H.R. 3079, TO AMEND THE JOINT RESOLUTION APPROVING THE COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

LEGISLATIVE FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON INSULAR AFFAIRS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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LEGISLATIVE FIELD HEARING ON H.R. 3079, TO AMEND THE JOINT RESOLUTION APPROVING THE COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

Wednesday, August 15, 2007
U.S. House of Representatives
Subcommittee on Insular Affairs
Committee on Natural Resources
Saipan, CNMI

The Subcommittee met, pursuant to call, at 9:09 a.m., at the Guma Hustisia Supreme Court Building, Saipan, CNMI, Hon. Donna Christensen [Chairwoman of the Subcommittee] presiding.

Present: Representatives Christensen, Faleomavaega, and Bordallo.

STATEMENT OF THE HON. DONNA CHRISTENSEN, A DELEGATE IN CONGRESS FROM THE VIRGIN ISLANDS

Mrs. CHRISTENSEN. The Legislative Field Hearing by the Subcommittee on Insular Affairs will come to order. The Subcommittee is meeting today to hear testimony on H.R. 3079, to amend the Joint Resolution Approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands.

Good morning and Hafa Adai. It is my honor to welcome everyone to this very historic moment both for the U.S. Congress and the Commonwealth of the Northern Mariana Islands. Today, the Subcommittee on Insular Affairs is convening what I believe is the very first congressional hearing to take place in the CNMI, to hear testimony on H.R. 3079, legislation which I introduced in the House, which would apply U.S. immigration laws to this archipelago and also provide for a non-voting Delegate from the CNMI in the U.S. House of Representatives. Let me first thank the CNMI Supreme Court and Chief Justice Miguel Demapan for so graciously providing a venue to hold this hearing. It is appropriate that as we move forward in this legislative process, we will be able to look back and acknowledge that it began not only in the CNMI, but also in a place where justice and equality prevails. I also want to thank your Resident Representative Pete Tenorio. He has become a very good friend of mine, and all of us up here, and does an excellent job of representing the interests of the people of CNMI

in Washington D.C. As a non-Member of Congress with the responsibility of working across the Federal Government, as well as developing relationships with the members of Capitol Hill, all of us who deal with these issues realize how challenging the job is for him. Keeping in mind his constituents and how a change in immigration policy will affect the CNMI, he requested that we come to listen to your leaders in the community. We responded and have made this effort to come to the CNMI because there is no better way to ensure that we achieve what is best for the people of the CNMI and for our nation than for us to be here with you to see firsthand the challenges that you face and to convene this hearing here in the Commonwealth.

I want to welcome the witnesses and thank them for taking time to be here to present their testimonies. I also want to welcome those of you in the audience, as well as those just outside this venue, who are exercising their right to express their positions, whether in favor or in opposition, on this legislation in the effort which will be made by Congress to normalize the immigration policy of this U.S. territory by applying U.S. immigration laws and to address the plight of the non-resident workers.

Much has been said about the efforts of the Subcommittee and of our counterparts in the U.S. Senate. Questions have been raised about our timing, demonizing the motive for change and suggesting that this endeavor runs counter to the spirit of the covenant which brought these islands from trust territory into the American family. The CNMI has had two decades of local control over immigration policy. For the future prosperity of the CNMI and for the security of our nation I believe the path should now lead us in a different direction.

Let us be clear though, concern over the exercise of immigration policy in the CNMI is not new. It spans four U.S. Presidents and nearly 20 years. It began under the Reagan Administration when in May of 1986, then Assistant Secretary Richard Montoya began his letter to former CNMI Governor Pedro "Pete" Tenorio saying, and I quote, "The recent news reports on the tremendous growth of alien labor in the Northern Mariana Islands are extremely disturbing." That was 1986.

At that time there were 6,600 non-resident guest workers let in by the CNMI Government. By comparison, Montoya noted that the Guam alien labor population, which was Federally administered, was only at 1,200. Mr. Montoya continued with expressions of concern and forecasted, and again I am quoting, "That the uncontrolled influx of alien workers in many segments of the NMI economy can only resolve in increased social and cultural problems."

The warnings continued through the administrations of Bush One, Clinton and currently in President George W. Bush's term, where we already know that the Administration has expressed their support for extending U.S. immigration laws—once in 2001 in the letter from the Department of Justice to Senator Frank Murkowski, and the other in testimony presented to the Senate Energy and Natural Resources Committee during the hearing on S. 1634, whose language is identical to Title 1 of H.R. 3079.

In addition, the people of the CNMI and those non-residents brought here, at times under false pretenses, deserve better. I be-

lieve that normalizing the immigration policy does just that and provides a better environment for residents and all they hope for their island—a strong economy, opportunities for themselves and their children, good paying jobs, reliable infrastructure, strong schools, and adequate healthcare. This is the American way, and you are Americans.

And as Americans you should have representation in the U.S. Congress. With the proposed changes that H.R. 3079 would enact if passed, having a CNMI delegate to Congress will be critical to ensuring that your voices continue to be heard and your interest considered as the implementation unfolds. I have always strongly supported the CNMI having a nonvoting delegate in the U.S. House of Representatives and I am committed to ending this injustice to the people of the Commonwealth.

Again, I want to take this opportunity to thank everyone who has taken time to reach out to us, to meet with us and to be here today. I thank all of the people of the CNMI for their warm hospitality and I look forward to the testimony that we will be receiving this morning. And at this time, the Chair would now recognize Mr. Faleomavaega for any statement he may have.

[The prepared statement of Mrs. Christensen follows:]

Statement of The Honorable Donna M. Christensen, Chairwoman, Subcommittee on Insular Affairs

Good Morning and Hafa Adai.

It is my honor to welcome everyone to this very historic moment for both the U.S. Congress and the Commonwealth of the Northern Mariana Islands.

Today the Subcommittee on Insular Affairs is convening what I believe is the very first Congressional hearing to take place in the CNMI, to hear testimony on H.R. 3079, legislation which I introduced, which would apply U.S. immigration laws to this archipelago and also provide for a non-voting delegate from the CNMI in the U.S. House of Representatives.

Let me first thank the CNMI Supreme Court and Chief Justice Miguel Demapan for so graciously providing a venue to hold this hearing. It is appropriate that as we move forward in this legislative process we can look back and acknowledge that it began not only in the CNMI, but also in a place where justice and equality prevails.

I also wish to thank your Resident Representative Pete Tenorio. He has become a good friend of mine and does a fine job of representing the interests and the people of the CNMI in Washington, D.C.

As a non-Member of Congress, with the responsibility of working across the Federal government as well as developing relationships with Members on Capitol Hill, all of us who deal with these issues realize how challenging the job must be for him.

Keeping in mind his constituents and how a change in immigration policy will affect the CNMI, he requested that we come to listen to your leaders and the community

We responded and have made this effort to come to the CNMI because there is no better way to ensure that we achieve what is best for the people of the CNMI and for our nation than for us to be here with you, to see first-hand the challenges you face, and to convene this hearing here in the commonwealth.

I want to welcome the witnesses and thank them for taking the time to present their testimonies, and I want to also welcome those of you in the audience as well as those just outside this venue who are exercising their right to express their positions—in favor or opposed—on this legislation and the effort which will be made by Congress to normalize the immigration policy of this U.S. territory by applying U.S. immigration laws and to address the plight of the non-resident workers.

Much has been said about the efforts of this Subcommittee and our counterparts in the U.S. Senate. Questions have been raised about our timing, demonizing the motive for change, and suggesting that this endeavor runs counter to the spirit of the Covenant which brought these islands comprising this archipelago from trust territory into the American family.

The CNMI has had two decades of local control over immigration policy. For the future prosperity of the CNMI and for the security of our nation, I believe the path should now lead in a different direction.

Let us be clear, concern over the exercise of immigration policy in the CNMI is not new. It spans four U.S. Presidents and nearly twenty years. It began under the Reagan Administration when, in May 1986, then-Assistant Secretary Richard Montoya began his letter to former CNMI Governor Pedro P. Tenorio; "The recent news reports on the tremendous growth of alien labor in the Northern Mariana Islands are extremely disturbing."

At that time, there were 6,600 non-resident guest workers let in by the CNMI government. For comparison, Montoya noted that Guam's alien labor population—which was federally administered—was only at 1,200.

Mr. Montoya continued with expressions of concern and forecasted that the "uncontrolled influx of alien workers in many segments of the NMI economy can only result in increased social and cultural problems."

The warnings continued through the Administrations of Bush I, Clinton, and currently in President George W. Bush's term, where we already know that the Administration has expressed their support for extending U.S. immigration laws; once in 2001 in a letter from the Department of Justice to Senator Frank Murkowski and the other in testimony presented to the Senate Energy and Natural Resources Committee during a hearing on S. 1634 whose language is identical to Title I of H.R. 3079.

The people of the CNMI and those non-residents brought here, at times under false pretenses, deserve better. I believe that normalizing the immigration policy does just that and provides a better environment for residents and all they hope of their island—a strong economy, opportunities for themselves and their children, good paying jobs, reliable infrastructure, strong schools and adequate healthcare. This is the American way, and we are Americans.

And as Americans you should have representation in the U.S. Congress. With the proposed changes that H.R. 3079 would enact if passed, having a CNMI Delegate to Congress will be critical to ensuring that your voices continue to be heard and your interests considered as the implementation unfolds.

I have always strongly supported the CNMI having a non-voting delegate in the U.S. House of Representatives and am committed to ending this injustice to the people of the Commonwealth.

Again thank everyone who has taken the time to reach out to us, to meet with us and to be here today. Thank all of the people of the CNMI for their warm hospitality.

I look forward to the testimony that will be provided to us.

STATEMENT OF THE HON. ENI F.H. FALE0MAVAEGA, A DELEGATE IN CONGRESS FROM AMERICAN SAMOA

Mr. FALEOMAVAEGA. Thank you, Madam Chair. I am very happy to be here. I just got here this morning at 4 o'clock and unfortunately the concierge of the hotel was supposed to send me a wake-up call and he never did, so I am somewhat frustrated at this time but I think I can wing it.

Madam Chair, thank you for allowing me the opportunity to make a couple of observations on this morning's hearing. First of all, I am sure the leaders of the good people of CNMI join me in thanking you for your leadership and tremendous sensitivity to the needs and interests of our fellow Americans who live in the insular areas. Your presence and your initiative to conduct this field hearing in CNMI is a good example of your commitment to bring Washington to CNMI and not always the other way around. Madam Chair, I do not want to repeat what has already been said both through the media and other public hearings concerning the circumstances surrounding CNMI's difficulties in having to deal with its guest worker program and immigration and how the Federal Labor Standards Act applies to CNMI's own local labor laws.

As you are very well aware, Madam Chair, too often that the needs of U.S. insular areas or territories in Washington either do not get the necessary attention they need and deserve or the one-size-fits-all mentality, both in the Congress and in the Administration, sometimes apply and produce unintended consequences that started with very good intentions. A classic example of that is the minimum wage that we're going through right now and I am sure that we'll be examining the proposed immigration bill as well.

While we all share a common political association with the United States, our histories and socio-political developments have been quite different, and CNMI is a good example of this. I don't need to say this great people have had a colonial legacy that they had to put up with over the years and that rather than to seek independence from the United States, the people of CNMI opted to establish a very unique political relationship with the United States, and it is now known as the Covenant Relationship.

And I am curious if the provisions of the Covenant Relationship complements or agrees with the proposed provisions of H.R. 3079, which attempts to amend the joint resolution of the approved Covenant. We are about to subject the CNMI to the convention on torture, a convention on refugees, and at the State Department and Homeland Security, supposedly they made a finding that the CNMI does not comply automatically with Section 208 of the Immigration and Nationality Act (audible but unintelligible) and where do we go from there? I have a whole bunch of questions that I look forward to asking some of our witnesses who will be testifying this morning. And Madam Chair, again, I want to thank you for giving me this opportunity to be here and I want to say to my good friends in the Northern Marianas, Hafa Adai and si Yu'us ma'ase.

Mrs. CHRISTENSEN. Thank you, Mr. Faleomavaega, and we really appreciate your making the extra effort to come after a very long trip that you—another official trip that you've been on to come and be with us this morning. The Chair now recognizes Ms. Bordallo for any statement she may have.

STATEMENT OF THE HON. MADELEINE BORDALLO, A DELEGATE IN CONGRESS FROM GUAM

Ms. BORDALLO. Thank you very much, Madam Chairwoman. Congressman Faleomavaega, welcome to the CNMI. Thank you, Madam Chairwoman, for holding this hearing today and for your leadership on the issues important to the CNMI and our territories. I welcome the Governor this morning, your Delegate to Congress, my friend Mr. Tenorio, to all of the witnesses who are in the audience, and all of the distinguished guests who are here to witness this very important historic occasion.

Hafa Adai. This is an important day for the people of the Northern Marianas in the Commonwealth's relationship with the Federal Government. Although the distance between Guam and the Northern Marianas Island of Rota is only roughly 40 miles, we are closer in our bonds as people of this island chain that we call home. Our Congressional Delegation members have traveled thousands more miles to be here with you, to listen to your concerns regarding the proposed federalization of immigration control and the realization of a Delegate to the Congress for the Commonwealth. As we begin

this legislative process with this hearing, allow me to make a few observations of my own. First, in a post-9/11 world, the security of our nation's borders has moved to the forefront of the many issues before Congress, and its relevancy to the CNMI is very legitimate, an accelerant issue being addressed at this time and in this context. Concerns have been raised regarding the ability of the CNMI to meet these security challenges, and as with many issues before Congress, this issue has reached the level of interest that demands action, whether it be by this bill's proposals or in the form of another modified plan. To the extent that your leaders and the stakeholders in your community can inform and enlighten us, we would be well served in taking appropriate action and all of us would be serving our national interest. Second, I believe that the economy of the CNMI should be and remain a central consideration in any bill that makes changes to the current immigration system. To some extent, it defeats the purpose of the bill to have a collapsing economy become the stimulus that would send boat loads of CNMI workers to Guam's northern shores as has already been evidenced in the past when some workers arrived after garment factories suddenly closed. Thus, I remain open to listening to an array of views and ideas today and tomorrow by how best and most effectively to structure proposed changes to the immigration system and how cooperation between the Local and the Federal Governments can best be achieved in a way to meet both to security challenges and the economic interests before us. Third, if the CNMI is folded into the Federal immigration system, with flexibility for guest workers and visitors, then this may be an appropriate time and opportunity to consider regional approaches to these issues that would mutually benefit Guam and the CNMI. We should consider opportunities for guest workers that may be needed anyway to support the military buildup on Guam that is sure to include benefits for the CNMI. This approach may indeed be one of the positive aspects of the Committee's efforts to address issues of mutual concern and to realign our economies to take full advantage of the military buildup. In this regard, many business leaders both in Guam and in the CNMI have already begun to consider scenarios that would be beneficial to both of our economies. I urge us to keep these scenarios and possibilities in mind as we continue this dialogue and as we explore proposed improvements and reforms through the immigration and border security systems.

Last, let me be very direct in saying that a delegate to Congress for the Northern Marianas is long, long overdue. I strongly support your quest for a delegate in whatever legislation is moving forward or as a stand-alone bill. I have stated in the past my belief that the CNMI deserves a delegate to Congress, not because of the policies or the actions of your government, but because of your citizenship and the democratic principles that Congress is charged with protecting. I pledge to continue working, as I have in the past, with your Delegate, Mr. Tenorio, and with your leaders, until we achieve success and until you have the rightful representation in Congress that you all deserve.

I look forward to working with you and your leaders on these issues and to hearing from our many witnesses today. And again,

I thank the people of the Northern Marianas for their kind hospitality. Si Yu'us ma'ase.

[The prepared statement of Ms. Bordallo follows:]

Statement of The Honorable Madeleine Z. Bordallo, a Delegate in Congress from Guam

Chairwoman Christensen, Thank you for holding this hearing today and for your leadership on the issues important to the CNMI and to the territories.

This is an important day for the people of the Northern Marianas and the Commonwealth's relationship with the federal government. Although the distance between Guam and the Northern Mariana Island of Rota is only roughly forty miles, we are closer in our bonds as people of this island chain we call home.

Our Chairwoman and our staff members have traveled thousands more miles to be here with you to listen to your concerns regarding the proposed federalization of immigration control and the realization of a Delegate to Congress for the Commonwealth.

As we begin this legislative process with this hearing, allow me to make a few observations of my own.

First, in a post 9-11 world, the security of our nation's borders has moved to the forefront of the many issues before Congress, and its relevancy to the CNMI is a very legitimate and salient issue being addressed at this time and in this context.

Concerns have been raised regarding the ability of the CNMI to meet these security challenges, and as with many issues before Congress, this issue has reached a level of interest that demands action, whether it be by this bill's proposals or in the form of another modified plan. To the extent that your leaders and the stakeholders in your community can inform and enlighten us, we would be well served in taking appropriate action and all of us would be serving our national interest.

Second, I believe that the economy of the CNMI should be and remain a central consideration in any bill that makes changes to the current immigration system. To some extent, it defeats the purpose of the bill to have a collapsing economy become the stimulus that would send boatloads of CNMI workers to Guam's northern shores, as has already been evidenced in the past when some workers arrived after garment factories suddenly closed. Thus, I remain open to listening to a range of views and ideas today and tomorrow about how best and most effectively to structure proposed changes to the immigration system and on how cooperation between the local and federal governments can best be achieved in a way to meet both the security challenges and the economic interests before us.

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Lastly, let me be very direct in saying that a Delegate to Congress for the Northern Marianas is long overdue. I strongly support your quest for a Delegate in whatever legislation is moving forward, or as a stand alone bill. I have stated in the past my belief that the CNMI deserves a Delegate to Congress not because of the policies or actions of your government, but because of your citizenship and the democratic principles that the Congress is charged with protecting. I pledge to continue working with your leaders until we achieve success and until you have the rightful representation in Congress that you deserve.

I look forward to working with you and your leaders on these issues, and to hearing from the witnesses today.

Thank you, again, Madam Chairman, for convening this important hearing.

Mrs. CHRISTENSEN. Thank you, Ms. Bordallo. If there are no objections, I'd now like to submit for the official record the testimony of the following individuals. Mr. Engracio "Jerry" Custodio of the

Human Dignity Movement, Ms. Wendy Doromal, Mr. Ron Hodges, Ms. Daisy Mendiola, and Mr. Anthony Wibberly. Hearing no objections, so ordered.

Mrs. CHRISTENSEN. We thank all of the witnesses that will appear before the Subcommittee today and look forward to your testimony, and I would now like to recognize the first panel, The Honorable David B. Cohen, Deputy Assistant Secretary for Insular Affairs of the U.S. Department of Interior. The Chair now recognizes the Assistant Secretary to testify for five minutes. And just for the benefit of all of those who will be testifying today, the timing lights are on the table. They will indicate when your time has been concluded, and all witnesses' statements will be submitted for the hearing record. Mr. Cohen?

STATEMENT OF THE HON. DAVID B. COHEN, DEPUTY ASSISTANT SECRETARY FOR INSULAR AFFAIRS, U.S. DEPARTMENT OF INTERIOR

Mr. COHEN. Thank you, Hafa Adai, (unintelligible; greets committee in several languages), a pleasant good morning. Madam Chairwoman and members of the Committee, thank you for the opportunity to testify on H.R. 3079, the bill containing immigration provisions subsequently identical to those contained in S. 1634, as well as the second title which will give the Commonwealth of the Northern Mariana Islands a nonvoting Delegate to the U.S. House of Representatives.

My testimony today will begin by reiterating the position expressed by the Administration with respect to the immigration provisions in S. 1634. I come before you today wearing at least two hats. As Deputy Assistant Secretary of the Interior for Insular Affairs, I am the Federal Government's official that is primarily responsible for generally administering, on behalf of the Secretary of the Interior, the Federal Government's relationship with the CNMI. I also serve as the President's Special Representative for consultations with the CNMI on any matter of mutual concern, pursuant to Section 902 of the U.S.-CNMI Covenant.

I will begin my statement with an overview of concerns that make a compelling case for Federalization. The CNMI is hampered by a lack of an effective prescreening process for aliens wishing to enter the Commonwealth. In a post-9/11 environment, given the CNMI's location and the number of aliens that travel there, we believe that continued local control of CNMI's immigration system presents significant national security and homeland security concerns. Human trafficking remains far more prevalent in the CNMI than it is in the rest of the U.S.

During the twelve-month period ending on April 30, 2007, 36 female victims of human trafficking were admitted to or otherwise served by the Guma' Esperansa shelter. All of these women were victims of sexual exploitation. Secretary Kempthorne personally visited the shelter and met with a number of women from the Philippines who were underage when they were trafficked into the CNMI for the sex industry. He found their stories heartbreaking. The State Department estimates that a total of between 14,500 and 17,500 victims are trafficked into the U.S. each year. This estimate

includes not only women in the sex trade but men, women, and children trafficked for all purposes including labor.

Assuming a CNMI population of roughly 70,000 and the U.S. population above 300 million, the numbers above suggest that human trafficking is between 8.8 and 10.6 times more prevalent in CNMI than it is in the U.S. as a whole. This is a conservative calculation that most likely makes the CNMI look better than it actually is. The number of victims counted for the CNMI includes only actual female victims in the sex trade who were served by Guma' Esperansa. This is being compared with the U.S. estimate of human trafficking victims of both genders that is not limited to the sex trade. In an apples-to-apples comparison, the CNMI's report card would be worse.

A number of foreign nationals have come to the Federal Ombudsman's Office complaining that they were promised a job in CNMI after paying a recruiter thousands of dollars to come there only to find, on arrival in the CNMI, that there is no job. Secretary Kempthorne met personally with the young lady from China who was a victim of such a scam and who was pressured to become a prostitute. She was able to report her situation and obtain help in the Federal Ombudsman's Office.

We're also concerned, as Congresswoman Bordallo was pointing out, about recent attempts to smuggle foreign nationals from the CNMI into Guam by boat. A woman was recently sentenced to five years in prison for attempting to smuggle over 30 Chinese nationals from the CNMI into Guam. With the planned military buildup in Guam, the potential for smuggling aliens from the CNMI into Guam by boat is a cause for concern.

We have very serious concerns about the CNMI Government's administration of its refugee protection system. In my testimony in July before the Senate Energy Committee, I described a particularly disturbing exchange of correspondence between the CNMI Attorney General and the U.S. Department of Homeland Security. In this exchange the CNMI refused to provide information on the status of particular refugee protection cases, accusing the Department of Homeland Security and the Department of State of inappropriate interference in these cases. The CNMI's response to the inquiry reflected a lack of acknowledgement of the legitimate role of the Federal Government in monitoring the CNMI's compliance with the U.S. Treaty Obligations.

In the aftermath of the Senate hearing, there has been some reason to believe that the CNMI may now be moving toward a less confrontational approach to this important issue—a development the Federal Government would welcome, but substantial concerns remain about the ability of the Federal Government effectively to ensure that the CNMI's process is being implemented fairly and properly, in accordance with international treaty obligations. If these issues cannot be resolved, it presents the Federal Government with a dilemma. If the Federal Government can't verify that the CNMI's administering its refugee protection program in a manner that accords with the U.S. compliance with international treaty obligations, then extending the protections available under U.S. immigration law to cover aliens in the CNMI may be the only way to ensure that compliance.

However, making aliens in the CNMI eligible to apply for protection in the U.S. is a potentially serious problem if the CNMI maintains control over its immigration system and continues to determine which aliens and how many are able to enter the CNMI. Under that scenario, the U.S. could be required to provide refugee protection to aliens who have been admitted to the CNMI through a process controlled not by the Federal Government but by the CNMI. The U.S. will be subjecting itself to potential costs and other consequences for decisions made by the CNMI. This is a strong argument in favor of Congress taking legislative action to take control of the CNMI's immigration system.

The above are some of the factors that have led us to conclude that the CNMI's immigration system must be Federalized as soon as possible. We believe that H.R. 3079 is generally sound legislation that embodies the concept of "Flexible Federalization," that is Federalization of the CNMI's immigration system in a manner designed to minimize damage to the CNMI's fragile economy and maximize the potential for economic growth. Last month, I testified before the Senate on behalf of the Administration on S. 1634 which would Federalize the CNMI immigration system through provisions which are identical to those of H.R. 3079. I announced the Administration's support for S. 1634, subject to a few, most are technical, points that are summarized in my written statement.

We point out, however, that one of this Administration's principles for considering immigration-level legislation for the CNMI is that such legislation should be carefully analyzed for its likely impact in the CNMI before they implement it. We've also urged that such analysis occur expeditiously. The need to study must not be used as an excuse to delay.

Mrs. CHRISTENSEN. Mr. Cohen, would you try to wrap up—we'll get to a lot of your statement in the questions.

Mr. COHEN. Sure. And just in conclusion, I'd say that when we again point out that people of the CNMI must participate fully in the decisions that will affect their future. And as I have said in the past, a better future for the people of the CNMI cannot be unilaterally imposed from Washington D.C., ignoring the insights, wisdom and aspirations of those to whom this future belongs. And that's why we commend you for coming here, holding this hearing, speaking with the people of the CNMI and for Title II, with respect to which this Administration reiterates its strong support for a nonvoting delegate from the CNMI to the U.S. House of Representatives. Thank you.

[The prepared statement of Mr. Cohen follows:]

Statement of David B. Cohen, Deputy Assistant Secretary of the Interior for Insular Affairs

Madame Chairwoman and members of the Committee, thank you for the opportunity to testify on H.R. 3079, the Northern Mariana Islands Covenant Implementation Act and Northern Mariana Islands Delegate Act, a bill containing immigration provisions substantively identical to those contained in S. 1634 as well as a second title which would give the Commonwealth of the Northern Mariana Islands a nonvoting Delegate to the United States House of Representatives. My testimony today will begin by reiterating the position expressed by the Administration with respect to the immigration provisions in S. 1634. I come before you today wearing at least two hats: As Deputy Assistant Secretary of the Interior for Insular Affairs, I am the Federal official that is responsible for generally administering, on behalf

of the Secretary of the Interior, the Federal Government's relationship with the Commonwealth of the Northern Mariana Islands (CNMI). I also serve as the President's Special Representative for consultations with the CNMI on any matter of mutual concern, pursuant to Section 902 of the U.S.-CNMI Covenant. In fact, I was in Saipan in March for Section 902 consultations with CNMI Governor Fitial and his team. I was also in Saipan in June with Secretary Kempthorne as part of his visit to U.S.-affiliated Pacific island communities.

Under the Covenant through which the CNMI joined the U.S. in 1976, the CNMI was exempted from most provisions of U.S. immigration laws and allowed to control its own immigration. However, section 503 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (P.L. 94-241) explicitly provides that Congress has the authority to make immigration and naturalization laws applicable to the CNMI. Through the bill that we are discussing today, Congress is proposing to take this legislative step to bring the immigration system of the CNMI under Federal administration. We believe that any federalization of the CNMI's immigration system must be flexible because of the CNMI's unique history, culture, status, demographic situation, location, and, perhaps most importantly, fragile economic and fiscal condition. Additionally, we would need appropriate time to address a range of implementation issues as there are a number of Federal agencies that would be involved with federalization. In testimony before this Committee earlier this year, I offered, on behalf of the Administration, five principles that we believe should guide the development of any federalization legislation.

In previous testimony before this Committee and others, I have described at length the impressive amount of progress that the CNMI has made to improve working conditions there since the 1990s. The CNMI should be congratulated for this progress. However, serious problems continue to plague the CNMI's administration of its immigration system, and we remain concerned that the CNMI's deteriorating fiscal situation may make it even more difficult for the CNMI government to devote the resources necessary to effectively administer its immigration system and to properly investigate and prosecute labor abuse. I will begin my statement with an overview of concerns that make a compelling case for federalization.

Need for an Effective Screening Process

The CNMI is hampered by the lack of an effective pre-screening process for aliens wishing to enter the Commonwealth. Under the Immigration and Nationality Act (INA), before traveling to the continental United States, Alaska, Hawaii, Puerto Rico, Guam and the U.S. Virgin Islands, aliens must obtain a visa from a U.S. consular officer abroad unless they are eligible under the Visa Waiver Program or other legal authority for admission without a visa. Carriers are subject to substantial fines if they board passengers bound for these parts of the United States who lack visas or other proper documentation. All visa applicants are checked against the Department of State's name-checking system, the Consular Lookout and Support System (CLASS). With limited exceptions, all applicants are interviewed and subjected to fingerprint checks. After obtaining a visa, an alien seeking entry to these parts of the United States must then apply for admission to an immigration officer at a U.S. port of entry. The immigration officer is responsible for determining whether the alien is admissible, and in order to do so, the officer consults appropriate databases to identify individuals who, among other things, have criminal records or may be a danger to the security of the United States. The CNMI does not issue visas, conduct interviews or check fingerprints for those wishing to travel to the CNMI, nor does the CNMI have an equivalent to CLASS. Furthermore, CNMI immigration inspectors determine admissibility under CNMI law rather than federal law. The CNMI does have its own sophisticated computerized system for keeping track of aliens who enter and leave the Commonwealth. A record of all persons entering the CNMI is made with the Commonwealth's Labor & Immigration Identification and Documentation System, which is state-of-the-art. However, that is not a substitute for comprehensive pre-screening by Federal government authorities. In a post-9/11 environment, and given the CNMI's location and the number of aliens that travel there, we believe that continued local control of the CNMI's immigration system presents significant national security and homeland security concerns.

Human Trafficking

While we congratulate the CNMI for its recent successful prosecution of a case in which foreign women were pressured into prostitution, human trafficking remains far more prevalent in the CNMI than it is in the rest of the U.S. During the twelve-month period ending on April 30, 2007, 36 female victims of human trafficking were admitted to or otherwise served by Guma' Esperansa, a women's shel-

ter operated by a Catholic nonprofit organization. All of these women were victims of sexual exploitation. Secretary Kempthorne personally visited the shelter and met with a number of women from the Philippines who were underage when they were trafficked into the CNMI for the sex industry. As you can imagine, he found their stories heartbreaking. The State Department estimates that a total of between 14,500 and 17,500 victims are trafficked into the U.S. each year from many places in the world. This estimate includes not only women in the sex trade, but men, women and children trafficked for all purposes, including labor. Assuming a CNMI population of roughly 70,000 and a U.S. population of roughly 300 million, the numbers above suggest that human trafficking is between 8.8 and 10.6 times more prevalent in the CNMI than it is in the U.S. as a whole. This is a conservative calculation that most likely makes the CNMI look better than it actually is: The number of victims counted for the CNMI includes only actual female victims in the sex trade who were served by Guma' Esperansa. This is being compared with a U.S. estimate of human trafficking victims of both genders that is not limited to the sex trade. In an apples-to-apples comparison, the CNMI's report card would be worse. We note that most of the victims that have been served by Guma' Esperansa were referred by the CNMI government (as a result of referrals from the Federal Ombudsman to local authorities). However, it is clear that local control over CNMI immigration has resulted in a human trafficking problem that is proportionally much greater than the problem in the rest of the U.S.

A number of foreign nationals have come to the Federal Ombudsman's office complaining that they were promised a job in the CNMI after paying a recruiter thousands of dollars to come there, only to find, upon arrival in the CNMI, that there was no job. Secretary Kempthorne met personally with a young lady from China who was the victim of such a scam and who was pressured to become a prostitute; she was able to report her situation and obtain help in the Federal Ombudsman's office. We believe that steps need to be taken to protect women from such terrible predicaments.

We are also concerned about recent attempts to smuggle foreign nationals, in particular Chinese nationals, from the CNMI into Guam by boat. A woman was recently sentenced to five years in prison for attempting to smuggle over 30 Chinese nationals from the CNMI into Guam. With the planned military buildup in Guam, the potential for smuggling aliens from the CNMI into Guam by boat is a cause for concern.

Refugee Protection

We have very serious concerns about the CNMI government's administration of its refugee protection system, which was established pursuant to a Memorandum of Agreement signed by former Governor Juan Babauta and me in 2003 with the financial support of the Office of Insular Affairs. Establishing a refugee protection system in the CNMI was important to the U.S. because of our concerns regarding U.S. compliance with international treaties to which the U.S. is a party, including the 1967 United Nations Protocol Relating to the Status of Refugees and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Even though the CNMI for the most part is not included in the Immigration and Nationality Act, the U.S. is obligated to ensure that aliens in the CNMI are not returned to their home countries if there is a sufficient risk under the Convention Against Torture or the Refugee Protocol that they will be tortured or persecuted there.

Under the Memorandum of Agreement, the CNMI has established its own refugee protection system with the assistance of U.S. Citizenship and Immigration Services (USCIS) acting as "Protection Consultant." In this role, USCIS assisted the Commonwealth in drafting regulations and forms, trained all staff for the program, provided quality assurance review prior to a decision on all cases, and performed background checks on all applicants. The two-year performance period during which the duties of the Protection Consultant were enumerated in the Memorandum of Agreement terminated in September 2006. USCIS and the CNMI have yet to enter into a subsequent instrument to delineate the assistance that USCIS has offered to provide to the CNMI, because of a delayed response by the CNMI to USCIS's requests for cooperation since the new "Letter of Agreement" was first proposed and drafted by USCIS in February 2007.

In my testimony on July 19, 2007 before the Senate Energy Committee, I described a particularly disturbing exchange of correspondence between the CNMI Attorney General and USCIS. In this exchange the CNMI refused to provide information on the status of particular refugee protection cases, accusing the Department of Homeland Security and the Department of State of inappropriate interference in these cases. The CNMI's response to the inquiry reflected a lack of acknowledge-

ment of the legitimate role of the Federal Government in monitoring the CNMI's compliance with U.S. treaty obligations.

In the aftermath of the Senate hearing there has been some reason to believe that the CNMI may be moving toward a less confrontational approach to this important issue—a development that the Federal Government would welcome—but substantial concerns remain regarding the ability of the Federal Government effectively to ensure that the CNMI's process is being implemented fairly and properly, in accordance with international treaty obligations.

The circumstances described above present the Federal Government with a dilemma: If the Federal Government cannot verify that the CNMI is administering its refugee protection program in a manner that accords with U.S. compliance with international treaty obligations, then extending the protections available under U.S. immigration law to cover aliens in the CNMI may be the only way to ensure that compliance. However, making aliens in the CNMI eligible to apply for protection in the U.S. is a potentially serious problem if the CNMI maintains control over its immigration system and continues to determine which aliens, and how many, are able to enter the CNMI. Under that scenario, the U.S. could be required to provide refugee protection to aliens who have been admitted to the CNMI through a process controlled not by the Federal Government, but by the CNMI. The U.S. would be subjecting itself to potential costs and other consequences for decisions made by the CNMI. This is a strong argument in favor of Congress taking legislative action, as contemplated under Section 503 of the Covenant (P.L. 94-241), to take control of the CNMI's immigration system.

Recommended Changes to this Bill

The above are some of the factors that have led us to conclude that the CNMI's immigration system must be federalized as soon as possible. We believe that H.R. 3079 is generally sound legislation that embodies the concept of "Flexible Federalization"—that is, federalization of the CNMI's immigration system in a manner designed to minimize damage to the CNMI's fragile economy and maximize the potential for economic growth. We also believe that H.R. 3079 reflects the principles previously spelled out by the Administration as those that should guide the federalization of the CNMI's immigration system. Last month, I testified before the Senate on behalf of the Administration on S. 1634, which would federalize the CNMI immigration system through provisions which are identical to those of H.R. 3079. I announced the Administration's support for S. 1634, subject to the following points:

- Long-term Status to Temporary Workers. At this time, the Administration is evaluating the specific provisions granting long-term status to temporary workers in the CNMI in light of the Administration's immigration policies. We look forward to working with Congress on this important issue.
- Protection from Persecution and Torture. Consistent with the general transfer of immigration to Federal control on the transition period effective date, the bill should clarify that U.S. protection law, including withholding of removal on the basis of persecution or torture, would apply and be administered by Federal authorities beginning on the transition period effective date. However, given the uncertainties inherent in changing the CNMI immigration regimen, we recommend that extension of the affirmative asylum process under section 208 of the INA to the CNMI be delayed until the end of the transition period. We would also recommend a provision requiring the CNMI to maintain an effective protection program between date of enactment and the transition period effective date.
- Authority of the Secretary of Homeland Security. In general, it is important that the Secretary of Homeland Security have sufficient authority and resources to effectively administer the new responsibilities that would be undertaken under the bill. Improvements to the bill in this regard would include ensuring that the Secretary has full authority in his discretion to designate countries for the new CNMI visa waiver program (giving due consideration to all current CNMI tourist source countries); and providing the necessary fiscal and operational authority to conduct all necessary activities in the CNMI.
- Visa Waiver. As noted above, it is essential that the Secretary of Homeland Security, in consultation with the Secretary of State, have full authority to determine countries authorized to participate in a visa waiver program for the CNMI. We would also recommend consideration of authorizing integration of the proposed CNMI visa waiver program with the Guam visa waiver program as a possible means of increasing the value of these programs to those jurisdictions, such as, for example, allowing visitors qualifying for both programs a combined 30 days, with a maximum stay of 21 days in either territory.

- Employment-Based Visas. The bill would authorize the Secretary of Homeland Security to establish a specific number of employment-based visas that will not count against the numerical limitations under the Permanent Alien Labor Certification (PERM) program, if the Secretary of Labor, after consultation with the Governor of the Commonwealth and the Secretary of Homeland Security, finds exceptional circumstances with respect to the inability of employers to obtain sufficient work-authorized labor. We would recommend that this provision be removed from the bill as unnecessary because the CNMI will have an uncapped temporary worker program during the 10-year transition period.
- Conforming and Technical Amendments. We would like to work with Congress on a number of other conforming, technical and other amendments necessary to fully effectuate the transfer of responsibilities and effectively administer and integrate the CNMI-specific programs with the INA. For example, the CNMI should be added to the definitions of "State" and "United States" in section 101 of the INA.

Conclusion

We point out, however, that one of this Administration's principles for considering immigration legislation for the CNMI is that such legislation should be carefully analyzed for its likely impact in the CNMI before we implement it. We have also urged that such analysis occur expeditiously: the need to study must not be used as an excuse to delay. We understand that the Senate has requested an analysis of the provisions of S. 1634, and that the results of this analysis would of course apply equally to H.R. 3079. We note that H.R. 3079 provides a flexible framework to federalize the CNMI immigration system, and that the results of any study could be accommodated in the development of implementing regulations.

It is important to remember that H.R. 3079 deals with a unique situation, and hence does not establish any precedents that are relevant to the discussion of national immigration reform. H.R. 3079 is designed to bring under the ambit of Federal immigration law a territory that generally was not previously subject to Federal immigration law. Accomplishing this transition without causing severe economic disruption requires special transitional provisions that take into account the reality that CNMI society has been shaped by immigration policies that vary significantly from Federal immigration policy. Because CNMI society has evolved in a unique manner under unique circumstances, it would not be prudent to apply immigration policy designed for the 50 states to the CNMI in a blanket fashion with no transition mechanisms. The special transitional provisions contained in this bill are designed to move CNMI society from one set of governing principles to another in a manner that minimizes harm to CNMI residents.

