permanent residents, and unemployed alien workers already within the Commonwealth, to assume those jobs; 6) any available evidence tending to show that U.S. citizen residents, lawful permanent residents, and unemployed alien workers already in the Commonwealth are not willing to accept jobs of the type offered; 7) the extent to which admittance of alien workers will affect the compensation, benefits, and living standards of existing workers within those industries and other industries authorized to employ alien workers; and 8) the prior use, if any, of alien workers to fill those jobs, and whether the industry requires alien workers to fill those jobs. I will outline the work being done regarding those factors below.

Regarding the first factor, the Department is reviewing workforce studies that examine the economic impact of alien workers on the CNMI economy and labor market.¹

For factors two through four, the Department is conducting a labor force analysis to determine the unemployment rates of U.S. citizens and resident aliens in the CNMI. According to the 2010 Island Areas Census, which contains the most recent labor market data, the CNMI population was 53,883, with 24,168 U.S. citizens and 29,715 noncitizens. The total number of U.S. citizens age 16 and over was 13,016. Using the 2010 Island Areas Census, when comparing the total number of U.S. citizens age 16 and over and the number of unemployed U.S. workers in the CNMI, the Department calculated a 24 percent unemployment rate for resident U.S. workers. Unfortunately, a lack of data prohibits our calculation of an unemployment rate for lawful permanent residents in the CNMI. The Department obtained and is reviewing CNMI Department of Finance tax data for 2002-2012 and the 2010 Island Areas Census, to help in its assessment of whether there are an insufficient number of U.S. workers in the CNMI to fill all of the jobs held by foreign workers.

Regarding the fifth factor, we consulted with CNMI government officials and other stakeholders to obtain information related to training, education, and other assistance provided to U.S. citizens and lawful permanent residents. The Government of the CNMI shared with the Department its past and continuing good-faith efforts to locate, educate, and train U.S. citizens and lawful permanent residents to assume jobs in the CNMI. CNMI government officials reported that they continue to provide education and training to unemployed or underemployed U.S. workers to help them become sufficiently qualified to replace foreign workers and that they have developed a high school career technical education (CTE) curriculum that is responsive to the needs of employers in the CNMI.

¹ These studies include U.S. Department of the Interior, "Economic Impact of Federal Laws on the Commonwealth of the Northern Mariana Islands," 2008; U.S. Department of the Interior, "Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands," 2010; U.S. Government Accountability Office, "Commonwealth of the Northern Mariana Islands: Managing Potential Economic Impact of Applying U.S. Immigration Law Requires Coordinated Federal Decisions and Additional Data," GAO-08-791, August 2008; and U.S. Department of Homeland Security, "Regulatory Assessment for the Final Rule, Commonwealth of the Northern Mariana Islands Transitional Worker Classification," 2011.

Concerning the sixth factor, officials from the CNMI government reported that some U.S. citizens and lawful permanent residents are not willing to accept certain jobs, including low-wage jobs or jobs with few or no benefits. We are reviewing CNMI Department of Finance tax data for 2002-2012 to examine any average wage disparities between foreign workers and U.S. workers.

Data limitations made it impossible to assess the CNRA's seventh factor: the extent to which the admission of foreign workers affects the compensation, benefits, and living standards of existing workers in industries authorized to employ foreign. Instead, the Department is conducting an analysis to assess the changes in the CNMI's gross domestic product (GDP) that might result from a reduction in the number of foreign workers.

To address the eighth factor, we consulted with CNMI government officials and other stakeholders to determine if there is a need for foreign workers to fill specific industry jobs. CNMI government officials reported that legitimate businesses in the CNMI have difficulty finding qualified applicants for skilled jobs who are U.S. citizens or lawful permanent residents.

Finally, the CNRA contemplated an interagency and intergovernmental consultation process to help the Department decide whether to extend the transitional worker program. As part of this process, the Department conducted a series of meetings with DHS, the Department of Defense, the Department of the Interior, and CNMI elected officials, including the Governor, during which the participants examined the statutory criteria to assess whether the Department should extend the transition period.

After completing our review of existing studies, consulting with federal agency partners and CNMI elected officials, including the Governor, and after conducting a quantitative analysis of relevant data, the Secretary of Labor will be prepared to announce the determination of whether to extend the guest worker program. I also note that we are very sensitive to the need for making this determination expeditiously.

Following the announcement of the Secretary's determination, the Department will continue to monitor and assess the labor needs of the CNMI to ensure that there are an adequate number of workers for CNMI's legitimate businesses. In particular, we will continue to assess any good faith efforts to locate, educate, train, or otherwise prepare U.S. citizens, lawful permanent residents and unemployed foreign workers already in the CNMI to assume jobs in legitimate businesses. In order for us to properly assess the CNMI's workforce in the future, we request that the CNMI government provide updates to the Department on a yearly basis about its good faith efforts to locate, educate, train, or otherwise prepare U.S. citizens, lawful permanent residents, and unemployed alien workers already in the CNMI.

Section 701 of the CNRA² states that it is the intent of the Congress to minimize potential adverse economic and fiscal effects of phasing-out CNMI's nonresident contract worker program and to maximize the CNMI's potential for future economic and business growth by, among other things, assuring that foreign workers are protected from the potential for abuse and exploitation. The Department emphasizes the importance of Congress's intent in this regard, and further notes that regardless of the Secretary of Labor's decision on whether to extend the transition period, CNMI employers have a continuing obligation to adhere to and comply with applicable civil rights, labor and workplace safety laws. Employers in CNMI remain subject to the array of federal laws that, among others, ensure and protect the rights of workers to a workplace based on fair treatment, and free of unlawful discrimination and hazards to safety and health. Those and other workplace rights will continue to be applied forcefully by the Department and other federal agencies with jurisdiction to administer and enforce federal worker protection laws.

The Secretary's determination on whether to extend the transition period will be consistent with the requirements of the CNRA and the purpose of H.R. 4296.

² 48 U.S.C. 1806 note.