

114TH CONGRESS
2D SESSION

H. R. 5888

To amend section 6 of the Joint Resolution entitled “A Joint Resolution to approve the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes”.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. SABLON introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To amend section 6 of the Joint Resolution entitled “A Joint Resolution to approve the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes”.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ENSURING AN ADEQUATE WORKFORCE FOR**
4 **THE COMMONWEALTH.**

5 (a) **TRANSITION PERIOD.**—Section 6 of the Joint
6 Resolution entitled “A Joint Resolution to approve the
7 Covenant To Establish a Commonwealth of the Northern

1 Mariana Islands in Political Union with the United States
2 of America, and for other purposes”, approved March 24,
3 1976 (48 U.S.C. 1806), is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (2), by striking “2019”
6 and inserting “2029”; and

7 (B) by striking paragraph (6), and insert-
8 ing the following:

9 “(6) CERTAIN EDUCATION FUNDING.—

10 “(A) IN GENERAL.—In addition to fees
11 charged pursuant to section 286(m) of the Im-
12 migration and Nationality Act (8 U.S.C.
13 1356(m)) to recover the full costs of providing
14 adjudication services, the Secretary of Home-
15 land Security shall charge an annual supple-
16 mental fee of \$150 per temporary worker to
17 each prospective employer who is issued a per-
18 mit under subsection (d) of this section during
19 the transition program. Such supplemental fee
20 shall be paid into the Treasury of the Common-
21 wealth government for the purpose of funding
22 ongoing vocational educational curricula and
23 program development by Commonwealth edu-
24 cational entities.

“(B) PLAN FOR THE EXPENDITURE OF FUNDS.—At the beginning of each fiscal year, and prior to the payment of the supplemental fee into the Treasury of the Commonwealth government in that fiscal year, the Commonwealth government must provide to the Secretary of Labor, a plan for the expenditure of funds received under this paragraph, a projection of the effectiveness of these expenditures in the placement of United States workers into jobs, and a report on the changes in employment of United States workers attributable to prior year expenditures.

“(C) REPORT.—The Secretary of Labor shall report to the Congress every 2 years on the effectiveness of meeting the goals set out by the Commonwealth government in its annual plan for the expenditure of funds.”;

(2) in subsection (d)—

(A) in paragraph (2)—

(i) by striking the third sentence and inserting the following: “This system shall provide, during the transition period or any extension thereof, for a reduction in the allocation of permits for such workers

1 on an annual basis to zero unless the Sec-
2 retary determines that a reduction in the
3 number of available workers for a fiscal
4 year would adversely affect the Common-
5 wealth's economy. Such a determination
6 shall be based upon verifiable documenta-
7 tion of the economic harm that would re-
8 sult from a reduction in available workers.
9 Under such conditions, the Secretary may
10 decide to make no change to or to increase
11 the number of available workers for that
12 fiscal year.”; and

13 (ii) by adding at the end the fol-
14 lowing: “At no time may the number of
15 permits in effect and valid under this para-
16 graph exceed 18,000.”;

17 (B) in paragraph (3)—

18 (i) by striking “(3)” and inserting
19 “(3)(A)”;

20 (ii) by adding at the end the fol-
21 lowing:

22 “(B) No alien may be admitted or provided
23 CW-1 status in an occupational classification
24 unless the employer has filed with the Secretary
25 of Labor an application stating that the em-

1 employer is offering and will offer, during the pe-
2 riod of authorized employment, to aliens admit-
3 ted or provided CW-1 status—

4 “(i) wages that are at least the actual
5 wage level paid by the employer to all
6 other individuals with similar experience
7 and qualifications for the specific employ-
8 ment in question;

9 “(ii) wages that are at least the pre-
10 vailing wage level for the occupational clas-
11 sification in the area of employment; or

12 “(iii) for job classifications without a
13 certified prevailing wage, wages equal to or
14 greater than the mean wage of the 3 low-
15 est wages within the Commonwealth’s pre-
16 vailing wage system.”; and

17 (C) by adding at the end the following:

18 “(6)(A) Not later than April 30, 2027, the Sec-
19 retary of Labor, in consultation with the Secretary
20 of Homeland Security, the Secretary of Defense, the
21 Secretary of the Interior, and the Governor of the
22 Commonwealth, shall ascertain the current and an-
23 ticipated labor needs of the Commonwealth and de-
24 termine whether an extension of up to 5 years of the
25 provisions of this subsection is necessary to ensure

1 an adequate number of workers will be available for
2 legitimate businesses in the Commonwealth. If the
3 Secretary of Labor determines that such an extension is necessary, the Secretary of Labor shall provide for it through a notice published in the Federal Register containing such determination.