Finally, Madame Chairwoman, we again point out that the people of the CNMI must participate fully in decisions that will affect their future. As I have said in the past, a better future for the people of the CNMI cannot be imposed unilaterally from Washington, D.C., ignoring the insights, wisdom and aspirations of those to whom this future belongs. That is why I applaud you and the members of this panel who have traveled so far to give the many voices of the CNMI an opportunity to be heard—an opportunity that many of today's witnesses and most of the people you will meet during your stay would not otherwise have had. At a time when young men and women from the CNMI are sacrificing their lives in Iraq in proportions that far exceed the national average, the CNMI has more than earned the right to have the Federal Government act collaboratively and with great care as we consider policies that will change these islands forever. Therefore, with regard to Title II of the bill, I am pleased to again express the Administration's support for a nonvoting Delegate from the CNMI to the House of Representatives.

Thank you.

Mrs. CHRISTENSEN. Thank you, Mr. Cohen. I'll now recognize myself for five minutes of questions. And I'd like to begin where you ended Mr. Cohen, because I am very pleased to hear that the Administration supports the addition of the Delegate to Congress from the CNMI. Can you just give us your views as to how that would benefit the CNMI?

Mr. COHEN. Well, you know particularly in—and thank you for the question, Madam Chairwoman. The CNMI is the only U.S. territory without a seat at the table. As Congress makes decisions that so profoundly affect the lives of the people of the CNMI, it's

wrong for the CNMI to be the only territory without a seat at the table. The very issue we're discussing today has something that would drastically change the rules of the game that affect the people of the CNMI, their ability to earn a livelihood, the character of this society. For better or worse, this is something that will have a drastic impact on the CNMI and the people of the CNMI need to be at the table.

Now, your Committee and your counterpart Committee in the Senate have made excellent efforts to make sure that the views of the people of the CNMI are included, and there are diverse views throughout this community as you well know. But there is no substitute for having the people of the CNMI elect their representative to your body to be able to sit at the table, as all of you do, and have the ability to introduce legislation, to introduce amendments to the legislation, to vote in committee, and to persuade colleagues to account for the interest of the CNMI. So, we commend you for introducing this legislation and I believe this is a very important development for the people of the CNMI.

Mrs. CHRISTENSEN. Thank you, Mr. Cohen, for that answer. Of course, Title I of the legislation deals mostly with immigration, and I was wondering if you could tell us if there are any circumstances under which a territory would have control over its immigration and be able to properly control the administration of that immigration. Do you have examples of this happening?

Mr. COHEN. Well, certainly, Madam Chairwoman. I'd like to clarify that it is not the Administration's position that under no circumstances could a territory successfully control its own immigration. In fact, we don't address that at all. The Administration's position is that, under these circumstances in the CNMI, that Federalization is the right answer. Given the CNMI's location, given the number of aliens that it lets in, and other factors, including the challenges that it faces in trying to have a proper immigration system with declining revenues, that Federalization is the best answer, but we do not take a position as to whether this will always be the best answer under all circumstances.

Mrs. CHRISTENSEN. Are there other territories that have control over their immigration?

Mr. COHEN. Yes. Currently American Samoa controls its own immigration. Primarily it uses control of that immigration to let in people who are Samoan. You know, the various, most obviously strong historical ties between the Independent State of Samoa and American Samoa. There are strong economic ties. Their economies and their labor markets are inextricably wound together, and they're located in a much different (audible but unintelligible). And the circumstances of American Samoa's geography, history, and culture, as well as the way it is administered, its immigration system are in no way comparable to those of the CNMI. So, we're not trying to extrapolate any conclusions we make about the CNMI to any other territory.

Mrs. CHRISTENSEN. Thank you. Governor Fitial suggested during the Senate Hearing in July, and I believe he'll suggest it again today, that if the Federal Government were to take control of immigration, it would be inconsistent with the right of self-government and there would be no reason to exist. And I believe you'll hear

that also said in other testimony. So, in your opinion, does the Federal Government taking control of immigration, is it inconsistent with the right to self-government as expressed in the Covenant?

Mr. COHEN. Madam Chairwoman, I do not believe that the Federal Government exercising the authority that's expressly granted in the Covenant itself to take control over immigration is inconsistent with the right of self-government. All of the territories enjoy the right to self-government and the territories, as you all well know, there are different terms and conditions that apply to their respective rights of self-government. But the right of self-government for a territory is not an exemption from U.S. sovereignty and the U.S. expressly retained the right to Federalize immigration in the manner and time of its choosing.

People of the CNMI enjoy self-government in that they elect their Governor and the Lieutenant Governor; they elect the members of the two houses of their legislature; they elect a Resident Representative to Washington, who we all hope will be the Congressman; and this is the same level of self-government that is enjoyed by people of the U.S. Virgin Islands, the people of American Samoa, the people of Guam, and the people of Puerto Rico.

Mrs. CHRISTENSEN. Thank you. I have exhausted my first five minutes. Mr. Faleomavaega, you are now recognized for your questions.

Mr. FALEOMAVAEGA. Thank you, Madam Chair. I do want to also apologize for not extending my personal warm welcome to the Governor, the Lieutenant Governor, and my good friend Pete Tenorio for him being here and certainly the outstanding service that he's rendered on behalf of the people of the Northern Marianas in Washington.

Secretary Cohen, I tried to go through the proposed bill, very comprehensive to say the least. In developing this proposed legislation, was there close consultation from the leaders of the CNMI in getting their input as part of the process?

Mr. COHEN. Yes, there was Congressman. You know, I have heard different opinions expressed as to the nature of that cooperation, but—when I was here in March, for example, for the 902 talks, we had extensive consultations where, under the auspices of Section 902, where I heard in great detail concerns that the CNMI would have things that they would want addressed in any legislation. It was in support for legislation that wasn't offered, but we discussed in great detail over the course of two days the types of things that would have to be addressed in order for any Federalization of immigration to work properly for the CNMI. All of these things, we think, were taken into account.

Mr. FALEOMAVAEGA. But let me ask you that, because my time is running. As a consequence of your consultations, was there ever any resolution, or petition, or even a letter from the executive branch of CNMI attesting to—agreeing to the proposed provisions of the proposed bill? I am trying to—you say that there was close consultation. Now, my next question is, is there any documentation to acknowledge that there were consultations and they approved the provisions of the proposed bill? That's what I am trying to get at.

Mr. COHEN. Oh, well, no, in fact, the CNMI Administration does not approve the provisions of the proposed bill and it was never on our understanding that the current Administration of the CNMI would have a veto right over what was proposed. So, we're still obviously in the process and this hearing is part of the process of soliciting their views, and by the way we provided an advance copy to the Administration's consultants in Washington D.C., giving them an opportunity to provide input. And I also want to stress that we make strenuous efforts, not only to solicit input from the current Administration of the CNMI, but we—I spent nine days here in March and I met with almost every community group that would be willing to meet with me——

Mr. FALEOMAVAEGA. All right, I am sure you've been very earnest and diligent in carrying out your responsibilities, Mr. Secretary. But what if the consensus coming from the CNMI people says "We don't approve; we don't accept H.R. 3079 the way it's currently written." What if it comes to that part of the process where they strenuously object to the provisions of the proposed bill? Where do we go from there?

Mr. COHEN. Congressman, I think that the views of the CNMI must be—the people of the CNMI must be taken into account. And obviously, it's up to the Federal Government to decide what the Federal Policy is going to be. But I strongly believe that the views of the people of the CNMI must be taken into account. Let me say, however, that from my extensive conversations with groups across the spectrum of the CNMI society, I believe that that scenario will not be the case. An overwhelming majority of people that I have spoken to in the CNMI either support Federalization or they're not vehemently opposed to it.

Mr. FALEOMAVAEGA. Mr. Secretary, I am sorry I didn't mean to cut you off, but my time here is my concern. The CNMI sense of identity, we're a part of the American family, we understand that, but we have this covenant, we have this covenant relationship that provided this very unique relationship. I recall during the Carter Administration when we were negotiating the provisions of the Compact of Free Association separate and apart from the Covenant Relationship Negotiation. And I recall the attitude that we had with Washington was "take it or leave it." You know, it wasn't like a mutual, friendly process. It was like "take it or leave it." You know, you either fish or cut bait. And I am a little concerned if in fact that in terms of the process of consultations that CNMI has been given their opportunity to express a very comprehensive, I suppose, response and wanting to know exactly where they stand in relation to the provisions of the Covenant document that they signed off on 2/6/1976.

And I am concerned too, and one more question, Madam Chair, if I may, do you consider the Covenant document as your treaty relationship between the CNMI and the U.S. or is it just a proposal saying, "Hey, we want to be part of the America, so the joint resolution accepts it and from there on, you're part of the American family; you're going to eat McDonald's hamburgers whether you like it or not"?

Mr. COHEN. Well, if I can actually try to address both parts of your question. The first part of your question expresses concern

and a concern that I would share that the people of the CNMI are not given a chance to provide their input into this proposal. I think that would be a very bad thing. So let me reiterate that we have made extensive efforts to solicit views and accommodate the views in our drafting service, not only of the current Administration of the CNMI, but of political leaders of all points of view, of different community groups. I have met separately with——

Mr. FALEOMAVAEGA. Mr. Secretary, my time is up, but I know, Madam Chair—can you point out each point of the provisions where it shows that CNMI disagreed as part of this consultation that you've taken extensively with the leaders of the people, because I am very curious——

Mr. COHEN. Well, if you're talking about the Administration's view, they will be here to express their views soon, and the current Administration does have differences of opinion with the legislation, and you should hear and consider those views thoroughly.

Mr. FALEOMAVAEGA. I am sorry. Thank you, Madam Chair. Thank you, Mr. Secretary.

Mrs. CHRISTENSEN. You're welcome. I expect that we'll have another round if you have further questions. I was also remiss in not recognizing the Governor and Lieutenant Governor this morning and members of the Senate and the House. I also want to recognize any students that are with us from Kagman High School that we visited with yesterday and who will be coming in to join us. At this time, the Chair recognizes the Ms. Bordallo for such questions.

Ms. BORDALLO. Thank you. Thank you very much, Madam Chair. Mr. Cohen, I'd like a real clear yes or no on this question, and I think Mr. Faleomavaega pointed out a very good point and in a way you did clarify that, but I'd like it clear. Does the Administration or the Department of the Interior have a formal position on H.R. 3079, either Title 1, The Immigration Provisions or Title 2, The Authorization for CNMI Delegate? And if there isn't a formal or official position on the introduced legislation to date, is there one in formulation?

Mr. COHEN. Well, the answers are as follows: No, for H.R. 3079, because we have a policy against taking a formal position on legislation at a field hearing, and that's just a technicality. The answer is, yes, on S. 1634 because we were committed to take the position on the hearing in Washington, D.C. So, Title 1 is identical to S. 1634 and hence, formally, the Administration has taken a position on S. 1634 in favor with certain exceptions that are in my written testimony. The Administration also was taking a position in favor of extending a nonvoting delegate to the CNMI. That's been in my testimony in Washington, D.C., that, you know, at a proper hearing. However, we formally, and this is just a technicality, I cannot say that we've taken a position on H.R. 3079, even though the two bills were identical. So that is just a technicality.

Ms. BORDALLO. So, the answer really is, no?

Mr. COHEN. That's correct.

Ms. BORDALLO. The second question I have pertaining to the protection for refugees, I would like to ask you to address, to the extent you are able to do so here, your support for the provision contained within H.R. 3075 that would effectively apply to the CNMI, the 1951 Geneva Convention relating to the status of refugees. I re-

call in the past that there was cooperation being pursued between the CNMI and the Federal Government in offering protection to guest workers or others who face deportation here from the CNMI. Such protections had been afforded to aliens in the United States since the U.S. exceeded to the 1967 U.N. Protocol on refugees. Can you please give us a sense of the level of cooperation that has been achieved to date between the CNMI and the Federal Government with respect to the protection of refugees in the CNMI and speak to the importance of the provisions contained in the bill that would extend and apply these important international agreements to the CNMI?

Mr. COHEN. Thank you, Madam Congressman. Let me first clarify that the application of those international treaties and conventions to the CNMI is not done by virtue of the bill. It's done automatically by virtue of the fact that the United States is party to those treaties and conventions. So, that is a pre-existing condition, that the United States' obligations under those treaties includes the obligation to ensure that all parts of the United States, including the CNMI, comply with those treaties and obligations.

Since the CNMI has had a separate immigration system, we had to create a separate refugee protection system for the CNMI in order to make sure that the United States remained in compliance with those obligations. The cooperation was good for a period of time, when I brought a decision to the attention of the previous Administration. We negotiated a memorandum of agreement between my office and the Government of the CNMI, and we hired the U.S. Department of Homeland Security as the protection consultant to help the CNMI develop a refugee protection system. We've had concerns recently about the willingness of the CNMI to enable the Federal Government to do its very necessary oversight functions as to confirm that we, the United States, remain in compliance because the CNMI remains in compliance. There was an unfortunate exchange of letters which reflected a non-cooperative stance by the CNMI. Hopefully that is changing. There have been conversations and e-mails, I think, between the Attorney General's Office here in CNMI and the Department of Homeland Security that are hopeful.

But if the CNMI Administration is willing to renounce the sentiments that were expressed in the letter from the Attorney General which basically said—basically compared the Federal Government's communications to the CNMI with foreign government's attempts to interfere in the refugee protection process, then we might have a basis for moving forward. But if they're not willing to renounce and retract those statements, then we might have a problem resolving these issues.

Ms. BORDALLO. Thank you, Mr. Cohen. I know my time is up, but I do have further questions, Madam Chair.

Mrs. CHRISTENSEN. Thank you, we will come back to you again, Ms. Bordallo, if you have further questions. In the Governor's Supplemental Statement, he will claim that the Senate version of the CNMI Immigration Bill is far more than an immigration law in that it imposes an unprecedented Federal guest worker program on the CNMI. According to the Governor, no other community in the U.S. has been subjected to such a Federal intrusion on local matters. Do you agree that that's a valid point?

Mr. COHEN. Thank you for the question, Madam Chairman. No, we do not agree with that. What is extraordinary is that a non-Federal entity has control over its own immigration, and that can work in certain circumstances, but that is a special right. So, to say that it's unprecedented, for example, for the Federal Government to establish immigration policies, including the ability to import labor for a specific small community, it isn't really a valid statement because no other small communities with only one exception, American Samoa, has the right to bring in labor from outside to determine which workers from what other countries, and how many will enter. So, communities like California or Los Angeles or small towns across the U.S. simply don't have this power so that statement would be inapplicable.

On the statement about intrusions to labor law as well as immigration law, I would point out that U.S. immigration law covers in great detail the qualifications for labor entering the United States; how many, their caps. All of this is under immigration law and the recent debate on Immigration Reform, some were in favor of the guest worker program; that was in the context of immigration legislation. So, this is all a part of immigration law and that's just a label, it doesn't really matter how you label.

But what the Federal Government is attempting to do in this legislation is not to impose a guest worker program on the CNMI. The intent is to take the existing guest worker program in the CNMI, put it under Federal control, and then phase it out, but then compensate by replacing it with a very generous provision to provide for ongoing labor needs. For example, exemptions from all age caps. So, going forward, the CNMI will, under the auspices of established immigration law be able to bring in the workers that it needs to run its economy.

Mrs. CHRISTENSEN. Thank you. I'll probably ask this one other question under this round, but you spent a fair amount of time in your testimony on the issue of human trafficking, which you said is between 8.8 and 10 times more prevalent per capita in the CNMI than in the rest of the U.S., and the Governor says that he doesn't agree. So that's a misuse of statistics and maybe it's about 6 more times more prevalent. How would you respond to that? I think he also feels that you owe him an apology.

Mr. COHEN. Well, with all due respect, and actually in those circumstances where I believe we do owe an apology, I am very quick to give it. In this case, in this particular circumstance, I would suggest that I don't owe the Governor an apology this time, maybe for other things in other contexts. I think people who are owed an apology, frankly, are the victims of human trafficking, the victims that you, Madam Chairwoman, and Congresswoman Bordallo visited with yesterday in the Federal Ombudsman's Office, and Congressman Faleomavaega would have been here with us but his flight didn't arrive until 2:30 in the morning. We appreciate that you spent the afternoon yesterday talking to real people who have addressed these problems.

I have about two pages of notes as to why I strongly disagree with the current Administration's statistical or numerical analysis that purports to show that other performances is much better. We can submit that for the record. I think the argument about statis-

tics is really besides the point and I'd be happy to drop it if we can just get a clear statement from the current Administration. And I think they're probably ready to make the statement that human trafficking is a very serious issue here in the CNMI. And that's not just this Administration saying so. We have Bishop Camacho's, who wrote a beautiful pastoral letter about the subject. The Catholic nuns of Karidat will say that this is a very serious issue. The social workers of Guma' Esperansa say that this is a very serious issue. We've heard moving testimony from victims of human trafficking saying this is a very serious issue. And of course, my Administration says that this is a very serious issue. We—the numbers back us up and with the—if the currency in my Administration says, "Yes, we agree this is a very serious issue so let's all work together to address it," then I am happy to say, "OK. We'll go with your numbers" and I'll drop that argument and then we'll all continue to work together to address the problem. And——

Mrs. CHRISTENSEN. So, the number of times more prevalent is really not the issue. The issue is basically, is there a problem or is there not a problem?

Mr. COHEN. Yeah. And we stand by our numbers and let me say, in defense of the current Administration, this problem, it didn't start with the current Administration and this current Administration has significant victories in the battle against human trafficking. But our concern was it attempted to use a statistical analysis on their part, which is heavily flawed to contradict our statements. We don't mind being contradicted, but we're concerned that any interpretation that this is an attempt to suggest that we don't have a problem. If that's not their intention, then we're all in agreement.

Mrs. CHRISTENSEN. OK. So if you feel that theirs are flawed and they feel that yours are flawed, that can be set aside if everybody agrees that there is a problem.

Mr. COHEN. And that we'll all work together to address it.

Mrs. CHRISTENSEN. OK. I got it. OK. The Chair now recognizes Mr. Faleomavaega for five minutes.

Mr. FALEOMAVAEGA. Thank you, Madam Chairwoman. Mr. Secretary, I point with interest to page 7 of the proposed bill, where it says that the Government of the CNMI shall comply with the Convention on Refugees as well as with the provisions of the United Nation's Convention on Torture and other Cruel, Inhuman or Degraded Treatment or Punishment under the New York Act of 1984. I am a little concerned. Why are we are picking just on the CNMI and they have to comply with these two international conventions? Or the fact that Abu Ghraib and Guantanamo Bay is one of the most embarrassing foreign policy questions that my own government doesn't even comply with the Provisions on Torture and all of this. I am a little confused here. Are all other states and territories subject to the same requirement that we have to comply with the Refugees Convention? I was under the impression that that's already under the administrative authority of the United States for all territories and states.

Mr. COHEN. We are——

Mr. FALEOMAVAEGA. Why are we singling out CNMI in this instance?

Mr. COHEN. Thank you Congressman, that's a good question. The only reason we're singling out the CNMI on this particular question is that CNMI is the only non-Federal jurisdiction under U.S. sovereignty that has its own refugee protection system. So, we're just reiterating in the statute what is already the case, which is, the CNMI and the administration of its separate special CNMI-only refugee protection system must comply with those treaties and conventions to which the U.S. is a party. And the particular context of that provision is, this legislation would enable the CNMI to continue to operate its separate refugee protection system and, for reasons that I can explain at length, that is good for the CNMI. That is an accommodation to the CNMI that will help it in its efforts to have more flexibility to attract tourism and admit aliens. However, if they do so, we're reiterating they have to comply with the international treaties.

Mr. FALEOMAVAEGA. In addition to that, the law, the proposed bill, gives the Secretary of Homeland Security and the Secretary of State discretionary authority. If, in their opinion and their judgment, CNMI doesn't comply with the Refugee Convention and the Torture Convention, bang. Section 208 automatically then is triggered into being authorized and applied here in the CNMI. Is that a usual policy of how we conduct a—how the Immigration and Nationality Act applies to other territories and states as well?

Mr. COHEN. Well, Congressman, there is no usual policy because the CNMI is the only jurisdiction within U.S. sovereignty that——

Mr. FALEOMAVAEGA. Oh, I understand that. Why do you suppose the CNMI is the only jurisdiction that is given this discretionary authority in applying or drawing up its own immigration laws? Was that because of the Covenant Relationship that was developed between CNMI and the U.S.?

Mr. COHEN. Oh, yes. Under the Covenant, the CNMI was given the authority to administer its own immigration system, until such time that Congress exercises the authority to take it back. But to get back to, I think, an important point that you had made in your question, why would the Secretary of Homeland Security and the Secretary of the State have the ability to apply Section 208 of the Immigration Nationality Act relating to asylum to the CNMI if it wasn't—if they weren't satisfied with the CNMI's conduct of the refugee protection systems? That's because it's the Federal Government's signature on those treaties and conventions. The Federal Government is ultimately responsible for making sure that we're in compliance, including the CNMI, and if the CNMI——

Mr. FALEOMAVAEGA. So, if we're making this happen in the CNMI, does this mean that the Convention on Torture doesn't apply to other territories like American Samoa or Guam? Do we have to go through the statutory requirement that is stated in the proposed bill?

Mr. COHEN. It applies to all—it applies to the United States in general, because the other territories, with the exception of the American Samoa, do not control their own immigration. They don't need special provisions like this. Now, in American Samoa, it's in a much lower risk environment, but if we have people showing up in American Samoa that are applying for asylum——

Mr. FALEOMAVAEGA. Is——

Mr. COHEN —We have to address that issue as well.

Mr. FALEOMAVAEGA. Is the Covenant Relationship between the CNMI and the U.S. a treaty relationship or is it something else?

Mr. COHEN. Well, Congressman, I am going to decline to express a legal opinion on that until I'll get legal advice, but we could answer that question in writing. What I will say is, the CNMI constitutionally, under the U.S. Constitution, is considered a territory of the United States, subject to the Territories Clause of the Constitution, and as subject to plenary authority of the U.S. Government—of the U.S. Congress.

Mr. FALEOMAVAEGA. According to your—yes, I understand. I understand that according to your interpretation, but my understanding is that CNMI leaders are co-equals when they negotiated the provisions of that Covenant Relationship. And in my humble opinion, as a layman's understanding, it's a Treaty Relationship. And because it is a Treaty Relationship, it is far beyond the provisions of the U.S. Constitution. In other words, if there is any changes to be done in this Covenant Relationship, it's got to be by mutual consent on both parties, and not just one party saying, "You're going to get it whether you like it or not." Now, I am just—just a layman's view of this, am I wrong in taking it on those terms?

Mr. COHEN. Well, Congressman, what I would point out is that this Covenant itself, whether you call it a treaty or a contract, whatever——

Mr. FALEOMAVAEGA. Yes. Mr. Secretary, I have to say it is very critical that we need to understand whether the Covenant is a Treaty Relationship or otherwise, because if it is a Treaty Relationship, we've got a very serious problem in our hand.

Mr. COHEN. Well, Congressman, let me respectfully point out that however you—and I don't disagree that it's important to characterize it properly, we'll get legal advice on that, but however you characterize it, the Covenant itself expressly provides that the U.S. Congress has the authority to exert—to assert control over the CNMI Immigration Systems. So, that's not in doubt and that is not a mutual consent provision in the Covenant. The Covenant has certain provisions that should only be modified by a mutual consent, I believe. This is not one of them.

Mr. FALEOMAVAEGA. I am sorry. My time is up. I have a hundred more questions I wanted to ask you. [Laughter]

Mrs. CHRISTENSEN. The Chair now recognizes Ms. Bordallo for her questions.

Ms. BORDALLO. Thank you very much, Madam Chairman. Governor Fitial has referenced in his written testimony legislation that has been introduced in the House of Representatives—H.R. 3165—"To amend the Harmonized Tariff Schedule of the United States, to provide for more flexible local content requirements for products manufactured and assembled in U.S. territories." Duty-free access to the U.S. Customs Zone and the U.S. market for goods from the territories has been one of the economic pillars for which the CNMI economy has developed. And this has been jeopardized due in part to the liberalization of world trade rules and the elimination of quotas with key U.S. trading partners. This is a matter of fairness from my perspective. I believe that products imported from the

U.S. territories should be afforded the same and no less preferential treatment as afforded to products imported from countries with which the United States has entered into a free trade agreement. What are your thoughts Mr. Cohen and the Administration? Does the Administration support reducing the local content requirements for duty-free importation from 50 to 30 percent? Why and why not?

Mr. COHEN. Thank you for the question, Madam Congresswoman. The Administration does not have a position on that particular proposal. I will say that when the proposal came around earlier, when it was proposed in the last Congress, my office worked very actively within the Administration to try to get a position formulated and at the end of the day the Administration did not take the position but we recognize the importance of that issue to the economy of the Commonwealth.

One question I would have in any attempt to formulate Administration position on this, again, would be in light of the fact that the garment industry is drastically downsized even from the end of last year when this proposal was being considered to now. We would in the Administration want to have a better understanding of how that amendment to General Note 3A would be used. What is the economic vision to utilize that and having an understanding of that would enable us in the Interior then to take that to our colleagues in the Federal Government to see if we could get an Administration position.

Ms. BORDALLO. I'll follow-up on that. It seems to me that some very, very important decisions for the U.S. territories, in particular the CNMI, are being discussed by the Administration but yet the Administration has no official position and has never requested officially Members of Congress. And I just want to point that out.

The next question I have for you, Mr. Cohen, is in visiting with some of the leaders here in the CNMI in the last couple of days and at least to some of the written testimony that I have written "far more economic studies should be made before action should be taken to implement any proposed reforms to the immigration, the border security or labor systems." Do you believe Congress and the Administration have sufficient and reliable data to act responsibly on the proposals to H.R. 3079 at this time? And how do you respond to the calls for more studies before adopting one proposal over another? Do you believe any additional study should be prudent or should be pursued at this time? And if so, in what areas would we be best served to have more data?

Mr. COHEN. Thank you, Madam Congresswoman. We believe that we need more data in almost every area you can imagine because the economic statistics and social statistics available in the CNMI are not adequate, and it's really the fault of the lack of resources. It's nobody's fault, but there are perhaps insufficient resources devoted to the task. However, we do not believe that the need for additional studies, and we believe that additional information on all of these factors would be extremely helpful, but we do not believe that the need for additional studies requires a delay in acting on S. 1634, which the Administration has endorsed because S. 1634—and of course Title 1 is of this bill——

Ms. BORDALLO. I know that. Yeah.

Mr. COHEN. S. 1634 provides a flexible framework to establish these policies and most likely provides really the outer bounds of flexibility that the Federal Government would be willing to live, with given the need to address its homeland security and national security concerns. But a lot of the specifics, for example, what would be the regulations that will govern the 10-year phase out guest worker program, which by the way can be extended indefinitely in 5-year increments. That's plenty of flexibility. Within that, as the studies become completed, the relevant agencies can look at those studies and promulgate regulations that account for the CNMI's needs and the statutes, legislation specifically says "You are supposed to take into account the CNMI's fragile economy, provide them as much flexibility as possible." On the tourism side, the legislation provides flexibility to choose additional countries for visa waivers. It creates a presumption that any country that has sent tourists in the CNMI within the last five years including China, Russia, Taiwan, and Japan and the others, it creates a presumption that those countries will get visa waivers and that presumption can be defeated if the Secretary of Homeland Security gets information that says "You know, this wouldn't be a good idea." It also gives the Secretary of Homeland Security the flexibility to create, in consultation with the Government of the CNMI, to create new categories of special CNMI visas to maybe let in retirees, investors, students, if it's not covered by immigration laws. So, the framework is in place. You don't need additional studies to act on this bill, and delaying acting on this bill will create a longer period of uncertainty which would have a chilling effect on investment. It will delay the start-time and end-time for the warm-up period. But the studies will be very valuable as we fill in the details for regulation to make sure that this policy, the statute, and the regulations taken together work well for the needs of the CNMI.

Ms. BORDALLO. Madam Chair, my time is up. But I do have an additional question on the next round.

Mrs. CHRISTENSEN. Do you have another question?

Mr. FALEOMAVAEGA. Madam Chair, I know that you have a hundred more witnesses with you——

Mrs. CHRISTENSEN. Yes.

Mr. FALEOMAVAEGA. I do want to say—if I could just say a real brief statement again to thank Secretary Cohen for taking the time to come and participate in the hearing. I just want to say for the record, Madam Chair, the mood in Washington, D.C. has been one of outright confrontation. Very partisan politicking on the part of both national parties in the leadership. The CNMI and American Samoa are caught between these very partisan forces. And my concern is that, to what degree are the Insular areas allowed to do their own thing locally without being imposed upon, I suppose, in this—at some point that we become Federalized? I suppose that's the—I think it was someone who once said the "Golden Rule" is that—the way it's applied, "He who has the gold makes the rule." No such thing as helping each other out. But I am very concerned, Madam Chair. And I say this specifically on the minimum wage issue that has caught both the CNMI and American Samoa in a very, very, negative way where it's really, really unfortunate that we find ourselves in this situation.

Now, every time something happens to CNMI, American Samoa is dragged into it. [Laughter] Or if something happens to American Samoa, CNMI is going to be dragged into it. I envy Guam, they never seem to have any problems at all in this kind of situations. [Laughter]

I do want to say, Madam Chair. I hope this will not be the last of the times that in your leadership that you bring our Subcommittee here to meet with the people, because sometimes Washington gets into a deaf ear, and really understanding and appreciating what are some of the problems associated with the issues affecting the lives and the people, the good people here of CNMI, as an example. I just wanted to say that, although I wanted to ask Secretary Cohen a couple of more questions, but I am going to forgo that for now. I'll catch you in Washington, Mr. Secretary. Thank you very much, Madam Chair. And thank you Mr. Secretary.

Mrs. CHRISTENSEN. Ms. Bordallo?

Ms. BORDALLO. Thank you very much, Madam Chairwoman. I would like to straighten out the record. Congressman Faleomavaega, Guam has problems. [Laughter] And I try to take care of Guam and the CNMI, until such time that you have a voting Delegate. But, Mr. Cohen, can you please address for us the considerations that were given in the drafting process by the Administration internally regarding the Visa Waiver Program provisions? How did the Departments of State, Homeland Security and Interior work together to develop the language presented to the Senate that is also contained in H.R. 3079 with respect to the establishment of a CNMI-only Visa Waiver Program? What are the Administration's views and thoughts about appropriate integration of such program with the established Guam Only Program?

Mr. FALEOMAVAEGA. And American Samoa.

Ms. BORDALLO. And American Samoa. And do you support increasing the authorized stay period under the Guam program to more closely mirror what is provided for in the law for the U.S. Visa Waiver Program, and that is a 90-day period? And, was extension of the authorized stay period for the Guam program explored in this discussion and in the drafting process that the Administration undertook to respond to the Senate request?

Mr. COHEN. Thank you for the question, Madam Congresswoman. In drafting the provision, I guess our guiding light—we had a few guideposts. The first was the Administration's testimony before the Senate that set forth the objective of providing as much flexibility as possible for the CNMI to strengthen its economy, including tourism, and we use as a model the Guam Visa Waiver Program, and we looked at the opportunity for extending it. We consulted in-house about sensitivities that may exist for homeland security and national security issues, because we wanted to try to present a proposal that would have a reasonable chance of acceptance by the Administration once we have submitted it. So, we looked at all those things. We considered the integration with Guam and this legislation, as you know, does have some degree of integration with Guam. It's not full integration, and it enables there to be shared countries—that would be the general rule—there'd be shared countries where there'd be a Guam-only visa

waiver and a CNMI-only visa waiver, but they would have them in common and a traveler could spend 15 days in Guam, 15 days in the CNMI or 30 days total. It also provides some flexibility though, for example, if we have greater sensitivity to people from certain countries traveling without a visa to Guam, perhaps because of the military facilities—that we could still approve visa waivers for the CNMI, but not approve it for Guam or vice versa. We might have some sensitivities that go in the other direction. So, there is some flexibility to do that. We have been discussing, behind the scenes extensively, how we can make Guam more accessible to the travelers that it needs and the CNMI more accessible to the travelers that it needs.

As you know, I am very heavily involved in the Administration's efforts to coordinate for the military buildup on Guam. And that's an issue that is front and center in our deliberations together with representatives from Guam. And as everything—you've made, I think, an important comment before that we have discussions within our Administration but sometimes we don't come out with a position. That's symptomatic of the phenomenon that Congressman Faleomavaega had pointed out is that, whenever we at the Interior bring issues on behalf of the territories to our colleagues in the Administration, different people and different agencies they have different concerns, and sometimes we win and sometimes we don't. Same thing in Congress. All of you are strong advocates for the Insular areas and sometimes you get your colleagues to go along with you and sometimes you don't. So, we face the same issues in the Executive Branch. But all of the issues that you raised are issues that we have been addressing in great detail on our conversations and we think we're getting traction on some of them. So, we'll keep working as you know as well.

Ms. BORDALLO. Well, since you represent an island yourself, Mr. Cohen, I hope you're in there really fighting for us.

Mr. COHEN. Oh, believe me, I have the scars to prove it. [Laughter]

Ms. BORDALLO. Thank you very much for your answers to our questions this morning and I yield back, Madam Chair.

Mrs. CHRISTENSEN. Thank you and, since Congressman Faleomavaega raised that, we do have plans to hold some hearings on the minimum wage and, as you know, Chairman Miller has agreed to have a hearing after the GAO report comes out.

Mr. FALEOMAVAEGA. Will you have a hearing here, Madam Chair, on minimum wage?

Mrs. CHRISTENSEN. Well, I know that we will be visiting American Samoa at some point, so we'll see where that leads us. And Mr. Cohen, just briefly, outline the considerable amount of consultation that has taken place leading up to this point. Can you assure us that that same level of consultation will continue from here on in?

Mr. COHEN. Absolutely, Madam Chairwoman, and of course now that the legislation has been introduced, it is now a—it's a bill of Congress and by your presence here today and the—the sense of consultation that your Committee and staff have had with the representatives and people in the CNMI, that is just as important.

Mrs. CHRISTENSEN. And the consultation that took place leading up to this point did result in some changes as the bill was being drafted, did it not?

Mr. COHEN. Yeah, it certainly did and it resulted in our best effort to provide a drafting service that was as flexible and accommodating of the legitimate needs of CNMI to have a properly staffed workforce and be accessible to tourists and others as we can possibly do within the confines of our other concerns.

Mrs. CHRISTENSEN. Thank you. Thank you, Mr. Cohen, for your testimony and the answers to our questions. We are going to have to take a break because of some camera issues that need to be taken care of between this panel and the next panel. So, you're dismissed and we'll take a five-minute break.

Mr. FALEOMAVAEGA. Madam Chairwoman, I wonder if it's at all possible, Madam Chair, that Secretary Cohen could stick around and maybe he might be able to respond to maybe some of the questions or things that we may be anticipating and I think it would be helpful for the record to have his input as well on the process, if that's possible to do it.

Mrs. CHRISTENSEN. Well, we would be guided by time because we are on the time constraints, but we welcome you to stay and whatever we cannot get to you today, we will be submitting to you in writing and expect your responses in writing back to us on issues that may arise and things that go through the panel.

Mr. FALEOMAVAEGA. Thank you, Madam Chair.

Mrs. CHRISTENSEN. So we'll take a five-minute break and we'll call up the next panel. Thank you.

(Off the record from 10:24 a.m. To 10:30 a.m.)

Mrs. CHRISTENSEN. The Committee will come back to order. I trust that the audio problem was fixed and that the people who are outside will be able to hear us. And I'd now like to recognize the second panel of witnesses. The Honorable Benigno Fitial, Governor of the Commonwealth of the Northern Mariana Islands, The Honorable Oscar M. Babauta, Speaker of the CNMI House of Representatives, The Honorable Pete A. Tenorio, Resident Representative of the CNMI, and The Honorable Pete P. Reyes, Vice President of the Senate of the CNMI.

Mrs. CHRISTENSEN. And the Chair now recognizes Governor Fitial to testify for five minutes.

STATEMENT OF THE HONORABLE BENIGNO FITIAL, GOVERNOR, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Governor FITIAL. Good morning, Madam Chairwoman and members of the Subcommittee. This is a great occasion for us. This is the first time a Congressional Subcommittee has had an official hearing here in the Commonwealth. We are proud to be U.S. Citizens. In that tradition, I will not mince words with you, I wish you were here to examine firsthand the serious state of the Commonwealth economy. I wish you were here in Saipan to consider how best the Federal Government might move quickly to address the suffering of my people. But you are here for another purpose; to hear testimony about House Bill 3079.

You are being urged to act immediately on the Bill because of an alleged law enforcement crisis in the Commonwealth. This is simply false. I have described in my statement our record in enforcing our labor immigration laws, our effective prosecution of criminal activity, and our cooperation with Federal Law Enforcement officials from various agencies. Claims to the contrary are not based on fact or probably the statistics and certainly do not support any urgency justifying enactment of this legislation. I am opposed to the bill prepared by the Interior and supported by Congressional staff because it is harmful to our people, harmful to our economy, and not necessary. The Interior officials may label the bill as flexible Federalization. I can think of many other adjectives that might be used, but not one of them can express the anticipated burdens and frustrations when the heavy hands of a five-fingered bureaucracy reach this small island community. In my written statement, I summarized the current state of the CNMI economy and our plan for recovery. I reported on some recent favorable developments with respect to new investment in the CNMI, but I emphasized that there is no quick fix for the CNMI's current problems, which can only be described as a hopeless economic depression. My assessment of the economy is shared by witnesses from the business community who have submitted statements and would appear here today from the Chamber of Commerce and the Hotel Association, and we know that this bill will seriously damage the CNMI economy. We know it will generate uncertainty throughout the economy.

I know from personal conversations with current and potential investors that it will cause them to reconsider investment in the Commonwealth. I have spent most of my time away from the CNMI in Japan, Korea, China trying to introduce investment and committing their funds and energy to projects in the CNMI. I know they value the fact that the Commonwealth is part of the United States with an established legal system, but I also know that they value special economic tools provided to the Commonwealth under the Covenant and our ability to exercise meaningful self-government over local affairs.

What often is forgotten in this debate about Federalization, flexible or otherwise, is that we, the Commonwealth, have already been there. Most of us lived for decades under the Trust Territory of the Pacific Islands. I have worked under the Trust Territory for more than 10 years. We became familiar with the way trust territory officials commissioned by Interior Department govern the peoples of Micronesia. We suffered from their frequent rotation in office, their lack of knowledge of local conditions, their lack of funding, their inability to get timely decisions from Washington, their discriminatory dual-paying system and their disdain for the local people. Anyone who lived under the Trust Territory and today supports Federalization provides further evidence of our human impulse to allow hope to triumph over experience.

The Federal Government's performance under the Covenant has been mixed at best. In recent years, the response of the Interior Department to our economic situation has been very disappointing. Time and time again we have been reminded that the Interior does not have and will not give funds to assist the Commonwealth in

dealing with economic forces beyond its control. When the Commonwealth urged the reimbursement of some $200 million of cost incurred in the past 20 years in supporting Micronesians immigrating to our community under arrangements negotiated by the Interior, our plea was rejected by an Interior official stating that the Federal Government did not have any legally binding contractual obligation to reimburse the Commonwealth for this cost.

