

ANNUAL REPORT OF THE SECRETARY OF LABOR

Calendar Year 2008

This is the Secretary of Labor's annual report to the Legislature pursuant to Public Law 15-108 covering calendar year 2008. The report has three parts: general information on Labor Department resources and activities during 2008; information requested in the budget bill for FY 2009; and information required under PL 15-108.

PART I: GENERAL INFORMATION ON LABOR DEPARTMENT RESOURCES AND ACTIVITIES

This section covers the background information about the Labor Department's activities during 2008 that is useful in assessing the data reports required under PL 15-108 and the 2009 budget bill.

Management of the Labor Pool

The principal task of the Department of Labor is to manage the labor pool for the private sector. During fiscal 2008, the labor pool for the private sector consisted of:

- ✓ U.S. citizens and U.S. permanent residents (green card holders) working in the private sector or actively seeking work
- ✓ Immediate relatives of U.S. citizens and U.S. permanent residents either working in the private sector or actively seeking work¹
- ✓ Foreign contract workers who entered the Commonwealth in entry permit classifications permitting full-time work in the private sector²
- ✓ Foreign specialty workers who enter the Commonwealth in entry permit classifications permitting temporary specialty work³
- ✓ Foreign investors and business people who entered the Commonwealth under entry permit classifications that permit work activities in enterprises that they own⁴
- ✓ FAS citizens working in the private sector or seeking work.

The private sector labor pool does not include:

¹ Entry permit classification 240D: permits immediate relatives of persons who are not aliens to remain in the CNMI for one (1) year so long as the immediate relative status is in effect.

² Entry permit classification 240K.

³ Entry permit classifications 240I (foreign press); 240J (distinguished merit); 240L (ministers); 240M (missionaries); 240P (special temporary work authorization or refugee); 240Q (comity entry permits)

⁴ Entry permit classifications 240A (Regular-Term Business Entry Permit – allows the holder to stay in the CNMI for one visit of not more than a ninety (90) day stay or multiple visits totaling not more than ninety (90) days within one twelve (12) month period); 240N (Long Term Business Entry Permit – allows the holder to enter and exit the CNMI for two (2) years); 240G (Foreign Investor Visa – an alien granted a certificate of foreign investment by the Department of Commerce)

- ✓ employees of the CNMI government, the federal government, or foreign governments⁵
- ✓ students in public or private schools in the Commonwealth⁶
- ✓ Commonwealth residents who have relocated temporarily or permanently to other parts of the U.S. and CNMI students in school outside the Commonwealth
- ✓ those who are disabled, unable to work for health reasons, prefer not to work for personal reasons such as tending to small children or aged parents
- ✓ persons who are retired⁷
- ✓ immediate relatives of those who enter the Commonwealth for contract work, investment, exempted, or temporary work reasons
- ✓ Long-term tourists⁸
- ✓ Immediate relatives of foreign workers⁹

Management Objective

The Labor Department's objective under PL 15-108 is to achieve high-quality employment for citizens of the CNMI in productive businesses that drive sustainable economic growth and opportunities. High levels of participation in high-quality, well-paid, and diversified employment by an adaptable and skilled workforce will help ensure the economic well-being of the Commonwealth. The Department seeks to make faster and more efficient match-ups of people's skills with the job opportunities that are available and to reduce skill shortages in the future by cooperating with government-private partnership efforts to help people make informed decisions about education and training. At the same time, the Department seeks to provide fair employment opportunities for global skills and talent that support the CNMI's economy in ways that recognize and balance the Commonwealth's objectives with respect to full employment for its citizens. Citizen and permanent resident employment and foreign national worker employment are both necessary components of the Commonwealth's economic success in the future.

⁵ Entry permit classification 240B (foreign workers employed by the CNMI government and the federal government; 240F (foreign workers employed by foreign governments)

⁶ Entry permit classification 240H (Foreign Student Entry Permit)

⁷ Entry permit classification 240O (Retiree Investor Entry Permit – allows the holder and his or her spouse to stay in the Commonwealth for up to five (5) years, during which time the alien may exit and re-enter the Commonwealth at any time.

