

**WRITTEN TESTIMONY
OF
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**BEFORE THE
U.S. HOUSE NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKAN NATIVE AFFAIRS**

**“Reviewing the Economic Impacts for the Commonwealth-only Worker Program
in the Northern Mariana Islands under Public Law 110-229”**

September 13, 2016

I. INTRODUCTION

Good morning Chairman Young, Ranking Member Ruiz, Congressman Sablan, and members of the Committee:

I thank you for allowing me to come before you today to discuss some of the critical issues facing the people of the Commonwealth of the Northern Mariana Islands (CNMI) and thank you Chairman Bishop for permitting this important hearing.

What I specifically want to talk about are some of the economic realities found in our islands which are located almost 8,000 miles away from Washington DC and in particular the unique circumstances related to our labor demands and requirements. I hope to be able to express and share with you some of the things I believe we need help with to continue promoting growth and providing essential services to the people of the Northern Mariana Islands.

II. BACKGROUND

The CNMI’s island based tourism economy is tiny when compared to your states and districts and the United States as a whole. Further, the geography found in our islands does not allow for a wealth of land or natural resources and our location leaves great distances between us and all the other markets in Asia and the greater American economy as well.

Perhaps most importantly is the fact that our population is not large enough to meet or provide for the labor demands of a growing private sector. Our population is just slightly over 50,000 people in total and in simple terms, we just don’t have enough United States citizens or US-eligible workers living in our islands to work all the jobs required of a tourism-based economy.

III. SMALL ISLAND ECONOMIES

Unlike the districts you represent, we are faced with constraints that are both structural and geographic that greatly limit our ability to be successful and productive members of the American economy. In fact, due to these constraints throughout the Pacific and elsewhere, the long term viability of small island economies in a global marketplace is always at risk and can never be taken for granted.

The question of how do we succeed and grow when competing against larger economies with exponentially greater resources is a question that continues to be at the forefront of our development efforts. In all candor, the answers to the questions presented is something with which we will need your help and understanding.

When we became part of the United States through our mutually agreed upon Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States, we set the goal of our development and economic growth to increase our standard of living to that equal to the greater American Community. However, in truth, after 40 years of existence as the Commonwealth of the Northern Mariana Islands – we are not there yet (although I believe we have made great progress).

IV. NEED FOR DEVELOPMENT

To better understand our overall circumstances, please consider that in the last census, 51% of our population were found to live beneath the poverty line and approximately 34% of our population lives without health insurance. These are percentages far greater than any state in the Union. We have one economic driver and that is tourism which is only just now picking up again following the initiation of our integrated resort development plans. In sum, we are not a rich member of the American community and it is not easy to provide the basic public services such as safe drinking water, adequate healthcare facilities and safe roads that will ensure for the public safety and welfare of our people.

Accordingly, we need continued economic growth and we need to refine our long-term economic strategies of development in order to bring our standards of living and the qualities of public services we provide closer to that of our fellow Americans. Without question, the greatest hurdle we face in reaching our goals and the main point of my testimony concerns access to labor.

V. CONSOLIDATED NATURAL RESOURCES ACT OF 2008

In the Consolidated Natural Resources Act (CNRA), Public Law 110-229, the CNMI was put into in a transition period that would completely phase out and eliminate the immigration system previously utilized by the CNMI government since 1983. I am not here to dispute this endeavor and I fully accept the intent of Congress to bring the Marianas islands into full compliance with the immigration laws of the United States. I take to heart the mandates it places upon me as the Governor of the CNMI and want to share with you what has happened in the Northern Marianas since the passage on PL 110-229.

On the positive side, the mandates of the CNRA have been helpful in providing for the success of US-eligible workers in the CNMI. This point should not be discounted or overlooked. Since

the beginning of the transition period, the ratio of US-eligible workers participating in the labor force has increased by 17 percentage points.

For the first time in decades, the number of US citizens or US-eligible workers in the labor force has surpassed non-US workers. And with a growing economy, each worker is more important than ever. This is indicative that, in this current development trajectory, our economy is becoming more reliant on productive and successful US-eligible workers.

However, there are structural issues in play that have prevented a fuller transition from occurring and which will continue to put the CNMI in a perilous position in 2019 if we cannot get some relief from this deadline. In short, we simply are not yet in a position to eliminate the nonresident workers in the CNMI. Our economy has only just now begun to rebound from more than a decade of stagnation and collapse. There is not a pool of unemployed US-eligible workers available and ready to tap into to replace the CW workers presently on-island.

