

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

**REGARDING THE IMMIGRATION PROVISIONS IN PUBLIC LAW 110-229
THAT AFFECT
THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
AND GUAM**

May 19, 2009

Chairwoman Bordallo and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the implementation of the immigration provisions contained in Title VII of Public Law 110-229, which affect the Commonwealth of the Northern Mariana Islands (CNMI) and Guam.

Title VII of Public Law 110-229 provides for the Federal Government to administer immigration in the CNMI. Several Federal agencies are involved. The lion's share of the work falls to the Department of Homeland Security (DHS), which must establish and staff facilities at ports of entry and administer a five-year CNMI transitional foreign labor program, an investors' program, and a Guam-CNMI visa waiver program. The Departments of the Interior, Labor, State, and Justice are also involved in other immigration matters important to the CNMI, but less intensely so.

Guam

Two provisions in Title VII affect Guam. One would allow most H visas to be granted for employment in Guam or the CNMI without limitation for five years beginning November 28, 2009. As the construction phase of the Guam military build-up gets underway, and if United States-eligible labor is exhausted, this H visa cap exemption will

ensure that sufficient foreign labor is eligible for entry into Guam to meet residual labor needs.

The second provision affecting Guam replaces the Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program. In so doing, Guam and the CNMI would be made eligible to accept citizens from the same visa waiver countries.

The CNMI Economy

Besides consulting with other agencies regarding aspects of implementing Title VII immigration provisions, the Department of the Interior is greatly concerned with the CNMI economy and the status of foreign workers who have lived in the CNMI for substantial periods of time.

Beginning in 1980 and until recently, the CNMI economy was growing. The two underpinnings of the economy were tourism and a thriving garment industry.

More recently, the CNMI economy has significantly suffered. Since the imposition of World Trade Organization rules in 2005, the garment industry has been in a downward spiral. A few indicators of this economic and financial contraction are illustrative:

	1997	2007	percentage change
Tourist Arrivals	726,690	389,345	-46.4
Garment Sales (\$M)	800.0	454.0	-43.3
Gr. Bus. Rev Taxes	74.6	50.0	-33.0
Income Taxes	46.6	35.5	-23.8
Excise Taxes	29.2	17.9	-38.7
Garment Taxes	27.7	13.5	-51.3
Total Taxes	200.9	128.8	-35.9
Total Local Revenues	242.6	160.5	-33.8
Total General Fund	248.0	168.2	-32.2
Wages & Salaries	114.2	88.4	-22.6
Gr. Bus. Reciepts	2,500.0	1,170.0	-53.2

The CNMI Department of Commerce Economic Indicator Quarterly Report shows a continuing decline in economic indicators from a year ago for the first quarter of this calendar year. Gross business receipts are down another 1.2 percent from the same quarter from the previous year. In addition, tourist arrivals are down approximately three percent. The last of the garment factories closed in March, which brings garment sales and taxation to zero.

With such indicators, we must be concerned with the CNMI economy. Tourism, as the mainstay of the economy now and into the foreseeable future, must be nurtured. As the

federal government considers immigration policy on Guam and CNMI, an important consideration is that previously, part of the attractiveness of the CNMI has been its visa-free entry for tourists. For instance, in the last year, Chinese and Russian tourists accounted for 22 percent of CNMI tourists.

United States visa requirements will apply to foreign tourists to the CNMI beginning November 28, 2009, except that Title VII creates a new Guam-CNMI Visa Waiver Program that will include the CNMI. For this new Guam-CNMI Visa Waiver Program, the DHS has issued an interim final rule that waive visa requirements for eligible visitors from 12 countries and geographic areas. At this time, China and Russia are not among the countries participating in the program

P.L. 110-229 emphasizes the need to protect the CNMI economy and promote economic development. The CNMI has beautiful beaches and five-star hotel accommodations that are more than half empty. Given that tourism is now the mainstay of the CNMI economy, wherever possible both Federal and local officials must work to not only avoid actions that may harm various sectors of the tourism market, but also must also consider actions that promote increased tourism.

Report on Long-term Legal Foreign Workers

When originally introduced in the Congress, the CNMI immigration legislation included a provision granting long-term foreign workers a non-immigrant status that would allow them to continue living and working in the United States jurisdictions much like citizens of the freely associated states. The enacted version (Public Law 110-229), however, did not resolve the immigration status of long-term workers in the CNMI. Instead, Public Law 110-229 calls for a report and recommendations on the status of long-term foreign workers by the Secretary of the Interior (in consultation with the Secretary of Homeland Security and Governor of the CNMI), by May 8, 2010. Specifically, the report will include --

- the number of aliens in the CNMI,
- their legal status,
- the length of the aliens' stays in the CNMI,
- the CNMI economy's need for foreign workers, and
- recommendations, if deemed appropriate, whether or not legal foreign workers in the CNMI on May 8, 2008, should be able to apply for long-term status under United States law.

Before recommendations are made, however, we will need information and statistics on the CNMI's foreign workers. The Department of the Interior, in conjunction with our interagency partners, is considering how best to collect the data and information necessary to complete this report. Title VII of Public Law 110-229 provides discretionary authority for the Secretary of Homeland Security to establish a registration program. It is our understanding that DHS is presently considering whether to implement

such a program. Should DHS implement a registration program, sharing of such data would be a useful source of information for the required report.

On May 8, 2008, when Title VII was enacted the transition period effective date was expected to be June 1, 2009, and Interior's long-term foreign worker report was scheduled for a year later on May 8, 2010. It was believed that after nearly a year of experience with DHS's administration, we could see how things would unfold for the long-term foreign workers. For example, some may leave of their own accord, some may qualify for DHS's five-year foreign worker transition program, and some may qualify for adjustment to an immigration status under provisions of the Immigration and Nationality Act. It would be prudent to give time for these events and adjustments to take place, before passing judgment on the overall long-term worker issue.

Recently, the Secretary of DHS utilized legislative authority to delay the transition period effective date by 180 days to November 28, 2009. There is, however, no equivalent statutory authority to delay Interior's report on long-term foreign workers. If there is only five months of administration before the report is due, as the current timeframe would require, insufficient data and other factors may make the completion of a meaningful report difficult. In addition, we are anticipating that status adjustments of some foreign workers will need to be made, potentially increasing the time it will take to complete the report beyond the one year originally allowed for in Public Law 110-229. These factors may make it difficult for Interior and its partners to parse desirable immigration policy and long-term foreign worker issues in an abbreviated timeframe.

The Department of the Interior, therefore, requests that the Congress extend the statutory date for the report on long-term foreign workers by one year to May 8, 2011.

Madam Chair, the Department of the Interior is hopeful that the implementation of Title VII of Public Law 110-229 in the CNMI can take place with short-term dislocations that are minimal and long-term employment prospects that are beneficial for United States citizens.