The fact is, we do have a contract. Section 701 of the Covenant obligates the Federal Government to assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop the economic resources to meet the financial responsibilities of local self-government. My budget for Fiscal Year 2008 will be lower than our budget was in 1994. In fact, we are stalled by economic conditions here in Pacific Region that make a progressively high standard of living for Commonwealth citizens an increasingly distant hope.

My opposition to H.R. 3079 is supported by the vast majority of all the elected leaders in the CNMI. Every past Governor who was faced with comparable Federal legislation opposed it for reasons similar to mine, irrespective of political affiliation. Of even greater importance is the concern of indigenous people in the Commonwealth.

I am submitting today to the Subcommittee a short statement of Mr. Vicente N. Santos, the President of the Marianas District Legislature from its commission in 1963 to the beginning of the CNMI Government under its own constitution. He was the Vice Chairman of the Marianas Political Status Commission, which represented the Northern Marianas people in their negotiations with the United States that led to the Covenant. Mr. Santos is truly a founding father. No one person worked so hard or so long as he did to pursue the aspiration of his people to achieve U.S. citizenship and a political relationship with the Federal Government that met the needs of his community. Mr. Santos speaks for most of the Chamorro and Carolinian citizens in opposing this legislation.

These citizens are concerned about many aspects of the bill but especially the unprecedented provision giving guest workers in the CNMI the right to become permanent legal residents here or elsewhere in the United States. He and other local citizens worry about the impact of this provision on the CNMI community. No one knows exactly how this would operate, but the possibility clearly exists that such an option would permit thousands of guest workers to stay in the Commonwealth and to bring in their relatives under the new status granted by this bill.

We would then have advanced your burden, perhaps even exceeding the $200 million we have already spent because the Interior Department opened our doors 20 years ago to those otherwise ineligible to come to the United States. This particular provision of the bill is directly contrary to certain factions under U.S. immigration law, where persons who are admitted as temporary guest workers must meet one set of criteria and people who are admitted to the United States as permanent residents are required to get an entirely different set of criteria.

This bill allows alien workers who are admitted only as guest workers to become permanent legal residents and exempts them from the requirements they would have to meet in the United States to achieve their status of permanent legal resident.

We believe that this Subcommittee should not act on H.R. 3079 until the Government Accountability Office has completed the study requested by members of both Houses of Congress. Our reasons for these are very straightforward. First, we believe that this bill was predicated on outdated facts that present a seriously inaccurate picture of today's Commonwealth. In my written statement, I gave some examples of the vast differences between the CNMI that existed when Congress last examined this issue in 1998 and 1999 and the CNMI, a decade later, its population, its workforce and its economy.

Second, it is clear that the drafters of this legislation do not have the expertise regarding the U.S. immigration laws or even the written entry topic models necessary to deal with these very difficult and important issues.

Third, the only way to assess fairly the objections that we have presented regarding this bill is to have them analyzed by impartial professionals. Our concerns with respect to the impact of this bill on the Commonwealth economy and community are not privileged nor are they raised as have been charged only to the reconsideration of the bill. What is at stake here is the future of the Commonwealth over the next 20 years. Its people deserve to have legislation of its importance evaluated in line with existing facts and informed projections of the future before it is adopted by this Subcommittee.

The members of this Subcommittee might well ask the supporters of this bill, "Now, tell me again, what's the emergency here that requires us to act before the GAO study is completed?" I have repeatedly stated that the Commonwealth does not oppose legislation aimed at improving the security of the CNMI borders. We believe that the issue on border security can and should be separated from the intrusive provisions of H.R. 3079.

I am submitting today, Madam Chairwoman and members of the Committee, a proposed bill for your consideration. It is entitled "Enhanced Border Control of the Commonwealth of the Northern Mariana Islands" and it does the following: First, it retains the Asylum Provisions of H.R. 3079.

Second, it directs the Secretary of the Department of Homeland Security, in consultation with the Government of the Commonwealth, to prepare a plan for supporting the Commonwealth's immigration laws, the reuse of resources available to Federal officials and assignment of appropriate department personnel to assist the Commonwealth.

Third, it specifically directs that all persons entering the Commonwealth shall be screened upon entering into the Commonwealth by Department of Homeland Security personnel using the national databases and other informational resources not available to the Commonwealth.

Fourth, it directs the Department Personnel, in sufficient numbers, be assigned to designated Saipan and Tinian entry points

where they can use the classified databases and other resources to assist local immigration officials.

Fifth, it requires the Department to provide the Coast Guard station in the CNMI with the necessary resources including at least one boat that meets Coast Guard standards to implement an effective program of monitoring the borders of the 14 islands in the CNMI.

Sixth, it directs the Governor of the CNMI to advise the Department of Homeland Security 30 days in advance of implementing any new Visa Waiver Program designed to support its visitor or educational industries or other economic development projects in the CNMI.

We believe this legislation provides the improved border security measures desired by both the Federal Government and the CNMI. It accomplishes this objective at far less cost to the taxpayers than would be entailed by the complete type of Federalization proposed in H.R. 3079. It lists Commonwealth officials responsible for making the critical decisions with respect to economic development and managing the work force necessarily to achieve the level of development desired by the community. We ask the Subcommittee to consider our proposal carefully. Thank you, Madam Chairman.

[The prepared statement of Governor Fitial follows:]

Statement of The Honorable Benigno R. Fitial, Governor of the Commonwealth of the Northern Mariana Islands

I am Benigno R. Fitial, the Governor of the Commonwealth of the Northern Mariana Islands, and I represent the government of this territory of the United States, and the people who elected me into public office. I appear before you today to testify on H.R.3079, legislation to amend the Joint Resolution Approving a Covenant to Establish a Commonwealth of the Northern Marianas Islands.

Hafa Adai, Madame Chairwoman and Members of the Committee. Welcome to the Commonwealth of the Northern Mariana Islands. We appreciate your time and personal commitment in visiting our islands.

Before I turn to H.R. 3079, I would like to thank Representative Flake and Delegate Fortuño for their introduction of H.R.3165, amending Headnote 3A. Enactment of this legislation would greatly assist the Commonwealth in its efforts to preserve and develop the diversified economy required to meet the needs of its citizens.

H.R. 3079 is virtually identical to Senate Bill 1634 with respect to its immigration and labor provisions. Lt. Governor Villagomez and I have each testified before the Senate Committee on Energy and Natural Resources this year and set forth our reasons for opposing S.1634. We have supplemented our testimony with extensive materials and met with Members of both Houses and their staffs to discuss these proposals. Let me summarize some of our main concerns.

The Need for a GAO Study

We have consistently urged the need for a careful and professional study of the Commonwealth before enactment of legislation such as H.R.3079. We are pleased that Members of Congress have requested the Government Accountability Office to undertake this task. Such a study would necessarily focus on two objectives of critical importance to consideration of H.R.3079: (1) to provide current and reliable information about the Commonwealth as it exists today—its economy, workforce, changing population, and labor and immigration programs; and (2) to assess the economic, political, and social consequences of preempting the CNMI immigration and labor laws and substituting a federally managed guest work program in the Commonwealth. We do not understand why the Interior Department and other supporters of this legislation are unwilling to let GAO complete its work before urging Members of Congress to enact legislation that will damage the Commonwealth economy and its U.S. citizens.

The Commonwealth in 2007

Congress last considered these issues during hearings in 1998 and 1999, which resulted in a bill passed by the Senate in 2000. The most frequently cited facts sup-

porting this legislation were a 1997 report from the U.S. Commission on Immigration Reform, a 1997 report from the Department of the Interior, a 1998 report from the Immigration and Naturalization Service, 1999 data on wages, a 1999 statement by the INS General Counsel, and 2000 data on unemployment. We are concerned that these very same facts—now long out of date—are still being urged on the Members of Congress to justify legislation such as H.R.3079. We believe this is unfair. It is why we emphasize the need for a GAO study before Congress acts. Let me give you a few examples.

- The two-tiered economic model that prompted the Senate to act in 2000 no longer exists in the Northern Marianas. We have substantially reduced our reliance on alien workers. With the closures of most apparel factories and the economic decline over the past two years, the number of alien workers has fallen from its peak of about 30,000 a few years ago. We expect the figure to be approximately 20,000 by the end of this year, and decrease further to about 15,000 in 2008.
- The old allegation that the "bloated" CNMI Government is an employer of last resort for local residents also fails to acknowledge today's facts of life. With a recent ten percent reduction in government payrolls—and the likely need for more reductions in the next year—we are compelled to work harder to train and place our U.S. citizens in the private sector. I have insisted on more rigorous enforcement of our current labor laws to achieve this objective. Our legislature is currently considering a new comprehensive labor law, with several provisions aimed at increasing the training of local residents so that they can replace alien workers in the private sector.
- Contrary to past allegations, we have an effective and fair system for handling complaints by alien workers. My Administration has eliminated a backlog of 3,400 pending labor cases that I inherited from my predecessors. In almost all these cases, the worker filed the case in order to stay in the Commonwealth beyond the time legally permitted under her or his entrance visa. They did so because the work environment in the CNMI and the earning potential are much more favorable than in their home country. The statistics show that there were relatively few cases of wage disputes—far lower than the comparable statistics in most States—and there were only two cases involving claims of on-the-job injuries.
- New procedures at our Department of Labor are designed to prevent any new backlog from developing. The Department's Hearing Office has dramatically increased the number of hearings and the dollar amounts awarded and collected. Increased use of mediation supervised by a hearing officer resulted in the resolution through mediation of more than 50% of the cases filed in 2006.
- We have achieved the repatriation of several thousand alien workers. The closure of the 3,400 backlog cases in many instances eliminated the basis on which the alien worker was remaining in the CNMI. The Department's efficient handling of the apparel factory closures also prompted the voluntary repatriation of hundreds of workers, as did the publication by the Department of its first "no hire" list early in 2007. Further efforts are underway to identify, and deport if necessary, those alien workers no longer entitled to remain in the CNMI.

Commonwealth Control of Immigration

Commonwealth immigration laws and regulations control the entry of aliens into the CNMI in a manner consistent with the intent and policies of the federal immigration system. This Administration in 2006 appointed Melvin Grey, a man with 29 years of experience with the U.S. immigration system, to serve as Director of Immigration. (I invite you to meet Mr. Grey and his staff during your visit to Saipan.)

The Commonwealth's commitment and institutional ability to maintain an effective system of immigration control is evidenced by its implementation of a computerized arrival and departure tracking system. Financed by the federal government, the Border Management System has been fully operational since 2003, with the entry and departure of each traveler recorded. The Commonwealth also operates the Labor and Immigration Identification System, which records the immigration entry permits to the various classes of immigrants entering the CNMI. We are currently reevaluating these computerized systems to determine whether their components should be updated or replaced to reflect the advances in technology over the past decade. Even within their limitations, however, these systems give local immigration officials controls that their federal counterparts do not have.

The Commonwealth administers a visa waiver system that is fully consistent with the federal system and, in some respects, more stringent. For example, the Commonwealth excludes some countries, such as Indonesia and Malaysia, because of security risks, document availability risks, and document fraud risks, even though

their citizens are permitted entry into Guam. In contrast with federal immigration officials, CNMI officials have relatively few travel and identity documents to process for compliance. With very few exceptions, all travelers to the CNMI, regardless of citizenship, are required to present a passport for entering and departing the CNMI. Electronic passport readers capture the significant data from the passports in a secure electronic database.

In supporting federal legislation such as H.R. 3079, the Interior Department emphasizes the screening process used by federal consular officers abroad and suggests that the CNMI procedures are ineffective in comparison. We disagree. The CNMI Visitor Program requires a sponsor for most aliens seeking admission to the Commonwealth. The sponsor must supply documentation identifying the visitor, the intent of the visit, contact information for the alien and the sponsor while the visitor is in the CNMI, and an affidavit of support. In this affidavit, the sponsor must promise to support the visitor if necessary, that the visitor will not become a charge of the community, and that the sponsor will reimburse the CNMI for all expenses incurred as a result of the visitor becoming a deportable alien, including detection, detainment, prosecution, and repatriation. Some exceptions or waivers to these sponsorship requirements are available on a very restrictive basis, such as for nurses and student nurses coming to the CNMI to take the National Collegiate Licensure Examination.

The Division of Immigration allows some selected travel agencies to gather information regarding prospective visitors and submit the completed applications to the Division for its consideration. Each of these agencies, however, has posted a $500,000 bond which is subject to forfeiture in the event of a breach of the operating agreement between the CNMI and the travel agency or tour operator. These procedures have been used effectively in connection with charter flights to the CNMI from China and Russia—critical new markets for the CNMI visitor industry. More effective screening procedures have produced a significant decline in the number of exclusions in recent years. From a total of 74 exclusions in calendar year 2001, the figure has fallen to only seven in 2006.

The Commonwealth's law enforcement efforts over the past several years show many successful prosecutions and a strong record of cooperation with federal law enforcement agencies. These prosecutions have involved alien smuggling, international firearms trafficking, employment of illegal aliens, prostitution, and various forms of document fraud. The CNMI assisted federal immigration officials in processing shiploads of smuggled aliens into Guam that the federal officials were unable to address.

In light of this record, we were disappointed by the recent allegation by the Interior Department before the Senate Committee that "human trafficking remains far more prevalent in the CNMI than it is in the rest of the U.S." Upon examination, however, it became clear that Interior's conclusion resulted from a very basic misuse of statistics. To support its indictment of the Commonwealth, Interior compared the number of trafficking incidents in the CNMI and the United States with the number of residents in each of the two areas (about 70,000 for the CNMI and 300 million for the U.S.). The proper comparisons to be made are between the number of victims in the U.S. and the CNMI and the respective number of entrants into each jurisdiction annually. In recent years the CNMI has had about 450,000 entrants annually and the United States in 2005 had 33,675,608 entrants—based on data published by the Department of Homeland Security and GAO. Using these statistics, it appears that the CNMI had one trafficking offense for each 12,500 entrants, whereas the U.S. had one trafficking offense for each 1,924 entrants. Contrary to Interior's allegation, in fact the U.S. has a rate of trafficking incidents six and one-half times the CNMI figure. What is troubling about Interior's contention is not that it is so wrong, but that Interior feels compelled to present such incorrect data to Congress in order to persuade the Members to enact legislation before they have a objective report of the relevant facts from GAO.

Interior's recently expressed concerns about the Commonwealth's administration of its refugee protection program are similarly overstated. The Commonwealth recognizes the international obligations of the United States under the relevant treaties. We realize that the Department of Homeland officials are entitled to monitor and protect the integrity of our refugee protection program. Under my Administration we have followed the same policies and procedures under the Memorandum of Agreement with the U.S. Citizenship and Immigration Services (USCIS) as was done by the prior Administration. We believe the system has worked well over the past few years, during which a total of 32 refugee cases were initiated—two in 2004, 13 in 2005, 14 in 2006, and three to date in 2007. I am unaware of any serious differences of opinion between CNMI and USCIS officials that developed during this period regarding the administration of the program. I understand that the Attorney

General is consulting with USCIS officials regarding the assistance that USCIS has offered to provide to the CNMI. I am confident that these current discussions will produce a mutually satisfactory accommodation.

The CNMI Economy and the Path to Recovery

This Committee is generally aware of the economic circumstances that have adversely affected the Commonwealth over the past several years. (Attachment 1 to this testimony sets forth the details documenting the extent of this depression and its impact on government revenues and our budget.) Let me touch on some of the main points:

- Apparel Industry: The number of apparel factories has declined from 34 to 15 "with additional closures anticipated later this year or early next year. The number of alien workers in apparel manufacturing has declined from 16,000 to 6,000. The value of apparel sales has declined from $1.06 billion in 1999 to $489 million in 2006. The taxes and fees paid by the apparel industry to the CNMI fell from $80 million in 2001 to an expected $30 million in 2007.
- Visitor Industry: Visitor arrivals are down 40% since 1996. The causes were obvious: the Asian financial crisis (1997), 9/11 attack, SARS, and increased fuel costs. The discontinuation of flights to Saipan by JAL and Continental in 2005-2006 was a serious blow to our most important tourist market—Japan. The decline in arrivals has led to the closure of hotels and tourist-oriented businesses.
- Government revenues have declined from a peak of $248 million in 1997 to an estimated $163 million in 2007—a decline of about 34%.
- Increased unemployment
- Dozens of closed businesses in the CNMI

The Commonwealth does have a program for recovering from this depression. In my State of the Commonwealth speech last April, I emphasized five major points: (1) continued effective law enforcement; (2) creating new work opportunities for our citizen labor force; (3) improved utility operations and service; (4) expansion of the base for our visitor industry; and (5) continued efforts to secure new investment. This overall plan has the endorsement of both the Legislature and the private sector. We have made some significant progress towards achieving these objectives.

- We have a revised 2007 budget that reflects our declining revenues, protects essential public services, and does not add to the deficit that we inherited.
- We have reduced government employment, enforced an austerity program, and are ready to implement a reduction in force if that becomes necessary.
- To deal with the need to increase airline seat capacity for the CNMI, we have obtained a major increase in flights from Korea that began last May, some short-term commitments from Continental for this summer, increased charter flights from China, and a substantial commitment by Northwest for renewal of flights from Osaka beginning in December 2007. I am personally engaged in discussions with Japanese, Chinese, and Korean officials and airline executives regarding our need for increased flights from those countries.
- As the apparel manufacturing business has declined, we are having some success in attracting different kinds of new industries—financial services companies and educational institutions offering English-language training and other courses primarily for foreign students.
- We have attracted major new investments from Japanese companies (Sumitomo and NTT DoCoMo Inc.) and Korean companies. Kumho Asiana, the parent of Asiana Airlines, has purchased one of our golf courses and is committed to major renovations and improvements involving several hundred million dollars. Last month, I attended the groundbreaking ceremony at the future site of a $300 million hotel and villa complex on Saipan undertaken by the KSA Group of Korea—the first new hotel on Saipan in many years. These were two of the many projects described in my State of the Commonwealth address—most of them scheduled to begin within the next 6-12 months.

Let me state the obvious: there is no quick fix for the Commonwealth's current problems. Because of the delay in implementing new airline commitments and the need for additional such commitments, we are unlikely to see any substantial increase in visitor arrivals for about 18 months. The benefits of the recent—and scheduled—investments in hotels and other tourist attractions will also take time to develop. Although the construction activity on such projects produces some needed stimulus to the economy, substantial increase in revenues for both the private and public sectors takes more time. But we do have a vision. And, with all due respect for our critics, we prefer our vision to that of the government bureaucrats 8500 miles away.

The ability of the private sector and my Administration to deal with our economic crisis has been complicated by the recent imposition of the federal minimum wage

on the Commonwealth. I am pleased to report that collaboration between federal and local labor officials was very successful in preparing for as smooth a transition as possible given the short time frame for compliance and the variety of questions presented by employers and employees. Employers throughout the Commonwealth are concerned by the uncertainty under the federal law with respect to additional yearly increases in 2008 and beyond and the difficulty in planning ahead under these circumstances. We will be monitoring the impact of this first increase and will be requesting this Committee's assistance as appropriate.

Impact of H.R. 3079 on the CNMI

The enactment of H.R.3079 will seriously damage the CNMI economy. It will drastically change the rules under which investors commit their funds to the Commonwealth. It generates uncertainty throughout the economy. This uncertainty is real. It leads potential investors to reexamine the profitability of investment in the Commonwealth. It leads committed investors to reexamine the nature and timetable for implementing their plans. It raises serious questions regarding the continuation of the special visa programs vital to the visitor industry, the educational industry, and retirement facilities for Asian nationals.

Once the several federal departments begin to exercise their responsibilities under H.R. 3079, an entirely new element of uncertainty is created. It will be clear that no Northern Marianas Governor will be able to make the commitments necessary to attract investment to the Commonwealth from predominantly Japanese, Korean, and other Pacific Rim companies. In order to appraise investment prospects in the Northern Marianas, potential investors will have to deal with a new bureaucracy of five departments in Washington. To whom should such investors go for guidance regarding the future course of the CNMI economy? Department of Homeland Security? Department of State? Department of Justice? Department of Labor? Or the Interior Department? Or all of the above? Why should they bother—if there are other areas in the Pacific of equal promise which provide greater certainty and security which major investors reasonably demand?

Enactment of H.R.3079 will almost certainly result in increased financial dependence on the federal government by the CNMI. The Commonwealth will soon thereafter be on the dismal course being experienced by the freely associated states and most island communities in the Western Pacific—a trajectory featuring outmigration, remittances, large government payrolls, and foreign aid. This was not the objective of the United States and Northern Marianas negotiators of the Covenant. They envisioned and promised a self-sufficient local economy, to the extent possible, and a standard of living comparable to that of the average American community. In recent years the federal government has failed to honor these commitments to the Northern Marianas—such as the failure to reimburse the CNMI for the $200 million in costs incurred by the Commonwealth providing public services to Micronesians from the other former districts of the Trust Territory of the Pacific Islands. Coming so soon after the imposition of the federal minimum wage, enactment of H.R.3079 would be another serious blow to the Commonwealth—its economy and its U.S. citizens, who lack even a token vote in the U.S. Congress.

We do not understand why this Committee cannot wait to examine the GAO's economic data, assessments, and conclusions in the study requested by Congress before acting on H.R.3079. We urge this Committee not to act on H.R.3079 until the GAO completes its analysis and reports to the Committee.

Specific Deficiencies of H.R.3079

Attached to this Statement is a section-by-section analysis of H.R.3079. Let me draw your attention to a few of its most important deficiencies.

H.R. 3079: A New Federal Bureaucracy

House Bill No. 3079 creates a new federal bureaucracy composed of five separate departments to implement the bill's provisions. It is unclear that any of these departments—with the probable exception of the Interior Department—wants to add these new responsibilities to their already full dockets. The Department of State is so overwhelmed by passport applications that it has assigned more than one hundred of its consular officers on an emergency basis to deal with these demands. The same is true of the Department of Homeland Security, as evidenced by the recent reports of its backlogs with respect to visa applications. A short time ago, a conflict between the Department of State and the Department of Homeland Security resulted in the reversal of a commitment to provide work-based visas to thousands of well-educated, highly skilled, legal immigrants, with long experience in the country. A spokesman for Homeland Security acknowledged that there had been a failure of communication between his department and State. (New York Times, July 6, 2007, p.A9) Does anyone seriously believe that the needs of the Commonwealth—

8,500 miles from Washington without a vote in the Congress—would get a higher priority?

We believe that the Committee should hear directly from all five agencies given duties under the bill before it is enacted. H.R.3079 raises significant issues of funding, personnel, expertise, and agency coordination that should be addressed before—not after—the bill is passed.

The House bill provides only a year for the five departments to consult with each other and the Commonwealth, and produce the many sets of regulations required by the bill. After the effective date of the legislation, all CNMI immigration and labor laws are expressly preempted by the legislation, with no failsafe provision in the event that the federal agencies are not ready at that time to enforce the new law. It would be only prudent to anticipate such a possibility and provide for it in the proposed legislation.

H.R. 3079: An Unprecedented and Unnecessary Assertion of Federal Authority

With respect to the authority of Congress to enact H.R.3079, the Commonwealth recognizes that the Covenant does permit application of the U.S. immigration laws to the CNMI after termination of the Trusteeship Agreement. However, H.R.3079 is far more than an immigration law. For the first time in American history, it imposes a federally designed and controlled guest worker program on a single community of U.S. citizens. It purports to pay deference to the promise of local self-government in the Covenant, but its terms are quite clear: all critical decisions regarding the future economy of the Commonwealth will be in the hands of federal officials. They will decide which industries or new investments will be entitled to access to alien workers. They will decide which special visa programs will be available to the Commonwealth's critical visitor industry. They will decide what incentives or sanctions are required to stimulate businesses to employ local workers. Local laws to the contrary are expressly preempted. To the Members of this Committee who have served in local or State government, we pose a single question: How would you have responded if Congress authorized five federal departments to descend on your community and supersede local authority over the local economy?

The Commonwealth believes that its immigration enforcement system can be more effective than a federal system administered from Washington. The small size and island character of the Commonwealth facilitates an effective immigration system—both in excluding illegal entrants and in identifying and deporting persons no longer qualified to remain in the community. However impressive the resources of the United States appear in the abstract, the federal performance in this distant location almost always falls far short of expectations. This certainly has been the experience in the Northern Marianas, even after the Senate hearings in 1998-99 when the Chairman of the Senate Committee on Energy and Natural Resources chastised the federal law enforcement authorities for failing to implement their responsibilities in the CNMI. It is reflected today in the performance of federal agencies responsible for handling labor cases under federal laws and in the under funding of essential border protection agencies. A case in point is the U.S. Coast Guard operation in the CNMI, which lacks even a single boat to patrol the 400 mile chain of the Northern Mariana Islands and to act in a timely fashion to apprehend smugglers or other criminals. If lack of funding is the problem here, perhaps the Commonwealth can be of assistance.

The Commonwealth acknowledges and welcomes the national security interests of the United States in protecting the borders of the Commonwealth. However, we believe that border control concerns can be addressed separately from control of the local guest worker program or the special visa programs essential to the CNMI visitor industry. With respect to the guest worker program, the decisions with respect to the nature and extent of economic development could be left to local elected leaders where such a responsibility belongs, but no guest worker would be admitted before his or her name was checked against the federal data bases to ensure that the guest worker did not present a security risk to the United States. With respect to the special visa programs used by the Commonwealth to attract visitors from destinations such as China and Russia, CNMI could similarly follow its usual procedures, which then could be supplemented by reliance on the federal data bases to provide an additional level of protection against security risks. We are prepared to work with the Committee to develop an alternative legislative approach that would address our mutual interest in having enhanced border security in the Commonwealth.

H.R.3079: Permanent Legal Residence Status for Alien Workers

In a significant departure from current immigration policy, H.R. 3079 declares which non-U.S. citizens will be given permanent legal status and permitted to stay

in the CNMI or move to any part of the United States. H.R.3079 expressly grants a form of amnesty to nearly 8000 alien workers in the Commonwealth by granting them this nonimmigrant status, comparable to that enjoyed by Micronesians from the freely associated states. The bill's drafters chose to ignore that such an enhanced status was not permitted or contemplated when these workers elected voluntarily to come to the CNMI many years ago to enjoy the economic opportunities available in the CNMI. The recent Senate debate on immigration suggests that such a provision would never have been supported on the national level—either because it smacks of an amnesty provision or because it imposes an enormous burden on the Commonwealth of permanent alien residents numbering about 25% of the local United States citizen population.

The drafters of H.R. 3079 seemingly have no concern about the impact of this provision on the integrity and vitality of the indigenous Carolinian and Chamorro peoples in the Commonwealth. Permanent legal residence status permits such individuals to bring children and other relatives into the community where the statusholder elects to live. Consequently, the impact on the local CNMI community might be far greater than anticipated if most of these new permanent legal residents elected to stay in the Commonwealth and bring in children and other relatives not presently allowed to reside in the CNMI. However well-intentioned this proposal appeared to its drafters, its consequences already have seriously affected the quality of life in the CNMI. The proposal has generated unrealistic expectations among the guest worker population in the Commonwealth, stimulated boycotts of businesses because their owners have opposed this provision, and contributed to increased divisiveness between guest workers and the indigenous peoples of the Commonwealth. We recommend that the provision be eliminated from H.R.3079.

H.R.3079: Provision for a Non-Voting Delegate in the House of Representatives

We appreciate the inclusion in H.R.3079 of a provision authorizing the Commonwealth to be represented in the House of Representatives by a non-voting delegate. We strongly support such a proposal. It is a disgrace that the U.S. Congress has for years denied the Commonwealth the same privileges as have been afforded to the other insular areas.

We believe, however, that legislation providing for a non-voting delegate should be considered on a stand-alone basis. Notwithstanding our support for such a proposal, therefore, its inclusion in H.R.3079 does not alter our view that enactment of the legislation would seriously damage the interests of the CNMI.

Lastly, we believe that the CNMI should be entitled to have a non-voting delegate in the House of Representatives before critical legislation such as H.R.3079 is enacted by the House.

Thank you for the opportunity to testify on H.R.3079. We appreciate your consideration of our views.

Mrs. CHRISTENSEN. Thank you, Governor, for your testimony and I am sure the other witnesses have noticed that we let the Governor go well over his time. We don't intend to continue that for everyone. Thanks. [Laughter] I now recognize the Speaker, Oscar M. Babauta, for five minutes of testimony.

STATEMENT OF THE HONORABLE OSCAR M. BABAUTA, SPEAKER, CNMI HOUSE OF REPRESENTATIVES

Speaker BABAUTA. Hafa Adai, Chairwoman Christensen and members of the Subcommittee. Thank you for providing me the opportunity to comment on H.R. 3079. I would first like to thank the Subcommittee for traveling so far to conduct a legislative hearing here in the CNMI for the first time. It's encouraging to know that the U.S. House of Representatives has given this such a high priority. On behalf of the people of the Northern Mariana Islands, I would like to extend my very warm greetings to you, Chairwoman and members of the Subcommittee and your staff. I would also like to thank all the witnesses who will be testifying today, although we will likely be disagreeing on specific policy matters.

I would offer comment on four aspects of H.R. 3079. The first three aspects are areas of concern I have with the bill as drafted, namely: Number one, the part for total and complete Federal Immigration takeover; two, the provision granting non-immigrant status to certain foreign nationals; and three, the transitional oversight provision. The fourth aspect I would like to discuss is our Non-voting Delegate Provision. First on the issue of Federalization, let me begin with assuring the Subcommittee that we welcome cooperation with Federal authorities in the areas of border security and law enforcement. The efforts of the main Federal agencies that assisted our government over years are appreciated and produced very real results on the ground. In particular, law enforcement and immigration training, the assistance of the Department of Homeland Security in developing our Refugee Protection Program and Coast Guard patrols of our large island archipelago, are grateful for ensuring our immigration system is sound.

I feel, however, that for the extension of the Immigration and Nationality Act is inappropriate at this time given the historical relationship between the United States and the CNMI. When our people voted overwhelmingly to join the American political family, it was with the understanding that ours was a unique relationship, and that certain powers and responsibilities will be left to the local government. Indeed, the Covenant and subsequent legislation on Federal and local jurisprudence have all recognized that unique relationship. I believe that a blanket application of the INA under a "one size fits all" approach impinges upon the ideal of self-government that framed the Covenant negotiation process.

Moreover, as the CNMI pursues new development strategies in order to rehabilitate our ailing economy, local immigration control is of critical importance. We are taking steps to diversify our tourism industry and have in recent years cultivated new tourism markets in China, South Korea, and Russia. Under local control, our CNMI immigration authorities are able to work directly with officials within other jurisdictions and respond to changing market conditions as needed. I do not believe that the CNMI could have achieved our current level of success in these markets without localized immigration authority.

An additional problem, an additional problem with Federalization is the negative impact it would have on our ability to engage with the foreign national labor workforce for jobs that simply cannot be filled locally. Because our physical isolation from the American mainland and also because a lack of adequate training programs in the past, we have difficulty filling many positions with U.S. citizens. At the moment, we have too small a jurisdiction to support a law school, medical school, or major university where local residents can seek training in technical and scientific professions. Although we continue to focus on job training for residents, the foreign national labor force is critical to our ongoing plan of recovery.

The recent passage of Federal legislation applying the minimum wage to CNMI should provide a greater amount of security for our workers here. This would help to ease any lingering fears that national workers, foreign national workers in CNMI, are not being compensated appropriately. Furthermore, we are now debating

final passage of House Bill 15-38, an Act to Repeal and Re-enact the Commonwealth Nonresident Workers Act. The bill has passed the House and is awaiting Senate action here in the Commonwealth. H.B. 15-38 reforms current labor laws, provides for increased local participation of workforce, and ensures fair treatment of workers in going to CNMI.

In addition, the legislature continues to update our local statutes to address new developments in immigration enforcement. In 2005, we passed a Human Trafficking and Related Offenses Act through Law 14-88. Also in 2005 the Legislature passed Public Law 14-92, an act to amend our voluntary departure provision. Public Law 14-59, that refers to Anti-Terrorism Act of 2004 and Public Law 14-63, an Act to Establish the Homeland Security.

I continue to support U.S. involvement in our immigration program short of the application of INA. I wish to be clear, however, that full Federalization of our immigration system is not to the best interest of our island economy at this time.

My second concern as the leader of the Chamber charged with preparing the CNMI's yearly budget is the "One-Time Nonimmigrant Provision for Certain Long-Term Employees." I am troubled by this potentially large—very large unfunded mandate. I fear the demand of long term—banking on long-term status for contract workers who meet certain residency requirements and their family members may create a massive financial drain in our already modest public resources, particularly in the areas of education, public health, and public safety. We have had a very bad experience with this kind of unfunded mandate in the past when the Department of Interior negotiated a compact agreement with the Freely Associated States, the current provision that allows those citizens to come to the CNMI without visa control. Many people took advantage of the provision and settled here more or less permanently. Over the past 20 years, the impact of this settlement has been over $200 million in documented cost. We have the ability to try to improve (audible but unintelligible) quandary without success. To date, roughly and only about $20 million has been paid so far. We have had to absorb $180 million in cost for a decision that we did not participate in.

My third concern is the Transitional Oversight Program. I feel the provision is vague and leaves many unanswered questions about the roles of various Federal agencies on our government. Although I understand that the Department of Homeland Security would be tasked with drafting transitional regulations, the provision offers us no clear role in the transition process. Further, the transitional oversight by not only one, but by five agencies is likely to slow down the immigration processing and discourage further tourism and, of course, economic development.

I am very much in support of H.R. 3079 provisions—Delegate provisions, and I feel that representation in the U.S. Congress is important for both political and practical reasons. The CNMI should, like all the insular areas, have a place at the congressional table. Our ability to send a delegate to Washington will allow us to participate more directly in policy decisions such as those considered in H.R. 3079.

We're faced with difficult times at this time, Madam Chairwoman, substantial steps to manage our immigration program in a responsible manner. I would like to use our local immigration authorities to revitalize and grow our economy, rather than rely on the Federal assistance. I hope you will consider these comments as you debate the passage of H.R. 3079.

Once again, I thank you for the opportunity and we thank you from the people of the CNMI for listening to CNMI and bringing this hearing. Thank you, Si Yu'us ma'ase.

Mrs. CHRISTENSEN. Thank you Mr. Speaker.

[The prepared statement of Speaker Babauta follows:]

Statement of The Honorable Oscar M. Babauta, Speaker of the House, Fifteenth Northern Marianas Commonwealth Legislature

Hafa Adai Chairwoman Christensen and members of the Subcommittee. Thank you for providing me with the opportunity to comment on H.R. 3079, a bill "To amend the Joint Resolution Approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands, and for other purposes."

I would first like to thank the Subcommittee for traveling so far to conduct this legislative field hearing. It is encouraging to know that the United States House of Representatives has given this issue such a high priority. On behalf of the people of the Northern Mariana Islands, I would like to extend a very warm greeting to the committee and staff. I hope your stay is a pleasant one and I look forward to assisting the Subcommittee in any way I can.

As the leader of the House, I have three main areas of concern with H.R. 3079. First, I object for legal and practical reasons to a complete federal takeover of the CNMI immigration system. Second, I am concerned that the provisions for granting nonimmigrant status to certain contract employees may overwhelm our public service providers. Third, I feel that the transitional oversight provision is vague and leaves many unanswered questions about the various roles of federal agencies and of the CNMI Government. As an additional matter, I do thank the Committee for including a delegate provision in H.R. 3079. I feel this provision is an important step forward for the people of the CNMI.

1. Federalization of the CNMI's Immigration System

As for the "federalization" of our immigration system, I feel that the full extension of the Immigration and Nationality Act (INA) to this Commonwealth is neither necessary nor appropriate given the historical relationship between the United States and the CNMI. When our people voted overwhelmingly to join the American political family, it was with the understanding that ours was a unique and mutually respectful relationship, and that certain powers and responsibilities would be left to the local government. The Covenant (48 U.S.C. § 1801), subsequent federal and local legislation, and federal and local jurisprudence have all recognized the unique nature of our islands and the importance of preserving local control over certain legal functions. I believe that a blanket application of the INA to this jurisdiction under a "one size fits all" approach impinges upon the ideal of self-government that framed the Covenant negotiation process.

Moreover, as our Commonwealth pursues new economic development strategies in order to reinvigorate an ailing economy, local immigration control is of critical importance. We are taking steps to diversify our tourism industry, and have in recent years cultivated new tourist markets beyond the CNMI's traditional market of Japan. These new markets include China, South Korea, and Russia. In 2004, the CNMI signed an Approved Destination Status Agreement with China, an agreement that facilitates Chinese travel and provides for direct flights from major Chinese cities. Because of the anticipated boom in Chinese outbound tourism, we hope to experience significant growth in this market in the coming years. Maintaining local control over immigration is critical to the development of this growth, as our local immigration authorities are able to work directly with Chinese government officials and respond to the changing conditions of the market as needed. Our long term strategy also focuses on the development of the South Korean market. Arrivals from the Republic of Korea have been steadily increasing even as other country numbers decline. Finally, we have been working diligently to develop an eastern Russia tourist market with regular (via Seoul) and charter flights to the CNMI. The Russian market is characterized by longer than average visits resulting in increased revenues, a high percentage of return visitors, and little to no legal complications. As

with the development of the Chinese market, I do not believe the CNMI could have experienced such a rate of success without local immigration control. I feel that our full absorption into the INA could threaten this growth and, as a consequence, undermine our economic recovery.

An additional problem with federalization is the negative impact it will have on our ability to engage a foreign national labor force for important positions that simply cannot be filled locally. In many areas of our economy it is difficult to find resident employees to fill specific jobs. This is in part because of our remote location and physical isolation from the American mainland. It is also due to a shortage of skilled professionals (and even unskilled laborers) among the local population, and a lack of adequate training programs in the past. At the moment we are too small a jurisdiction to support a law school, medical school, or major university where local residents can seek training in the technical and scientific professions. Although we continue to focus on job training for residents, foreign national professionals, and our ability to process these professionals locally, have become important components in our continued economic development. In addition, efforts to rebuild critical industries such as tourism and higher education will require the hiring of both professional and unskilled workers beyond the current capacity of the local labor force.

The recent passage of federal legislation applying the minimum wage to the CNMI will eventually raise local wages to the national level and provide more economic security to both resident and foreign national workers. This should help to alleviate any lingering fears that foreign national workers in the CNMI are not being compensated appropriately. Furthermore, the Legislature is now debating final passage of House Bill 15-38, an Act to Repeal and Re-enact the Commonwealth Nonresident Workers Act. The bill has passed the House and is awaiting Senate action. The Act will reform current foreign national labor laws, provide for increased local participation in the workforce, and ensure the fair treatment of both citizens and foreign nationals working in the CNMI.