⁸ Entry permit classification 240C (Long-Term Tourist Entry Permit – permits alien to remain in the CNMI for up to sixty (60) days)

⁹ Entry permit classification 240E (Immediate Relative of Alien Entry Permit – an immediate relative of an alien may enter under a permit for the same term as the alien's entry)

Commonwealth Funding

The FY 2009 budget has cut the Labor Department's full-time personnel back to 46 (from 85 in 2006) and has cut the funding for other expenses by 25% over the 2006 level. The Department's overall workload has increased substantially on the Employment Services side as the economy has sunk into a depression and more U.S. citizens who are out of work seek assistance in finding jobs. The Department's overall workload on the foreign worker side has dropped slightly as the number of foreign workers present in the Commonwealth has dropped, but the Department's scrutiny of each proposed employment of a foreign worker has increased substantially, leading to more denials of employment applications and more denial hearings.

Federal Funding

At the end of FY 2007, federal grant funds previously available for Department of Labor operations were withheld when the federal ombudsman sought control over certain Department of Labor functions through the exercise of financial control over grant funds. The proposed conditions on the availability of grant funds, to be controlled by the ombudsman, amounted to a serious conflict of interest or appearance of conflict because the ombudsman sponsors cases and claims within the Labor Department system. The Governor rejected the ombudsman's demands and substituted Commonwealth funding for part of the withheld federal funds. These federal funds have not yet been restored, but the Labor Department has a pending application in this regard.

Coordination and Cooperation with Foreign and Federal Agencies

Philippines Consul General: During 2008, the Philippines Consul General staffs were consulted with respect to the new employer-qualification reviews and visited hearings to see the new processes in action. The Consul General was also consulted during the process of drafting the revised regulations.

CEDA: During 2008, the Department coordinated with CEDA on labor matters affecting Chinese workers in the Commonwealth.

Thailand Department of Labor: The Department of Labor in Thailand sent a delegation to consult with the Department about workers from Thailand currently in the Commonwealth.

GAO: The Government Accountability Office in July 2007 was asked by Congressional constituents to study the effect on the Commonwealth economy of proposed federal immigration legislation. The GAO issued 67 requests for information to the Labor Department and the LIIDS Processing Staff, generally with very short time frames for responses. This process continued into 2008. All requests were met.

EEOC: A few cases from the Commonwealth were filed with the EEOC during 2008. Most resulted in right-to-sue letters without any EEOC agency action. Some are still pending with the EEOC. The EEOC Region 9 office in California has been helpful in providing materials and advice.

U.S. Labor: Coordination with U.S. Labor proceeded smoothly during the work on the increase in the federal minimum wage.

OSHA: The Department worked with OSHA on workplace health and safety matters during 2008. PL 15-108 restored the Department's investigation and inspection powers in this area, and OSHA assisted the Department with translation of these materials so that Commonwealth employers can be informed of the new requirements.

Federal ombudsman: Unlike relations with other federal agencies, the relations with the federal ombudsman were unsatisfactory during 2008. The ombudsman left office in September 2008 and, to date, has not been replaced.

PROGRESS DURING 2008

This section summarizes each of the projects that the senior management team undertook during 2008. After PL 15-108 was enacted, the Department essentially rebuilt its processes and procedures to accommodate the new requirements and to increase efficiency and effectiveness. This required a very substantial year-long effort from the staff who worked hard to get the Department into a position where there are essentially no backlogs and no lagging performance.

1. **Automation Project:** During 2007, the Department undertook an automation project to replace the aging LIIDS software and to provide effective methods for Labor Department personnel to deal with paperwork online. This system was brought online on February 1, 2008. During the next three months, the system was used in everyday operations and suggestions for improvements were generated by the staff. In July 2008, a revised system came online including many of the staff suggestions. The automation project has cut very substantially the time required for processing applications. The backlog has been reduced so that the labor processing operation is basically current from week to week.
2. **Barred List, Overhaul:** The responsibility for the Barred List has been transferred to the Hearing Office and a new spreadsheet format has been adopted. When an administrative order involves an order to pay damages or a fine, those facts are entered into the system until the damages award or the fine is paid. The updated Barred List is distributed throughout the Department.