We are only just now in the earliest stage of transitioning away from a foreign based work force now that our minimum wage is approaching that of the United States and because there are more jobs available. While the transition may have arrived later than many of us would have hoped for, the fact is that it is here and the possibility to allow it to proceed under an economic basis – and not under an arbitrary timeline imposed in the CNRA – is what I most believe we need your understand and help with.

VI. ADDITIONAL TIME NEEDED TO COMPLETE TRANSITION

The CNRA, to me, has two main objectives. First, to require the CNMI to restrict its work force needs to those allowed under the national immigration system. And the second objective is to allow this to happen while at the same time limiting the economic harm of transitioning away from nonresident workers to a US-eligible work force. While some may see these goals to be contradictory, I see them both as being fully achievable if we are granted the time and additional resources necessary to create a fully functioning and viable economy that can sustain job creation and growth.

Accordingly, what I hope I can make you understand, the CNMI's present-state economic realities and the events of these past months highlight the fact that our reliance on the CW program cannot simply just occur in a short period of time and that various portions of our economy will need CW workers for some period of time past the current deadline of 2019.

Following the passage of the CNRA and the inception of the transition period, the CNMI has never once reached the limits of our CW allocation. This was due in large part to the lack of any economic activity throughout the period of time following the enactment of the CNRA.

VII. EXCEEDING THE CAPPED NUMBER OF FOREIGN WORKERS

In 2009, there was no real demand for labor to populate local industries. The annual reductions to the CW cap went unnoticed for the most part because there was no economic growth happening in the CNMI at that time. However, recently, the private sector as witnessed the need to expand

their labor force, hiring both foreign workers under the CW program and US eligible workers, (many of them residents of the CNMI), and the labor demands of the economy finally outstripped the numerical limitations to CW workers allowed under the CNRA.

In May of this year, we were informed that the numerical limitation of 12,999 CW permits was reached and that CW workers whose FY 2015 permits expired after that date must depart 10 days following the expiration of their visa. In total it was estimated that more than 1,300 workers in our small labor pool were no longer allowed to legally remain and work in the CNMI. The best way I can illustrate the effects this had on the overall economy is to discuss the marked effects it had on aggregated business revenue.

VIII. COSTS OF EXCEEDING THE CAP

2016 saw the highest volumes of gross business revenues for the month of May than any other year in the past decade. The Commonwealth collections for May 2016 doubled the receipts of the previous year. Following the record setting month, and in response to the dramatic reduction in available workers, the subsequent months registered a severe contraction to business activity and government resources. The month of June saw business revenue taxes fall 36 percent from the May 2016 high. Subsequently, July tax receipts for business revenue taxes fell to a 10-year low.

Overall, utilizing historical and projected data, the two months following the USCIS announcement resulted in a total estimated loss in business revenue of \$192 million. In broad terms, the ramifications of the shrinking access to labor were business closures, reductions to operation hours, and the loss of jobs and income for US citizens working in these affected enterprises alongside their departing CW worker colleagues.

While only a small glimpse into the near future for the CNMI as 2019 approaches it provided many lessons to me. Primary of which is that, in this stage of economic development, foreign workers are vital components to the economy and the creation of sustainable employment for US-eligible workers.

To elaborate, the creation of good-paying, long-term occupations needs the support of the private sector growth today, which is inclusive of the retention of long-serving operational staff that can facilitate the training and entry and mid-level occupations for high school, college and vocational school graduates. To provide for greater business development and increased job opportunities, we need to create the physical infrastructure to attract greater numbers of tourists and capital and for that we need access to construction and trades workers comprised of both local and foreign workers. And we need to continue to utilize all available US-eligible workers to accomplish these things with the recognition that even in the best of circumstances there are not enough US workers currently in the islands or US workers willing to relocate to the islands to accomplish these goals.

IX. MOVING FORWARD

The apparent fact is that we cannot do this within the short time frame between now and 2019, and we cannot build an economy sufficient to provide job security to our population nor are we

able to provide basic adequate public services to the people without more workers and increased tools to manage a transition period.

There are many ways in which the transition period can be more conducive to achieving the goals of the CNRA. For instance, the affects the CW program has on wages on certain occupations and how the presence of non-US workers suppresses the overall wage level of the CNMI. Our recent prevailing wage survey indicates that in occupations highly represented by foreign workers, the prevailing wage level for both US and non-US workers is substantially lower than the CNMI average. Under the assumption that we can do more to increase these wages and entice US-eligible workers to take on these roles and reduce the unbalanced ratio of US to non-US workers -- I am working with our CNMI legislature to move forward with legislation to increase the minimum wage level to the national level ahead of the scheduled increase provided by law. This is in recognition that already, for many occupations, the prevailing wage is much higher than that of the federal minimum wage, but in areas predominantly staffed by non-US workers the wages remain stagnant.