The House and the Legislature as a whole continue to update our immigration laws to address new developments in immigration enforcement. In 2005, we passed the Human Trafficking and Related Offenses Act through Public Law 14-88. The Act, supported by the U.S. Department of Justice, has become an important and effective tool in the CNMI's continuing efforts to combat labor fraud and trafficking. Also in 2005, the Legislature passed Public Law 14-92, an act to amend our voluntary departure law to provide immigration prosecutors with improved procedural options in deportation cases. This law should lead to a more consistent and expedient system for resolving pending cases. Additionally, in the 2005 session the Legislature passed Public Law 14-59, the "Anti-Terrorism Act of 2004," Public Law 14-63 "An Act to Establish the Office of Homeland Security," and Public Law 14-84, legislation which corrected constitutional deficiencies in certain immigration statutes that were struck down by the U.S. District Court for the Northern Mariana Islands in Gorromeo v. Zachares, Civil Action No. 99-0018 (D.N.M.I. 2000). Most importantly, the impending passage of House Bill 15-38 (see above) will serve as a means of decreasing our traditional reliance on foreign labor through the training of local residents and through stronger local hiring preference rules. It will also ensure that resident and foreign national workers alike are treated fairly in the employment process.

Finally, the Division of Immigration continues to work on closing potential loopholes in our immigration system. The Division has implemented effective border management and labor identification systems and efficient investigatory techniques. The Border Management System (BMS) generates a record of all entries to and exits from the Commonwealth, regardless of citizenship. Immigration investigators have instant access to arrival information and can confirm the departure of those foreign nationals with expired contracts and those ordered deported from the Commonwealth for violating local law. The Labor and Immigration Identification System (LIIDS) tracks all foreign national labor contracts, job category authorizations, and permit status of non-citizen workers in the Commonwealth. This allows investigators to quickly determine the permit status of all foreign national workers involved in labor complaints and administrative hearings, as well as compile data on overstaying aliens in every entry permit category. As always, local officials welcome cooperation with U.S. agencies, and any technical or financial assistance they may provide, in the training of our local immigration investigators, inspectors, and processing personnel.

I continue to support U.S. involvement in our immigration program short of the complete application of the INA. I wish to reiterate, however, my opposition to the "federalization" of a system that is economically beneficial to our islands.

2. The One-Time Nonimmigrant Provision

As the leader of the chamber charged with preparing the CNMI's yearly budget, I am concerned with the "One-Time Nonimmigrant Provision for Certain Long-Term Employees." I am afraid that the grant of long term resident status to contract workers who meet certain residency requirements and their family members may create a massive financial drain on our modest public resources, particularly in the areas of education, health, and public safety. This will result in a lower quality of life for everyone within our borders. I am concerned that H.R. 3079 does not establish adequate financial assistance mechanisms to allow us to sustain a large and long-term foreign national population, a very real problem that Congress has previously acknowledged through the provision of Compact-impact funding (Federal funding intended to offset the financial impact to the CNMI created by the long-term residency of citizens from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

3. The Transition Provision

With regard to the transitional oversight program, I feel the provision is vague and leaves many unanswered questions about the various roles of federal agencies and the CNMI Government. Although I understand that DHS will be tasked with the primary responsibility of drafting transition regulations, the complete delegation of authority to federal executive agencies offers the CNMI no certainty in the transition process. Further, transitional oversight by not one, but five agencies is likely to slow down immigration processing and discourage potential tourists.

4. The Delegate Provision

I am very much in support of H.R. 3079's Delegate provision. I feel that representation in the U.S. Congress is important for both political and practical reasons. First, the CNMI should, like all of the territories, have a place at the Congressional table. Second, our ability to send a delegate Washington will allow us to participate more directly in policy decisions such as those considered in H.R. 3079.

We are facing difficult economic times in our Commonwealth but have taken substantial steps to manage our immigration program in a responsible manner. We would like to use our local immigration authority to revitalize and grow our economy, rather than rely on federal assistance for the same. I hope you will consider these comments as you debate the passage of H.R. 3079. Thank you again for visiting our Commonwealth and for providing me with the opportunity to address the Subcommittee on this critical issue.

Si Yu'us Ma'ase and Thank you.

Mrs. CHRISTENSEN. The Chair now recognizes The Honorable Pete A. Tenorio, Resident Representative, for his testimony.

STATEMENT OF THE HONORABLE PETE A. TENORIO, RESIDENT REPRESENTATIVE OF THE CNMI

Representative TENORIO. Good morning. Hafa Adai, Chairwoman Christensen, Congressman and a good friend, Faleomavaega, another good friend in Guam, Congresswoman Bordallo, welcome to our islands. It is my privilege and honor to welcome you and your delegation to our islands. I would like to express my deepest appreciation to this Subcommittee for holding this first ever and indeed historic U.S. Congressional Hearing in our Commonwealth. We're thankful for your willingness to allow an unprecedented number of people to testify before you today. I hope that our people who are not able to testify will understand the time constraints that the Subcommittee is working under. Your presence in our Commonwealth demonstrates the U.S. Congress' genuine interest and concern for the people of the CNMI and the serious problems we face. Si Yu'us ma'ase again for your visit.

I am testifying before you today to demonstrate my commitment as an elected representative of my people to work with Congress and particularly with your committee. It is my understanding that

the legislation being discussed today offers new benefits and promises as well as a Federal commitment to ensure that these proposed changes will not be disruptive, but instead will provide protection for the people of the CNMI, now and in the future. In 1975, an overwhelming 78.8 percent of the people of these islands, exercising their right to political self-determination, voted in support of the Covenant between the United States and to become citizens of our great nation. The Covenant provided us unique authority and responsibility not shared by our sister territories or the 50 states. I am speaking of local control of immigration and minimum wage. We have administered this Federal policy for the last 30 years. I can proudly say that for a time, we used this authority wisely and to the benefit of the people of the CNMI. Our political union has brought both wealth and security to our people, and for a while we lived in a world filled with opportunities for each one of us to achieve the American Dream. Unfortunately, the good times were not sustainable and relatively short-lived because we grossly mismanaged our temporary authority to administer immigration locally. Our wealth, which for the most was dictated by how efficient and effective our administration of immigration was, vaporized right in front of our eyes and today the once shiny and prosperous future holds little hope.

As a member of the Marianas Political Status Commission, I work hard to renegotiate the Covenant, and I can say with great confidence that it was our intention that non-resident workers would be employed only to supplement our local workforce. Unfortunately, however, it has become obvious that non-residents have supplanted our local workforce in the private sector, creating a wholly unsustainable economy. When we were negotiating the Covenant, we were concerned about immigrants to the U.S. overrunning our indigenous population, but our own shortsightedness and complacency in our control of immigration has led us to this end.

I hear reports daily about overstaying workers, tourists seeking employment illegally, and even phony employment scams. I do not believe that our overall track record in administering immigration speaks to an effective system of monitoring a non-resident workforce or providing protections for our resident workforce. It is my position that in summation, we have failed miserably and it is time to rectify these recurring mistakes by making a drastic course correction.

Section 503 of the Covenant allows the U.S. Congress to assume authority over immigration and minimum wage in the manner and to the extent made applicable to them. Congress, and I repeat, Congress has the right to exercise this prerogative as it sees fit and I, for one, am grateful that Congress is allowing us the opportunity to have input into this process. Madam Chairwoman, we need to protect the indigenous population from losing the promise of achieving the American Dream entrenched in the Covenant. It is my understanding that Congress intends to implement Section 503 of the Covenant in order to bring about long-term diversification on economic growth by, one, providing stability and confidence to current and future investors. We have changed laws, inconsistently

enforced laws, and repealed laws that would have benefited the people.

Two, securing current and future tourist markets. The Covenant provides that the Federal Government will have authority over foreign affairs and treaty obligations. This includes bilateral talks on air service which holds the promise of securing access to new tourism markets.

Number three, providing a closely monitored transition program that will ensure we have uninterrupted access to a needed skilled workforce. We cannot train and prepare our local population within a short time to take over most jobs currently occupied by non-residents nor can we practically prevent the outward migration of our own people to other locations overnight. But we must have a goal and a plan to provide job opportunities and sound reasons for our people to remain in or to return to our islands, especially our students attending colleges in the states or Guam. I have every hope that this legislation will help us achieve that goal.

Many people in the CNMI fear the outcome of Senate Bill 1634. They fear political and social alienation as well as the loss of their homeland. However, I feel in reality we face this already. If things do not change, we are at the greatest risk of losing our culture, our way of life, and control over our own destiny, if we have not already. Many local families are leaving the CNMI for Guam, Hawaii, or the mainland because just surviving in the CNMI is too difficult. I have recently learned that every—that many families are leaving the CNMI for Guam. I will really—I am sorry, I have recently learned that nearly every year, half of our high school graduating seniors enlist in the U.S. Armed Services. Many of them enlist out of a deep sense of duty and patriotism, but some of them enlist because there are simply no employment options for them in their homeland.

Madam Chairman, I see this bill as a mechanism for restoring the CNMI to the Chamorros and Carolinians who have always called it home. I believe that Senate Bill, Section 34 and 79 from the House Bill is a good beginning. However, I have a few suggestions, which you can find in my written testimony. These are to strengthen the bill so that we can regain the CNMI as the homeland for its indigenous population.

Today, I will mention just one. I want to emphasize the critical importance of Section 3(e) of the bill. There is no doubt that we need to invest in training for residents to prepare them for jobs currently held by non-residents. While this is included in the current language of the bill, I would like to see specific funds dedicated to areas that require formal training that leads to certification in the various trades and technical fields. We must invest in our educational system to produce skilled labor. Without these funds and this training, I feel that this legislation would also lead to a failed policy in the CNMI.

Mrs. CHRISTENSEN. Can you wrap up, please, Mr. Tenorio?

Representative TENORIO. And finally, Madam Chairwoman, a Delegate for the CNMI is a matter of fairness, democracy, and the basic tenets of our nation. The people of the CNMI are in support of a Delegate, as you have heard, and I have waited long enough for it to become a reality. I have, over the years, provided this

Committee with countless resolutions, letters of support, and testaments of the people's desire to participate in the national legislative body.

Madam Chairwoman, the CNMI needs a "course correction." Our chosen path to self-sufficiency and prosperity has led us to an unsustainable economy. I believe that the people of the CNMI are ready for positive change and to work in partnership with the Federal Government to turn our Commonwealth around and so that, once again, we have the hope of achieving our dreams. Thank you.

Mrs. CHRISTENSEN. Thank you, Mr. Tenorio.

[The prepared statement of Representative Tenorio follows:]

Statement of The Honorable Pedro A. Tenorio,
CNMI Resident Representative to the United States

Hafa Adai, Chairwoman Christensen, Members of Congress. It is my privilege and honor to welcome you and your delegation to our islands. I would like to express my deepest appreciation to this subcommittee for holding this first ever and indeed historic U.S. Congressional hearing in our Commonwealth. We are thankful for your willingness to allow an unprecedented number of people to testify before you today. I hope that our people who are not able to testify would understand the time constraints that the Subcommittee is working under. Your presence in our Commonwealth demonstrates the U.S. Congress' genuine interest and concern for the people of the CNMI and the serious problems we face. Si Yu'us Ma'ase again for your visit.

Please allow me to introduce a number of prominent CNMI citizens including former governors, Covenant negotiators, mayors. We have with us today our first Governor Carlos Camacho, our three time Chief Executive Governor Pedro P. Tenorio, Governor Froilan Tenorio, and Governor Juan Babauta. We are honored with the presence of several former Covenant negotiators Vicente N. Santos, Herman Q. Guerrero, Benjamin T. Manglona, Mr. Joaquin I Pangelinan, Bernard V. Hofschneider, Manuel A. Sablan and Oscar C. Rasa.

Thank you for the opportunity to share with you my position on this most important piece of legislation, which, if enacted, will have profound affects on the Commonwealth of the Northern Mariana Islands. I am confident that a majority of our people agree with my position on the two issues being heard today i.e., a flexible framework for federalizing our immigration and representation in Congress.

Before I get into the specifics, I would like to express my deep appreciation to this committee, the Secretary of the Interior and the Office of Insular Affairs for including my and the majority of our Legislature's recommendations in the drafting of this bill. While I have a few comments aimed at improving this bill. Overall I believe that this bill is in the best interest of our people, entirely consistent with our Covenant, and is responsive to the concerns I outlined before this committee's April 19th oversight hearing.

I am testifying before you today to demonstrate my commitment as an elected representative of my people to work with Congress and particularly with your committee to ensure that the legislation being discussed today offers new benefits, and promises as well as a federal commitment to ensure that these proposed changes will be successful and provide protection for the people of the CNMI, now and in the future.

In 1975 an overwhelming 78.8 % of the people of these islands, exercising their right to political self-determination, voted in support of the Covenant to join the United States and to become citizens of this great nation. The Covenant provided us unique authority and responsibility, not shared by our sister territories or the fifty states. I am speaking of local control of immigration and minimum wage. We have administered these federal policies for the last thirty years. I can proudly say that for a time we used this authority wisely and to the benefit of the people of the CNMI. This union brought both wealth and security to our people, and for a while we lived in a world filled with opportunity for each one of us to achieve the American Dream. Unfortunately, the good times were not sustainable and relatively short-lived because we grossly mismanaged our temporary authority to administer immigration locally. Our wealth, which for the most part was dictated by how efficient and effective our administration of immigration was, vaporized right in front of our eyes and today the once shiny and prosperous future holds little hope.

As a member of the Marianas Political Status Commission which negotiated the Covenant, I can say with great confidence that it was our intention that non-resi-

dent workers would be employed only to supplement our local workforce. Unfortunately, however, it has become obvious that non-residents have supplanted our local work force in the private sector, creating a wholly unsustainable economy. When we were negotiating the Covenant we were concerned about immigrants to the U.S. overrunning our indigenous population, but our own shortsightedness and complacency in our control of immigration has led us to this end. I hear reports daily about overstaying workers, tourists seeking employment illegally, and even phony employment scams. I do not believe that our overall track record in administering immigration speaks to an effective system of monitoring a non-resident workforce or providing protections for our resident workforce. It is my position that in summation, we have failed miserably and it is time to rectify these recurring mistakes by making a drastic course correction.

Section 503 of the Covenant allows the U.S. Congress to assume authority over immigration and minimum wage in the manner and to the extent made applicable to them. Madame Chairwoman we need a major course correction to protect the indigenous population from losing the promise of achieving the American Dream entrenched in our Covenant. The implementation of Section 503 of the Covenant is expected to bring long term benefits and stability by:

- Providing stability and confidence to current and future investors. We have changed laws, inconsistently enforced laws, and repealed laws that would have benefited the people.
- Securing current and future tourist markets. The Covenant provides that the federal government will have authority over foreign affairs and treaty obligations. This includes bilateral talks on air service which hold the promise of securing access to new tourism markets.
- Providing a closely monitored transition program that will ensure we have uninterrupted access to a needed skilled workforce. We cannot train and prepare our local population within a short time to take over most jobs currently occupied by non-residents nor can we practically prevent the outward migration of our own people to other locations over night. But we must have a goal and a plan to provide job opportunities and sound reasons for our people to remain in or return to our islands, especially our students attending college in the states or Guam. I have every hope this legislation will help us achieve that goal.

I would like to inform the Committee, that the immediate future obviously offers little hope in improving the livelihood of our people. Because of misunderstanding, and sometimes deliberate misinformation by others, a substantial number of people in the CNMI fear the outcome of House Bill 3079. They fear political and social alienation as well as the loss of their homeland and overcrowding by outsiders. However, I feel in reality we face this situation already. If things do not change we are at the greatest risk of perpetuating massive overcrowding, losing our culture, our way of life, and control over our own destiny, if we have not already. Many local families are leaving the CNMI for Guam, Hawaii, or the mainland because just surviving in the CNMI is too difficult. I have recently learned that every year nearly half of our high school graduating seniors enlist in the U.S. Armed Services. Many of them enlist out of a deep sense of duty and patriotism, but many of them enlist because there are simply no realistic employment options that offer them a decent living wage.

Madam Chairwoman, I see this bill as a positive initiative to gradually restore the benefits of the Covenant to the Chamorro and Carolinians for whom it was negotiated. I believe that H.R. 3079 is a good beginning; however I have a few suggestions. These are to further strengthen the bill so that the economic intent and promise of improved living standards provided in the Covenant are realized and sustainable.

1. The New Section 6(a) of the Covenant—Immigration and Transition. The bill currently calls for a transition period to begin one year after enactment. This seems a little ambitious, and I would suggest including language that would allow for a delay, if needed, to the beginning of the transition period. There are many things that need to be done during this time including the writing of federal regulations and amending local CNMI laws to conform to this Act. Hastily written rules would be difficult to enforce and could lead to unintended consequences. Likewise, unless carefully studied, the necessary changes to CNMI laws that currently cover immigration and the use of foreign labor could leave gaps in local statutes and affect our right to self government.
2. The New Section 6(c)(2) of the Covenant—Family Sponsored Immigrant Visas. I believe that this section is already covered by Section 506(c) of the Covenant and one or the other should be deleted.
3. The New Section 6(c)(3) of the Covenant—Employment Based Visas. This section would allow skilled workers to enter the CNMI as U.S. legal permanent

residents outside of INA caps. While this would be an asset in helping us attract doctors and nurses, I see that it will become a revolving door for immigrant health care professionals entering the U.S. I would suggest that other provisions in the bill could be utilized to bring in these professionals and that this section be deleted.

4. The New Section 6(d) of the Covenant—Nonimmigrant Investor Visas. With the current on-going economic downturn in the CNMI, I respectfully request that this section include language that would allow for easy processing of new investors into the CNMI.
5. The New Section 6(h) of the Covenant—One-Time Nonimmigrant Provision for Certain Long-Term Employees. This is probably the most controversial and discussed section of this bill, and while there are no compromises that will make everyone happy I would like to share a few thoughts on this topic.

I appreciate OIA's and the committee's intent to preserve the political and cultural rights of the indigenous populations in the CNMI, but I do not feel that this section truly addresses the problems at hand. We need these long staying non-resident workers as much today as we did when they were hired. The change of status for potentially thousands of these workers early in the transition period could leave us without a workforce if they exercise their option to leave immediately. Although this bill allows for a temporary guest worker program, I would like to see the transition period utilized to train and place as many indigenous persons into our private sector as possible. During this time I hope that we can refocus our educational system on training and skill development for our local people so they are ready to assume jobs currently held by non-residents, stabilize our economy, and build the Commonwealth we envisioned when we negotiated the Covenant.

6. Section 3(b) "Waiver of Requirements for Nonimmigrant Visitors. This section would grant a visa waiver program for the CNMI. This is vital to begin the recovery of our tourism economy. While countries are not specifically named, this would allow tourists from China and Russia, the two potentially promising new markets that the Marianas Visitors Authority has worked so hard to develop, to visit the CNMI. I would like to take this opportunity to make the committee aware of the continued bilateral talks between the Peoples Republic of China and the United States. As more and more Americans wish to travel to China including to the 2008 Olympic Games to be held in Beijing, there is increased pressure for Chinese citizens to visit U.S. destinations. In recent bilateral talks the Chinese delegation expressed its desire that the U.S. Government make modifications in visa policy and procedures to promote travel to the United States including the CNMI by Chinese citizens. The Chinese delegation said such modifications would be conducive to expanding the bilateral air services agreement with a view to reaching full liberalization of air transport between China and the United States as the ultimate objective. I am attaching documents relating to these recent talks.

The CNMI plays a vital role in meeting the U.S. obligations in this bilateral agreement. Allowing us to include China in a visa waiver program will help the U.S. meet its obligation under this agreement.

7. Section 3(d)(3) This section calls for the collection and use of appropriate user fees from employers of aliens during the transition period. I believe that this section is contrary to Section 703(b) of the Covenant, and that the fees should be covered over to the CNMI Government.
8. Section 3(e) "Technical Assistance Program. There is no doubt that we need to invest in training for residents to prepare them for jobs currently held by non-residents. While this is included in the current language of the bill, I would like to see specific funds dedicated to areas that require formal training that leads to certification in the various trades and technical fields. We must invest in our education system to produce skilled labor. I believe that programs similar to Guam Community College which provides trades, technical and occupational training needs to be established. Without these funds and this training, made available by the federal government, I feel that this legislation will not work and instead lead to a failed federal policy in the CNMI.
9. I would like to see throughout this bill a greater role for the CNMI Government before, during, and after this transition period. I fear that decisions made in Washington without the active involvement of our local government, will not embrace the needs and true situation being faced in the CNMI.

Madam Chairwoman, Thank you for including the Northern Marianas Islands Delegate Act as part of this bill. I know you share my sentiment that this piece of legislation should have been enacted years ago, and I appreciate your and the subcommittee's continued support for this bill. It would have been my preference that the CNMI have a Delegate sitting with you in the Committee when the issues of

immigration and minimum wage were brought up. Unfortunately, that did not happen.

A Delegate for the CNMI is a matter of fairness, democracy, and the basic tenets of our nation. The people of the CNMI are in support of a Delegate, and have waited long enough for it to become a reality. I have over the years provided this committee with countless resolutions, letters of support, and testaments of the peoples desire to participate in the national legislative body.

Madame Chairwoman, the CNMI needs a "course correction." Our chosen path to self sufficiency and prosperity has led us to an unsustainable economy. I believe that the people of the CNMI are ready for positive change and to work in partnership with the federal government to turn our Commonwealth around and so that once again we have the hope of achieving our dreams.

Si Yu'us Ma'ase, Ghilisow,

Thank you

Mrs. CHRISTENSEN. The Chair now recognizes The Honorable Pete P. Reyes, Vice President of the Senate, for five minutes.

STATEMENT OF THE HONORABLE PETE P. REYES, VICE PRESIDENT OF THE SENATE OF THE CNMI

Senator REYES. Thank you, Madam Chair. I am going to skip the introductions and all that, so, I'll get back when I have time to do that. Let me take this opportunity to applaud this Committee for including the CNMI Nonvoting Delegate Provision in House—H.R. 3079. Whereas, I stand by my belief that the CNMI should first be given a voice in Congress before any attempt at Federalizing our immigration system is made. This portion of the bill is an improvement to our current situation and a step in the right direction.

Let me also take this opportunity to thank Congresswoman Bordallo for looking over the interest of her brothers and sisters in the CNMI during this period of time that they have been without a representative in Congress. Some of you may not notice, but Congresswoman Bordallo has her humble beginnings in the CNMI before moving to our sister island in Guam. Please correct me if I am wrong.

If enacted into law, H.R. 3079 will have far reaching repercussions that will forever change the Commonwealth's economic, political, and cultural landscape. Therefore, I ask that the committee members take a thorough and measured approach to reviewing this piece of legislation and fully consider all of the ramifications this bill will have on the people of the CNMI. Please allow me this opportunity to point out some of my concerns on the bill as drafted. I'm skipping Paragraph 02 to make sure I am working the facts in, Madam Chair. As for the Federalization of our immigration system, I feel strongly that the traditional relationship between our islands and the U.S. Government has been a strong and productive one, but also one born of a mutual recognition that we are in many ways very different from a U.S. state or even other U.S. territories. The Covenant, subsequent legislation, and Federal and local jurisprudence have recognized the unique nature of our island Commonwealth and the importance of preserving local control over certain legal functions. I believe that our blanket application of the Immigration and Nationality Act to our islands under a "one size fits all" approach would cause irreparable harm to our struggling

economy and impinge upon the notions of self-government that underlined the Covenant negotiation process.

Furthermore, I must voice my concern with the "One-time Nonimmigrant Provision for Certain Long-term Employees." Because we are a very small territory with a modest financial base, I fear that the granting of long-term resident status to contract workers and their family members who meet certain residency requirements may create massive financial drain on our limited public resources. Simply put, the more or less permanent presence of foreign nationals and the influx of their eligible family members will most likely tax our public services beyond capacity. This will result in a lower quality of life for everyone within our borders. I have no objection to granting nonimmigrant status to certain long-term nonresident workers similar to that granted to citizens of the Federated States of Micronesia. However, I am concerned that H.R. 3079 does not establish adequate financial assistance mechanisms to allow us to sustain a large, permanent foreign national population, a very real problem that Congress has previously acknowledged through the Provisions of Compact-Impact Funding. Indeed, this bill is silent on the long-term economic and social impact of this new class of resident foreign nationals. I respectfully suggest that the committee consider this impact as it will certainly create a hardship for our already overburdened public services.

With regard to the traditional oversight program in the bill, I feel the provision is vague and leaves many unanswered questions about the various roles of Federal agencies in the CNMI Government. Although I understand that the Department of Homeland Security will be tasked with the primary responsibility of drafting transitional regulations, the complete delegations of authority to executive agencies offers the CNMI no certainty in the transition process. The bill provides "for recognizing local self-government, as provided for in the Covenant through consultation with the Governor of the Commonwealth." But consultation is not self-government. If Congress can and will do whatever it wants, regardless of any objections to it, the Governor may raise in the course of consultation, then the consultation is meaningless formality, and the proponent recognition of self-government is a facade. Our recent inclusion 902 talks are a case in point. This legislation should have been shelved until those negotiations produced an agreement. Otherwise, what is the point of the talks? Self-government means never having to say, "Please do not do this to us." Moreover, transitional oversight by not one, but five Federal agencies could bring a struggling tourism industry to a screeching halt. Bureaucratic red tape could hamper the issuance of tourist visas to the extent that we lose all of the momentum we have thus far achieved.

Let me end by commending this Committee for taking into consideration our concerns over the Federalization of our immigration system as stated by our very capable Washington Representative, Pete A. Tenorio. In a letter to The Honorable Jeff Bingaman, Chairman of the Senate Committee on Energy and Natural Resources, dated March 1st of this year, a majority of the CNMI legislature endorsed Representative Tenorio's position and his seven items of concern that were, for the most part, incorporated in

H.R. 3079. In that letter, we asked for the consideration of two additional components.

First, the creation of an immigration board that would be comprised of members of both the local and Federal governments for the purpose of reviewing on a periodic basis the effectiveness of our immigration policies. This board could make appropriate changes to immigration regulations without having to pass future laws or regulations.

Second, the provision to mandate an independent study to evaluate the impact of changing the residency status of nonresident workers as it relates to the economic and political futures of the CNMI. If asked if Federal immigration laws should be applied to the CNMI, my answer would be an emphatic no. However, if Federalization is inevitable, I ask that these provisions be incorporated into the current bill. In closing, let me be clear that we at the CNMI take the matters of national security very seriously and are willing and active participants in making sure that our borders are secure. We welcome any Federal support in this regard.

It would be noted, it should be noted, that the CNMI is home to the only live-fire artillery ground available to the United States Navy and Air Force during training exercises. We have opened up our resources in the Northern Mariana for this purpose without complaint. Further, the Commonwealth may hold the distinction of having the most number of active personnel, military personnel and all casualties breakout in the War of Iraq. We are Americans first and are proud of our patriotism to the United States. As a veteran of the Vietnam War myself, should our national security ever be threatened or come under attack, I would be the first one to come to the support of our nation's defense.

And, finally, my primary concerns with this bill are, first, the Federalization of the CNMI's Immigration System will have a negative impact on our already troubled economy by stripping our Commonwealth of its ability to effectively manage tourist arrivals and foreign national laborers.

Second, the creation of a new class of permanent resident aliens who would drain our public resources.

And third, that the transition period is vaguely defined and offers the CNMI no assurances about which of the many successful elements of our immigration program can continue to operate under the transitional structure.

And, ma'am, I wish you would extend your trip and enjoy the scenery and the beauty of our islands. I am not alleging that CNMI is better than any of the islands, I know you all come from an island.

Mr. FALEOMAVAEGA. Sure you are. [Laughter]

Senator REYES. If you have time, we have beautiful golf courses and the beaches are superb. So please, enjoy.

[The prepared statement of Senator Reyes follows:]

Statement of The Honorable Pete P. Reyes, Senate Vice-President, Commonwealth of the Northern Mariana Islands

Chairwoman Christensen and Members of the Committee, thank you for allowing me this opportunity to present testimony in regards to H.R. 3079, "To amend the Joint Resolution Approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands, and for other purposes."

Senate President Joseph M. Mendiola has had the honor of submitting testimony on similar legislation in S 1634 to the U.S. Senate Committee on Energy and Natural Resources earlier this year. For the record, I concur with the President's position as stated in that testimony and will repeat the salient points for this Committee along with some comments of my own. Let me also take this opportunity to applaud this Committee for including a CNMI non-voting delegate provision in H.R. 3079. Whereas, I stand by my belief that the CNMI should first be given a voice in Congress before any attempt at federalizing our immigration system is made, this portion of the bill is an improvement to our current situation and a step in the right direction.

If enacted into law, H.R. 3079 will have far reaching repercussions that will forever change the Commonwealth's economic, political, and cultural landscape. Therefore, I ask that the committee members take a thorough and measured approach to reviewing this piece of legislation and fully consider all of the ramifications this bill will have on the people of the CNMI. Please allow me this opportunity to point out some of my concerns with the bill as drafted.

As a member of the CNMI Legislature, I have three main areas of concern with the bill as drafted. First, I object generally to a complete federal takeover of the CNMI immigration system. Second, I am concerned that the provisions for granting nonimmigrant status to certain contract employees may overwhelm our already strained public resources. Third, I feel that the transitional oversight provision is vague and leaves many unanswered questions about the various roles of federal agencies and the CNMI Government.

As for the federalization of our immigration system, I feel strongly that the traditional relationship between our islands and the U.S. Government has been a strong and productive one, but also one born of the mutual recognition that we are in many ways very different from a U.S. state or even other U.S. territories. The Covenant, subsequent legislation, and federal and local jurisprudence have recognized the unique nature of our island Commonwealth, and the importance of preserving local control over certain legal functions. I believe that a blanket application of the Immigration and Nationality Act (INA) to our islands under a "one size fits all" approach could cause irreparable harm to our struggling economy and impinge upon the notions of self-government that underlined the Covenant negotiation process.

> "[T]he authority of the United States towards the CNMI arises solely under the Covenant....[I]t is solely by the Covenant that we measure the limits of Congress' legislative power." *United States ex rel. Richards v. De Leon Guerrero,* 4 F.3d 749, 754 (9th Cir. 1993) The Covenant provides that U.S. immigration laws will not apply to the CNMI "except in the manner and to the extent made applicable to them by the Congress by law after the termination of the Trusteeship Agreement." (Covenant § 503.)

However, the Covenant also provides that "[t]he people of the Northern Mariana Islands will have the right of local self-government and will govern themselves with respect to internal affairs in accordance with a Constitution of their own adoption." (Covenant § 103) We cannot simply focus on Section 503 and ignore the conflict or tension with Section 103. The whole Covenant was approved together, and its various sections need to be reconciled and read in harmony with each other.

Section 103 especially cannot be ignored, because the development and establishment of self-government was the whole point of the Trusteeship and the Covenant. There could be no Covenant without Section 103—it is the only essential provision in the whole document. Everything else (US citizenship, application of federal laws, etc.) was optional, and could all have been done differently (as it was with the freely associated states, for example). Section 103 is the what of the Covenant; everything else, including Section 503, is just the how.

The Ninth Circuit Court of Appeals has established a balancing test for resolving questions of this kind: "[W]e think it appropriate to balance the federal interest to be served by the legislation against the degree of intrusion into the internal affairs of the CNMI." *United States ex rel. Richards v. De Leon Guerrero,* 4 F.3d 749, 754 (9th Cir. 1993)

Those are the terms in which the debate should be framed. What is the federal interest to be served by the proposed legislation? How important or significant is that interest? How greatly does the proposed legislation intrude into the internal affairs of the CNMI? Does it intrude more deeply than it needs to in order to serve any legitimate federal interest? Currently in the Commonwealth we have the presence of various federal agencies including the Transportation Security Administration, the Federal Bureau of Investigation and the United States Coast Guard. It may be only that additional resources to the agencies already established here are necessary to achieve the desired federal effect of increased border security.

As we look beyond our current economic downturn to a future with a much diminished apparel industry, we continue to search for alternative economic activities to generate income for our Commonwealth. Past and present administrations have taken steps to diversify our tourism economy, and have in recent years opened new tourist markets beyond the CNMI's traditional tourist market of Japan. These new markets include China, South Korea, and Russia. In 2004 the CNMI signed an Approved Destination Status Agreement with China, providing the CNMI with access to Chinese tourist markets and direct flights from major Chinese cities. Because of the anticipated boom in Chinese outbound tourism and the proximity of the CNMI to the Chinese mainland, we hope to experience significant growth in the Chinese tourist market in the coming years. Maintaining local control over immigration is critical to the development of this market, as our local immigration authorities are able to work directly with Chinese government officials and respond to the changing conditions of the market as needed. Our long term strategy also focuses on the development of the South Korean market. Arrivals from Korea have been steadily increasing even as other country numbers decline. Finally, we have been working diligently to develop an eastern Russia tourist market with regularly scheduled charter flights to the CNMI. The Russian market is characterized by longer than average visits resulting in increased revenues, a high percentage of return visitors, and little to no legal complications. As with the development of the Chinese market, I do not believe the CNMI could have experienced such a rate of success without local immigration control. It is here that we should consider both national security and the economic well-being of the Commonwealth. Immigration is paramount to national security, but we must be cognizant of the impact federalization will have on our economy. I feel that our full absorption into the INA and the paternalistic nature of the transition plan will threaten this growth and, as a consequence, undermine our economic recovery.

An additional problem with federalization is the negative impact it will have on our ability to engage a foreign national labor force for important positions that simply cannot be filled locally. Foreign nationals, and our ability to process them locally, have become an important component of our continued development. For twenty-five years foreign laborers have contributed in a vital way to our islands: sustaining businesses, building schools, and improving public works. They have helped to transform the CNMI into a dynamic, multicultural society teeming with potential. In light of our struggling economy, I feel that local control over foreign national labor is essential to efforts to rebuild critical industries such as tourism and regional and international education. The recent passage of minimum wage legislation in the U.S. Congress will eventually raise local wages to the federal level and provide more economic security to foreign national workers. This should help to alleviate any lingering fears that our foreign national workers are not being compensated appropriately. Furthermore, we are now debating a labor reform bill in the CNMI Legislature. This Act will reform current foreign national labor laws, provide for increased local participation in the workforce, and ensure the fair treatment of foreign nationals working in the CNMI.

I would like to assure the Committee that the CNMI is making every effort to ensure that our borders are secure and our immigration policies reflect current best practices among the nations of the world. In 2005, the Commonwealth Legislature passed the Human Trafficking and Related Offenses Act through Public Law 14-88. The Act, supported by the U.S. Department of Justice, has become an important and effective tool in the CNMI's continuing efforts to combat labor fraud and trafficking. Also in 2005, the Legislature passed Public Law 14-92, an act to amend our voluntary departure law to provide immigration prosecutors with improved procedural options in deportation cases. This law should lead to a more consistent and expedient system for resolving pending cases. Additionally in the 2005 session the Legislature passed Public Law 14-59, the "Anti-Terrorism Act of 2004," Public Law 14-63 "An Act to Establish the Office of Homeland Security," and Public Law 14-84, legislation which corrected constitutional deficiencies in certain immigration statutes that were struck down by the U.S. District Court for the Northern Mariana Islands in *Gorromeo v. Zachares,* Civil Action No. 99-0018 (C.N.M.I. 2000). Most importantly, the impending passage of our labor reform bill will serve as a means of decreasing our traditional reliance on foreign national workers through the training of local residents. It will also ensure that resident and foreign national workers alike are treated fairly in the employment process. Finally, the Division of Immigration continues to work on closing potential loopholes in our immigration system and should be commended for its reform efforts. The Division has assisted in developing effective border management and labor identification systems and continues to welcome the assistance of federal agencies. The Border Management System (BMS) generates a record of all entries to and exits from the Commonwealth, regardless

of citizenship. Immigration investigators have instant access to arrival information and can confirm the departure of those foreign nationals with expired contracts and those ordered deported from the Commonwealth for violating local law. The Labor and Immigration Identification System (LIIDS) tracks all foreign national labor contracts, job category authorizations, and permit status of non-citizen workers in the Commonwealth. This allows immigration and labor investigators to quickly determine the permit status of all foreign national workers involved in labor complaints and administrative hearings, as well as compile data on overstaying aliens in every entry permit category. As always, we welcome cooperation with U.S. agencies, and any technical or financial assistance they may provide, in the training of our local immigration investigators, inspectors, and processing personnel.

I wish to be clear that we welcome U.S. involvement in our immigration system short of the complete application of the INA. Immigration issues can sometimes have defense and foreign policy implications, and as such are a legitimate area of federal concern. However, the status of aliens in the CNMI is also deeply interwoven with internal affairs, since they constitute approximately half the population and are involved in nearly all facets of our social and economic life. The impact of the extension of federal immigration laws on the CNMI's internal affairs may not have been so great had it been done in, say, 1978 when there were very few aliens here. The impact now is much greater, and that must be taken into consideration.

I feel strongly that several components of our immigration program are both secure and economically beneficial to our islands and do not require federal preemption. Our BMS system tracks both entries and exits, giving us the advantage of knowing not only who is arriving but also who is leaving the Commonwealth. Our foreign national labor program will enable us to redevelop an economic infrastructure that has suffered setbacks as a result of garment closures, SARS, global terrorism, and a downturn in several Asian economies. Finally, local control over visitor entries is critical to the success of our major remaining industry—tourism. With local control, we can continue to work on developing markets that are uniquely suited for the CNMI because of geography or cooperative agreements.

I must voice my concern with the "One-Time Nonimmigrant Provision for Certain Long-Term Employees." Because we are a very small territory with a modest financial base, I fear that the granting of long term resident status to contract workers and their family members who meet certain residency requirements may create massive financial drain on our limited public resources. Simply put, the more-or-less permanent presence of foreign nationals and the influx of their eligible family members will most likely tax our public services beyond capacity. This will result in a lower quality of life for everyone within our borders. I have no objection to granting nonimmigrant status to certain long-term nonresident workers similar to that granted to citizens of the Federated States of Micronesia, however I am concerned that H.R. 3079 does not establish adequate financial assistance mechanisms to allow us to sustain a large, permanent foreign national population, a very real problem that Congress has previously acknowledged through the provision of Compact-Impact funding. Indeed, the bill is silent on the long-term economic and social impact of this new class of resident foreign nationals. I respectfully suggest that the Committee consider this impact, as it will certainly create a hardship for our already overburdened public services.

With regard to the transitional oversight program in the bill, I feel the provision is vague and leaves many unanswered questions about the various roles of federal agencies and the CNMI Government. Although I understand that DHS will be tasked with the primary responsibility of drafting transition regulations, the complete delegation of authority to executive agencies offers the CNMI no certainty in the transition process. The bill provides for "recognizing local self-government, as provided for in the Covenant...through consultation with the Governor of the Commonwealth." But consultation is not self-government. If Congress can and will do whatever it wants, regardless of any objections to it the Governor may raise in the course of consultation, then the consultation is a meaningless formality, and the purported recognition of self-government is a facade. Our recent inconclusive 902 talks are a case in point. This legislation should have been shelved until those negotiations produced an agreement. Otherwise, what is the point of the talks? Self-government means never having to say, "Please do not do this to us." Moreover, transitional oversight by not one, but five federal agencies could bring our struggling tourism industry to a halt. Bureaucratic red tape could hamper the issuance of tourist visas to the extent that we would lose all of the momentum we have thus far achieved.