3. **Community Outreach:** The Department's community outreach worker position was cut from the 2008 budget, so some of the planned outreach activities have been curtailed. However, the Department remains committed to a dialog with the many parts of the community that it serves.
 - (a) **Meetings to Explain the New Law:** In January, February, and March, the Department conducted more than 20 briefings for community groups and employers to explain the new labor law and the Department's anticipated implementation of the law. Much of the publicity in the local press that accompanied the enactment of the law had been negative and inaccurate, so the public education task was substantial.
 - (b) **Meeting With Local Insurance Companies.** The Department conducted a meeting with local insurance companies in April on the new insurance bonding procedures under P.L. 15-108.
 - (c) **Community Meetings:** In September, we met with the Chamber, HANMI, Bar Association representative, other business owners, foreign worker groups and their representatives, and community representatives to talk about how the processes at the Labor Department were working. We received good feedback which we incorporated into the new regulations that became effective on November 1, 2008, and we plan to have another set of these sessions in the spring.
4. **Federalization Cap on Incoming Workers , Implementation:** The Department put together emergency regulations with respect to the implementation of the cap on foreign national workers present in the Commonwealth on the date that the federal legislation was signed by the President. Those regulations appeared in the newspapers on two successive days following the date of enactment and appeared in the May 2008 Commonwealth Register. We consulted with the Chamber, HANMI, lawyers representing foreign workers, the Field Representative of the Interior Department, and anyone else who requested a copy of the draft. Most comments were thoughtful suggestions for minor improvements which we incorporated. The implementation of the federalization cap has proceeded smoothly. Each month since June 2, 2008, we have posted on the Department's website the arrivals/departures for the previous month. The Commonwealth has been in compliance with the law since the day it was enacted.
5. **Food Stamp Project:** We have implemented the food stamp project under which each retail store that accepts food stamps must employ at least one U.S. citizen or U.S. permanent resident (green card holder). Letters were personally

delivered to almost all of the retail stores (a few were mailed) informing them of this requirement. If they do not currently employ at least one U.S. citizen or permanent resident, they are required to post a Job Vacancy Announcement on the Department's website and to hire a qualified employee within a relatively short time. As of the end of the year, 114 of these 125 retail operations had complied. During January 2009, enforcement actions will begin against non-complying retailers.

6. **Labor Appeals Backlog Project, Completion:** The number of labor appeals increased during 2008 because of the labor applications backlog project and the labor case backlog project (described below), both of which were completed successfully. When we cleaned up the backlog of labor cases and agency cases, a small percentage of those decisions were appealed. Also, when we cleaned up the backlog of pending applications, a portion of those were denied, and some of those denials were appealed. Although the numbers of appeals are not large, it takes time to process each appeal, and we were falling behind because of the new workload. We established a backlog cleanup project, employed outside lawyers to assist on a temporary basis, and set up a new monitoring system within the Department. As of July 15, we were almost entirely current with respect to old cases. The performance benchmark for the 2008 and 2009 appeals is to issue opinions within 60 days of the receipt of the appeal.
7. **Labor Applications Backlog Project, Completion:** In the Labor Processing Division, Barry Hirshbein, the Director of Labor, accomplished the herculean task of reducing over 11,000 pending applications to fewer than 1,000 by July 2008. Using the new automation system, we are now running about two to three weeks to get most applications processed.
8. **Labor Case Backlog Project, Completion:** In the Hearing Office, Deanne Siemer finished a two-year project to clean up all of the pending labor cases from 1997 through 2007. All 4,897 labor cases from 2007 and prior years have been closed, except 22 cases from these years remaining on appeal in the Secretary's office and 27 cases from these years remaining in the Commonwealth courts. The very last 2007 case was heard by the Hearing Office in November 2008.
9. **Labor Case Tracking Capability:** As a part of the implementation of the performance benchmarks for the investigators and hearing officers who handle labor cases, the Deputy Secretary implemented a weekly tracking system for all cases filed in the current year. The tracking spreadsheet is updated every week and shows what cases have come in, whether the case has been mediated, what the status of the investigation is, when the case is scheduled for hearing, whether an administrative order has been issued by the hearing officer, and