Another approach that will ensure the CW program does not negatively harm other workers in the economy is presented in Congressman Sablan's legislation, HR 5888, which would require employers to offer the prevailing wage for occupations in a manner similar to that of the H-Visa program. This is something I wholeheartedly support as it protects US workers and provides for a wage level that is true to the economic realities and needs of the overall population. If done correctly to fix the wage suppression, the presence of non-US workers can proactively contribute to greater job opportunities for US workers and assist in delimiting the reliance of foreign workers. All we need is more time and more numbers to see this through.

The structure of the CW program itself also does not provide for an adequate transition. Currently, the program has in place a cost structure that creates incentives for employers to pursue CW visas over more appropriate visa classifications that are more in line with the mandates of the CNRA. When faced with the decision to allocate resources in the private sector within a budget year, it is far more preferable to pursue the CW visa for a construction worker, for instance, over the more appropriate H visa route.

This affects the CNMI in a number of ways. First it prolongs the use of the CW program, in lieu of transitioning to more sustainable visas for occupations that should have been phased out by now. Secondly, the lack of transition exacerbates the ongoing conflict between occupations that should be in another visa classification and necessary occupations that are critical to the CNMI for which US hires and other visa classes are not readily available, as seen in the crucial need the CNMI has for nurses and medical professionals under the CW program. As the cap continues to be reduced, the large presence of workers in a single job category limits the number of visas available for other critical occupations in the CNMI.

Additionally, the CNMI does not have the tools necessary to compel businesses to make the transition to alternative visa classifications. I have personally made repeated public statements urging the business community to take the responsible route and make the decision to transition into alternative visa classes in lieu of the CW visa as it is in their best interest in the long-term.

Yet, without adequate incentives and disincentives to direct their hiring decisions the vast majority of businesses make the choice to continue with the CW visa route. This is a hurdle but has not dampened our resolve to find a responsible path forward during this transition phase. My administration is in the process of amending our regulations to truly assess whether businesses are doing the utmost to conform to the law.

X. BLENDING THE CNMI OVERSIGHT INTO THE FEDERAL SCHEME

Through our Job Vacancy Announcement certification process, we endeavor to empower the CNMI Department of Labor to hold businesses accountable for their hiring decisions and ultimately decline certifying their efforts to locate US or alternative means for their job openings if they have not tried other available options. This is not a perfect system we are developing, but in the place of other administrative means within the US Citizenship and Immigration Service (USCIS) to adequately transition our workforce, I am eager to do what we can to see this through.

The CW program has also put into place a system for hiring and announcing job vacancies that is not conducive to hiring US eligible workers. The opening period for submitting applications for a CW visa begins no earlier than 6 months ahead of the proposed start date. This requires job postings to be made 6 months before the job is available, creating a system in which US workers willing to take on the job having to remain jobless for 6 months once they are deemed acceptable for the position.

Primarily, these concerns can be remedied through collaboration in the transition period, and we wish to be partners toward the goals of the CNRA in any way we can. But the opportunities and the resources to be a part of the process under the current form of the CNRA have been limited to the detriment of the ultimate goals of the law.

XI. SUPPORTING FACTS TO EXTEND TRANSITION

In a short period of time, the CNMI has managed to do something remarkable. A resurgence in the economy is currently underway, with tourist arrivals rebounding at astounding rates. Hotel associations have recorded the highest occupancy rates in their history and private investment, which saw an increase of 50 percent between 2013 and 2014 alone, is flowing into the economy in the form of additional hotel facilities, restaurants, services, and retail outlets.

In terms that matter most to me, we are witnessing, like never before, opportunities arising in the private sector for US citizens, allowing them to participate in the gains of our economy, earn wages above the federal minimum wage and provide for their families. And for the first time in our history, more and more these opportunities are being found in the Private Sector and not Government. As the Governor of the CNMI, it is becoming increasingly apparent that we are now competing with the private sector for qualified and talented workers. As much as it pains me to see our public sector employees leave, it fills me with great pride that they are remaining on island earning higher wages for their families.

In spite of the difficulties we have faced in this transition period, we have made great effort in utilizing the available resources to increase our US-worker population. With the assistance of the \$150 education fee provided by the CNRA, which provided \$1.7 million to training the next generation of US workers in the CNMI this past fiscal year, we have targeted our training to needed occupations through the Northern Marianas Trades Institute (NMTI), which has a current enrollment of more than 200 hundred students learning marketable trade skills in culinary arts, automotive repair, and construction among others.

Additionally, education fees have been provided to the Northern Marianas College (NMC), the only public institution of higher education in the CNMI, to supplement their programs in Business administration, nursing, and workforce readiness. The ultimate goal of the support provided to the college being the retention and placement of their total estimated 400 graduates in the next two years into positions critical for the success of the economy.