Furthermore, the cost-sharing requirement under the Technical Assistance Program is not feasible at this time due to the poor financial health of our government. If the transition plan will direct most or all immigration fees to the federal govern-

ment, then local agencies will not be in a position to cost-share. In the event that the federal government sees fit to take control of the immigration system that gives us a competitive advantage over other regional tourist destinations such as Guam, Palau, the Philippines, Hawaii, and Bali, the federal government should shoulder one hundred percent of the cost to retrain our local workforce and develop new industries in the Commonwealth.

Let me end by commending this Committee for taking into consideration our concerns over the federalization of our immigration system as stated by our very capable Washington Representative Pete A. Tenorio. In a letter to The Honorable Jeff Bingaman, Chairman of the Senate Committee on Energy and Natural Resources, dated March 1st, 2007, a majority of CNMI legislators endorsed Representative Tenorio's position and his seven items of concern that were for the most part incorporated into H.R. 3079. In that letter we asked for the consideration of two additional components. First, the creation of an immigration board that would be comprised of members of both the local and federal government for the purpose of reviewing on a periodic basis the effectiveness of our immigration policies. This board could make appropriate changes to immigration regulations without having to pass future laws or regulations. Second, a provision to mandate an independent study to evaluate the impact of changing the residency status of non-resident workers as it relates to the economic and political futures of the CNMI. If asked if federal immigration laws should be applied to the CNMI my answer would be an emphatic no. However, if federalization is inevitable I ask that these provisions be incorporated into the current bill.

Finally, the more the federal government intervenes in CNMI matters, the more it will be called upon to intervene in the future. Will Congress, having once intervened, show any restraint when faced with the inevitable future complaints? We should be at the table with Congress as equal partners, hammering out a fair and mutually agreeable solution to any differences there may be between us. Our critics should address you and us together, not you over our heads.

We do not want the fate of the CNMI indigenous population to be the same as those in Guam, Hawaii, and the U.S. mainland. We do not want to become a marginalized, alienated minority because of unilateral federal action. We do not want to face a political future of "native rights" movements that go nowhere, but never end because of dispossession that feeds endless frustration and bitterness.

Substantive 902 consultations are necessary in order to maintain the mutual respect, good faith, and understanding that the Covenant guarantees, and without which the entire system that the Covenant establishes would fail. This is particularly true in time of differences or disputes between the parties. Successful 902 talks should precede any legislation that would so drastically alter the nature of the relationship between the United States and the Northern Mariana Islands such as that now proposed.

The CNMI was exempted from U.S. immigration laws in the first place in order to avoid a repetition of what occurred on Guam, where the political power of the native population was significantly diluted by foreign immigration under U.S. laws, and where the indigenous population was overwhelmed by immigration laws over which it had no control.

The removal of local authority over the terms and duration of aliens' stay here, not to mention the granting of long-term residency rights to all or any substantial portion of this population, would drastically and permanently change the social, economic and political landscape of the CNMI, and would create exactly the situation that everyone had intended to prevent when the Covenant was first entered into.

The people of the United States are currently engaged in their own vigorous debate regarding the national capacity to assimilate large numbers of immigrants. The proportion of immigrants who would potentially need to be absorbed in the CNMI is very much greater, and the society into which they would be absorbed very much smaller and more fragile than in the case of the United States. We need to have our own debate, and reach conclusions we can accept. There must be some middle path between making them all future citizens and not inviting them here at all, and we need to find that path ourselves.

Here is what I would like to hear from the Committee: 1) The Committee recognizes and respects the CNMI's unique self-governing status under the Covenant; 2) The Committee wishes to sit down with the CNMI, as equal and fraternal partners, to discuss matters of our mutual interest regarding immigration, population, and the future course of economic development in the CNMI; 3) The Committee stands ready, if necessary, to assist the CNMI with manpower, expertise, technology, cooperative enforcement, mutually reinforcing legislation, or otherwise, as we may mutually agree to be appropriate to the improvement or enhancement of the CNMI immigration system, and to advance the best interests and prosperity of the CNMI peo-

ple; and 4) Any such assistance would, of course, be provided solely at the request and with the free consent of the CNMI government, and would be immediately withdrawn whenever the CNMI government deems it to be no longer necessary or appropriate to its purpose.

In closing, let me be clear that we in the CNMI take matters of national security very seriously and are willing and active participants in making sure that our borders are secure. We welcome any federal support in this regard. However, my primary concerns with this bill are first that federalization of the CNMI's immigration system will have a negative impact on our already troubled economy by stripping our Commonwealth of its ability to effectively manage tourist arrivals and foreign national labor, second that the creation of a new class of permanent resident aliens will drain our public resources, and third that the transition period is vaguely defined and offers the CNMI no assurances about which of the many successful elements of our immigration program can continue to operate under a transitional structure.

I thank you for considering my comments on H.R. 3079 and for allowing me this opportunity to address the Committee on this critical issue.

Mrs. CHRISTENSEN. Thank you, thank you. We did take the time yesterday to do some touring and visiting the island. We appreciate it and we appreciate all of your testimony.

I will now recognize myself for five minutes of questioning. I guess I will begin with the Governor. In spite of the standing that during the Covenant negotiations the U.S. Government was really reluctant to give control of immigration to the CNMI, they agreed eventually to do it for a period of time.

So, Governor, is it not true that while the Covenant exempted CNMI for most of the provisions of U.S. immigration laws, that allowed you to control your own immigration, that Section 503 of that same Covenant, Public Law 94-241, explicitly provides that Congress has the authority to make immigration and naturalization laws applicable to the CNMI? And having that in the Covenant, wasn't that something that was agreed to, that the U.S. would have authority to change this at some point?

Governor FITIAL. I don't have any qualms over that, Madam Chairwoman. I believe that Section 503 explicitly allows the Federal Government to extend the application of U.S. immigrations to the islands, but my concern here is; is it necessary? Because we have been operating our immigration and labor systems for quite some time. And although we have made mistakes in the past, we have also corrected those mistakes. And I am speaking from my experience as Governor now. I believe that our worker guest program is doing very, very well and we have enforced those labor laws and as you can see from my written testimony, I have included the proponents of this administration and enforcement of these labor laws and immigration laws. So, the point is, is there assurance that under a Federal system our economy will grow? That's my concern.

Mrs. CHRISTENSEN. Well, the problems that occurred that exist now that everyone has explained, the downturn of the economy, the leaving, and so forth, has taken place while CNMI has had the control over immigration. So, I am not clear now why, you know, not only bringing full Federalization, but providing for some very special provisions that allow for guest workers, for people to be brought into work that are outside of the normal caps of the rest of the United States, and other special provisions within this legislation that say that the agencies that you're concerned about must provide flexibility so as not to interfere with tourism, and so forth

and so on. I am still not clear why this immigration now would worsen the condition that developed while the CNMI had control over immigration.

Governor FITIAL. The provisions of both 1634 and 3079 are hopeful. Hopeful means never been tested. But my experience, not hope, when we were under the Trust Territory, we came away from the Trust Territory in 1978 with only $12 million of revenues, resources. Why? There was no private sector development during the time when we were under the Trust Territory. So, when we became Commonwealth by using the economic tools provided to the Commonwealth under the Covenant, the ability to control our own immigration and also labor, we were able to bring in skilled workers and that really helped grow the $12 million to $260 million dollars of local resources within 20 years.

Mrs. CHRISTENSEN. Thank you for your answer. Let me ask both the Speaker and the Vice President of the Senate, do you feel that this Federal takeover of immigration in the CNMI is inconsistent with the right of self-determination—when the Covenant was negotiated and the U.S. agreed to allow the CNMI to have control over immigration as I stated before. However, the CNMI—and it was to control the coming in of people from outside, to limit that, and the opposite of the meaning has happened, that the CNMI used the authority to build a non-sustainable economy on the backs of the guest workers in that program, which has really supplanted the local workforce, which is the majority of the population now. So, in light of this, do you really believe that this immigration—the Federalization is in conflict with your self-governance, considering that all of the states and the territories are under Federal immigration laws? Both of you, yes.

Senator REYES. Thank you, Madam Chair. I will try to respond to that to the best of my ability. I believe that the Federalization—the Covenant provides for the U.S. Congress to unilaterally change immigration; that's very clear. But at the same time, it also provides for the CNMI to be self-governing, and those were approved at the same time. I believe that by changing the issue on immigration, it questions the provisions of self-governing plus the CNMI being given the authority to govern itself. That's my answer.

Mrs. CHRISTENSEN. Mr. Speaker?

Speaker BABAUTA. Furthermore, Madam Chair, as the Governor earlier responded to that part of that question. It does. Personally, to me, as I can see in the bill as it was drafted, it impinges and infringes upon the local control, primarily lowering our depressed economic Commonwealth. And that, in a sense where it disengages our ability to be able to procure and adjust or otherwise control whether we need or do not need those Foreign National Workers Act as it is required by our government and that of the private sector.

Mrs. CHRISTENSEN. I am going to recognize the Congressman from American Samoa for five minutes. My time is up.

Mr. FALEOMAVAEGA. Thank you, Madam Chair. I want to thank the Governor, the Speaker, and my good friend, Representative Tenorio, and the Vice President for their most eloquent statements and presentations. I can't think for a moment the combined sense of experience that all of you gentlemen have had in the develop-

ment of CNMI's political—from infancy, and I still recall in the days that when the various island groups of Micronesia were all under one umbrella under the Trust Territory of the Pacific Islands. Thirty-one years now, there has been some very serious problems attending the needs of the CNMI, its unique relationship with the United States and its sister territories, and I have so many questions, I don't know where to start. Maybe I could start with one.

I recall ten years ago or about ten years ago, I was a member of the delegation led by then-Chairman of the House of Natural Resources Committee, Congressman Don Young from Alaska, and I think there were at least 12 of us who came to CNMI. And the Congressman then, former Congressman Bob Underwood, and I had the unpleasant experience of having to meet with some 700 guest workers who were screaming bloody murder and what to do with their status, some of them stateless conditions or the situations, I'll be up front with you gentlemen, was not very positive.

And I realized that sometimes the perspectives were taken quite differently how we view things here and how Washington also views things there. I have always said that sometimes as a matter of perspective, the Westerners' point of view about things, it's either a bird's eye or a worm's eye view of things. And I say the Pacific Islander's point of view is a man sitting on top of the mountain looking at the horizon of the ocean, seeing a different perspective about what's out there in the ocean. Then a man also sitting on top of the tree looking and noticing that there is a man in the canoe doing something in the ocean. And the third perspective is the man in the canoe actually catching fish. And who is to say that one perspective is better than the other? And this has always been the problems that we've had over the years in dealing with the insular areas.

I don't know how else I could square with you gentlemen and be up front and be frank with you in terms of, if whether or not insular areas and the issues and the needs of the people living in insular areas are that important to provide attention from the national leaders both in the Congress as well as in the Administration. In my humble opinion, we're not even on the radar screen. Now, take it or leave it, but that's been always the struggle over the years. And I don't mean to say that it's because of the insincerity or the lack of wanting to do things on the part of our national leaders, both Executive and in the Congress, but because the whole world is centered in wanting to get their attention in some other issues affecting global issues and not necessarily just insular affairs. So, I just wanted to give you that perspective.

Governor, you've mentioned that you've made tremendous improvements on your guest worker program. Can you elaborate a little more on that, because I still see people outside this courthouse building complaining something about their status as nonimmigrant workers or whatever they said they should be entitled to?

Governor FITIAL. Well, most of the people that you see outside are illegals. [Laughter]

Mr. FALEOMAVAEGA. OK. And as illegals, what is the Government of Northern Marianas doing about it?

Governor FITIAL. We're processing them, you know, and eventually they will all be deported.

Mr. FALEOMAVAEGA. And in the process that some of these do not have passports, and so they become stateless and they are given countries of origin do not allow them to return, what do we do about that?

Governor FITIAL. Well, for the stateless, then we have to—because some of these nonresident workers, they deliberately destroy their passports when they get here.

Mr. FALEOMAVAEGA. Oh, I know that. They do it even to us.

Governor FITIAL. That's true.

Mr. FALEOMAVAEGA. We've had several, and with all due respect, aliens who literally throw away their passports as they're about to come to American Samoa, then they claim asylum, refugee or whatever you want to call it, and they expect us to take care of them.

Governor FITIAL. That's true. But under the human trafficking, you know, that's Federal, although we are helping out in that regard. But on these assignees (sic), we have a procedure by statute that we have to follow in processing asylum seekers. So—well, let me just say this, that we have 32 cases altogether, asylum seekers, and all of them except one have been processed. So, that's the reason why I am saying that we are enforcing these labor immigration laws more effectively now than before.

Mr. FALEOMAVAEGA. Do you honestly believe that the proposed bill can do a better job in taking care of the guest worker program than what you're doing now, as what CNMI is doing?

Governor FITIAL. Congressman, if the Federal Government wants to take over this asylum program, they may have it, any time.

Mr. FALEOMAVAEGA. No, the guest worker program.

Governor FITIAL. Oh, the guest worker program? No, we need them.

Mr. FALEOMAVAEGA. Oh.

Governor FITIAL. Because we need the guest workers in order to grow our local economy. And once we allow them to become permanent residents, they will go for where pasture is greener.

Mr. FALEOMAVAEGA. Do you see the danger where CNMI could become a conduit for aliens who just want to come and take advantage of whatever it might be, their immigration status for the one exact purpose is to go to the United States and not live here in the CNMI. I know the complaints you have is that they're not going to stay here so, therefore, it's not going to help the workforce here in CNMI. But, do you see that this has been one of the problems that you are confronted with—aliens who come here with only one purpose? They want to go to the U.S.; they don't want to stay in the CNMI.

Governor FITIAL. Few of them do that. You know, they would come and these are the asylum seekers. You know, they try to use the CNMI as a stepping stone.

Mr. FALEOMAVAEGA. You know, right now the immigration issue in our national government is one big, big controversy.

Governor FITIAL. And I know that.

Mr. FALEOMAVAEGA. And it's not getting any better, it's getting worse. My time has run out. I'll wait for the second round, Madam Chair, thank you.

Mrs. CHRISTENSEN. Thank you, Mr. Faleomavaega. The Chair now recognizes Congresswoman Bordallo for questions.

Ms. BORDALLO. Thank you, Madam Chair. Senator Reyes, first to answer your question in your testimony, my father taught in the public school system here and while he was here my family lived here. I'd like to ask the Governor the first question. In your position, Governor, do you know the number of guest workers who have fled the CNMI by boat or otherwise to come to Guam illegally in the last five or so years, and when was the most recent case, and does the CNMI track such occurrences?

Governor FITIAL. Well, I don't have the actual figures with me, but we do have that figure and——

Ms. BORDALLO. Could you provide that for the Committee?

Governor FITIAL. I am more than willing to provide that to the Committee.

Ms. BORDALLO. All right. My next question is for Speaker Babauta. You testified that you believe that full application of the Immigration and Nationality Act, the INA, to the CNMI could threaten growth in China and Russia visitor markets. Now, what is the current practice for entry into the CNMI for citizens from these two countries and are standards imposed similar to the regulations in the Federal system? Can you elaborate further why this would threaten the CNMI visitor program?

Speaker BABAUTA. Thank you, Madam Chair, I mean, Congresswoman Bordallo. Although I don't have the real specific policies of the local immigration, but normally we are using now the so-called Approved Destination Status, Visa Waiver Program, where applicants are admitted to our CNMI Immigration System and are screened, and individually are being processed by our immigration system. That's how we allow these tourists in the market to come to the CNMI.

Ms. BORDALLO. Could you provide the Committee also with more information on that?

Speaker BABAUTA. Definitely, with the assistance of our Immigration Director, that is.

Ms. BORDALLO. Thank you, Speaker. I have another question for you. You testified that Federalization will have a negative impact on sourcing foreign labor that cannot be filled locally. Now, can you elaborate as to what types of training are currently available here and what marketing plans have been pursued to attract local hires, and what specific suggestions might you have for increasing public awareness and participation in other industries that currently utilize foreign labor.

Speaker BABAUTA. The Administration has engaged in a very, very adventurous policy that would now require a majority of the private sector to induce and process local applicants from the indigenous population who are jobless through our labor systems and allow these people to be picked up by the private sector.

Ms. BORDALLO. Do you have training programs?

Speaker BABAUTA. Most of the use industry has training programs, although our Northern Marianas College has a very small program that allows for training for the nursing and very small technical fields.

Ms. BORDALLO. And would you say they are successful and you do have a lot of the local people applying for these training programs?

Speaker BABAUTA. I would say yes and no. I have seen technical people be certified by our embassy in various technical fields, engineering, masonry, carpentry. I have seen people are now serving in the offices and serving our people through the specific program that they want.

Ms. BORDALLO. And the third question, Speaker, in your written statement you've claimed that the CNMI continues to update its immigration laws to address new developments in immigration enforcement, and this is clearly seen with the passage of five bills into laws since 2004. Now can you elaborate on the current House Bill 15-38 and explain how it addresses immigration concerns in the CNMI?

Speaker BABAUTA. Thank you very much. 15-38 deals mostly with labor issues, on labor policy, performing the policy. That particular bill enables more, in the aspects of enforcement, at the same time catering to the needs of the private sector. There is one thing, one provision that affects the immigration issue there and that's the duration of any non-immigrant or rather, non-resident workers, foreign national workers, that would enter the Commonwealth to stay longer than three years. So, we inject an interval of three years at the most, with a six months working service, to allow for an additional three months if one employer wishes to continue the employment of that particular individual or individuals.

Ms. BORDALLO. All right. I see my time is up, and I would like a second round, Madam Chair.

Speaker BABAUTA. Thank you.

Mrs. CHRISTENSEN. Thank you. We'll have a second round of questions, and I hope we won't take too long with them. But, I guess I would ask Representative Tenorio my next question. You know we were warned that the enactment of H.R. 3079 would have far-reaching repercussions that will forever change the Commonwealth's economic, political, and cultural landscape. In your opinion, do the positive impacts outweigh the negative or vice versa?

Representative TENORIO. Thank you, Madam Chairwoman. I have said in my written statement and also in my statement for the record, and my older statement, that we have probably reached a point now where we do have major, major problems with the presence of non-resident workers and the presence of so many non-residents here that continue to draw in, in an uncontrollable manner. I see the new proposal by this bill to correct those errors to provide an institutionalized control so that there is an organized way to bring in people, to treat them, to keep them working over here, and to also repatriate them if the business community does not need them anymore.

What I am saying now is that we want to rely almost 100 percent on a non-resident workforce. We seem to forget the fact that we do have our own indigenous people here that are also looking for jobs, that need jobs. As a matter of fact, they should be prioritized in being hired, but we're so used to the idea of an easy recruitment and, you know, cheaper recruitment for that matter, and we forget to train our own people. We become so complacent

to the idea that, what's easy is good for us, good for business, and we have to change that mentality.

And I see this as a major problem for our community. I see our people leaving the islands because there is no opportunity for them. It's good that we now have a somewhat nominal increase in our minimum wage that would encourage new workers to take local jobs from local businesses, but at the same time, we continue to lose our own talented workforce, going off island who's just not—there many opportunities.

I see the proposed bill has something that is positive. I know that there will be problems in the beginning, that there is always this concern and fear about, you know, you're faced with new conditions and new compliance to meet, but I think overall if the bill is properly reviewed and provided with the necessary regulations and procedures, I am sure that it would work in the long run. And I just want to also mention, Madam Chairwoman, that it is in the interest of the Commonwealth Government to look at the relationship with the Federal Government as one that should be protected. I, for one, as a negotiator, fully acknowledge the fact that the U.S. Government, the Congress has the prerogative to amend the Covenant to take away immigration control. Of course, subject to, as the negotiated history had indicated, that it's not by capricious manner, but in a way that Congress will take into account the then existing situation, not conditions, in the Commonwealth. What the Committee or the Senate or the House is doing is precisely that. Providing opportunities for the local government to be engaged in this process and to also take into account the current economic conditions. We are worried that this proposal would destroy the economic future of the Commonwealth. I don't believe that it will. I think by institutionalizing this framework of immigration, it would protect, it would enhance, in the future, the economic well-being of the Commonwealth. Right now we're in a—really worse situation than it is. We're bankrupt just about. We don't have any investment coming in, and people are not sure whether or not to stay or go out and seek investment someplace else. And we do have a very unstable situation. We need to fix that. And I believe the Federal law that would be provided under this framework would provide for that solution, not all of it, but to a large extent it will be the solution to many of our problems. Thank you.

Mrs. CHRISTENSEN. Thank you. Let me just try to squeeze in another question here to the Speaker. You referenced the new labor law that has been introduced. You said that it will provide more protections for the guest workers and more—and, I haven't seen the bill. Now, the Federal Government contends that despite the protections that already exist, there continue to be injustices perpetrated on the temporary guest workers. How will the bill change that? They are protections that are already in place, and yet we still find people being brought in here with promises that are empty. No jobs. We have people who are continuing to remain here without jobs and without any legal protections, and very little enforcement. How will this bill change that?

Speaker BABAUTA. Thank you, Chairwoman. It further re-enhances and reinforces present labor provisions, and primarily the

aspects of enforcement of fines and penalizes the activities of illegal recruitment, criminalizes it.

Mrs. CHRISTENSEN. Isn't that illegal right now, to bring someone in without—who does not have a job to come to (unintelligible)?

Speaker BABAUTA. Yes, ma'am. But on some aspect cases, as I have read from reports, many of these have used the entry as tourists and many that they arrived here for 30 days and, like the Governor mentioned earlier and so has Congressman Faleomavaega, some of these people are just tend to have excuse of losing their passports. We don't know whether they lost it or not.

However, there are recent cases now that have, I would say, high profile ramification or the systems out here used by not only—not the local people, that foreign nationals who have capriciously established themselves as a legitimate business people, introducing their own national to the CNMI in a different manner other than allowing to pass through in the system.

Mrs. CHRISTENSEN. I see the Governor wants to answer, but before he does I just want to say that we saw some instances of cases where Labor had granted the number and they had gone through the process with Labor and the Department of Justice here to be allowed entry and still the problem persists.

Governor FITIAL. Thank you. Thank you, Madam Chairperson for allowing me to extend the response of the Speaker. The guest worker program came into being in 1982 as Public Law 3-66. That particular statute only allows non-resident workers to come in and just be employed by one employer of record. And when that employee is no longer needed, that employer of record is mandated by that statute to repatriate that employee.

Well, they changed that law, they amended that law a few times, allowing non-resident workers to leave the employer of record and transfer to another employer and transfer to another, another, another employer, you know, and they gave the employees 45 days grace period after they leave an employer to look for another job. And that is the root of all these legal problems that I have dealt with in my Administration, and I have managed to close more than 3,400 of these pending labor disputes that I inherited from the previous Administration. And I will continue fighting for agency cases. I promised Senator Akaka that I still have 1,500 agency cases of which I have closed more than 700 between July 19th and today.

Mrs. CHRISTENSEN. Thank you. The Chair now recognizes Mr. Faleomavaega for questions.

Mr. FALEOMAVAEGA. Just for the record, gentlemen, I just want to put for the record, the current population of the CNMI is about, what, 85,000 now?

Mrs. CHRISTENSEN. Seventy.

Mr. FALEOMAVAEGA. Give or take a couple of thousand. All right, 70-some thousand. And the percentage of the guest workers is within that 70,000 population. How many guest workers altogether do you now have?

Governor FITIAL. Right now it's less than 30.

Mr. FALEOMAVAEGA. 30 percent?

Governor FITIAL. No, 30,000.

Mr. FALEOMAVAEGA. 30,000 are guest workers. And in terms of the tourism industry, which I gather is your number one industry right now in the territory——

Governor FITIAL. Yes, Mr. Congressman. Tourism is number one.

Mr. FALEOMAVAEGA. And the status of your garment industry now?

Governor FITIAL. It's slowly getting out.

Mr. FALEOMAVAEGA. To my understanding, and correct me if I am wrong, the gentlemen took all his factories back to China; am I correct on that?

Governor FITIAL. Some went to Vietnam.

Mr. FALEOMAVAEGA. To Vietnam. So, in this sense, you are basically totally relying on your tourism industry as the basis of your economic development?

Governor FITIAL. That's very true.

Mr. FALEOMAVAEGA. And as Pete, you have indicated earlier, you're very concerned about the presence of the indigenous Chamorros and their status in their own island here. You're saying that many have left for better economic opportunities. What does this mean?

Representative TENORIO. Well, it means a number of things, Congressman. First of all, it means that we are going to be losing, almost permanently, those talented individuals that have been a part of our local workforce here.

Mr. FALEOMAVAEGA. So, with the indigenous Chamorros leaving, you're going to be relying even more to alien guest workers to be part of your workforce?

Representative TENORIO. Well, it appears to be that if nothing is done regarding educating our folks in trades and technical areas where they can gradually replace non-residents that are now holding those positions. I mentioned in my testimony that there is an extreme need for a formalized education to be established, and education that involves training, technical and educational—vocational training for individuals, local individuals, in the islands that could be provided with a certification of completion——

Mr. FALEOMAVAEGA. Pete, we've been talking about this ever since the beginning. Just about every insular areas involved are saying, training, education, for your experience, 30 years for us. It's been 50 years, and we're still short of a nucleus of professional people to work—CPAs, engineers, doctors, lawyers. Where do you stand on that in terms of a nucleus of professionals here at CNMI? How many lawyers do you have? How many doctors? How well has your educational program really been part of that effort? Because, hey, I have the same problem too. We're here; we cry about the imposition of Federalism, but yet at the same time——

Governor FITIAL. Congressman, if I may.

Mr. FALEOMAVAEGA. Please, Governor, I——

Governor FITIAL. I really believe in your golden rule, you know.

Mr. FALEOMAVAEGA. He who has the gold makes the rule? [Laughter]

Governor FITIAL. Right. And let me just make it very clear. Our people are leaving the CNMI to look for jobs outside of the CNMI. It's not because of the existence of non-resident workers——

Mr. FALEOMAVAEGA. It's not that they don't like you, Governor. It's just that they don't have jobs.

Governor FITIAL. Because of the economy. Because of the economy, not because of the non-resident workers. You know, look at the Marshalls, FSM. They don't have non-resident workers, but they're leaving their places looking for jobs outside of their places. It's the economy. It's not because of the non-resident workers.

Mr. FALEOMAVAEGA. So, it's the economy, stupid, is that basically the situation that we're faced with? [Laughter]

Governor FITIAL. And we will be having our new medical school here. You asked for doctors, so we will be having it soon.

Mr. FALEOMAVAEGA. You're going to have a medical school here at CNMI?

Governor FITIAL. Yes.

Mr. FALEOMAVAEGA. Certified, board, everything?

Governor FITIAL. Yes.

Mr. FALEOMAVAEGA. U.S. standards or other standards?

Governor FITIAL. U.S.

Mr. FALEOMAVAEGA. Well, congratulations. I wish my little territory would have a medical school set up like you do. It was someway or somehow that the central frustration is, I would sense that—and I don't know I am being a racist to just suggest that the needs of the Chamorros should be looked of that with the highest priority. They're no different if you're going to India, they're not going to give you any tax breaks or anything. They're going to expect you to toe the line like you would in any other place and I would think CNMI would have that same concern, too, for its local residents.

But I am concerned that if this bill is to be implemented, will that really be a door to have more Chamorros leave the territory because of the restrictions that are going to be placed upon anybody coming to CNMI? Am I giving a wrong picture of what I sense, of your concern, Governor?

Governor FITIAL. We need a legislation that would help us grow our economy. When we grow our economy, our people will not run away.

Representative TENORIO. Well, Madam Chairwoman, we do have a—[Laughter]

Mr. FALEOMAVAEGA. No, this is Madam Chairwoman. [Laughter] She's prettier than me, I realize that, but Pete I——

Representative TENORIO. You know, even right now we do have the right to control our immigration. We are under the current system operating our own immigration. But look at what's happening. Problems are just being compounded. I mean, it's not that it all has to do with the way we administer our immigration. There is this global problem that we are faced with. Our garment industry, of course, it's being affected, having closed down because of the global competition that we can't compete anymore. Tourism has been affected by other economies of the world or other countries.

At the same time, we do have access now to non-resident workers. We do have access to tourists in many parts of the world. Japan used to be a major tourist market for us, but now because Japan Airlines have decided to quit flying, we lost out a number of tourists, and we develop in other places. So, what I am saying

is that, we should not blame the proposed legislation as the instrument that would drive us broke, or drive us bankrupt, or stop our economic progress. We're not making any progress right now. Simple as that.

Mr. FALEOMAVAEGA. Let me just close by saying the bottom line is that we're all members of the American family. We want to be treated like Americans. But then there is another catch that comes here that other members here are very concerned about; we want to be treated differently. That's where other members come up and say, "Hey, I thought you want to eat hamburgers, what's this? You want unique or different special treatment separate and apart from the rest of America?" And this is where things really get a little complicated with some members of the Congress, on whether or not you should be given the same equal treatment, because we're not equal, in that sense. We don't pay Federal income taxes. In my own territory, we're not even U.S. citizens. You know what a U.S. national is? It's a person who owes allegiance to the United States, but is neither an alien nor a U.S. citizen. What does that mean? It's exactly the way we are. Thank you, Madam Chairman.

Ms. BORDALLO. Thank you, Madam Chair, my questions will go to my brother from Washington, Mr. Tenorio. Representative, you stated in your testimony that you would like to see a greater role for the CNMI Government during the transition period. What specific roles would you like to see the CNMI Government assume during this process?

Representative TENORIO. Thank you, Congresswoman Bordallo. Very simply is the involvement in decision making. Not only does the Commonwealth complained in the past, as I am sure that other territories have complained about, how Washington tries to deal with local government issues, you know, that affect the local community. If the proposed bill here is implemented as is, without any regards to involvement of the local government, it will present a problem because decisions cannot be made that quickly. Yesterday, we were talking about the fact that we need to see that the local government is given opportunity to have their request addressed very quickly.

I mentioned the fact that as part of the Homeland Security Organization in the Commonwealth under the proposed legislation that a person be designated that can make a decision locally here on island. When the Governor asked for application approval for critical land power needs for some investors, that the decision be made here locally and not three to six months later down the line, because that's the problem that we face in the past and even up to now. We do have a problem where even I write to aid of agencies in the Federal Government and I don't get any response until six months later. And I am sure that you have experienced the same thing. So——

Ms. BORDALLO. Absolutely.

Representative TENORIO.—that is what I am talking about.

Ms. BORDALLO. I couldn't agree with you more and I am sure that Congressman Faleomavaega would state the same. You also stated in your testimony that you would like to see specific funds dedicated to areas that require formal training that lead to certification in the various trades and technical fields. Well, Section 3 of

the H.R. 3079 calls for fees to be collected from employers of guest workers during the transition period. Should these fees be dedicated to the training that you suggest?

Representative TENORIO. Well, that's part of it and that's pretty much really fees that I would like to see the local government get a hold of and get to spend the money. It's mandated anyway under Article, I mean, Section 703 of the Covenant, that any fees collected by the Federal activities in the island has to be rebated back to the local government. So, I don't see the problem there. What I am talking about mostly is not just the fees but solid funds that can be provided by the Congress to implement the intent of the framework we're talking about.

I believe that we need to have our people educated formally, and this is not just a high school education where a couple of courses on vocational training could be offered. I believe that in order for this arrangement to work, we need to educate our students here in the technical and vocational areas. We need to have them certified. Just like in Guam Community College, a very successful program, and I believe that if we can copy that kind of process, it would help our local people here to be fully trained, to get a real education in the vocational and technical areas. This way then they can gradually replace those non-resident workers that are holding that kind of position that now could be taken over by a local——

Ms. BORDALLO. So you do agree then that this bill does need fixing?

Representative TENORIO. It does need fixing. As a matter of fact, I visited Congressman Miller's office before I came here and submitted a proposal, because he's the Chairman of the Education and Workforce Committee, and I wanted him to start looking at this possibility. When there is a Federal mandate, as for example, this particular legislation is, I consider it a Federal mandate, the Federal Government has to come up with the necessary funds to ensure that the mandate is implemented and it's beneficial to those that—the recipients.

Ms. BORDALLO. And one other question before my time is up. You stated again in your testimony that language should be included in the bill that would allow for easy processing of new investors into the CNMI. Could you elaborate on what specific language should be included?

Representative TENORIO. Well, I was looking at the current provision of the bill that doesn't have very specific—we do have special cases over here, and I don't have any real specific proposal yet, but I already mentioned about specific incidents where foreign investors that have come here, investing substantial amounts of money for example, for their development, are not given the kind of protection in terms of their status and their investment. At the moment, at the present situation, I see that the arrangement in the U.S. law where they could either be granted resident or green card status or a citizenship status because of their investment. I would like to see something that would provide that kind of endorsement, inducement.

Ms. BORDALLO. More specific then?

Representative TENORIO. Yes, ma'am.

Ms. BORDALLO. I understand. My time is up, but I have a couple more questions for Mr. Reyes.

Mrs. CHRISTENSEN. Why don't you go ahead and ask those questions.

Ms. BORDALLO. All right. They'll be quick.

Mrs. CHRISTENSEN. And try to get them out quickly.

Ms. BORDALLO. All right. Senator Reyes, you testified that one of the strong components of the immigration program within the CNMI is the Border Management, or the BMS System. Can you elaborate more on this system and speak to its relationship to the CNMI having received Advanced Destination Status, or ADS, from China? What has been the impact of tourism from implementation of BMS?

Senator REYES. Well, I think Congresswoman Bordallo was enjoying the fact that I wasn't bringing any attention to myself or something. And then you have to come up and—[Laughter] I am sorry.

Ms. BORDALLO. I apologize, Mr. Reyes.

Senator REYES. I think we need a break or something. [Laughter]

Ms. BORDALLO. If you'd like to think about that and perhaps give us a statement——

Mr. FALEOMAVAEGA. Submit it in writing.

Senator REYES. I'll put it in writing.

Ms. BORDALLO.—submit it in writing, that will be just fine by me. All right. And the second one is, in what ways is the legislature organizing and focusing itself to address local concerns and needs surrounding the possible Federalization of immigration? How are the concerns of those who are not able to vote or voice their comments due to their immigration status addressed? And are committees working together or is a separate or special committee devoted to addressing the concerns raised by the local people?

Speaker BABAUTA. In my testimony, I alluded to the fact that I have no objection to the granting of a special or the different type of immigration status to non-resident workers, and I mentioned that that would be similar to that of the Federated States of Micronesia, where non-residents are allowed to migrate and to move from any U.S. jurisdiction for purpose of employment, or education, or other things that any citizens would do.

Ms. BORDALLO. So, in answer then, Speaker, is—would you say then your local legislature is organizing and focusing itself to address the pending legislation? In other words, you're thinking about it, you're organizing, you're going to be able to face it if there is changes made or if it's status quo, then continue on?

Speaker BABAUTA. Yes, we are.

Ms. BORDALLO. Thank you. Thank you, Madam Chair.

Mrs. CHRISTENSEN. Thank you. I just want for the record to just state that, just going through the bill rather quickly, I note over ten references to consultation with the Governor and of the Government of the CNMI and various issues. And I would just wanted to read that, in those agreements that the different agencies are supposed to negotiate with the government and implement, the agreement should address, and I am reading from the Bill, at a minimum, procedures to ensure Commonwealth employers have accessed that with labor and the tourists, students, retirees and

other visitors have access to the Commonwealth without unnecessary delay or impediment. And the training of the local residents is also included in another section.

I have one last question, and I am going to ask for quick answers, but anyone can answer that because again, going back to this proposed CNMI Immigration Labor Bill, one of the requirements is for a Coast Guard Resources for the borders of CNMI—oh, this the Governor's Bill. OK. The proposed CNMI Immigration Bill has a requirement for Coast Guard Resources to patrol the borders of CNMI's 14 islands. Will this help address the issue of boats originating in the CNMI with non-resident workers escaping and landing on Guam shores? That some—direct to the Governor—the Coast Guard——

Governor FITIAL. Yes. Yes.

Mrs. CHRISTENSEN. It would—it would——

Governor FITIAL. That's the function of the Coast Guard.

Mrs. CHRISTENSEN. Well, you know, it just seems strange to me that Federal Maritime Resources would be called upon to work in an environment and rules of engagement that they're not accustomed to, because you're wanting them to do this under current immigration laws here in the CNMI, and then use to protect one U.S. territory from another due to the fact that those immigration practices here are lax enough that it threatens the security. Does that trouble you in any way, that we're using the Federal resources——

Governor FITIAL. Well——

Mrs. CHRISTENSEN.—in an environment where the laws are not consistent with Federal legislation and then protecting one territory from another?

Governor FITIAL. Oh, that's the same issue that we're facing with implementing the asylum statute. There is a Federal law that governs this particular issue and yet we are also—we have no problem with that, but it seems like we control our own immigration at this time and yet we're allowing something that would—that runs against that particular policy.

Mrs. CHRISTENSEN. Well, those are like——

Governor FITIAL. But, you mentioned——

Mrs. CHRISTENSEN. I am going to wait on——

Governor FITIAL.—but actually——

Mrs. CHRISTENSEN —the Deputy Assistant Secretary to give us a reading on, and I think as you promised, on some of those issues around asylum so that we can better understand the context in which those requirements are being made.

Governor FITIAL. But we don't have any qualms in helping enforce that particular Federal statute, because we strongly believe that we should be supporting the international treaties of the United States.

Mrs. CHRISTENSEN. I think it will be very difficult for the U.S. Coast Guard to work in an environment where U.S. laws will fully apply. That's just the point I was trying to make.

But, you know, at this point we are at 12:00 noon. I want to thank the witnesses for their valuable testimony and members for the questions that you asked. The Subcommittee may have additional and I am sure will have additional questions on this. Ms. Bordallo has already indicated some that she would like to have re-

sponded to in writing. And we now thank you again, and this panel will be dismissed with gratitude and we call up the third panel.

Governor FITIAL. Thank you very much, Madam Chairman——

Mrs. CHRISTENSEN. Thank you.

Governor FITIAL.—and members of the Committee.

Mrs. CHRISTENSEN. The third panel of witnesses includes Ms. Tina Sablan; Mr. Gregorio Cruz, the President of Taotao Tano; Mr. Bonifacio Sagana, President of Dekada.

We thank you for your patience. We probably had another hour worth of questioning for each of the first two panels. So, we realize that the time is limited and we needed to also value your time. Thank you, witnesses.

Mrs. CHRISTENSEN. And the Chair now recognizes Ms. Sablan to testify for five minutes.

STATEMENT OF TINA SABLAN

Ms. SABLAN. Thank you, Madam Chairman, and good afternoon to all the members of (unintelligible) and welcome to the Mariana Islands.

Mrs. CHRISTENSEN. Speak right into the mic please, so we can make sure to hear you and we are able to pick you up.

Ms. SABLAN. Thank you for the invitation to submit this testimony on House Resolution 3079. My name is Tina Sablan, and I speak to you today as one of many CNMI citizens wanting change in our community. I wanted immigration and labor reform. My testimony is based not only on my own experiences having lived in these islands for most of my life, but also on the insight I have gained from the discourse that has been taking place in our community, especially in recent months.