whether an appeal has been filed or the case has been closed. This system has resulted in a more orderly processing of 2008 cases with no cases lost in the administrative work between investigators and hearing officers. By year-end, there had been 253 cases filed in 2008. The Hearing Office completed 157 of these 2008 cases during the year, and 96 cases remained open for investigations, hearings, and opinions to be completed during 2009.

10. **Legislature, Coordination**: A team from the Labor Department met with the House JGO Committee on February 27, 2008. Representative Ed Salas chaired the meeting, and the representatives had some good questions and suggestions with respect to the implementation of the new labor law. In March 2007, the Labor Department submitted to the Legislature its Annual Report for Calendar Year 2007. The Department also sent seven detailed Interim Reports to all members of the Legislature during 2008 informing them of changes in Department policies and procedures as the legislative reform was implemented. In September 2008, the JGO Committee and Senator Maria Frica Pangelinan visited the Department and inspected the processes in each office. The Annual Report of the Department of Labor for Calendar Year 2008 has been transmitted on time.
11. **LIIDS, Transfer to Labor**: The Department implemented Executive Order 2008-18 on November 1, 2008 and transferred the employees of the former LIIDS Section of the Immigration Division to the re-named LIDS Section of the Department supervised by the Deputy Secretary.
12. **OPA Audits**: The Labor Department has cleared all outstanding OPA audit items.
13. **Orientation Project**: The new law requires orientation for every foreign worker entering the Commonwealth. Our orientation sessions for newly-arrived foreign workers have been held every week, on Tuesday mornings, since the regulations became effective on February 1, 2008. The new foreign workers hear a presentation on their rights and responsibilities under Commonwealth law, and they are questioned by Labor Department personnel about their job situation. We have discovered workers entering with phony documents, workers entering with no employer, workers entering with documents describing one job but the actual work appearing to be a different job, and many variations on these themes. The Department also held revocation hearings for foreign workers who entered the Commonwealth after January 1, 2008 (the effective date of P.L. 15-108) without attending an orientation session within one week of arrival. We gave these workers two weeks in which to complete the orientation requirement and those who failed to do so have had their entry permits revoked and have been repatriated.

14. **Overstayer Identification Project , Completion of Phases I and II:** We have completed new procedures to deal with overstayers who are contract workers. (The responsibility for overstayers who came in as tourists, business people, investors, religious workers, students, and foreign press is with the Immigration Division.) The Department identifies potential overstayers and publishes a list in order to allow persons on the list to correct their status if an error has been made. The list is then certified to the Division of Immigration for deportation proceedings. In Phase I of the project, the Department set up a quarterly system for publishing current-year overstayer lists. At the end of each quarter, all permits that expired during the quarter are examined to determine if the holder of the permit still has current status to stay in the Commonwealth. The overstayer list for the first quarter of 2008 was published in June 2008. It contained 25 names. The lists for the second and third quarters were held up while the Department finished Phase II of the project. The list for the second quarter of 2008 will be published on or by February 9, 2009. The list for the third quarter is due to be published on or by February 15, 2009, and the fourth quarter list will be published by the end of February 2009. In Phase II of the project, the Department completed the reviews of all records for calendar years 2003 through 2007. The overstayer list for these years was published on December 1, 2008. The list certified to the Immigration Division contained 575 names. The Department estimates that over 90% of the foreign worker overstayers currently in the Commonwealth are among those who entered the Commonwealth during the years 2003 through 2008. Although foreign workers have been present in the Commonwealth in significant numbers since 1985 (a 24-year period), and the Department's Phase II project goes back only to 2003 (a six-year period), in the years prior to 2003, there were generally jobs available for workers whose contracts were not renewed by their employers. Unemployment is the largest single reason for workers falling into overstayer status. In addition, the Commonwealth implemented a large-scale amnesty project in the years prior to 2002, and many overstayers from that period had their status regularized.
15. **Payment Under Department Orders:** PL 15-108 did not give the Department any authority to enforce payment under administrative orders issued by the Hearing Office, preferring instead that enforcement be done through the Commonwealth courts. We have put into place a new collections procedure. The Department provides a Small Claims Court Information Packet to each foreign worker who asserts that a Departmental order has not been paid. That packet includes a notice of procedures and deadlines explaining how to use the Small Claims Court to collect on a Labor Department order, a map as to how to get to the court, the telephone number of the Clerk of Court's Office, a small claims complaint form, a small claims in forma pauperis (no fee) form, and a copy of the relevant bond notice form so that the court knows what bond backs