7 “(B) For the purpose of this paragraph, a business shall not be considered legitimate if it engages
8 directly or indirectly in prostitution, trafficking in
9 minors, or any other activity that is illegal under
10 Federal or local law. The determinations of whether
11 a business is legitimate and to what extent, if any,
12 it may require alien workers to supplement the resident workforce, shall be made by the Secretary of
13 Homeland Security, in the Secretary’s sole discretion.

17 “(C) In making the determination of whether
18 alien workers are necessary to ensure an adequate
19 number of workers for legitimate businesses in the
20 Commonwealth, and if so, the number of such workers that are necessary, the Secretary of Labor may
21 consider, among other relevant factors—

23 “(i) government, industry, or independent
24 workforce studies reporting on the need, or lack

1 thereof, for alien workers in the Common-
2 wealth's businesses;

3 “(ii) the unemployment rate of United
4 States citizen workers residing in the Common-
5 wealth;

6 “(iii) the unemployment rate of aliens in
7 the Commonwealth who have been lawfully ad-
8 mitted for permanent residence;

9 “(iv) the number of unemployed alien
10 workers in the Commonwealth;

11 “(v) any good faith efforts to locate, edu-
12 cate, train, or otherwise prepare United States
13 citizen residents, lawful permanent residents,
14 and unemployed alien workers already within
15 the Commonwealth, to assume those jobs;

16 “(vi) any available evidence tending to
17 show that United States citizen residents, law-
18 ful permanent residents, and unemployed alien
19 workers already in the Commonwealth are not
20 willing to accept jobs of the type offered;

21 “(vii) the extent to which admittance of
22 alien workers will affect the compensation, ben-
23 efits, and living standards of existing workers
24 within those industries and other industries au-
25 thorized to employ alien workers; and

1 “(viii) the prior use, if any, of alien work-
2 ers to fill those industry jobs, and whether the
3 industry requires alien workers to fill those
4 jobs.

5 “(D) The Secretary of Labor periodically shall
6 provide to the Committee on Energy and Natural
7 Resources and the Committee on the Judiciary of
8 the Senate, the Committee on Natural Resources
9 and the Committee on the Judiciary of the House of
10 Representatives, and the Delegate to the United
11 States House of Representatives from the Northern
12 Mariana Islands an outline of the Secretary’s sched-
13 ule and process for making determinations under
14 this paragraph.”; and

15 (3) in subsection (e), by adding at the end the
16 following:

17 “(6) SPECIAL PROVISION REGARDING LONG-
18 TERM RESIDENTS OF THE COMMONWEALTH.—

19 “(A) CNMI-ONLY RESIDENT STATUS.—
20 Notwithstanding paragraph (1), an alien de-
21 scribed in subparagraph (B) may, upon the ap-
22 plication of the alien, be admitted as an immi-
23 grant to the Commonwealth subject to the fol-
24 lowing rules:

1 “(i) The alien shall be treated as an
2 immigrant lawfully admitted for permanent
3 residence in the Commonwealth only, in-
4 cluding permitting entry to and exit from
5 the Commonwealth, until the earlier of the
6 date on which—

7 “(I) the alien ceases to perma-
8 nently reside in the Commonwealth;
9 or

10 “(II) the alien’s status is ad-
11 justed under this paragraph or section
12 245 of the Immigration and Nation-
13 ality Act (8 U.S.C. 1255) to that of
14 an alien lawfully admitted for perma-
15 nent residence in accordance with all
16 applicable eligibility requirements.

17 “(ii) The Secretary of Homeland Se-
18 curity shall establish a process for such
19 aliens to apply for CNMI-only permanent
20 resident status during the 90-day period
21 beginning on the first day of the sixth
22 month after the date of the enactment of
23 this paragraph.

24 “(iii) Nothing in this subparagraph
25 may be construed to provide any alien

1 granted status under this subparagraph
2 with public assistance to which the alien is
3 not otherwise entitled.

4 “(B) ALIENS DESCRIBED.—An alien is de-
5 scribed in this subparagraph if the alien—

6 “(i) is lawfully present in the Com-
7 monwealth under the immigration laws of
8 the United States;

9 “(ii) is otherwise admissible to the
10 United States under the Immigration and
11 Nationality Act (8 U.S.C. 1101 et seq.);

12 “(iii) resided continuously and law-
13 fully in the Commonwealth from November
14 28, 2009, through the date of the enact-
15 ment of this paragraph;

16 “(iv) is not a citizen of the Republic
17 of the Marshall Islands, the Federated
18 States of Micronesia, or the Republic of
19 Palau; and

20 “(v)(I) was born in the Northern
21 Mariana Islands between January 1, 1974,
22 and January 9, 1978;