I will begin by stating the obvious. This is the time of great crisis for the CNMI. We face not only an economic crisis but also a social crisis and the crisis of governance. These three kinds of crises are interrelated, largely in our own making, and inseparable from the dysfunctional Immigration and Labor System that has persisted in our island's obvious ways. If any good can come out of our struggles now, it will be that we've realized the extraordinary opportunity before us to learn from our mistakes and set ourselves on the path to meaningful and sustainable development.

We in the CNMI have yet to climb for, let alone experience, economic development that truly benefits the entire community. Instead, we know too well the consequences of rapid and unrestrictive growth. On the whole, this program has suppressed economic opportunities for residents, made non-residents extremely vulnerable to exploitation, and exerted tremendous pressure on our infrastructure and natural resources.

Our local Immigration and Labor System is at the core of this unsustainable program of growth, and I am convinced that it is also at the core of our economic crisis. An immigration and labor program that is properly funded, well staffed, and consistently enforced would do much to stabilize our local economy. Although I do not believe that the CNMI has the capacity to establish and maintain such a program on its own, not when it cannot at this time effectively provide even the most basic public services, I do believe that we can and should participate in the development and imple-

mentation of this program in cooperation with the Federal Government.

I would like to shift now to what is perhaps the most polarizing aspect of the immigration and labor issue, and that is the future of long-term non-residents in the CNMI. There are some who fear that the granting of permanent residency to long-term non-residents would mean an abrupt mass exodus of our skilled workforce. And on the other hand, there are those who worry about the implications of the non-residents staying for good on the CNMI. In response to concern about the CNMI suddenly losing its skilled work force, it has been suggested that qualified long-term non-residents be required to stay in the CNMI for some period of time before they would be allowed to move elsewhere. Although that decision will ultimately be up to Congress, I definitely do not think that it would be the right thing to do by these long-term members of our community. If there is work available, if they consider these islands their home, and are personally committed to staying here, and if their employers take care of them, these people will stay. Anyone would stay for that matter; citizen, permanent resident, or otherwise.

But suppose there is no work, or not enough work, for the next five years to sustain everyone who would be living here, what other such circumstances, what good does it do for the islands to keep anyone shackled here?

Then there is the alternate fear that granting permanent residency to non-resident workers would result in them staying in the islands for good and that somehow the indigenous Chamorro and Carolinian would eventually become a marginalized people. I do not share these fears. We are indeed already an incredibly diverse community today compared to what we were 30 years ago, and I don't think that's a bad thing. In addition to Chamorros and Carolinians, people from all over the world call our islands home and they bring with them their own skills, ideas, and cultures. I believe that in this time of crisis, what we need is to pull together and maximize our resources, including the talents of all the people.

I also believe that granting permanent residency to long-term non-residents would lend still more stability to our local economy, because it would help expand the pool of skilled resident workers who are already here and are likely to have a vested interest in our community.

If this measure is coupled with other provisions to address the economic needs on our current residents, the need for greater vocational and technical training for example, or for expanded small business assistance perhaps, I am convinced that at least some of the fears and attention associated with the status of long-term non-residents might be alleviated.

And now, I introduce you to the plight of our current residents. It will be important to consider the needs of our current residents as much as we do those of our non-residents. Many of our people have left our islands, and in droves, out of frustration and aspiration. And the ones who remained on island have faced gloomier and gloomier prospects and increasingly limited opportunities. If nothing changes and if the status quo remains, the Chamorros and Carolinians will be a marginalized and displaced people. And so indeed, everyone else that calls this place home.

In closing, I would like to say that I support House Resolution 3079, because I believe that it fairly balances the diverse needs and aspirations of all people of the CNMI and sets the groundwork for finally addressing the immigration and labor problems that have given rise to an unsustainable economy and an unjust society. I am glad that in addition to addressing concerns related to border protection and human rights, this bill also responds to local appeals for a nonvoting Delegate and for special provisions concerning guest workers in the islands.

I hope to see our local government continue to work closely and constructively with the Federal Government to ensure the development and implementation of a sound immigration and labor program for the island that meets both Federal standards as well as local needs. I also hope that our efforts today signal the start of a new era of maturity as a self-governing Commonwealth in union with the United States, and that we finally begin to seek meaningful and sustainable development that benefits all our people. Thank you.

Mrs. CHRISTENSEN. Thank you, Ms. Sablan.

[The prepared statement of Ms. Sablan follows:]

Statement of Tina Sablan

Dear people of the Commonwealth,

In recent months, the immigration, labor, and economic conditions of the Commonwealth have come under intense federal scrutiny. On February 8, 2007, the U.S. Senate Committee on Energy and Natural Resources convened an important and eye-opening hearing on our economic and social situation, and this week, a delegation of Senate staffers will arrive to conduct further meetings and assessments. This is certainly not the first time our Commonwealth has fallen under such vigorous examination. But in this deepening economic and social crisis, and with the benefit of hindsight, we must now do what we failed to do before: we must change.

For so long, we have been living in a false and unjust economy that has hurt all of us—nonresidents, residents, and businesses as well. For so long, our political and business leaders have defended the distortions and injustices of our economy and society. For so long, and against conscience and common sense, we have failed to challenge their claims. If we are ever to lift ourselves up from the quagmire we have created, we must fully confront the truth about our situation, and accept responsibility for our mistakes.

The truth is that much of our economic and social woes can be traced to our dysfunctional immigration and labor system. The truth is that raising our immigration and labor system to meet federal standards would help us all in the long run. The truth is that freely abiding by these federal standards would enhance, not threaten, our capacity for effective self-government, and would honor the Covenant that many of us hold dear.

For far too long, we, the people of this Commonwealth, have trampled upon the spirit and intent of the Covenant, and abused our powers to manage our own affairs, especially with respect to immigration and minimum wage. Local control over these issues was a temporary privilege that was granted to the Commonwealth out of concern for our developing economy and vulnerable local culture. But upon receiving that license, what did we do?

Instead of carefully building an economy at a rate and scale that was appropriate for our islands, we launched into a poorly planned, hyper-accelerated program of growth that far outpaced the development of local infrastructure and ravaged our natural environment. Instead of prudently restricting the entry of large numbers of immigrants like we said we would, we threw open the floodgates. Between 1980 and 1999, the Commonwealth posted the highest population growth rate in the world, a staggering 373.4% increase, from 16,800 people to nearly 80,000. This population growth was due primarily to the entry of tens of thousands of temporary foreign workers taking up jobs in the private sector, and especially in the labor-intensive garment industry.

As we all know, our immigration and labor system lacked the institutional capacity and political will to properly control the overwhelming flow of immigrants. It

failed to adequately screen for health concerns and criminal backgrounds; to monitor effectively for illegal overstays; to safeguard the workers against exploitation and abuse; and to adequately protect job opportunities for the U.S. citizen resident population. We see the results of this ineffective immigration and labor program and the failures of our government all around us today. They impact everyone.

Presently, the majority of people living in the Commonwealth belong to a class of "temporary" foreign workers occupying permanent jobs in the private sector. No matter how long they live here, paying taxes, raising their families, and contributing to the life of the community, they never attain a political voice, and their social and economic status is forever precarious. They are easily exploited and easily ignored. Because they can't vote, and because they occupy a vast majority of private sector jobs, there is little political will to raise wages or institute far-reaching reforms to create a healthier and more sustainable private sector.

Meanwhile, with private sector wages depressed across the board and a minimum wage that has languished for years at a meager $3.05 an hour, U.S. citizen residents find themselves with limited opportunities to make a viable living in the Commonwealth. Unable to secure decent livelihoods in the private sector, many residents look for work in the government—where wages are higher, and where there is greater political will to provide jobs in order to secure favorable votes in the next election. Other readily available alternatives for residents include welfare, theft, gambling, and drugs. Our expanding welfare rolls, rising crime rates, and increasing numbers of families destroyed by poker addiction and drugs, are sad testimonies to that fact. Faced with such choices, it is no wonder so many residents choose to leave.

It is also no wonder that our government is so chronically bloated and ineffective, prone as it is to the political pressures of residents in need of jobs who may or may not have the necessary qualifications. Combine big government with fiscal mismanagement and widespread incompetence and we get a massive government deficit and failed public services and infrastructure—in short, exactly what we see today.

Businesses suffer, too, in this dysfunctional economy, especially businesses with a vested interest in the community. They suffer because they pay taxes to support a bloated government that continues to provide inadequate public services. They also suffer because their pool of qualified, hard-working resident workers shrinks with a deteriorating economy. Businesses that complain about residents who "don't want to work" and who lack necessary skills fail to see the whole picture. Talented, industrious, and qualified residents have left the islands in droves and they are taking up many of the same jobs that are occupied by foreign workers here. Those residents do want to work—they just don't want to work for artificially low wages and they want to be able to support themselves and their families.

What kind of development have we been pursuing in the Commonwealth, and what has it done for us? Yes, hundreds of millions of dollars in garment and tourism revenues and federal aid have flowed through our government and economy over the years—but where did the money go? What did we do with it? How much have we squandered, and how much more have we given away in public land, overly generous tax breaks, and viable jobs that could have been filled by residents? In 2005 alone we lost $114,000,000 in guest worker remittances—how much more are we losing now, in remittances and also in the personal savings that are being taken out by foreign workers and residents leaving the islands, and in the capital that is being siphoned out to foreign business interests? If the Commonwealth is such a miracle of economic development as some have claimed, why are our public schools, hospital, sewer systems, electric and water utilities, environment, and public health still floundering?

One can blame external factors only so much. Yes, the September 11 attacks, the SARS epidemic, the Asian economic crisis, the pullout of Japan Airlines, and the changes in global trade rules all had significant impacts on our economy. But externalities are a fact of life, and they affect other places too. Economies that aren't resilient enough to begin with have the most difficulty recovering, as we in the Commonwealth know painfully well.

There is no time like the present to choose a dramatically different, more sustainable course of development. But to do that, we must move forward from the personal interests, political rhetoric, and fears that have been distracting us from the truth about our current situation, and we must decisively abandon the status quo.

Let us move forward from reactionary attacks against people like Ms. Lauri Ogumoro, Sister Stella Mangona, and Ms. Kayleen Entena, who testified truthfully about their firsthand knowledge of social injustice in our Commonwealth. For their courage and honesty, and their calls for social awakening and reform, these individuals (and the many others who came before them) deserve our deepest respect and gratitude.

Let us also move forward from the rhetoric of "federal takeover." The calls for secession and the inflammatory accusations of political vendettas being wielded against us and federal legislation being "shoved down our throats" do us far more harm than good. Furthermore, since the beginning of the Commonwealth, there has been, and continues to be, extensive dialogue between our local representatives and the federal government—in hearings, in correspondence, in 902 talks, and other official discussions. If we have any issues with the results of all the discussions and meetings that have taken place over the years, the people we should take to task are our own leaders who have for so long and on our taxpayer dollars defended a status quo that has failed us all.

Even the passionate calls to defend the Covenant and protect our right of self-government are misguided, however sincere in intentions they might be. The Covenant is not truly at risk except by our own abuses, and in the first place, local control over immigration and minimum wage was never negotiated to be a permanent privilege. Besides, the Commonwealth already abides by numerous federal laws, including those pertaining to labor (with the exception of minimum wage), the environment, airport security, and banking, and our right of self-determination remains intact. Clearly, it is possible—and, indeed, necessary for the good of the Commonwealth—to freely embrace a new program of immigration and labor that meets federal standards and provides adequate protections for all the people who live here. It might be a painful transition, but we can and should be part of the process of determining the best course of transition for the Commonwealth.

Now is the time to finally take responsibility for the crisis we have created and acknowledge that there are real and profound problems with our economy and society. Let us begin to right those pervasive and systemic wrongs by accepting the necessity of federal standards for immigration and labor and maturely engaging in talks with the federal government to decide how to apply those standards for the greater good of the Commonwealth. Let us also recreate our long-term vision for our islands. What kind of community do we want for ourselves and our families? How can we achieve good governance, social justice, and economic renewal in our Commonwealth? In addressing these vital questions, we prove ourselves worthy of both self-government and U.S. citizenship, and set ourselves and future generations on a new path towards a resilient and sustainable economy, and a freer, more prosperous society.Tina Sablan

FORUM #4—March 29, 2007 (Immigration & Labor Reform)

Venue: Northern Marianas College, Room D-1
Time: 6:30pm—8:30pm
# of people: approximately 70
Facilitators: Patricia Coleman & Brooke Nevitt
Notetaker: Tina Sablan
Timekeeper: Martha Mendiola
Format: Ground rules were reviewed and agreed upon; forum participants also agreed to set time limits for speakers to five minutes. Historical overview of the immigration and labor issue was presented by long-time resident, social scientist, and NMC instructor, Mr. Samuel McPhetres (15min), followed by open forum on immigration and labor reform (1.75hr).

VIEWS OF POLITICIANS

It was noted that many politicians have expressed alarm over the prospects of federalized immigration, and have said that such a possibility could spell economic disaster for the CNMI. Forum participants asked what basis politicians have for these claims. What evidence is there that the CNMI economy would actually get worse than it already is as a result of immigration and labor reforms? Is it possible that the CNMI might actually be better off in the long run?

Some forum participants suggested that the root of many politicians' fears is that federalized immigration would result in the extension of voting rights to non-residents, and that this scenario could spell the end of their political careers.

It was said the only politicians who have anything to worry about are the ones not doing their jobs. It was also said that a non-indigenous politician who does his job well and has the interests of the community at heart is far more preferable to an indigenous politician who doesn't do his job at all.

FUTURE OF NONRESIDENT WORKERS

It was noted that there has been a great deal of concern expressed by some in the community about whether or not green cards should be issued in the CNMI if federalization of immigration takes place, and if so, to whom and under what circumstances. The green card issue has had a polarizing effect on the community. It was suggested that alternative programs be considered to shift some of the polariza-

tion (i.e., a "blue card," or some other modified program for long-term nonresident workers living in the CNMI).

Enfranchisement of nonresident workers was also raised for discussion. Some forum participants objected to nonresident workers having any prospect of citizenship or voting rights in the CNMI because these rights were never promised to them. Guest workers come into the CNMI with the full understanding that they are here for jobs on a temporary basis, not for permanent settlement.

Other participants said that nonresident workers who have lived here for years, raising their families, paying taxes, and contributing to the community are in fact part of the community and have a stake in the CNMI's future—don't they deserve a greater political voice?

FUTURE OF DEMOCRACY

Participants expressed concern about the state of democracy in the CNMI when only a minority of the population (i.e., residents) have a political voice, and make decisions that affect the majority of the population (i.e., nonresidents). Many long-term nonresidents consider the CNMI their home, and yet they have no prospects for a political voice.

It was noted, however, that there are democratic mechanisms that nonresidents can and do use, even though they do not have the right to vote—they are organizing themselves more effectively and becoming much more visible and vocal members of the community. People can still participate in democratic processes even though they're not citizens.

JOB OPPORTUNITIES FOR RESIDENTS

Forum participants expressed great concern about limited job opportunities for residents. Some participants suggested that certain jobs should be reserved only for residents, particularly higher-paying jobs in the service industry. It was also said that the Nonresident Workers Act has never been properly enforced, nor local preference laws, nor the Fair Compensation Act. The Public Auditor's job audit of the private sector was described as an important measure for identifying which jobs in the private sector are available and desirable for residents, and what skill sets are required. It was also said that the experience, training, and aspirations of residents should be studied carefully, so that individuals are matched with compatible jobs.

Other forum participants objected to the notion of classifying jobs for residents vs. nonresidents and asked what basis there was for such a classification. Who decides which jobs are better than others for residents, and how is that decision made? Isn't any honest job a good job? It was noted that jobs in the CNMI are closely tied to ethnicity and nationality, and that there was a time when residents occupied jobs in every sector and at various levels. Participants asked, when did that change? When did residents move out of the private sector and why? And why is unemployment so high among residents when there are tens of thousands of guest workers?

One participant pointed out that certain nationalities are sometimes targeted for certain positions, especially if there are high numbers of people with specific desired skill sets from those particular countries.

It was noted that job vacancy announcements in the papers often advertise unattractive wages for residents (usually the minimum $3.05/hr) are often not commensurate to the jobs (many of which are professional-level). It was also noted that many announcements are only formalities, and the position being announced is actually intended for renewal for a nonresident worker already in place. Such jobs often pay more than is advertised; the low wages are intended to dissuade residents from applying. The Department of Labor does not cross check the wages that are announced in the papers versus the wages that are ultimately actually paid to nonresident workers.

Participants also said that it may simply be a fact of life that not every job will be desirable to every resident, but very low wages will ensure that few jobs will be desirable at all to any resident.

HUMAN RESOURCE DEVELOPMENT

Forum participants observed that some fears about federalization center on concerns that the Chamorros and Carolinians will become an "endangered species" in the islands—that is, that all the nonresident workers will be granted citizenship or green cards. It was said that people with such fears should not only consider that federalization does not necessarily and automatically grant citizenship, but also see that the real root of their fears lies in the failure of the government to truly invest in education and human resource development, which are the keys to economic development. As long as it remains so easy to import cheap labor, education and human resource development for residents will continue to be neglected, and the CNMI will continue to be dependent on imported foreign workers.

It was also said that those people who feel threatened by the diversity of the community should change their mindsets and see a challenge to which they could rise. People should not be hired on the basis of their Chamorro or Carolinian heritage (or any ethnicity, for that matter), but for their qualifications. Hiring on the basis of qualifications forces people to invest more seriously in education and professional development, and to compete more effectively in the job market.

It was also said that education has never truly been a priority in the history of the CNMI, despite the claims of some politicians. Higher education has always been treated as a luxury, and this mentality has severely limited economic development and progress.

Several participants expressed pity for younger generations and asked, what opportunities do young people really have in the CNMI? Students are being failed at all levels of the educational system. They are not given the proper skill sets to pursue higher education or enter into the workforce here, and there are very limited programs in career counseling and vocational training. The failure of the school system to prepare students for jobs in the hospitality sector was cited as an example. Most schools still do not offer the languages that are spoken by the CNMI's tourists—Japanese, Chinese, Russian, and Korean, for instance. Students still cannot pursue hospitality or culinary arts degrees in the CNMI, and many other fields that would be useful for the local economy.

Some concerns were expressed about developing residents' work ethic. One participant said that she heard too many stories about residents who chronically show up late for work or not at all, who are unproductive, or miss days of work to attend funerals, etc. Other participants responded and said that although there are residents who lack work ethic, there are also many residents who work hard and conscientiously—and often those are residents who work for companies or agencies that pay them well. It was also said that there is a need for employers to be more sensitive to cultural and social needs, and to provide opportunities for more part-time work.

Finally, it was said that one of the reasons that education and other key development programs are so poorly funded is because the CNMI does not have a proper tax system in place, and taxes are too low.

MINIMUM WAGE

Participants suggested that one possible result of raising the minimum wage is that businesses will tend to rely more on mechanized processes as opposed to manual labor, because it makes business sense. It is possible that raising wages in the CNMI will lessen the need for large numbers of immigrant workers.

It was also said that the discussion of the minimum wage should not be based on whether or not a family can sustain itself on it. Minimum wage jobs should be entry-level positions—for students, inexperienced workers, etc.

BUSINESS ENVIRONMENT

It was noted that immigration and labor conditions in the CNMI have created an unlevel playing field for businesses here. High-quality businesses with a vested interest in the community who want to train and hire residents and pay them well must compete with other businesses with little long-term interest in the community, who want to pay the lowest wages possible, and therefore will bring in the cheapest workers they can. The immigration system makes it easy to bring in large numbers of cheap workers.

It was said that the CNMI needs to develop its small businesses and entrepreneurs. Where are the dried mango producers, the coconut candy kiosks, and canoe ride tours to Managaha (to name a few possibilities)? Forum participants pointed out that assistance for aspiring small business owners is very limited here—loans are extremely difficult to come by, for example, including loans from the Commonwealth Development Authority, and most legislation is designed to help only big businesses.

It was also noted that in the past, local immigration laws have been used to build up industries like the garment industry, but there is no need to continue in this vein. Now that the garment industry is exiting the CNMI, this is a good time to build more sustainable industries, such as education and tourism, and maximize the advantages that the CNMI still has (i.e., location, U.S.-affiliation, etc).

TOURISM

Much concern was expressed over the future of the tourism industry in the CNMI if federal immigration laws are applied. Will the CNMI lose access to Korean, Chinese, and Russian markets, which have helped bring some relief to the loss of Japanese tourists the CNMI has experienced?

It was suggested that the federal government might have political concerns with the CNMI providing tourist visas to Russian, Korean, and Chinese nationals. One forum participant asked, "How is the CNMI going to meet the governor's stated goal of 1-million tourists in four years?" Another forum participant suggested that perhaps the 1-million tourist goal should be revisited. One million tourists might not even be desirable, and perhaps there are more meaningful goals to set for the CNMI's tourism industry.

Some forum participants questioned the fear that has been expressed, that federalized immigration will destroy the CNMI's tourism industry. It was pointed out that Guam and Hawaii observe federal immigration laws, and tourism in both locales is booming.

EDUCATION INDUSTRY

It was said that the CNMI has great potential for being the center of the education industry between the U.S. and Asian countries—especially for training Certified Public Accountants and nurses from Asia (particularly China and the Philippines). More schools are receiving certification to bring in students from foreign countries to train to become CPAs, or to take the U.S. licensure exam for nurses. Such programs are not only attractive to foreign students, but also for residents interested in pursuing such careers.

Another advantage of the education industry is that it can help support the CNMI's needs for certain skilled workers—i.e., for nurses and accountants. It was said that foreign-born nurses who are educated in the CNMI may soon also have the opportunity to work here.

IMMIGRATION AND LABOR LAW ENFORCEMENT

It was said that the CNMI government has made positive strides towards improving enforcement of immigration and labor law. Labor violations are investigated and resolved more quickly than in the past, and there are fewer cases of immigration violations (i.e., overstays) than some people might think.

On the other hand, forum participants stated that they believed there are simply too many unemployed nonresidents living in the CNMI, moonlighting for various jobs—all on valid entry permits. How did they get those permits, and why are they allowed to stay if there are no jobs available for them?

It was said that it is time for everyone in the community to face the reality that the CNMI has not done a good job of managing immigration and labor—otherwise, there would be no need for a forum. It was also said that many of the problems we face in the CNMI are due to failed leadership, and that people should vote more wisely this year.

BORDER SECURITY

Concern was expressed about the security of the CNMI's borders against criminal elements (i.e., organized crime; drug smuggling; human trafficking). It was said that relative to other U.S. jurisdictions, the CNMI at least enjoys excellent cooperative relationships among its law enforcement agencies, and fewer security concerns because the CNMI is remote, and there are no potential terrorist targets here (i.e., a military base). It was also said that the CNMI enjoys protection by the Coast Guard.

It was also said that neither local nor federalized immigration is a guarantee of more secure borders, but that if federalization should happen, it should not be a cookie-cutter policy that does not take into consideration local circumstances. Rules that work in California, for example, may not apply so well in the CNMI.

FEDERAL RELATIONS

Some forum participants expressed the belief that federalized immigration is inevitable whether people like it or not. What the CNMI should do at this point is find ways to participate in the drafting of any legislation that would be extended to the islands, to ensure that the legislation considers local needs and circumstances. The CNMI need not be adversarial in its relationship with the federal government, and it is possible to pursue a mutually cooperative relationship that will allow continued access to tourists and foreign students; screen out criminal elements; conduct better health checks; enhance border security; and close any loopholes that compromise the welfare of workers, both residents and nonresidents.

Other forum participants expressed a distrust that the federal government will be able to develop an effective and appropriate "hybridized" immigration system. Disappointment over the U.S. Congress' recent characterization of the CNMI as criminals, and the belief that the CNMI was being used as a political pawn, were also expressed.

Participants also said that the CNMI should have official representation in the U.S. Congress.

Mrs. CHRISTENSEN. The Chair now recognizes Mr. Cruz for five minutes.

STATEMENT OF GREGORIO CRUZ, PRESIDENT, TAOTAO TANO CNMI ASSOCIATION, INC.

Mr. CRUZ. Thank you, Chairwoman. Hafa Adai, Honorable Chairwoman Donna Christensen, Members of the Committee, Mr. Faleomavaega. My name is Gregorio Sanchez Cruz, Jr., and I am the President of the Taotao Tano CNMI Association Incorporated. We would like to take this opportunity to extend our sincere gratitude and honor to testify on this important piece of legislation, H.R. 3079, to amend the Joint Resolution Approving the Covenant to Establish a Commonwealth for the Northern Mariana Islands. Madam Chairwoman, our home island is faced with economic and fiscal challenges, including social breakdowns. We have been addressing these issues with our government, our legislative lawmakers, the public, and with respective Federal agencies, specifically, with the Office of Insular Affairs.

Madam Chairwoman, we the local indigenous people in the Northern Mariana Islands acknowledge—I am kind of nervous—that the negative outweighs the positive in our current state. Our CNMI leaders have failed us in many ways and their failures have caused great harm. This is apparent. Otherwise we, the people of the CNMI, will not be suffering to this day, and I say this with great confidence. Their mismanagement, miscalculations, and unaccountability are the very reason we are in this predicament. It is a shame that these are our leaders whom we entrusted to deliver and serve in our best interest. They have failed to prioritize this daunting issue over our local labor and immigration system for so many years.

Presently, the quality of life on our home island continues to shift downward. Unemployment is high, commodities are expensive, fuel prices are high, utility rates are outrageous, while high employment rate is high and the minimum wages is low. Public schools are overcrowded, public services are low, healthcare is unaffordable, and Government retirement fund is collapsing, withdrawals of medical health insurance—I mean, early withdrawals, early withdrawals in retirement. Indeed, many of our people are moving off island to greener pastures, and the overall outlook of our economic condition is detrimental for our well-being and stability of our island.

The administration's defiance and denial that they can pull our island out of this economic crisis is none but disheartening. We disagree with the administration's stand on the Federalization of our labor and immigration, including the Attorney General's defiance on the asylum refugee issue. This is a clear, blatant ignorance toward the people of the NMI, and the Federal Government, and their ethics and conduct is in question. The late submission of a fiscal budget is also a clear indication of failure in fiduciary duty. Additional closure of garment factories, decline in visitor arrivals, government revenues declined, and the 20 percent rule of hiring the

locals enforced at a critical time is a complete failure. Still this administration's optimistic and they have a recovery plan. Their recovery plan is going to take years in the making while our people continue to suffer and are fast becoming extinct by leaving their home island.

Madam Chairwoman, currently there is a 10 percent reduction in government payrolls, including in budget cuts, and a likelihood of continuance next year, but the administration is still optimistic. The administration and the business sector oppose the newly installed Federal minimum wage, which we all believe was long overdue. Our elected leaders then and now had the opportunity to correct what we were wrong years ago but did nothing to address or rectify this forthcoming. The government's dependency on hiring lobbyist after lobbyist to bail our island out and keep the minimum wage down is pure self-interest. Hired lobbyists live lavishly on NMI taxpayers' money, and for years they have been in business earning thousands and thousands each year while the common people, such as myself, earn $3.05 per hour, and we were barely surviving everyday living expenses.

The influx of thousands of non-resident workers has supplanted our local workforce in the private sector, which could create an unsustainable economy. This is a result of miscalculations and failures of our past and present leadership of not implementing an economic impact study years before. The lack of proper funding and priority for our educational system and the implementation of a technical education in the field of carpentry, electrical, masonry, plumbing, electronic, A/C technicians, mechanics, heavy equipment mechanics and operators has proven devastating to our local workforce. As a result many of our locals were left unemployed.

Recently while conducting our own research, our organization, the Taotao Tano, stumbled on a local issue with our labor and immigration system, which in 1995 our legislative branch passed a law that would have balanced the issue of employment benefits——

Mrs. CHRISTENSEN. Mr. Cruz, I am going to have to ask you to try—we do have your full record, your full statement on the record——

Mr. CRUZ. Yes.

Mrs. CHRISTENSEN —including the recommendations so we could begin to——

Mr. CRUZ. OK.

Mrs. CHRISTENSEN —close up.

Mr. CRUZ. All right. I'll continue with that point. All right. In 1995, our legislature branch passed a law that would have balanced the issue of employment benefits between local residents and non-resident guest workers' employment benefits. Public Law 9-71, entitled "The Resident Fair Compensation Act," this law was shelved, you know, and to this point, is still a law. The fees collected from labor and immigration processing were appropriated to the Northern Marianas College in support of local resident training in the field of technical schools—I mean, education. But unfortunately, through our research we found that this funding was reprogrammed into tourism and nursing curricular. So, I will skip to the rest and go right through ahead.

Madam Chairwoman, our silence has proven devastating. We, the people of the Commonwealth, are now wide awake and armed with greater knowledge. We, the people, will ensure that our local control over our labor and immigration are prioritized and fully addressed. We will no longer sit back and ignore our elected leaders' failures, for we, the people, the voters, the taxpayers, voted them in and we can vote them out if these measures are not addressed and prioritized immediately. It is time for change and it's time to clean house, Madam Chairwoman.

The future and the destiny of our people are fast approaching and at stake. There is an urgent need for a course of action to correct the wrong and protect our indigenous population from losing the promise of achieving an American Dream as intended in the Covenant. Our people fear political and social alienation as well as the loss of our core identity and existence of our home island.

H.R. 3079, Madam Chairwoman, is a well-thought piece of legislation, but we would like to point out a few areas of concerns that——

Mrs. CHRISTENSEN. And we do have—we're approaching nine minutes, so I am going have to ask you to hold right there. We do have your recommendations and all of us up here have heard and read them and we may get to them on questioning.

Mr. CRUZ. Thank you.

Mrs. CHRISTENSEN. OK? But thank you for your testimony.

[The prepared statement of Mr. Cruz follows:]

Statement of Gregorio Sanchez Cruz Jr., President, Taotao Tano CNMI Association, Inc.

Good morning and Hafa adai honorable Chairwoman Donna Christensen, and Members of the Committee welcome to the beautiful island of Saipan. My name is Gregorio Sanchez Cruz Jr. President of Taotao Tano CNMI Association Inc. We would like to take this opportunity to extend our sincere gratitude and honor to testify on of this important piece of legislation H.R. 3079. To amend the Joint Resolution Approving the Covenant to Establish a Commonwealth of the Northern Mariana Island. Madam Chairwoman, our home island is faced with economic and fiscal challenges, including social breakdowns. We have been addressing these issues with our government, legislative lawmakers, the public, and with respective Federal agencies, specifically with the Office of Insular affairs.

Madam Chairwoman, we the local indigenous people of the Northern Mariana Islands acknowledge that the negative outweighs the positive in our current state. Our CNMI leaders have failed us in many ways and their failures has cause great harm; this is apparent, otherwise we, the people of the CNMI, would not be suffering to this day and I say this with great confidence. Their mismanagements, miscalculations, and unaccountability are the very reason we are in this predicament. It is a shame that these are our leaders whom we entrusted to deliver and serve in our best interest. They have failed to prioritize this daunting issue of our local labor and immigration system for so many years.

Presently the quality of life on our home island continues to shift downward. Unemployment rate is high, commodities are expensive, fuel prices are high, utility rates are outrageous while high unemployment rate is high and minimum wage low. As a result of this economic deficiencies and social decays, public services are low, public schools system is overcrowded, healthcare is unaffordable, and Government retirement fund is collapsing, withdrawals of medical health insurance, early withdrawals on retirement. Indeed, many of our people are moving off island to greener pastures, and the overall outlook of our economic condition is detrimental to our well-being and stability of our island.

The administration's defiance and denial that they can pull our island out of this economic crisis is none but disheartening. We disagree with the administration's stance on the federalization of our Labor and Immigration, including the Attorney Generals defiance on the asylum refugee issue; a clear blatant ignorance towards the people of the NMI and the federal government and his ethics and conduct is

questionable. Delayed submission of a Fiscal Budget is also a clear indication of failure in fiduciary duty, additional closure of garment factories, decline in visitor arrivals, government revenues declining, and the 20% rule of hiring locals just enforced at a critical time is a complete failure. Still the administration is optimistic and they have a recovery plan. Their recovery plan is going to take years in the making while our People continue to suffer and are fast becoming extinct by leaving their home island.

Madam Chairwoman, currently there is 10% percent reduction in government payrolls, including budget cuts and a likelihood of continuance next year, but the administration is still optimistic. The administration and the business sectors opposed the newly installed federal minimum wage, which we all believe was long overdue. Our elected leaders then and now had the opportunity to correct what were wrong years ago but did nothing to address or rectify this forthcoming. The government's dependency on hiring lobbyist after lobbyist to bail our island out and keep the minimum wage down is pure self-interest. Hired Lobbyist, lavished on NMI's taxpayers money and for years they have been in business, earning thousands each year while the common people earned $3.05 per hour barely surviving everyday living expenses.

The influx of thousands of non-resident guest workers has supplanted our local work force in the private sector, which created an unsustainable economy. This is a result of miscalculations and failures of our past and present leadership of not implementing an economic impact study years before. The lack of proper funding and priority of our educational system and implementation of a technical education in the field of Carpentry, Electrical, Masonry, Plumbing, Electronics, A/C technicians, Mechanics, Heavy equipments mechanics and operators, has proven devastating to our local workforce. As a result, many of our locals were left unemployed.

Recently while conducting our own research, our organization stumbled on a local issue with our Labor and immigration system. In 1995, our legislative branch passed a law that would have balanced the issue of employment benefits between local residents and non-resident guest workers' employment benefits. Public Law 9-71 entitled the—The Resident Fair Compensation Act of 1995—a law that is still currently in place as we speak, but never promulgated remained and shelved. The Fees collected from labor and Immigration Processing were appropriated to the Northern Marianas College in support of local resident training in the field of Technical skills but unfortunately funding was reprogrammed towards Tourism and Nursing curricular.

We, the people of the Northern Mariana Islands, have watched and witnessed non-resident guest workers conduct massive protests in front of the Federal Ombudsman and the Horiguchi Federal building complaining of being discriminated, exploited, forced into prostitution and so forth. These abuses should not be tolerated but the image painted is not entirely accurate. Who are these employers? Are they local businessmen? No Madam Chairwoman, no local resident owns a garment factory, a prostitution ring, or illegal gambling operations. They are solely owned by foreigners. Their own people abused their own; their abusive and exploitative practice has created the most disastrous image to our Commonwealth. However, these non resident guest workers should not demand citizenship. They have gone so far in their reasoning for citizenship to even include the use of children and religion as their front line is injustice.

In the early 1990's, an incident with one of the Garment factories concerning labor abuse issues surfaced and was televised nationwide. This garment factory paid a substantial amount of fines in the millions. However, the scars remained. It gave our island a permanent reputation from being a beautiful tropical destination, to an island Paradise of abusers. Since then, foreigners have been using these past issues to build a case to gain status, special treatments or prolong their stay in the Northern Mariana Island and we must end this type of abuses of our local labor and immigration system. It is unquestionable that our local officials have mismanaged our labor and immigration to the detriment of the people of the NMI. A federal takeover is not a solution which will automatically award U.S. resident status to a select group of non-resident guest workers, solely based on the number of years spent in the Northern Mariana Islands. Such a proposal, without a more careful review can only lead to a greater detriment to our island. The United States must recognize the potential risks and problems if this was implemented.

We believe this Federalization issue is nothing other than National Security, especially with the Military build-up on the island of Guam. All do respect madam Chairwoman, our island is not a stepping stone. The United States government has a system in place concerning applications to citizenship. There are steps and procedures that have to be followed to gain lawful citizenship and our weaknesses and

loopholes of our local labor and Immigration system is not an excuse for anyone to take advantage and abuse. We, the people, recommend an advisory mechanism established to work alongside our local labor and immigration to foster a stronger and effective boarder control. Funding is essential to enforce a stronger and stringent boarder control and policy, an area of great importance for which our local government failed to recognize and prioritize for years until recent.

Madam Chairwoman, our silence has proven devastating. We, the people of the Commonwealth, are now wide-awake and armed with greater knowledge. We, the people, will ensure that our local control of our labor and immigration are prioritized and fully addressed. We will no longer sit back and ignore our elected leaders failures, for we the people, the voters, the taxpayers voted them in and we can vote them out if this measures are not addressed and prioritized immediately. It is time for a change and time to clean the house.

The future and destiny of our people are fast approaching and at stake. There is an urgent need for a course of action to correct the wrong and protect our indigenous population from losing the promise of achieving the American Dream as intended in the Covenant. Our people fear political and social alienation as well as the loss of our core identity and existence of our home island.

Madam Chairwoman H.R. 3079 is a well thought piece of legislation, but we would like to point out a few, concerns and request;

1. We the people of the CNMI request a consideration of a STAY on this federalization issue of our local control on Labor and Immigration for we the people are as much victims of our past and present leadership mismanagements.
2. We acknowledge the non-residents guest worker contributions to our economy, infrastructures and development of our Commonwealth. Both the Commonwealth and non-resident workers have benefited financially and socially. Our Commonwealth must begin working toward self sufficiency in the workforce and someday we will no longer be dependent on the non-resident workers.
3. Sec. 6 (a) Immigration and Transition of H.R. 3079 calls for a 1 yr. Transition after date of enactment is a challenge and we the people request a STAY. Mass exodus of non-residents guest workers is of great concern for it will further cripple our ailing economy including business establishments closing its doors. Our local work force is neither fully trained nor skilled in some areas that non-resident guest workers now occupy. A STAY will ensure that proper steps, procedures and regulations are promulgated and in place.
4. Sec. 6 (c) "(2) Family-sponsored Immigrant Visas: There is a need for compact impact negotiations or study, the local government is in no position to be shouldering cost of additional sponsored immigrants, this has been part of our failed economy.
5. Local House Bill 15-38 currently pending addresses some of these issues. This is a good start towards strengthening our local labor and immigration system with a few amendments on provisions required. Enforcement and funding is of a priority in order to move forward and correct the past issues that have haunted the NMI for years. Full enforcement of this bill if enacted is of outmost priority and we the Taotao Tano's fully support this local bill, now with the senate awaiting passage.
6. Non-Voting Delegate: The CNMI's potential economic development and growth are critically dependent upon a secure and sound relationship with the U.S. government. Justice, equality, and fairness for the people of the CNMI demand that we have representation in the U.S. Congress equal to those of other U.S. Territories, for the CNMI is the only self-governing commonwealth of the United States that does not have a Non-Voting Delegate to the United States House of Representatives.

In closing madam Chairwoman, The Taotao Tano group requests this sub-committee to recommend to the United States congress what is in the best interest of the people of the Northern Mariana Island. Whereas either side will provide results, the realization of H.B. 3079 will stifle the progress for our self-governance and will continue our dependency on the United States for support. On the other hand, the extension for a STAY on H.B. 3079 will provide us the opportunity to learn from our own mistakes and the Taotao Tano members have awaken to watch any undesirable leadership. We the Commonwealth have gone through the tough times and the journey we have taken has taught us a great lesson. Allow us to get back to the path that leads to self governance and sufficiency that is consistent with the intention of the Covenant.

Thank you, Si Yu'us Ma'ase, and Olomwaay.

Mrs. CHRISTENSEN. The Chair now recognizes Mr. Sagana for five minutes.