the employer's obligation to pay. The court has powers to collect on orders (including sending people to jail) that the Department does not have, and these powers are necessary for effective enforcement in this area. The Small Claims Court jurisdictional limit is \$3,000, and for claims above that amount, the clerk will direct the claim to Superior Court. The same Clerk's Office serves both courts. This procedure has been challenged in the courts, and the case is pending.

16. **Performance Benchmarks:** The Department's reorganization plan was accompanied by specific performance benchmarks for each division and office within the Department. The Deputy Secretary monitors the performance benchmarks at senior management staff meetings.
17. **Regulations:** We published detailed implementing regulations for PL 15-108 in the November 2007 Commonwealth Register and again in the December 2007 Commonwealth Register so that the community had 60 days (a double comment period) in which to provide ideas and suggestions with respect to implementing the new law. We received many comments, nearly all of which were supportive of the new approach to managing the Commonwealth's labor pool and most of which offered specific suggestions as to a particular business or personal situation that might be accommodated by a change in the draft regulations. We responded to every comment and incorporated many of these suggestions in the new regulations. One year later, in October 2008, we issued revised Labor regulations containing some minor changes to bring our regulations up to date with the website and automated processing developments. These regulations also increased the fee for filing labor applications from \$250 to \$300. This fee increase applies to applications for new entries, renewals, and transfers made by business employers. The fee increase does not apply to applications filed by non-business employers. The new interactive website, which is free, took the place of the prior media advertising, which cost employers up to \$300 per job. For this reason, the new fee represented a net saving to businesses that employ foreign workers.
18. **Reorganization of the Department for Reduced Staffing:** The Department reduced its staffing from 85 full-time personnel in 2006 to 46 full-time positions in July 2008. This staffing reduction was accompanied by a reorganization to simplify the Department's organization chart and to make management of the divisions more efficient. Nearly all staff members have been cross-trained to do more than one job which also increases the efficiency of the Department's operations. A detailed reorganization plan was produced in July 2008 and reviewed with the Office of Personnel Administration and the Special Assistant for Administration. This reorganization plan was implemented in November 2008.

19. **Sham Employers, Identification:** The new legislation provided better tools for identifying sham employers and the Director of Labor is doing an outstanding job of finding sham sponsorships in the applications that are submitted. The Director and his staff review 4,000 to 5,000 applications a quarter, and they identify about 300 to 400 questionable applications in an average quarter. Those applications are turned down, and some applicants appeal. This is an additional workload for the Hearing Office, and these hearings in denial cases are held on Thursdays and Fridays on a special docket. This makes processing of these cases more efficient for all concerned, and the Hearing Office is just about current from week to week.
20. **Standard Procedures and Forms:** The senior management team at the Department began meeting in early January 2007, soon after the new law was passed, to implement the new system. Because we were switching over to a more completely digital system, we needed to redesign the Department's forms and operating procedures to conform to the new requirements. Most of the new forms were in place and on the website by the end of June.
21. **Transfer Processing:** The new legislation eliminated consensual transfers and required the Department to set up a whole new transfer process, under which each transfer application goes through a review process in the Administrative Hearing Office. When a foreign worker registers with the Division of Employment Services to transfer and finds a prospective employer (who provides an Employer Intent Form), the documentation is circulated throughout the Department and anyone can object. (If no one objects, the transfer is approved.) The Administrative Hearing Office provides prompt hearings on these objections, and the process provides a coordinated way to review the credentials of employers. This prevents workers from being transferred to employers who have no available jobs or will not pay wages owed. If the employer is disqualified in the process, the worker is allowed another round of registration, so the workers are not penalized for selecting an unqualified employer the first time around. A large number of employers with questionable credentials or no financial capability have been disqualified in this process.
22. **TWAs, Reduction:** Temporary work authorizations are used when labor cases or court cases require that a worker be permitted to stay in the Commonwealth beyond the expiration of a work permit. We have succeeded in reducing the number of workers in TWA status from over 200 in 2007 to 46 as of the end of December 2008 and down to 37 as of January 30, 2009. We have done this by cleaning up all the pending cases from 2007 and prior years and by instituting new rules for cases pending elsewhere. When workers file cases in federal or Commonwealth courts, the Labor Department asks for a court order if the worker