XII. TRAINING FOR THE FUTURE

Beyond, those two institutions that are pivotal in our ability to meet the growing labor demand, our Public School System has recognized their role in populating our workforce and implemented job training programs within their curriculum to better prepare the estimated 15 percent of the graduating population who are entering the workforce after high school for success in our economy. Through programs such as the Cooperative Education Programs that places students in learning environments within the private sector, the approximate 90 students a year who are directly entering into the labor force are more prepared to find jobs, and possess the skills to succeed in their careers from the start.

Our data are showing a dramatic reduction in the number of work eligible recipients of social services, which is providing for additional labor resources and allowing for social services recipients to make measurable success toward self-sufficiency. From April of 2015 to April 2016, the number of abled bodied nutrition assistance recipients declined by more than 20 percent, as more than a hundred workers found jobs and have become contributing members to the economy.

And as the economy grows, greater numbers of students who have left the CNMI to pursue their degrees in the mainland United States and Hawaii are seeing promising career opportunities for their skills at home and are returning to be a part of our growth.

In total, our available data shows that more CNMI residents are returning home or re-entering the labor force in numbers. 2015 alone saw a more than 12 percent gain in the number of CNMI residents participating in the labor force - the largest gain following years of economic depression and outward migration.

XIII. LARGE SCALE DEVELOPMENT PROJECTS

The fact that cannot be stated enough is that when the transition period began in 2009 the CNMI economy was nonexistent. The last remnants of our apparel industry closed their doors, tourism was in decline and the Great Recession and its effects on the global economy shrunk available

resources for continued private sector growth. According to the Bureau of Economic Analysis from 2002 to 2013, real Gross Domestic Product decreased at an annual rate of 5.7 percent. In this environment government was required to undertake severe austerity measures and the US workers in the CNMI economy suffered through reductions to government services and widespread unemployment. Without an economy, everyone suffered.

Though in the current CNMI economy, we are witnessing better opportunities for US citizens and residents of the CNMI, but there remains a marked gap between all of the labor resources available to us locally and the demands of a growing economy.

In the next five years the CNMI anticipates to move forward with 9 major developments on both the islands of Saipan and Tinian that can stimulate enough economic activity to provide for greater public services to our population. However, these developments in total will require an estimated number of 11,000 additional workers.

If we are successful in our efforts to mobilize all available resources that we can project to have in the next 5 years, we will be able to fill more than 5,600 of the required demand assuming that every able bodied individual in the Workforce Investment System and Nutrition Assistance Program Work Registration System, along with every graduate of the Northern Marianas College, NMTI, and off-island graduates and high school graduates entering the labor force are willing to work in the positions available to them in the economy.

The fact remains that we do not have enough workers to see the next years through. As we saw this year, the inaccessibility of foreign labor has repercussions toward the availability of jobs for US citizens. We need more time to ensure that we can train more of our US-eligible workers to fulfill these jobs, while protecting the economy so that the jobs will remain available to them in the longer-term.

XIV. CONCLUSION

Above all I wish to impress upon the members of this committee the following:

The CNMI and, more so, me as its current Governor acknowledges and respects the intent of Congress to see the transition period succeed and the CNMI hire more US eligible workers and transition its foreign labor population into the wider US immigration system. I want to make this work.

However, the economic realities on the ground have us facing a cliff in which the unavailability of workers in the short term will cripple our economy as we are just beginning to recover.

The CNMI has a good and productive relationship with USCIS and I have great respect for the work they do and I appreciate their generous consideration of our needs. But there are ways in which this transition period can be better tailored to meet the needs of the CNMI economy and the goals of the CNRA.

And lastly, I want to stress that I am not here to request a bailout or drastic Congressional action. I am here today to thank you for your assistance toward improving the lives of our people in the CNMI and to provide you with the prospect of success in the American territories.

In the face of the tremendous obstacles keeping small island economies like ours from succeeding, yet we are going to continue to do what we can to make it work.

But in order to see this through, and with the hope of building a Commonwealth of self-sufficiency and success I must ask for your continued support of our economy and with our labor concerns, so that I will not have to return to this chamber under the more dire circumstances caused by large-scale economic collapse.

We are on the path toward realizing the goals of the CNRA, I am committed to working with you and USCIS to ensure that this happens, and in order to do so we need your support with adjustments to the current transition period to keep the economy progressing toward that goal, for without it, American citizens in our islands will inevitably suffer.

Despite the challenges ahead of us, I remain optimistic that the promise of American prosperity has the ability to span the Pacific divide and with your help and assistance can make a home on our shores.