STATEMENT OF BONIFACIO SAGANA, PRESIDENT, THE DEKADA MOVEMENT, INC

Mr. SAGANA. Chairwoman Christensen, Congresswoman Bordallo, Honorable Committee Members, distinguished staffers and others in attendance. It is a distinct honor and privilege to be allowed to appear here before this distinguished committee and I speak on behalf of long-term alien residents of the Commonwealth of the Northern Mariana Islands and, particularly, the organization of which I am President, the Dekada Movement, Inc. If I go a little over my time with this then I hope the Committee will give me some leeway.

Dekada was born over three years ago out of frustration of long-term alien contract workers in the CNMI labor and immigration, a system that failed to recognize these years of economic productivity, ties to the Commonwealth, and the contribution to the community, subjecting them instead to the uncertainty of annual renewals, the vagaries of constantly shifting labor and immigration regime more characteristic of cruel individuals than of workers and effectively indentured to their employers.

Today, Dekada truly is a movement. Not just an organization with the word movement in its name. It is my honor and privilege today as the one representative of foreign contract workers invited to testify, to also recognize and speak in behalf of other organizations that have now joined Dekada in the quest to improve the status and working condition. And I am proud to convey the support for the Human Dignity Act Movement, the Filipino Contract Workers Association and the Multi-Sectoral Overseas Workers Movement for this legislation, and the greetings and appreciation of these organizations and their members to the Committee.

We find it particularly fitting that this hearing is taking place in the CNMI House of Justice for what—for that is what we seek justice and status commensurate with our place in the community. The Dekada Movement is backed by more than 4,000 Filipinos, Bangladeshis, Nepalese, Thais, Chinese, Korean, Sri Lankans, and Indians and others who have been lawfully living and working in the CNMI for five years or more. We also have the support of many U.S. citizen residents. The CNMI is probably the most cosmopolitan place in the entire world. Over 30 different nationalities live together peaceably here providing incredible cultural diversity and richness to these islands.

Attorney Joe Hill has served the CNMI, he stands as a living testament to the Martin Luther King dream of racial harmony and diversity. He is the harvest wreath for the long-term alien workers, investors, business people and immediate relatives who have made the CNMI their home and sown their energy and talents here.

Unfortunately, most of the CNMI political leadership does not recognize our contribution. It is not sensitive to our needs. It is blind to fairness and humanity, even internationally recognized principles of human rights. This is because we are the minoritarian majority, with no vote to hold, (audible but unintelligible) are indifferent to our interest.

Dekada strongly supports H.R. 3079, but we also seek improvements. Support for Federalization has not always been our position. In June 19, 2005, we published a position paper in the Saipan Tribune, at the time we're for minimum wage increase, but against Federalization of minimum wage. We sought green cards for long-term alien residents of CNMI, but we're opposed to overall Federalization of immigration.

We called the local government to address this issue. On March 25, 2006, we wrote to Governor Fitial with a specific proposal of local legislation to provide improved status for long-term alien residents. Although CNMI political leaders promised us support, to support, there was no action taken, ever, even though our proposal would have produced substantial additional revenue to the cash-strapped CNMI government. Thus it became clear that the only way out of stagnation, with change and progress, was through the Federal Government and we came out in support of Federalization of minimum wage and Federalization of the CNMI immigration system.

We find arguments against this legislation to be insubstantial, often contrived, as it becomes clear the Federalization and Federal improvement of status of long-term alien residents a real possibility, there has been a far (audible but unintelligible). Fears that were never voiced before announced but apologize for the status quo. Suddenly it's a no longer "you go home" but worry that all workers given improved status will leave. Organizations no one has ever seen or heard before line up with certain politicians to attempt to create an impression of wise predissension (sic) or in a position to Federalization. But the reality on the street is mostly support, when it's straight up and down, both Federalization wins. From my experience, impression, and observation, I believe that a majority of U.S. citizens they found support Federalization and so does a very large proportion of indigenous Chamorro and Carolinian population, if not the majority.

Here are some of the improvements that we recommend. We continue to believe that long-term alien residents of Saipan should get admitted to U.S. lawful permanent residency, with the grant of citizenship should they choose it, rather than the local non-immigrant status proposed by the bill. Given current economic condition in CNMI, this status shall be granted without necessity of meeting the current income requirements. If the Congress is not prepared to grant this status to the entire class of long-term alien residents of the CNMI, it should grant it to at least the following groups: parents of U.S. citizen children, long-term alien resident of 10 years or more, foreign workers with uncollected labor awards or poor judgment in their favor, long-term alien residents with marriage of long duration ultimately ending unfortunately with divorce or death of the spouse without ever having obtained lawful U.S. permanent residency.

The status should be provided to all long-term alien residents not just foreign workers. Especially provision needs to be made for individuals and immediate relative status under CNMI immigration system, and better provision needs to be made for foreign investor and business permit holders.

Provisions should be made for admission of immediate relatives of individuals granted locally non-immigrant status by the bill. As H.R. 3079 is presently drafted, existing CNMI immigration rules actually are more preferable in spec. Special provision will be inside long-term immigrant terms and instead granted immigrant status of U.S. lawful foreign resident. Current rules for admission of immediate relatives of Federal resident under the INA would be adequate in that event.

Mrs. CHRISTENSEN. Mr. Sagana, you're over 7 minutes, so could you wrap up, please.

Mr. SAGANA. H.R. 3079 is not a perfect bill, but is that can be achieved at this time. We don't disagree for its enactment. This bill, even in its present form, is a huge step in the right direction toward fairness and justice, toward free labor markets, toward improved economic productivity, toward restoring confidences in CNMI business environment. H.R. 3079 is an urgent need. We look forward to its passage as a priority for the current Congress. Thank you for the opportunity to testify. I'll be happy to do my best to answer any question that the Committee may have.

Mrs. CHRISTENSEN. Thank you.

[The prepared statement of Mr. Sagana follows:]

Statement of Bonifacio V. Sagana, President, The Dekada Movement, Inc.

Chairwoman Christensen, Honorable Committee Members, Distinguished Staffers and Others in Attendance. It is a distinct honor and privilege to be allowed to appear here before this distinguished committee and speak on behalf of long-term alien residents of the Commonwealth of the Northern Mariana Islands and, particularly, the organization of which I am President, The Dekada Movement, Inc.

When I speak of DEKADA, I am speaking of our organization, but I am also speaking of something more. For DEKADA truly is a movement, not just an organization with the word "movement" in its name.

It is my honor and privilege today, as the one representative of foreign contract workers invited to testify, to also recognize and speak on behalf of other organizations that have now joined Dekada in the quest for improved status and working conditions. I am proud to convey the support of the Human Dignity Act Movement, the Filipino Contract Workers Association, Inc. (Pilco), and the Multi-Sectoral Overseas Workers Movement (MOVER) for this legislation, and the greetings and appreciation of these organizations and their members to the Committee.

DEKADA was born of the frustration of long-term alien contract workers with a CNMI labor and immigration system that failed to recognize their years of economic productivity, ties to the commonwealth, and contributions to the community, subjecting them instead to the uncertainty of annual renewals and effectively indentured to their employers.

In early 2004, a group of Filipino workers, taking heart in remarks by a prominent local official reported in the February 27, 2004 Marianas Variety, began a signature campaign for permanent residency, also known as the Isang Dekada Movement. Board of Education member and President of the 1985 and 1995 Northern Marianas Constitutional Conventions Herman T. Guerrero (brother of current Saipan Chamber of Commerce President Juan T. Guerrero) had observed that workers who had been living in the CNMI for 15 to 20 years would have already gotten permanent residency status if they were in the United States. He stated, "We need to address this issue. We cannot continue to disenfranchise them."

From the signature campaign came an association, and then The Dekada Movement, Inc. received formal corporate existence on October 12, 2004. From the very earliest days, Dekada counted its members and supporters at around 3,000 alien workers, although less than a third of these were formally enrolled as members and fewer still had fully paid their membership dues and registration fees.

Resistance was swift and opposition vocal. Much of the response was aimed at weakening Dekada by discouraging alien workers from contributing financial support to the organization and efforts to obtain improved status for long-term alien residents of the CNMI.

We were told that Dekada had "no chance" of obtaining U.S. permanent residency, or "green cards," for our members and that the U.S. Congress could only grant citizenship, not permanent residency. Dekada's leadership, though our legal counsel, of course knew better, but it is hard to get the correct information out to the mass of workers.

Public statements were made cautioning alien workers against giving money to anyone "promising" green cards. Of course, Dekada had always been careful never to suggest that payment of the registration and membership fee would assure them of a "green card." It was very clear that the purpose of the money was to support the quest for improved immigration and other status for long-term alien residents and that "green cards" for long-term alien residents was just one way to achieve this, one thing (perhaps the most important thing to some) for which Dekada was campaigning. Many, if not most, of our members and supporters, however, made it clear that they would be satisfied with an improved immigration status short of admission to lawful permanent residency under U.S. immigration laws.

Recently, Dekada was accused (without a shred of evidence to support it) of orchestrating a text message campaign calling for a boycott of businesses owned by Chamber of Commerce President Juan T. Guerrero on account of his opposition to the immigration benefits for long-term alien contract workers in S. 1634 and H.R. 3079. Individuals passing on this baseless allegation would say that some alien contract worker had told them that Dekada was behind the text campaign.

Given the similarity between these false aspersions and other persistent disinformation campaigns against Dekada, we cannot help but wonder if the text campaign is not the work of agents provocateur, carrying it out for the principal purpose of blaming it on Dekada. We observe that a prominent radio commentator on Saipan uses a similar tactic of defaming Dekada through "information" purportedly provided by a nameless contract worker source. For example, he has repeated said on the air that he was told (by this unnamed, alleged contract worker) that Dekada officers, allegedly on instructions of their legal counsel, were promising workers "green cards" if they would pay $100.

This, of course, was and is absolutely untrue. To the best of the knowledge of Dekada's officers and counsel, no one associated with Dekada has ever promised anyone a "green card" (with or without payment). Dekada has always been very clear about the purpose of the $100 combined registration fee and membership dues: to pursue improved status for long-term alien residents of the CNMI.

Even the Department of the Interior's Office of the Labor Ombudsman has been affected by these unwarranted derogatory insinuations. Not long ago that office established a "hot line" for workers to report anyone promising "green cards" in return for a payment of money. This misguided action naturally suggested there might be some merit to the spurious allegations being spread about Dekada. It is telling that the "hot line" never received even a single report of someone promising "green cards" for money. Instead, the hot line was flooded with calls from people wanting to know when federalization would occur and how and when they might be able to apply for an improved immigration status.

Today, over three and a half years after its inception, the DEKADA movement is backed by more than 4,000 Filipinos, Bangladeshis, Nepalese, Chinese, Koreans, Sri Lankans, Indian, Japanese and others who have been lawfully living and working in the CNMI for five years or more. They are individuals who have become part of the community, forming and raising families here, whose "born in the CNMI" children have never known any other home, and who daily are lending their backs and hands, minds, skills, talents, experience, and energies to the social, religious, cultural, and economic life of the Northern Mariana Islands and forming pillars that help support the CNMI economy and keep it alive, strong, and vibrant.

That is the way we were able to describe our role back in March of 2005. Today it will be more accurate to speak of our desire and critical place in restoring the strength and vibrancy to the CNMI economy.

Passage of H.R. 3079 is imperative. The bill is acceptable in its present form but still can be improved substantially. This legislation should be made a top priority for the current Congress, finalized and passed as soon as possible.

The CNMI economy cannot begin the road to recovery until certainty and stability in the area of labor and immigration make it possible for businesses to reliably forecast future risks and make confident business decisions to enter, remain, expand, and invest in the Northern Mariana Islands. The current bureaucratic morass of vacillating laws, regulations, policies, and practices must be replaced with labor market in which all workers, citizen and non-citizen, can freely market their skills and economic productivity is maximized both in terms of return to labor and business efficiency. In short, because H.R. 3079 can do a great deal to meet this need,

it is good for labor (both indigenous and foreign of long residency) and good for business.

We recognize that some businesses oppose this legislation, particularly certain big businesses and businesses with close ties and business dependencies to other businesses whose management oppose this legislation. A number of factors motivate this opposition, including fear and prejudice. Some business leaders have argued there should be no federalization of immigration until after studies have been done on what the impact would be, yet these same business leaders have no studies to support their cries that grant of improved status to long-term alien residents would have deleterious affects on the CNMI.

Dekada respectfully observes that all studies merely look at current conditions and data together with information and data from other spatial and temporal milieu and attempt to make an informed guess at what the future impact would be. H.R. 3079 provides for a transition period during which all aspects of the CNMI experience with federalization will be monitored. Dekada respectfully suggests that this is a lot more meaningful way of studying the matter than stalling and delaying to provide time for a static analysis, a snapshot of the CNMI economy as it exists today, and formulation of a set of assumptions—likely subject to dispute—upon which projections can be made. Necessary adaptations and adjustments can be made dynamically along the way, based on actual experience and observation, not esoteric models and abstract academic postulates.

DEKADA strongly supports H.R. 3079 but also urges improvements. Similarly, Dekada expressed its support for S. 1634—with improvements. H.R. 3079 is a better bill than S. 1634 but more needs to be done. One of the improvements Dekada sought for S. 1634, inclusion of a non-voting delegate in the U.S. Congress for the NMI, has been incorporated into H.R. 3079.

One of the improvements DEKADA believes should be made is incorporation of H.R. 3165. H.R. 3165 makes changes to the local content rules of General Note 3(a)(iv)(A) of the Harmonized Tariff Schedule of the United States that would shore up the shriveling CNMI economy by helping to preserve part of its diminishing manufacturing sector. Maintenance of a healthy manufacturing sector is not just a corporate business interest, it is also a labor interest.

As the CNMI manufacturing sector has declined, retail prices have skyrocketed, to the detriment of all workers and consumers. Part of the reason for this is that ships bring imports to the CNMI must now return to the U.S. mainland largely empty due to the lack of exports. The effect is that CNMI consumers must pay the costs of empty vessels returning, since shippers get no outbound cargo revenue.

Some Concerns Not Adequately Addressed By H.R. 3079

- Current long-term alien residents (five years or more) should be eligible for admission to U.S. lawful permanent residency
  - without having to meet the current income requirements.
- Although Dekada believe U.S. lawful permanent residency should be granted all aliens resident in the CNMI for five years or more, Dekada recognizes Congress may not prepared to go this far. However, Congress should at least provide U.S. lawful permanent resident status to the following classes:
  - parents of U.S. citizen children.
  - long-term alien residents of ten years or more.
- Persons with long-term investor status in the CNMI of 7-10 years or more should be granted either U.S. permanent residency or the same lawful non-immigrant status established by the bill for long-term alien employees.
- The bill does not address the situation of individuals holding immediate relative status. This is a critical issue affecting families of U.S. citizens, families of citizens of the Freely Associated States, and families of alien workers, both long-term and short-term.
- Recently proposed new CNMI regulations that would degrade the status of immediate relatives of citizens of the Freely Associated States point out the critical need to make this a matter of federal law, beyond the reach of misguided CNMI impulses. The proposed new regulations reflect a drift net and purse seine approach to immigration policy and enforcement, targeting an alleged problem perceived to exist but lacking any documentary or statistical evidence relative to its magnitude, proportion, or any actual adverse impact on the community or the economy, and utterly disregarding the reality of its impingement on the constitutionally protected fundamental right of marriage.
- The foregoing issue also demonstrates the need to ensure that citizens of Freely Associate States have, at a minimum, no lesser rights under the immigration laws of the Untied States than aliens admitted to lawful permanent residency.

- Many foreign workers in the CNMI have labor awards or court judgments in their favor that they never have been able to collect. Such individuals should be granted admission to U.S. lawful permanent residency.
- Long-term alien residents of the CNMI who have recently departed (say within the preceding six, twelve, or eighteen months) should also be eligible for whatever status is granted under the bill.
- The bill requires lawful status in the CNMI to qualify for immigration recognition under the new or transitional regime. Some aliens who have maintained lawful status for a long time recently have fallen out of status as a result of the present economic depression or for other reasons such a family calamity or medical problem. There should be provision for such individuals to qualify for status under federalization notwithstanding a recent loss of status under CNMI law. Perhaps there should be a system of waivers for defects in qualification.
- U.S. lawful permanent residency should be available to long-term alien residents of the CNMI who had marriages of long duration (over 7 or 10 years) but never obtained "green cards" and unfortunately ultimately had the marriage end in divorce or death of the spouse.
- There is a need to provide U.S. "green cards" and a path to citizenship for those "semistateless" children who were born in the CNMI between the approval of the Covenant and the effective date of Section 501 (individuals who acquired the citizenship of their parents at birth but have known no other home but the CNMI and were not helped by the Sabangan case).
- Legislation should make employers of foreign workers in the CNMI who know at the time of recruitment that the workers are required to pay recruitment fees in their country of origin in order to secure overseas employment legally responsible to the worker for those recruitment fees.
- Nationals of countries that do not have tax treaties with the U.S. are required to have FICA and Medicaid taxes withheld. Such individuals who have been paying into the system for years should either be granted U.S. permanent residency (so they can receive the benefit of their contributions) or should be entitled to refund of their contributions upon repatriation to their home country.

Attachments:

Attachment 1—Letter from DEKADA leadership to Governor Benigno R. Fitial proposing local legislation to provide improved status for long-term alien residents. Absolutely no action was taken by CNMI elected officials to address this issue, despite potential fiscal benefits to the CNMI government and assurances from the Governor and certain legislative leaders that the proposal would be seriously considered.

Attachment 2—June 19, 2005 op-ed piece in the Saipan Tribune by Bonifacio V. Sagana and Stephen C. Woodruff, "Dekada aspirations equal CNMI's long-term best interest."

Attachment 3—Open letter to Interior Secretary Kempthorne from Human Dignity Act Movement President Engracio "Jerry" B. Custodio published in the June 6, 2007 Saipan Tribune, after which Mr. Custodio was given notice that his contract and non-resident worker permit would not be renewed by his employer, in retaliation for Mr. Custodio's active role in the campaign for improved status for long-term alien workers (and increase in the minimum wage).

Petition Copies for retention in committee files for review and use by the Committee:

Attachment P-1—July 2007 Statement of foreign contract workers prepared with the assistance of human rights activist Wendy Doromal and submitted to the Senate Committee on Energy and Resources in connection with July 19, 2007 hearing on S. 1634, with 144 pages of signatures supporting, in substance, S. 1634, the Senate counterpart of H.R. 3079.

Attachment P-2—Eight additional pages of signatures supporting legislation extending U.S. immigration law to the Northern Mariana Islands and improving the immigration status of long-term alien residents of the CNMI, collected or received too late to be included with original submission to the Senate Committee on Energy and Resources.

Attachment P-3—Final set of 30 pages of additional signatures received or collected too late to be included with original submission to the Senate Committee on Energy and Resources, petitioning the U.S. Congress for extension of U.S. immigration law to the Northern Mariana Islands and improvement of the immigration status of long-term alien residents of the Commonwealth of the Northern Mariana Islands.

[NOTE: Attachments have been retained in the Committee's official files.]

Mrs. CHRISTENSEN. I now recognize myself for five minutes of questions. Ms. Sablan, when the Covenant was negotiated, its intent, as is ours, was to improve the lives of the people of the CNMI. And as I listened to your testimony and I listened to Mr. Cruz' testimony I hear very little of that improvement and I wonder if you could tell me one or two areas where the Chamorro and Carolinian people of the CNMI lives have improved since the Covenant.

Ms. SABLAN. How it's improved.

Mrs. CHRISTENSEN. Yes, under the Covenant system. Were there any areas of improvement?

Ms. SABLAN. Well, I think that—and the first one that comes to mind is that I think we have come a long way as far as our understanding and expectation for the government. We have a stronger grasp of community and democracy and what we should be able to expect from our elected leaders. Certainly now, especially. I think the crisis has a way of raising people's awareness of how much our government has failed, as in how much of that we deserve. I think that's an improvement. At least there are people coming out now and expressing their concerns and their discontent, and that wasn't something that happened so commonly by the people.

There are certain freedoms that I appreciated as a U.S. citizen, all the freedoms (unintelligible) and everything that comes about with being a U.S. citizen. And, you know, those are not so much tangible improvements maybe, but we experience and enjoyed them. And I think that that has certainly been an improvement.

Mrs. CHRISTENSEN. Do you think that the Federalization of immigration here takes away self-government?

Ms. SABLAN. No, I don't. And I think there are many, many people who recognize—(pauses). Actually, I haven't heard anybody dispute that we agree that the United States would have the authority to come in and Federalize immigration. I mean, they are very clear in the Covenant, and self-government has been retained. There are other places that also abide, many more places that abide by Federal immigration law, and as far as I know, their self-government is still retained. We will continue to elect our leaders and we will continue to strive to improve public services and to provide adequate services for our people. I think that those are all important aspects of self-government and I don't think they're compromising anything. I think that they would be enhanced by a more stable immigration program here.

Mrs. CHRISTENSEN. Thank you. Mr. Cruz, you have asked, despite the many negatives that you cite in your testimony, you still asked that we should hold off and place a stay in consideration of this bill to give CNMI a chance to learn from its mistakes. Now, I was here in '98 and in my opening statement, we go back to even 1986, where concerns were being raised and cautions where being given around, specifically around the immigration issues. Do you still think that providing a longer time, again, would help us to, as you say, learn from our own mistakes?

Mr. CRUZ. Yes. Yes, Madam Chair. For one, I resent the fact that our island is called a stepping stone. I disagree with that. My own island is not a stepping stone to an enemy. I do have concerns with the issues on the labor and immigration complaints in the past. And one of those is, like back in the 90's, like you mentioned, you

know, this garment factories here, this non-resident guest workers here. You know, they come and go, come and go and they make complaints of abuses, exploitations, human smuggling and all kinds of complaints. But, I sat back, Madam Chair, and I thought about this and as a witness, I can't remember or I can't even recall any local on this island that—the richest local, I believe, here is Joe Ten, for that matter. There is no local here that owns a garment factory. There is no local that owns a sex trade business here. And there is no local here that owns an illegal gambling system or whatever you want to call them.

And, yes, we are for a stay, because there is a need to do a study, and do a study on this Federal take-over issue. And I believe that the government at this point, as we speak, has been doing a good job at cleaning house, cleaning this labor abuse issues here, complaints. And it's sad that it took up to this point here, to bring new people here to have this issue really addressed. So, it really touches my heart that our own leaders have really failed us in the past. And, yes, I am very saddened about the issues of the locals being put to the back, you know, and just up to this year, the 20 percent rule putting the locals priority was just enforced. Where was this priority in the beginning? You know, I would say that at the same time, the foreign non-resident workers abused themselves. At the same time, I feel the same way with our local people, our leaders, them discriminating against their own people. And that really—I grew up with that.

Mrs. CHRISTENSEN. Thank you. My time is up and I'd like to recognize Congressman Faleomavaega for his questions.

Mr. FALEOMAVAEGA. Thank you, Madam Chair. I want to thank the witnesses for their most thought-provoking statements and testimony before our Subcommittee. Mr. Sagana, I am listening to your testimony as the leader of the long-term alien and contract workers. You know, many countries in the world do have guest worker programs, especially countries like in the Middle East. I think our Filipino community throughout the world, I think they probably have little over half a million workers all over the world which bring in about $20 billion dollars a year to the Philippine economy, or something to that nature. Is it your understanding, when you were first brought here at CNMI that you're to become as a guest worker not with any further intention of seeking status difference of becoming maybe eventually a U.S. citizen or some other status?

Mr. SAGANA. No, sir. I just came here to work. I don't have any intention when—a plan to use that to get another opportunity.

Mr. FALEOMAVAEGA. So, it was never your intention to seek different status? You're here just to work and send the money back home and continue under that status just as a guest worker, but not later on to seek a different status as a permanent resident alien now; am I correct in this.

Mr. SAGANA. You're correct, sir. The reason why is because of my family. I just want to work for my family, to send them the money for—to support them. That's it.

Mr. FALEOMAVAEGA. And it's perfectly understandable. You know, we have about 12 million illegal aliens that are working in the United States and they bring in about $52 billion dollars to the

Central and the South American economies, which go directly to the needs of the families, which I think it's a better way of doing it rather than have you go through government, which then the poor families never get the resource of these people who really work hard for. And you're saying that, in representing the long-term alien conflict needs, is that about 30,000 long-term alien workers currently in residence in CNMI?

Mr. SAGANA. I believe more than 20,000. I am not really sure if it's 30,000.

Mr. FALEOMAVAEGA. So, about 30,000 of you right here, right now.

Mrs. CHRISTENSEN. We know it's not even 20,000—it's no more than 20,000.

Ms. BORDALLO. It's about 20,000.

Mr. FALEOMAVAEGA. Well, 20 to 30,000, give or take a couple of thousand; all right. So, it's about 20,000.

Mr. SAGANA. More than 20,000.

Mr. FALEOMAVAEGA. Twenty thousand long-term alien workers and for many of them, their status is not clear; am I correct on that.

Mr. SAGANA. They have their status.

Mr. FALEOMAVAEGA. They're legally here.

Mr. SAGANA. Legally.

Mr. FALEOMAVAEGA. I see, but they're also now seeking a more—a better relationship status with the United States as well as with the CNMI; is this——

Mr. SAGANA. Yes, sir.

Mr. FALEOMAVAEGA. OK. But that was never the intent of your coming here; it was just to work and send money back home.

Mr. SAGANA. Yes sir, that's our intention. Just to work for our family.

Mr. FALEOMAVAEGA. Do you feel that the CNMI government had not been fair to the needs of the guest worker program here in CNMI for all these years?

Mr. SAGANA. There is some—like there is some labor case like stated in the statement that we have uncollected labor awards. Actually, I am a part of it. I am waiting for 13 years, until now I wasn't able to get the award. But there is a decision wherein——

Mr. FALEOMAVAEGA. Mr. Cruz, you had made a very, very strong statement and I have to commend you for your courage to speak out. I recall the statement by Martin Luther King Jr. who said that, "In the end we will not remember the words of our enemies, but the silence of our friends." And I wanted to ask you, do names like Jack Abramoff and Tom DeLay sound familiar in terms of how this whole situation had come up in a very controversial, to put it mildly?

Mr. CRUZ. Lobbyist and (audible but unintelligible) on our taxpayer—tax money, and I thank God they are put away.

Mr. FALEOMAVAEGA. Well, Mr. Abramoff is in jail obviously, and Mr. Tom DeLay is under indictment. You don't agree with the current efforts by the Administration to take corrective actions in trying to improve the economic standing of the territory of CNMI? If they're making this good faith effort, what do you recommend? Do

you think this proposed legislation is going to cure a lot of problems that we face here in CNMI.

Mr. CRUZ. I read the entirety of 3079 and there are some provisions that I am quite concerned about. It's not a negative issue. I mean, I feel like I could address some of them, a few.

Mr. FALEOMAVAEGA. Just one because my time is already up.

Mr. CRUZ. OK. The most important thing is on the labor immigration control. I believe that we can come up with a mechanism, you know, such as a monitoring mechanism like, I believe, Mr. Reyes earlier said that we will put the local and probably the Federal alongside together with each other. You know, because then the very issue is labor immigration here. And we all know for a fact that it's a matter of national security, especially when that buildup—the military buildup in Guam. And I am kind of really touched with this because to make an issue for this national security issue, which is very important and is very crucial and critical, to use excuses, make excuses on our island, such as the abuses and so forth. Why don't we just come up straight up and let's be fair in saying, it's a matter of national security, you know. And I believe that there should be a mechanism, I guess, in our local control, because the Covenant is protecting us with this self-governing issue. And that is, 101, 102, 103 of the Covenant, you know. And I believe that we could work around this—you know, find better solutions.

Mr. FALEOMAVAEGA. I am sorry my time is up. I am sorry, Mr. Cruz. I don't have time to ask you another question.

Mrs. CHRISTENSEN. We're running up against time. So, I'd now like to recognize Ms. Bordallo.

Ms. BORDALLO. Thank you. Thank you very much. First, Ms. Sablan, I want to commend you for your civic contributions to the discussion regarding the Federalization of immigration. I have read your testimony. It's in depth and certainly reflects your stand. And I always think it's important to hear from the younger generation.

Now, you testified that the immigration and labor systems in place lack the institutional capacity and political will to control the influx of immigrants, their health, their criminal backgrounds, and their illegal overstays. You further testified that in 2005, the CNMI lost $114 million dollars in guest worker remittances. So, in the last two years, how was the system changed to address these problems? Is it worse?

Ms. SABLAN. Well, there have been, from what I can tell, some considerable strides that have been made in this Administration. You know, our Governor referred to labor (audible but unintelligible) that have been closed. And, I just think that there are deeper systemic problems with our immigration and labor program. And, you know, we have something like 20,000 to 30,000 guest workers here and our government is losing revenue in all departments. And if we don't have the resources to properly monitor the people that we have here and we continue to bring people in still, I can't imagine that things will get that much better.

Ms. BORDALLO. So then you do support Federalized immigration?

Ms. SABLAN. Oh, yes, yes.

Ms. BORDALLO. All right. I just wanted to get it on the record.

Ms. SABLAN. Yes.

Ms. BORDALLO. All right. And now Mr. Cruz and Mr. Sagana, I appreciate you coming here before us to give your testimony and I want to state for the record that we have a very large Filipino community on Guam. You came out with some solutions to some of the problems that you stated. And, Mr. Cruz, I always like to hear from the indigenous people, I think you represent them. And from your testimony it seems to me that the CNMI Government is unable to cope with the challenges of revamping its labor and immigration systems and yet you oppose a Federal intervention. So, what suggestions do you have on how the Federal government or the local government can revamp these systems without the implementation of proposed measures contained in H.R. 3079? What is your answer? You mentioned all the negatives. So, I just wondered if you feel that the local government can handle this.

Mr. CRUZ. Yes, yes we can. And, as I said, at this point, they have been doing a good job. And, I am not opposing this bill, this Federalization. I am not for it. But rather, I am saying I would like a stay on it, you know, to further——

Ms. BORDALLO. Would you like more impact studies on certain aspects of the bill?

Mr. CRUZ. Yes, ma'am, exactly.

Ms. BORDALLO. All right. Thank you very much and I yield back my time. Thank you.

Mrs. CHRISTENSEN. Thank you. And we all thank the witnesses for their testimony and the members for their questions, and we may have additional questions because, as I said, you know, we're running up against a time wall here and we appreciate your taking the time, we appreciate your patience in waiting so long. And at this point, we thank you and you're dismissed from this session.

Mr. CRUZ. Thank you.

Mrs. CHRISTENSEN. And now I'd like to recognize the fourth panel of witnesses; Mr. Alexander Sablan, Vice-President of the Saipan Chamber of Commerce, Ms. Lynn Knight, President of the Hotel Association of the Northern Mariana Islands, and Mr. Jesus C. Borja of the Enterprise Group. And we thank you also for your patience.

The Chair now recognizes Mr. Sablan to testify for five minutes.

STATEMENT OF ALEXANDER SABLAN, VICE-PRESIDENT, SAIPAN CHAMBER OF COMMERCE

Mr. SABLAN. Good afternoon. Hafa Adai, Madam Chairwoman and Members of the Committee. I am Alexander A. Sablan, Vice-President of the Saipan Chamber of Commerce. I am honored to testify before this committee concerning H.R. 3079 and the possible extension of Federal immigration law to the Commonwealth of Northern Mariana Islands.

I would like to begin my testimony by clarifying a rather distorted message of propaganda, if you will, that has been advanced by individuals in news reports. A message that does not reflect the correct position of the Saipan Chamber of Commerce. Madam Chairwoman and the Members of the Committee, the Saipan Chamber of Commerce and its members support the general intent of H.R. 3079. We do not purport to deny Congress' unilateral right under Section 503 of the Covenant to take control and implement

the Immigration and Nationality Act, and the subsequent enforcement of the Department of Homeland Security that oversees this Act.

In a recent majority vote, the members of the Saipan Chamber of Commerce upheld the decision of the Board of Directors in support of making very compelling statements regarding our concern about the vagueness of the legislation presented in H.R. 3079.

On July 19, 2007, our President, Juan T. Guerrero, stated similar concerns about S. 1634 in his presentation before the U.S. Senate Energy and Natural Resources Committee. It is our hope that we can draw a favorable response with good amendments to H.R. 3079 as currently drafted. And with all due respect, this legislation has far more questions than answers within our business community. Anxiety is high about what several Administration Cabinet Secretaries will provide in the way of opportunities and challenges for the CNMI after propagated regulations are drafted and implemented without further input from the people of the CNMI, the very people that these regulations will affect most.

I want to clearly state that a majority of the Chamber members are extremely concerned that this legislation has not considered the realities of our current and future economic opportunities and our geographically remote region from America.

Furthermore, there is additional concern that members of the U.S. Congress, that live approximately 8,000 miles from our borders, may not truly understand the impact of legislation before a careful, impartial, and unbiased study is completed by the General Accountability Office. We plea for this study to be completed so that good legislation that makes sense for our economy and community will be passed into law to ensure sustainable economic growth in the perceivable future.

The Chamber is keenly aware of the state of our fragile and weak economy. Many members have donated thousands of hours of their time in recent years to ensure we clearly understand our predicament and assist wherever possible to help grow and diversify our island's economy.

We have appreciated the efforts of the Office of Insular Affairs Deputy Secretary David Cohen to help us conduct various island business opportunities conferences to entice U.S. mainland investors to seek opportunities in expanding in our islands, and we certainly have seen some fruits of our labor.

I hope this committee understands the strength of our conviction, and the continued hope and aspiration of those locally that roll-up their sleeves to sit at the table and discuss the many good systemic changes that we made in our community. Changes such as improving our education. We believe in improving education; we want to see magnet schools in the Commonwealth.

We have looked at workforce development. We recently sat through a job study with the Office of the Public Auditor. We are keenly aware of the labor reforms that are going on in the Commonwealth. We have sat at the table with Congresswoman Jacinta Kaipat for a year, talking about 15-38 and working toward good, good reform measures in labor laws.

Market diversification, again, talking to the issue of looking at the opportunities document. Enforcement in all levels of govern-

ment are local recognition that, while things are not perfect, we live in the same recognition that all the insular areas currently strive with the realities of limited resources. We have heard it said that we pose a threat to homeland security in the United States because we are outside the auspices of U.S. Immigration control. We understand that homeland security for the region is far more complicated than merely controlling waters and borders. But what we would recommend is that legislation explore the option of maintaining the CNMI Immigration Policy while working hand in hand with U.S. Federal agencies for technical support, training, and sharing intelligence or screening of our guest workers and tourists. These would achieve the end result of homeland security while still maintaining the potential for a viable and robust tourism economy.

We are continually amazed at the Federal Government and in particular the Office of the Insular Affairs, who continue to spend millions of dollars over ten years to help us build a border management and labor immigration identification system, better known as LIDS, only to now disparage the process. Legislative process is self-sustaining through the fees that are collected, and has allowed the respective CNMI agencies to be more alert and aware of those who enter and who depart. And how the LIDS process works is, we capture if anybody comes in, we capture if anybody goes out. Not many jurisdictions do that.

Despite the conjecture and innuendos concerning our immigration policy, this system has markedly changed from years past when most of the infractions that our critics often referred to occurred. Our immigration labor system works for our economy and community that has a limited pool of U.S. citizen to draw from, the skilled workers. Because of our remote geographical location, we rely greatly on the backdrop of Asia for our labor pool needs and not the over 300 million U.S. citizens and 13 million illegal aliens at its doorstep, as does the mainland United States. Now, what we have is a system that conforms to our unique immigration and labor requirements and our coveted tourism markets and our service industries that maintain a very good track record of ensuring that those that enter as guest workers and tourists leave in the same manner. There has been much debate concerning the issue of status of our long-term guest worker population. The Chambers recognizes and heralds the contributions to the hundreds and thousands of guest workers that have come and gone, building and growing our economy over the last 24 years since the inception of the Non-Resident Worker Act. We are cognizant and sympathetic to their situations as they seek only to improve their standard of living as compared to the limited opportunities that may present them in their own country. We have heard much conjecture concerning the moral obligation extending status for individuals that have lived and made the CNMI home for over five years.

We would pose the question, though. Would our moral obligations have been fulfilled if we had sent them home prematurely just to avoid the wrath of the Federal government? Was it not in the best interest, as well as ours, to continue their employment when the services were needed and a qualified local resident was not available? If these statements are indeed true, why are we now

being urged to set forth policies that will cut their proverbial economic legs out from underneath them?

Our community completely understands our moral obligations and we do not condone or tolerate the exploitation of an abuse of anyone. It upsets our people to no end to read disparaging news reports, and more recently press releases, that reflect unfortunate isolated circumstances perpetrated by unscrupulous individuals onto others but portrayed as a moral epidemic infecting all of the people in the CNMI.

Mrs. CHRISTENSEN. Are you close to finishing?

Mr. SABLAN. Yes, I am. I am closing. I make an emphatic plea to take pause and study the likely impact of legislation before it is enacted. We ask that you recognized CNMI law was never developed with the potential of grandfathering of thousand of workers, and the potential of tens of thousands of their family members, as lawful non-immigrants in mind. The likely financial impact of lawful non-immigrants, that according to a recent interview of Deputy Secretary David Cohen, spells volumes to the paradoxical policy regarding Freely Associated States citizens and the Federal Government's continued position that they will not guarantee Compact-Impact money to support the huge migration to Guahan, CNMI, and Hawaii that has occurred. How can this likely impact be ignored?

In closing, and to end on a high note, I would like to thank you, Madam Chairwoman, and Congressman Nick Rahall and sponsoring members of the Committee for including the provision in H.R. 3079 that provides for the CNMI a nonvoting Delegate to the U.S. Congress. The Chamber has long supported the effort to lobby for a Delegate, and we are very supportive of this provision. It is truly time that the CNMI to have a rightful seat in Congress. Si Yu'us ma'ase. Urumai (phonetic). Thank you.

Mrs. CHRISTENSEN. Thank you.

[The prepared statement of Mr. Sablan follows:]

Statement of Alexander A. Sablan, Vice-President, Saipan Chamber of Commerce

Hafa Adai, Madam Chairwoman and Members of the Committee. I am Alexander Sablan, Vice-President of the Saipan Chamber of Commerce. I thank the committee for the privilege to be submitting testimony representing the Chamber's 167 members and am honored to provide our testimony before this Committee concerning the potential extension of federal immigration law to the Commonwealth of the Northern Mariana Islands.

INTRODUCTION

Our President Juan T. Guerrero of the Saipan Chamber of Commerce provided testimony on July 19, 2007 on similar legislation (S.B. 1634) before the Senate Committee on Energy and Natural Resources with respect to its labor and immigration provisions that are virtually identical to H.R. 3079. We recognize the distinct addition of a U.S. Delegate Representative and at this time we thank Madam Chairwoman Christensen and Representative Nick Rahall for supporting this particular provision in this legislation. I will submit that the Chamber's position has always been to support the effort to secure a U.S. Congress Delegate Seat we hope that passage of amended good legislation in H.R. 3079 the CNMI will finally achieve the representation in Washington, D.C., that the U.S. Citizen people of the CNMI so richly deserve. Madam Chairwoman and committee members we have extensively discussed the concerns of the Commonwealth business community with regard to the application of federal immigration law to the islands, and on the onset we appeal for an opportunity for the Commonwealth to work together with the federal government to address federal concerns in a manner that recognizes local realities.