is to be permitted to remain in the Commonwealth while out of status. We allow workers who have filed cases with the EEOC, NLRB, and U.S. Labor to obtain TWAs without any affirmative action from the adjudicating agency, but we are considering changing that policy. The EEOC alone has more than 100 pending cases from the CNMI that were filed in 2006 and prior years, and they have no estimate when they might reach these cases. The workers covered by these federal administrative agency cases may remain in the Commonwealth, although unemployed, while the case is pending.

23. **Translations Project**: We are working with OSHA on the translations of the health and safety provisions in PL 15-108 and the regulations issued under the new law. OSHA has agreed to help fund these translations and also to help with the publication of an attractive booklet informing employers of the new requirements. The Labor Department will publish the translations on the website and make the booklet available to employers as applications are submitted.
24. **Website for Citizen Jobs**: The Department's principal concern is for the employment of U.S. citizens and U.S. permanent residents. To this end, the Department implemented a new website, www.marianaslabor.net, where all available jobs (for which anyone is seeking to hire a foreign worker) are posted. The website also allows posting of resumes by those seeking jobs. The website is free. The automation involved in the website has freed up more time for Employment Services to work with individual citizens seeking jobs to help them in their search. In addition, the website is used by the Department to post laws, regulations, forms, and notices for the public.

PART II: INFORMATION REQUESTED IN THE BUDGET BILL

The budget bill for FY 2009 requested information about nine subject matters. That information is not due until May 2009, but a preview is included here .

1. An assessment of the effects of US Public Law 110-229 on the functions of the Department of Labor: PL 110-229 will have very limited effect on the functions of the Labor Department unless the federal government wins the current lawsuit brought by the Commonwealth. A further report on this will be issued by the Department after the court rules. The briefing would have been concluded on January 23, 2009, but the federal government violated the court rules by filing an over-long brief on that date and the Commonwealth objected. This led to a few more filings, but essentially, the

case is ready for oral argument, which is expected to be scheduled sometime in February.

2. A detailed report of any anticipated and executed changes in the functioning of the Department: One principal change in the functioning of the Department will be the decrease in new foreign workers entering the Commonwealth. It is anticipated that very few foreign workers will qualify under U.S. visa requirements, perhaps fewer than 200 per year. Another change will be the transfer to the United States of the processing of applications to enter the Commonwealth. However, these applications have fallen off in 2008 because of the economic conditions in the Commonwealth.
3. An assessment of the manpower and financial needs of the Department starting June 1, 2009: One uncertainty with respect to manpower needs is whether the U.S. Executive Branch agencies and the Congress will agree to a 180-day extension from the June 1, 2009 deadline. In most respects, the manpower needs of the Department will remain the same or increase.
4. Information adequate to clearly show trends in caseloads, hearing, and claims: The trend in the number of labor cases filed is downward. This is due primarily to the closure of the garment factories.

Labor cases filed	2004	2005	2006	2007	2008
	812	420	358	392	253

The trend in the number of hearings is also downward. This is due primarily to the success of the Department in mediating cases.