23 “(II) was, on May 8, 2008, and con-
24 tinues to be as of the date of the enact-
25 ment of this paragraph, a permanent resi-

1 dent (as defined in section 4303 of title 3
2 of the Northern Mariana Islands Common-
3 wealth Code, in effect on May 8, 2008);

4 “(III) is the spouse or child (as de-
5 fined in section 101(b)(1) of the Immigra-
6 tion and Nationality Act (8 U.S.C.
7 1101(b)(1))), of an alien described in sub-
8 clauses (I) or (II);

9 “(IV) was, on May 8, 2008, an imme-
10 diate relative (as defined in section 4303 of
11 title 3 of the Northern Mariana Islands
12 Commonwealth Code, in effect on May 8,
13 2008), of a United States citizen, notwith-
14 standing the age of the United States cit-
15 izen, and continues to be such an imme-
16 diate relative on the date of the application
17 described in subparagraph (A);

18 “(V) resided in the Northern Mariana
19 Islands as a guest worker under Common-
20 wealth immigration law for at least 5 years
21 before May 8, 2008, and is presently resi-
22 dent under CW–1 status; or

23 “(VI) is the spouse or child (as de-
24 fined in section 101(b)(1) of the Immigra-
25 tion and Nationality Act (8 U.S.C.

1 1101(b)(1))), of the alien guest worker de-
2 scribed in subclause (V) and is presently
3 resident under CW-2 status.

4 “(C) ADJUSTMENT FOR LONG-TERM AND
5 PERMANENT RESIDENTS.—Beginning on the
6 date that is 5 years after the date of the enact-
7 ment of this paragraph, an alien described in
8 subparagraph (B) may apply to receive an im-
9 migrant visa or to adjust his or her status to
10 that of an alien lawfully admitted for perma-
11 nent residence.”.

12 (b) ADDITIONAL REPORTS.—Section 702 of the Con-
13 solidated Natural Resources Act of 2008 (Public Law
14 110–229; 122 Stat. 854) is amended—

15 (1) by redesignating subsections (i), (j), and (k)
16 as subsections (j), (k), and (l); and

17 (2) by inserting after subsection (h) the fol-
18 lowing:

19 “(i) ADDITIONAL REPORTS.—

20 “(1) IN GENERAL.—The Comptroller General of
21 the United States shall submit a report to the Con-
22 gress not later than 2 years after the date of the en-
23 actment of this subsection, and, beginning on April
24 30, 2019, every 4 years until the end of the transi-
25 tion program established under section 6 of the

1 Joint Resolution entitled ‘A Joint Resolution to ap-
2 prove the Covenant To Establish a Commonwealth
3 of the Northern Mariana Islands in Political Union
4 with the United States of America, and for other
5 purposes’, approved March 24, 1976 (Public Law
6 94–241; 90 Stat. 263, 122 Stat. 854), as added by
7 subsection (a). The report shall include, at a min-
8 imum, the following items:

9 “(A) An assessment of the short-term and
10 long-term impacts of the amendments made by
11 this subtitle on the economy of the Common-
12 wealth, including its ability to obtain workers to
13 supplement its resident workforce and to main-
14 tain access to its tourists and customers.

15 “(B) An analysis of the labor needs of the
16 Commonwealth and of efforts by the Common-
17 wealth government and business to recruit, edu-
18 cate, and train United States citizens and na-
19 tionals, aliens lawfully admitted to the United
20 States for permanent residence, and citizens of
21 one of the Freely Associated States admitted
22 under the Compacts of Free Association with
23 the United States and residing in the Common-
24 wealth of the Northern Mariana Islands, to re-
25 place the temporary workforce.

1 “(2) DATA COLLECTION.—To assist the Com-
2 monwealth’s efforts to train United States citizens
3 and nationals, aliens lawfully admitted to the United
4 States for permanent residence, and citizens of one
5 of the Freely Associated States admitted under the
6 Compacts of Free Association with the United
7 States and residing in the Commonwealth of the
8 Northern Mariana Islands, to replace temporary
9 workers, and to assist the Secretary of Labor’s anal-
10 ysis of whether the transition program referred to in
11 paragraph (1) should be extended—

12 “(A) the Secretary of Homeland Security
13 shall report to the Congress, not later than 90
14 days after the end of each fiscal year of the
15 program, the number of permits approved, by
16 occupation, industry, and country of citizenship,
17 for employment of aliens seeking to enter the
18 Commonwealth as a temporary worker; and

19 “(B) the Bureau of Labor Statistics of the
20 Department of Labor shall collect data on un-
21 employment, employment, pay, and benefits in
22 the Commonwealth of the Northern Mariana Is-
23 lands beginning with the first fiscal year after
24 the date of the enactment of this subsection.”.

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