The trend in claims is toward unpaid wages and away from claims of no job provided, poor working conditions, and lack of effective supervision. During the period 2006-2007, only four claims involved injuries on the job and only

two claims alleged unwanted physical contact. During 2008, there were no claims that involved either injuries on the job or unwanted physical contact.

The number of foreign national workers legally present: As of December 31, 2008, the Department had issued 22,917 permits during 2008 in the 706K (foreign worker) immigration category.¹⁰ The Department counts only its administrative operations; it does not conduct any census of foreign workers actually present in the Commonwealth.¹¹ The number of permits issued is greater than the number of workers present in the Commonwealth at any given point in a typical year because some permit actions are contract amendments or extensions and affect a single worker, some permit holders elect to leave the Commonwealth during the year for personal or employment reasons, some employers implement reductions in force and cancel their "issued" permits for some of their workers; some employers close their businesses entirely and their "issued" permits are cancelled by the Department; and other similar reasons. There are also 37 additional foreign workers who do not hold permits but who hold TWAs and about 70 foreign workers who do not hold permits but hold memoranda authorizing them to seek work while a labor case is pending.

5. The estimated number of "overstaying" foreign national workers in the CNMI during 2007, 2008 and 2009 to date: The Department's overstayer project identified all of the overstaying workers in the CNMI who entered during the years 2003 through 2007 and in the first quarter of 2008. The number certified to the Immigration Division as of December 31, 2008 was 600.¹² The certifications for the second, third, and fourth quarters of 2008 will be

¹⁰ The Department's published statistics show a total of 23,110 permits issued during 2008 in the 706K (private sector employment) and 706B (CNMI government employment) categories. During 2008, there were 193 permits issued in the 207B category. The remaining permits were in the 706K category.

¹¹ The taking of the census with respect to all categories of persons present in the Commonwealth, including foreign workers, is the responsibility of the U.S. Census Bureau.

¹² The certified list from the years 2003 through 2007 contained 575 names and the certified list for the first quarter of 2008 contained 25 names.

completed by the end of February, and the Department will report further when that work is completed.

6. The number of residents enrolled with Employment services during 2007, 2008 and 2009 to date:

U.S. citizens and U.S. permanent residents enrolled with Empl. Serv.	2007	2008	2009
	2,312	2,087	[to be provided]

7. The number of residents successfully placed directly by Employment services during 2007, 2008 and 2009 to date:

U.S. citizens and U.S. permanent residents placed by Empl. Serv.	2007	2008	2009
	477	233	[to be provided]

A significant segment of unemployed persons who would, in prior years, have relied solely on Employment Services (and thus be counted in the numbers provided in the table above) are now able to find their own jobs using the Department's interactive website that lists available jobs. The Department has not yet funded the module for its website design that will provide these statistics.

8. The number of claims and their outcomes arising from perceived or real violations by private employers of PL 15-108 §§4521- 4529 since the law's

enactment: There were 25 employment preference claims filed in 2007 and 6 filed in 2008. There were 21 minimum wage claims filed in 2007 and 15 in 2008. Many of the claims from U.S. citizens and U.S. permanent residents under PL 15-108 to date have been resolved by informal mediation and discussion.

PART III: REPORT PURSUANT TO PL 15-108

The data required under PL 15-108 are as follows:

1. Data with respect to foreign workers

Section 4970(a)(1) of PL 15-108 requires the Secretary to report including data regarding the number of foreign national workers employed in the Commonwealth during the year, the citizenship of the workers, and the job classifications filled by foreign workers. In addition, Section 4969 of PL 15-108 requires statistical data in certain categories by industry.¹³ The tables providing this information are attached to this report.

Please note that Labor reports the number of applications received and the number of permits issued. In summary, As of December 31, 2008, the Department had issued 22,917 permits during 2008 in the 706K (foreign worker) immigration category.¹⁴ The Department counts only its administrative operations; it does not conduct any census of foreign workers actually present in the Commonwealth.¹⁵ The number of permits issued is greater than the number of workers present in the Commonwealth at any given point in a typical year because some permit actions are contract amendments or extensions and affect a single worker, some permit holders elect to leave the Commonwealth during the year for personal or employment reasons, some employers implement reductions in force and cancel their "issued" permits for some of their workers; some employers close their businesses entirely and their "issued" permits are cancelled by the Department; and other similar reasons. There are also 37 additional foreign workers who do not hold permits but who hold TWAs and

¹³ The text of Section 4969 is set out in Attachment D.

¹⁴ The Department's published statistics show a total of 23,110 permits issued during 2008 in the 706K (private sector employment) and 706B (CNMI government employment) categories. During 2008, there were 193 permits issued in the 207B category. The remaining permits were in the 706K category.

¹⁵ The taking of the census with respect to all categories of persons present in the Commonwealth, including foreign workers, is the responsibility of the U.S. Census Bureau.

about 70 foreign workers who do not hold permits but hold memoranda authorizing them to seek work while a labor case is pending.

2. Data regarding U.S. citizens and U.S. permanent residents

Section 4970(a)(1) of PL 15-108 requires the Secretary to report data regarding the number of citizens and permanent residents employed in the Commonwealth during the year, and the job classifications filled by these employees. In addition, Section 4529 of PL 15-108 requires statistical data in certain categories by industry.

The Department of Labor did not routinely collect information about U.S. citizen employment prior to the enactment of PL 15-108. The table attached to this report shows employment of U.S. citizens and U.S. permanent residents from W-2 data collected by the Department of Finance.

3. Data on exemptions granted with respect to the workforce participation requirements covering U.S. citizens and U.S. permanent residents:

Section 4970(a)(2) of PL 15-108 requires "pursuant to Section 4526(c), the Secretary shall report any exemptions granted within thirty (30) days after the close of each calendar quarter."

Section 4526 provides four exemptions to the requirements of Chapter 2, which covers the employment preference for citizens and permanent residents. These are: (1) employers of fewer than five employees; (2) particular construction projects; (3) employers who hire more than 30% U.S. citizens in certain preference jobs; and (4) the garment industry exemption.

The reporting requirement relates only to the third exemption – for employers who have more than 30% of certain preference jobs (professional, managerial, human resources, office or administrative assistant, secretary, cashier, retail clerk, front desk receptionist, tour guide, boat captain, and sports and recreation positions) filled by U.S. citizens and permanent residents. There were 761 exemptions approved based upon the employer meeting the 35% local hire under the A and B list.

4. Data with respect to approved security contracts

Section 4970(a)(4) of PL 15-108 requires that: "Pursuant to Section 4924, the Secretary shall submit a yearly report on the status of approved security contracts not later than thirty (30) days after the close of the fiscal year. The report shall contain the number of approved security contracts accepted in the fiscal year, the dollar limits of each approved security contract arrangement

accepted, and a list of any signatories to approved security contracts in default." The Department did not approve any Security Contracts in 2008.

5. **Worker deaths and injuries:** Section 4970(a)(3) of PL 15-108 requires: " Pursuant to Section 4527, the Secretary shall investigate and report in writing to the Attorney General any death of a citizen or permanent resident employee as a result of employment, or any injury of a citizen or permanent resident employee as a result of employment which causes substantial physical or mental impairment." Section 4970(a)(5) sets out a parallel requirement: "Pursuant to Section 4940, the Secretary shall investigate and report in writing to the Attorney General any death of a foreign national worker as a result of employment, or any injury to a foreign national worker as a result of employment which causes substantial physical or mental impairment."

Injuries to workers (U.S. citizen, U.S. permanent resident, foreign worker, and other)

Saipan	253
Tinian	1
Rota	2

Fatalities involving workers (U.S. citizen, U.S. permanent resident, foreign worker, and other)

Saipan	9
Tinian	1
Rota	0

These data on injuries and deaths were provided to the Department of Labor by the Department of Public Safety, Public Health's Statistics Office, and the Workmen's Compensation authorities.

Respectfully submitted,

Dated: January 30, 2009

GIL M. SAN NICOLAS/jmk

Gil M. San Nicolas

Secretary of Labor