Both Governor Benigno R. Fitial and Lieutenant Governor Timothy P. Villagomez on two separate occasions and testimonies before the U.S. Senate and now before your committee have requested for a careful and independent study of the CNMI by the Government Accountability Office. Our Resident Representative to the United States Pedro A. Tenorio also asked this Committee that a joint congressional, administrative, and CNMI study group be formed to enable careful study, deliberation, and consultation prior to the enactment of federal legislation affecting the Commonwealth's immigration policies.

DISCUSSION

There has been much rhetoric concerning the perceived position the Saipan Chamber of Commerce Board of Directors and more recently in a Special General Membership Meeting earlier this month, in an overwhelming vote of confidence, the majority of our members support the Chambers overall position. I wish to convey to you Madam Chairwoman and members of this committee that the Chamber recognizes and understands that under Section 503 of our Covenant Agreement the United States Congress has unilateral power to take control and implement the national policy of the Immigration and Naturalization Act upon the CNMI. We do not contest this apparent right and I further want to assure you it is not our position to reject this legislation but rather it is our hope that you and your fellow colleagues listen to the very real concerns we have conveyed, probably, more in questions we have concerning implementation of this legislation in promulgated rules and regulations, than in true substantive amendments that we can offer to help improve the legislation. Most of this written testimony I submit today is the same exact position paper we submitted to the Senate Committee on Energy and Natural Resources. I have provided an abridged version to ensure consistency with our submittal before your committee but our message and position is much the same.

Over the past 24 years, the Commonwealth has administered a labor and immigration program, that was designed and agreed upon by the federal and local governments to address the unique labor and tourism needs of the islands, consistent with the letter and intent of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. This program was not, and is not, intended to be parallel to or wholly consistent with the federal immigration and naturalization policies and objectives of the United States. The Covenant, and related laws, contemplated and provided for unique treatment of tourism and labor issues singular to the Commonwealth. Now, 29 years after the implementation of the Covenant, the Commonwealth is being taken to task by staff members of the United States Congress for not fulfilling some apparently unstated objectives of the federal government and for allegedly abusing this system in a manner that has not violated the Covenant, or the federally-approved CNMI Constitution, or federal laws, or local laws.

There was an observation in 1998 that the CNMI labor and immigration system "is broken and cannot be fixed locally." This has been proven wrong. As more fully addressed in our February testimony before the Senate Energy and Natural Resources Committee, Lieutenant Governor Villagomez's February testimony, the Commonwealth has made great strides in proactively discouraging labor and immigration abuses, as well as in the investigation and prosecution of alleged abuses. In comparison with the unmitigated immigration control failures of the mainland United States during the same time frame, the marked improvements in the locally-administered Commonwealth immigration program should be acknowledged and fostered.

There is a reason that you may have heard many requests for serious study of the overall issues facing the Commonwealth before the United States Congress continues to legislate our future—requests from the Chamber of Commerce, from the local administration, from our Resident Representative, and in written form from individuals, as well as a local group that collected hundreds of signatures of both United States citizens and non-resident workers. The reason that there is much clamor for such a study is that so many people believe it is impossible for this Committee or the United States Congress to formulate sound policy, or even to determine if federal policy needs to be formulated at all, without the benefit of an impartial, unbiased, and current review of the Commonwealth's strengths and weaknesses. All of the testimony you have heard and read to this point, including previous testimony from the Chamber, comes from specific viewpoints and with certain hopes and expectations. If you do not have access to underlying facts, how can you move forward in a fair fashion? What is needed before Congress can continue is the serious and comprehensive study that has been asked for from many quarters—not additional opinion.

While media reports might lead the uninformed to believe otherwise, the CNMI government and its agencies have worked closely with various agencies of the federal government for 24 years, in an attempt to ensure that programs designed to stimulate economic growth did not condone, promote, or tolerate labor abuses. The Commonwealth's foreign worker program solves a labor shortage problem with respect to many job categories and provides attractive employment opportunities for foreign workers who earn many of times what they would earn in their home countries, at salaries that are affordable to local businesses struggling to survive in an isolated and depressed economy, and which jobs would be unattractive to mainland workers at the prevailing wages. Workers are free to transfer to different employers with the consent of their current employer, or may unilaterally choose to transfer at the end of their contract period (which is usually one year). Workers enjoy all legal protections available to United States citizens, and in some respects, even more. All employers are required to provide medical coverage for non-resident employees, and are also required to provide return airfare to each non-resident employee's country of origin at the termination of each employee's contract term if that employee desires to return home. All of this information has been disclosed on many occasions, in many forms, by many individuals and groups. There is little more that I can add to the detailed testimony offered by the local administration, the Chamber, and others, as well as in other forums with federal officials, other than a plea that you study and consider facts and not tired, biased, and demonstrably false allegations.

Former Director of the Office of Insular Affairs (Clinton Administration) Mr. Allen Stayman has referred to our local immigration and labor departments as "essentially organized crime." To suggest that trafficking, prostitution, or other human rights abuses are the result of the policies, procedures, or efforts of the CNMI government is irresponsible, false, and unbecoming of a federal official. There occurs, in the mainland United States, frequent and well-publicized human trafficking, with related prostitution and human rights abuses. No one, including me, would suggest that these terrible acts, committed by criminals, are somehow the fault of the Immigration and Naturalization Service, or that law enforcement agencies are turning a blind eye. It is unfair and disingenuous for Mr. Stayman to ascribe broad criminal intent and/or behavior to our local government as a result of similar individual unfortunate events that may occur in the Commonwealth. There will always be bad people who commit criminal acts. The most we can expect of any government is that best efforts are made to deter such behavior, and vigorous prosecution occurs whenever such behavior is uncovered. That is what happens in the Commonwealth, both at the local and federal levels.

While there has been much discussion that "federalization" is the only option, there is simply no empirical evidence that the Commonwealth's immigration system can be more effectively run through federal offices than by retaining local control for purposes of administering a tourism-based and employment-based immigration program. Our economy is small and fragile. The much-improved processes and procedures in the Commonwealth allow for nimble adjustment to the ever-changing needs and requirements of the countries from which workers and tourists originate. Unlike the mainland United States, the Commonwealth will not have the luxury of waiting for federal machinery to gear up and effectuate changes required by any country or in response to the needs of that country's citizens—those travelers will simply opt to travel to another Pacific-rim tourist destination with less onerous and time-consuming visit requirements for vacationing. If the well-publicized visa delays currently being experienced by many visitors to the United States were to occur in the CNMI, the results would be disastrous to the tourism industry and the business community as a whole.

It has been suggested that the Chamber has opposed any "U.S. action" with respect to improving our local labor and immigration processes. In the Chamber's testimony before the U.S. Senate on S.B. 1634, we averred, "across-the-board imposition of federal law...will [not] solve any problems, real or perceived, that may exist in the CNMI." (Emphasis added.) More importantly, the Chamber would "look[s] forward to an opportunity to work with federal officials to reach agreement on these important issues in ways that answer the concerns of all interested parties without destroying our local economy." The Chamber has never opposed, but in fact has and does support, working with the federal government to address any legitimate concerns. The Chamber did and does object to any such across-the-board imposition of federal immigration law to the CNMI, especially in the absence of any serious consultation and study.

The Chamber fully supports the enforcement of border protection by the federal government. This is a component of an overall immigration program that is distinct from the Commonwealth's ongoing need to control locally the admission of foreign

workers as well as tourist visitors. The federal government's border patrol obligations are explicitly contemplated in the Covenant. Federal control of local visa programs is not.

The "grandfather clause" contained in the Senate bill contemplates allowing workers who have lived in the Commonwealth for more than five years prior to the enactment of the law the right to "lawful nonimmigrant" status. Such action allows these individuals the right to remain in the Commonwealth (or, for that matter, relocate to the mainland United States) for purposes of living and working. This action would allow the right to immigrate family members to the Commonwealth under "immediate relative" status. Such status would be renewable by those individuals every five years. They would not be eligible to vote or to receive federal entitlements, such as Medicaid/Medicare, federal scholarships, and the like. We have estimated that approximately 8,000 current workers in the Commonwealth would qualify for such status. There are two possible outcome scenarios under this grandfather clause, and neither is good. The implications of allowing almost 8,000 individuals, who are currently required to return to their countries of origin when they are no longer able to obtain employment in the islands, to remain—and to immigrate immediate relatives to join them, for the long-term—are profoundly negative for the Commonwealth. These tens of thousands of lawful nonimmigrants would be given the same preference for local jobs that this Senate has repeatedly claimed to be attempting to protect for United States citizens. These lawful nonimmigrants and their families would prove an immense burden on the local infrastructure in a way, and to a degree, that was never contemplated by—nor allowed—under the Commonwealth's existing guest worker program. In addition to our objection to the apparent intent to amend the Commonwealth's Covenant-sanctioned immigration program ex post facto, we note that there seems to be absolutely no congressional contemplation of the funding for the enormous costs that would certainly be shouldered by the Commonwealth in such an event.

There is another possibility concerning these individuals who would be granted lawful nonimmigrant status and who would be able to travel freely to and work in the mainland. They could simply move to the continental United States in search of higher-paying job opportunities than exist in the Commonwealth, thereby depriving the vast majority of local employers of the qualified and experienced labor pool that they have, for years, paid and treated fairly in accordance with CNMI law under the provisions of the Covenant. Aside from the implications for the United States of allowing the immigration of thousands of foreign nationals to the mainland, which is not the concern of the Commonwealth government or business community, it would prove a tremendous blow to business in the Commonwealth. While we have heard the concerns with "fairness issues," we believe (except when employers violate the law), that the business community and the local government have treated these individuals fairly. Non-resident workers are hired for limited-duration contracts, which may be, and usually are, renewed on an annual basis. There has never been any promise of permanent residency, or any other federal immigration status. These workers have, for the most part, elected to remain in the Commonwealth and work for wages, and under conditions superior to other alternatives they have. Those who have received better offers have left. "Unfairness" has been created by federal officials who raised the issue of "likely" federal immigration status for non-resident workers in an effort to bolster support for federal immigration control in whatever quarters they could.

To a large degree, our most serious reservation with the House bill is that it appears to legislate through yet-to-be-determined regulation. While we have no doubt that this Committee and this Congress have only the best intentions, and the best interests of the Commonwealth at heart, we must object to any legislation that places so much power with so little congressional direction in the hands of future Cabinet Secretaries.

In January of this year, Mr. David Cohen spoke at the Chamber's inaugural dinner and noted,

> I was at a meeting the other day, and one of our local legislative leaders remarked that at most, only 20 percent of the Members of Congress have even heard of the CNMI. And I thought to myself, "That's the good news; the bad news is that that 20 percent has only heard about the CNMI because they read Ms. Magazine." Most Americans who have any sort of impression at all about these islands have the wrong one.

Mr. Cohen's apt comments about the power and impact of biased and misleading reporting sum up my feelings about the negative and untrue publicity that continues to parade as "fact." We have asked for serious study by an independent government agency, the General Accountability Office, before the finalization of any legislation. What we received instead was no study by anyone and a bill apparently

not based on our current reality that commits significant issues to future determination by unknown appointed federal officials.

CONCLUSION

We plead with this Committee to study the likely impact of this legislation before it is enacted, and not after. It is manifestly unfair to the people of the Commonwealth—United States citizens—for this Congress to impose a law on the islands that will not only wreak havoc with our labor pool and our tourism industry, but will also dramatically alter the quality and nature of life, the demographic makeup, and the right to local governance over local issues that we negotiated for and agreed to in the Covenant.

The Chamber would be pleased to answer any questions or provide further information that might be of assistance to this Committee.

Si Yu'us Ma'ase, Olomwaay, and Thank You.

Mrs. CHRISTENSEN. The Chair now recognizes Ms. Knight for five minutes.

STATEMENT OF LYNN KNIGHT, PRESIDENT, HOTEL ASSOCIATION OF THE NORTHERN MARIANA ISLANDS

Ms. KNIGHT. Thank you. Madam Chair and distinguished members of this Committee, on behalf of the Hotel Association of the Northern Mariana Islands, thank you for the opportunity to discuss the impact of massive changes to our economy as contemplated in the H.R. 3079.

The CNMI is in a depression that has been largely caused by outside forces. Respectfully, we don't need this legislation to fix our problems. We need a helping hand. Once a raging success, our tourism industry today is challenged to recover significant losses. This requires a stable, supportive business climate, not the recipe for the perfect storm. This legislation would force the exit and replacement of a large and necessary segment of our workforce. It would limit tourist access at a time when we most need to diversify and bring commerce into our islands. It would increase the already high cost of doing business while offering no mitigating incentives to ensure the survival of our private sector. Why would anyone want to do this to our community? Our tourist industry began in the late '80s, fueled by Japanese and Korean money. Simultaneously, we built a garment industry, selling designer clothes to American consumers. We were fortunate to have two legs to stand on. Businesses in the early '90s boomed and we became one of the most self-sufficient areas under the U.S. flag, but not with American investment. This was done with help from our Asian investors and neighbors. At that time there was little presence of Federal officials, no one to interpret where local and Federal laws intersected. Yes, during those growing pains, some mistakes were made, but we worked very hard on self-improvement. Today, both our major industries are in double-digit declines. The competition, the instability of our air service, rising costs of fuel, utilities, shipping, food, and labor are all taking their toll. This is the problem.

Today, we have over 4,000 operating hotel rooms and more than 200 in moth balls. Average hotel occupancy is only half of our rooms. Sadly, on Rota, there is now a ghost town, as hotel occupancies run from 0 to 10 percent. The island's one resort hotel struggles to subsidize essential inter-island air service. On Tinian, a lone hotel holds up the entire island economy with tourist charter flights from China.

With local control over immigration, we have the flexibility to issue visas at our own pace to tourists, students, and investors from Asia. Earlier this year, we even welcomed direct flights from Russia, only seven hours away, and that's closer than it is to fly to Hawaii. Now, if we follow under U.S. immigration, then Russian tourists must fly all the way across their country to the U.S. Embassy in Moscow. We'll lose our Russian market overnight.

Being where we are geographically, it not only makes sense for us to develop Russian but also Chinese tourism. Even states like Hawaii want this. Capitalizing on our approved destination status, we enjoy nonstop flights from Guangzhou, Shanghai, and Beijing. What an incredible opportunity. We've grown our China market with the visitor entry permit designed to control and pre-qualify visitors. Local businesses actually assume total responsibility for each tourist's return. We're taking such precautions because we must diversify.

Now, let me talk for a minute about our workforce. Our Hotel Human Resources Managers are better equipped than ever before to recruit and mentor fellow citizens, and they're doing so. But the islands lack tourism education to motivate potential employees. There is also little interest in service positions that make up the majority of jobs, and that's the sad fact. Also, our local workforce is shrinking, mostly because people are leaving to where they can afford the cost of power.

We believe the local government is better able to help us deal with these unique challenges. The CNMI has developed a labor system to sustain our needs and with little help and encouragement from the Federal Government. We've seen the U.S. spend billions in aid to foreign countries and foreign wars. Many more billions will be spent in Guam. But for CNMI, asking for assistance on critical issues is often like competing for scraps from the table.

Madam Chair, we're grateful that your Committee has recognized the need for representation in the Congress, but we need more help than this. If you'd like us to be like the mainland, please help us reduce our cost of doing business and rebuild the engines needed to fuel our economy and employ more people.

The U.S. Military built millions of infrastructure that have accelerated the economy of Guam, while each year our hotels must invest millions in the basics, making power and water. We've had only one military ship visit this year. We have unused land held by the military in Tinian. We have a half-built American Memorial Park occupying prime tourist space in Garapan. Why not fast-track these developments for the betterment of our economy, for tourists and locals alike.

Please help us to stabilize shipping and reduce the cost of aviation fuel. Please help us with regional issues like developing tourism and education for our citizens. Outside this building, people want jobs and a better quality of life, but this won't come in an unstable business environment. In the worst of our economic crisis, this very debate and the early promises made by American officials who have been here, are hurting the morale of our employees, causing division in our community, and destroying investor confidence.

Our industry opposes this legislation because we, the Hotel Association, know that this will create certain havoc on our industry

and on the business community. Careful study of the economy is critically important. Without a study and a plan for economic recovery, we are planning to fail. And I submit to you that passing the bill like this is like shooting without taking aim. Thank you very much.

Mrs. CHRISTENSEN. Thank you.

[The prepared statement of Ms. Knight follows:]

Statement of Lynn A. Knight, President,
Hotel Association of the Northern Mariana Islands

Dear Chairwoman Christensen and Honorable Subcommittee Members:

The Hotel Association of the Northern Mariana Islands (HANMI) offers this testimony for your consideration regarding H.R. 3079. Commencing in 1992 with our testimony before the House Subcommittee on Insular Affairs, and continuing thereafter through numerous hearings, including September 1999 when we appeared before this committee, HANMI has detailed our position in favor of retaining local control over immigration and our foreign work force.

As a remote group of islands, we need continued flexibility and local knowledge in planning for our economic future. Unlike the U.S. mainland, the island economy of the Commonwealth of the Northern Mariana Islands is experiencing unprecedented decline due to external forces that are largely beyond our control.

Today, our tourism industry—once a raging success story—is challenged not only to recover losses of the past decade, but also to become perhaps the sole major industry of the future. Full recovery requires a stable and supportive business climate. Quite to the contrary, we believe that H.R. 3079 would cause hardship to our community by:

- Forcing the exit and replacement of a large and necessary segment of our workforce
- Limiting access to our tourists at a time when we most need to diversify and bring commerce into our islands
- Increasing the costs of doing business, while offering no mitigating incentives to ensure our private sector can survive

Why do we feel so strongly about this? This legislation was crafted based on outdated information rather than our current economic conditions. Further study of the prospective impact on our current economic state is vital to avoid aggravating our already fragile economy. Without sufficient study and a plan, there is little chance of an economic recovery in the near future. Put simply: failing to plan means planning to fail.

We cannot help but compare this scenario to what is happening in nearby Guam. The federal government desires to increase its military base, which will greatly affect the economy and future of Guam. Before any moves are made, the federal government is undertaking a detailed and lengthy environmental study to assess the impact of a military build up. This thorough study is being done precisely so that a proper plan can be put in place to minimize and mitigate any negative impacts on the community and prepare for proper transitions.

Ironically, just while Guam is undergoing studies, it would seem that there is little such care given to our smaller islands. We are about to experience a "Perfect Storm" with existing economic challenges compounded by the massive changes that are proposed in this bill—yet Congress is not taking the time to properly study the effects. There is something gravely wrong with this scenario.

We acknowledge that the bill may be well intentioned to increase security of our borders and bring the CNMI into the protection of the U.S. system. We do share the concern of the U.S. regarding the need to protect our country from terrorism.

We also acknowledge that the CNMI needs help. There are numerous problems in our economy that are beyond our control due to external factors. It may be time for a greater presence and financial assistance by the federal government. But without a well-conceived plan, we are taking a great risk that more businesses may fail.

Under this bill, an immigration and labor system completely new to our islands would be administered by five Presidential cabinet members and their agencies headquartered nearly half a world away. These agencies have never had a significant presence in the Northern Marianas. Therefore it is difficult to imagine that they would have sufficient understanding and flexibility to meet the unique needs of our community.

We urge members of U.S. Congress to conduct a census and surveys of our business community and our people. We must study the effects of this bill before passing

a law that would damage our economy. It is only through study that certain inevitable impacts can be truly understood.

If a proper study were conducted, you would see that we do not have enough local residents to provide all of the specialized skills and language capabilities necessary to operate existing businesses without foreign labor. It therefore makes no sense to pass an overly rigid bill that would call for the complete phase out of our foreign work force, even after 10 years, without the flexibility to reassess future needs.

The Northern Marianas have always been challenged to be self-sustaining with a small, indigenous population. This situation has not changed and in fact, may have gotten worse. With rapidly rising costs of living, including utility costs, fuel costs, and basic food costs, many of our best and brightest citizens are leaving. This exodus of qualified local workers places an even greater strain on the scarcity of the pool of local employees. It is current challenges like these that must be considered in the needed study that should shape a more responsible bill. Even with the inevitable down-sizing of our government, our citizen population is still too small to run essential government services across three islands and still have enough people to provide an adequate work force for our private sector.

Of equal importance to our future is the recognition that we must diversify our tourist markets. As small islands near the heart of Asia, we have unique opportunities to diversify. This diversification would not appear to be permissible under the current bureaucracy and restrictions of U.S. Immigration procedures.

Challenges Facing our Tourism Industry

Approximately 21 years ago, the economic growth of the Northern Mariana Islands was one of the highest of any American state or possession. Resorts and smaller hotels were built in the late 1980's and early 90's, and visitor arrivals brought prosperity to the islands. The Northern Marianas welcomed 728,621 tourists at its peak in 1997. These visitors were almost exclusively from Japan and Korea. Last year in FY 2006, our tourism industry struggled with just 443,812 visitors. This year due to further losses in air capacity from Japan, we are expected to drop to less than 400,000 visitors.

Because we were so dependent upon Japanese tourists and investment, quite naturally the early golden days ended with the bursting of the Japanese "bubble" economy in the mid-1990's. The Asian economic crisis in both Japan and Korea followed, and a series of other natural and manmade calamities also took their toll.

When Japan's and Korea's economies declined, hotel owners who were saddled with debt began to sell their properties. From approximately 2002 to the present, many hotels changed hands. The turnovers in the CNMI's hotel industry were not unique, but were repeated in Guam and Hawaii. Like the Marianas, Hawaii's original resorts were heavily owned by the Japanese, and like our islands, Hawaii's tourism industry deteriorated prior to the entry of new investors.

Hotel buyouts in Hawaii took place from the late nineties up to 2002, just a few years before Japanese hotels in Guam and the CNMI also began selling. Hawaii today is enjoying a boom in tourism due to massive turnover at over $5 Billion in hotel sales, renovations, and a destination enhancement program by the government. The transformation in Hawaii has happened at a faster pace than the Marianas, due to the islands' proximity to the U.S. mainland and the influx of American and Canadian tourists and investors. The Northern Mariana Islands, by contrast, see few American tourists except inter-island travelers from Guam and an occasional military ship's visit.

In the Northern Marianas, the only other major industry—garment manufacturing—has declined by nearly 60% over the past two years. With the increase in the minimum wage that was passed by U.S. Congress earlier this year, many expect we will completely lose the industry in 2008. When this happens, the full weight of generating the islands' revenues will fall on tourism.

The sudden pullout of Japan Airlines in 2005 has been one of the most difficult challenges our industry has ever had to overcome. In the same year, we also lost Continental Airlines service from Hong Kong and Taiwan.

Northwest Airlines picked up some of the routes from Japan, but this did not completely make up the gap in lost air seats. Since that time, Northwest's service has seen ever-changing schedules, and now the downsizing of their planes to more fuel efficient models. While this may help to eventually stabilize their service, unfortunately it has cost the CNMI dearly in terms of visitor numbers.

In September, we will lose a further 130 seats per day as Northwest changes its plane. We fully expect a major tourist decline to last at least until late December, when the airline will start a new flight from Osaka. Many hotels and tourism operators are bracing for perhaps the worst period in our industry's history.

The air service crisis has led tourism officials to join together to learn much more about the business of the airlines. An international air service consultant was hired by the CNMI government, and after frank and open discussions with existing carriers and dozens of other airlines operating in the Asian-Pacific region, we learned that we are a "low yield" destination that is also suffering because of small economies of scale, intense competition for air slots out of Narita airport in Japan, and high costs of aviation fuel. Absent a government subsidy of essential air service, our entire economy is now at the mercy of our air carriers.

About the Hotel Industry of the CNMI

HANMI members are all located on Saipan and represent 3,018 of the 3,394 total hotel rooms that are open for business on Saipan. Some 100 rooms are currently "moth-balled" due to a lack of business, while 182 more rooms have recently been converted to apartments. The island of Tinian has 452 hotel rooms, of which 42 are closed. Rota has 250 rooms, with 60 closed at this time.

Hotel occupancy in the past three months has averaged only 52%. For reference, the average break even point for most hotels is estimated to be in the 70% range. In 2007, average hotel room rates for HANMI members hovered at $90, following more than $60 M in renovations and improvements that have been made in recent years on Saipan alone. For comparison purposes, Guam's average room rate is near $110, while Hawaii surpassed the $160 mark. (Please see Appendix I for HANMI Average Rates and Occupancies from 1992 to 2006.)

Tinian's tourism industry has survived thus far due to privately chartered flights from China, which provide the majority of visitors to the island's one resort hotel and several locally-owned small hotels. Tinian received 64,083 tourists in 2006. Without Chinese tourists, the island's economy would likely collapse.

Our smallest inhabited island of Rota has been the hardest hit by the loss of air service, resulting in hotel occupancies from a frightening zero to 10% on any given day. Sadly, the island's major village now resembles a ghost town.

The Northern Marianas compete directly with Asian tropical destinations including the Philippines, Thailand, Malaysia, Maldives, Palau, and Bali, Indonesia, where the cost of labor is low and service standards are high. Our islands also compete with Guam and Hawaii, which are hubs of air service and shipping for the region. Both Guam and Hawaii have benefited from billions of dollars of investment by the U.S. military. By comparison, a large portion of land on our island of Tinian has been held by the U.S. military for many years, but with absolutely no investment.

Conditions of doing business in the Northern Mariana Islands are vastly different than in Guam and Hawaii, due to inadequate infrastructure and a much smaller population. Our hotels have had to invest millions of dollars in their own power and water-making systems. In the CNMI these investments are a necessary cost of doing business, requiring capital outlays that could otherwise be spent on marketing, business enhancements and employee development.

Employment Challenges and Concerns

If the CNMI's immigration authority is taken away and our guest worker program is to be phased out, we have grave concerns about the hardships that could be caused by reduced access—and even a phase out—of our valued employees from overseas. Members of the Hotel Association feel it is unrealistic to expect the tourism industry to completely phase out foreign workers.

In total, our hotels employed 1,959 people as of June 2007, of which 32% were local residents. We are hiring more local residents each year, but turnover must be done gradually to avoid business disruption. Increased employment of local residents requires training and tourism education we do not currently have on island. Again, it is more difficult to find potential local qualified resident candidates as many are leaving the islands for greener pastures on the U.S. mainland.

The hotels provide a wide range of benefits and employee assistance programs, as well as training and development to create a sense of community and build morale among our multi-cultural staffs. But despite these efforts, we have seen that there are certain jobs for which the indigenous community consistently has shown little or no interest. This is evidenced by the high number of foreign workers in housekeeping, maintenance, and most food and beverage positions. These positions roughly equal the 60+% of the jobs held by foreign workers in our hotels.

For culinary arts, no training is currently available and many of our chefs are recruited from Asian countries to meet the tastes of our hotel guests. The ability to recruit highly skilled chefs from foreign countries is seen as one of our few competitive advantages.

The CNMI's resort hotels have recently invested in the development of luxury spas. However, indigenous residents will generally not apply for jobs as spa therapists due to a general shyness in serving guests. Therefore, most of the personnel working in luxury spas today are recruited from Bali, Thailand and the Philippines.

Despite our challenges, we are proud of the progress that our industry has made in hiring local residents. Successful career paths have been established and proven in the ever-increasing number of local residents that have joined hotel management teams. Currently all of the resort hotels have local citizens in human resources management. With networks in the community, these professionals are better equipped today than ever to hire and mentor other residents.

HANMI members have a good record of treatment of both foreign and local employees. In the mid-1990's, our association initiated an inter-hotel committee for human resources of the hotel industry to regularly join together to share ideas and training. The expansion of this committee 10 years ago resulted in the founding of the CNMI chapter of the U.S. national organization, the Society for Human Resources Management (SHRM).

To help ensure we provide safe work places, in 2005 HANMI members entered into a voluntary partnership agreement with the U.S. Department of Labor's OSHA Division out of Region IX, San Francisco. This program provides for voluntary inspections, annual conferences and joint cooperation in ensuring safe and healthy working conditions.

An ongoing challenge is the fact that our islands simply do not have any specialized education necessary to grow local employment in tourism. As one example, although the Korean market is the second largest tourism market for the CNMI today, there are no Korean language classes available.

Without the flexibility to retain a certain number of our employees from overseas, this industry will not survive. We will clearly not be able to provide the service level that our guests expect. If we lose our competitiveness as a tourist destination, eventually more businesses will close and even some of the best and brightest local workers will lose their jobs.

Further, the CNMI has come a long way in addressing the labor concerns that have plagued the image of the islands in the national media. Our CNMI Department of Labor has taken great strides in substantively tackling reports of labor complaints by the non-resident workforce. While there is always room for improvement, our current conditions are far safer than the sinister images that have been sensationalized in the media.

Specific Labor Concerns of H.R. 3079

Section 6(e)(2) of the bill would authorize foreign workers already lawfully present in the CNMI to continue to remain only up to two years after the transition program's effective date. This will negatively impact our hotels as there is yet no regulation in place to for renewal of employment authorizations to remain in the CNMI once that period expires. Without any regulations yet established, there is no way to determine how stringent or costly this would be for our tourism industry to retain such workers thereafter.

Transitional Workers. Sec. 103(d) provides for the entry of aliens into the CNMI as nonimmigrant workers. However, such entry shall be determined at the sole discretion of the Secretary of Homeland Security, which would be charged with establishing, administering, and enforcing a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers. Moreover, this system would provide for a reduction in allocation of permits to zero by December 31, 2017. As discussed above, we do not believe that our industry could ever completely phase out its foreign work force.

Subsection (5)(A) would authorize foreign workers to transfer between employers without advance permission of the employee's current or prior employer. This provisions appears contrary to H.R. 3079's intent to assist that employers could secure needed workers if employers could not expect to retain the workers they hired in the first place.

The members of HANMI must also voice our opposition to the bill's plan to convert the status of long-term foreign workers who have remained continuously in the Commonwealth for more than five years to immigrant status. This has regrettably become a highly emotional issue in the islands, one that has created significant morale problems in our workforce today. This is also one of the provisions in the bill that has the greatest potential to cause the uncertainty and expense for our businesses. It is a proposal that should not be carried through without thorough study.

We believe that the outcome of the proposed changes of immigration status for foreign workers would be that many would choose to leave the Commonwealth to find higher paying jobs in Guam and the U.S. mainland. This would cause a major

disruption in our industry as we would have no means to immediately replace large numbers of people, especially with our dwindling available local workforce.

For foreign workers who would not qualify for a change in status, the bill and its transition period leaves many questions about rising costs. In our weakened economic state, most businesses could not afford the legal expenses, fees and lengthy approval process under the U.S. system of work visas. Once again, these issues should be discussed in detail and an economic study completed before Congress votes on this bill.

The Need for Diversification of our Tourist Markets

A critical reason why HANMI supports continued local control over immigration is the need for flexibility to diversify our tourist markets. It is recognized that Japan and Korea will always be major source markets for our islands, but we must keep the doors open for other nationalities in order to lessen our dependence on any one market. We share great concern about change to our immigration system because the U.S. does not currently recognize countries we have invested in for a decade, namely China and Russia.

Diversification will protect our island economy from an unhealthy dependence upon only one or two markets—or one or two air carriers that could make or break us at any given time. Islands in the Caribbean are fortunate to be able to attract tourists from the U.S. mainland and Europe; Southeast Asian destinations can rely on Europe and many other Asian countries, while the Northern Marianas is investing and tapping into a number of Asian countries within a short flying distance.

Even before the loss of JAL, tourism industry stakeholders identified the need to invest in the most promising new markets in our region. Diversification is critically important in light of the vulnerability of island economies such as ours.

While the bill states that it will consider special CNMI-only tourist visas, we have many questions about how this would be implemented. There is great uncertainty over the potential costs, lead time and approvals involved with dealing with U.S. embassies overseas. We question whether such a program could be anywhere near as efficient and as the program we now have in place under the care of the local government.

Our Russian Tourism Market

Since 1998, Russian tourists have become a lucrative market for the islands, as these guests stay for long periods of time. The Japanese and Korean markets stay for only 3 nights, while it is not uncommon for wealthy Russian tourists traveling with their children to stay for up to 3 weeks. These visitors come to our islands to avoid bitterly cold weather in Russia and to enjoy a taste of American life on the closest tropical island to their country. Many of these guests travel on business class fares via connecting flights from Korea and Japan, which helps our air carriers.

Russian families spend a great deal on dining, patronizing all resort hotel services including kids' clubs and spas. They spread money throughout our economy when they buy retail goods, and enjoy a wide variety of the optional tours available in the islands.

Marketing efforts to Russian tourists have largely been developed through the initiative and investment of Saipan's resort hotels. Today many of our resorts have invested in marketing to and serving the Russian market.

In the year 2006, there were just over 1,500 Russian tourists who came to the Northern Marianas, resulting in estimated sales of 31,500 room nights. In this year, we hope to attract 3,000.

The shortest travel time from Russia is only 7 hours or roughly less time than it takes to travel from the CNMI to Hawaii. This makes our islands a viable destination for Russian tourists. If we convert to a U.S. immigration system and Russian tourists are required to fly for many hours to the U.S. Embassy in Moscow to apply for a visa to the CNMI, we would likely lose all of our Russian tourists overnight.

China Tourism Market

Another bright spot on the horizon for the recovery of the CNMI's tourism industry is the China market. We believe that retaining the CNMI's privilege of local control of immigration and our Approved Destination Status with China, which is an essential element to growing this new market.

As recently stated by the general manager of a resort hotel on Saipan, "Being where we are geographically, we cannot survive without a China strategy. It is a different world. In the future, we have to find a way to open these markets." For the CNMI, it only makes sense for our local tourist industry to have a China strategy to capitalize on the rapid economic growth of this nearby country, which is only a 4 to five hour non-stop flight away.

Since 2002 when a hotel on Tinian first took the initiative to charter flights from Guangzhou, the Northern Marianas have grown this market slowly and carefully with a selective visitor entry permit (VEP) designed to control numbers, qualify visitors, and guarantee their exit prior to allowing entry into the islands.

In December 2004, following several years of effort, former Governor Juan Babauta signed an agreement with Chinese officials in Beijing to grant the CNMI Approved Destination Status. ADS allows the CNMI to legally promote itself as a recognized tourist destination in China, an honor we share with more than 100 other countries. More than half of the world—including Australia, Europe and many other Western countries—currently have this coveted status.

China has already surpassed the number of outbound tourists from Japan and is now the largest tourist market in the world, with more than 36 Million people traveling overseas in 2006. As a result, there is probably no major tourist destination in the world today that does not have a China marketing plan. The Northern Marianas have a major advantage in attracting this market due to our close proximity, direct non-stop flight service and locally controlled visa.

Guam officials have visited China numerous times, in the hopes of welcoming tourists. As early as 2003, Hawaii conducted a comprehensive study of the China market and its potential for the state. Hawaii has since set up an office in China and has been marketing heavily in preparation for a "green light" for Chinese tourists to visit. San Francisco and Nevada have also set up offices in China. In 2005, California Governor Arnold Schwarzenegger led his first trade mission to China, while the states of Florida and Texas were the first U.S. destinations to exhibit at Beijing's International Travel and Tourism Market in 2006. The state of Georgia also sent tourism officials to China in the year 2005, in anticipation of opening tourism and trade offices.

Just like other tourists, Chinese families come to the CNMI to enjoy the beautiful clean environment, golf, marine sports and other optional tours. While the Chinese may be second to Japanese travelers in terms of the total amount they spend on trips, they have begun to out-rank the Japanese in how much they spend on shopping.

Over the years to date, the CNMI has welcomed more than 334,000 Chinese tourists to Tinian and Saipan, bringing millions of dollars into our economy. In FY 2006, the arrival figures grew modestly to 38,385.

The CNMI eventually targets to build arrivals from China to 150,000 tourists per year according to the Marianas Visitors Authority (revised target announced in June 2007). The CNMI currently benefits from six direct, non-stop chartered flights from Shanghai, Guangzhou and Beijing. It is our hope that we can continue this growth through a gradual build up of flights from the most modern and affluent cities in China.

To summarize, the Northern Mariana Islands today are in a pivotal moment in our economic history. We have never been more economically challenged. We believe that for U.S. Congress to force rapid change without sufficient local input and a sound plan would cause havoc and almost certain collapse of many local companies.

We would like to state for the record that our position is not solely based on economics, but also a genuine concern for our community. We are in unprecedented territory in our history and recognize that tourism may be the only major provider for our islands in the near future. As industry leaders, we feel a great sense of responsibility to provide for our people. At the same time, continued investments in our businesses can only be made within a stable and supportive business climate.

If the federal government would like to help us transition to an economy patterned after the U.S. mainland, we would welcome help. But we must humbly ask that U.S. Congress and federal agencies first work in partnership with our community and local government to create a realistic WORKING PLAN for business incentives, mitigation and economic recovery.

In other words, if the U.S. would like the CNMI to be like Guam or Hawaii, help us to become like these more advanced economies. Invest with us in our infrastructure and help the local government to reduce the high costs of doing business. Help us to stabilize and provide essential air service. Help us to reduce our rising costs of shipping resulting from higher fuel costs, our isolated location, and the rapid loss of our garment industry.

Finally, please help us to develop a tourism education program so we can prepare more local people for jobs, while allowing us to retain the level of foreign workforce we need to serve our customers and compete against other tourism destinations.

The members of the Hotel Association thank you for your kind consideration of our views.

APPENDIX

1. Hotel room Occupancy and Rate Statistics, as prepared by the Hotel Association of the Northern Mariana Islands for Saipan's hotels, 1992 to 2007.

ADDITIONAL REFERENCES

"Strategic Initiatives for 2006-2010," a strategic plan for tourism, prepared for the Office of CNMI Governor by the Ad Hoc Tourism committee, Strategic Economic Development Council, May 2006.

HANMI AVERAGE MONTHLY ROOM OCCUPANCY RATE

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Jan.	82.30%	83.40%	76.85%	74.64%	86.92%	91.96%	69.85%	60.54%	61.15%	64.23%	72.47%	82.63%	76.61%	74.53%	69.70%	72.40%
Feb.	87.90%	85.00%	85.28%	87.77%	92.03%	95.92%	71.90%	69.48%	69.32%	71.63%	66.79%	79.28%	82.03%	76.85%	73.43%	73.61%
Mar.	80.10%	74.90%	78.98%	82.20%	88.22%	81.80%	58.86%	58.37%	58.87%	60.65%	57.25%	63.69%	69.96%	70.40%	59.77%	63.37%
Apr.	70.30%	62.00%	66.85%	71.42%	80.76%	83.67%	56.70%	55.89%	55.37%	56.05%	52.00%	51.84%	64.81%	69.15%	56.48%	49.45%
May	75.00%	67.22%	73.38%	83.30%	85.79%	83.49%	58.97%	56.62%	58.22%	57.66%	53.26%	50.40%	63.75%	66.56%	64.87%	52.32%
Jun	77.30%	64.50%	68.66%	79.06%	84.59%	82.71%	57.82%	56.38%	63.09%	55.30%	60.93%	49.89%	76.93%	74.41%	66.38%	55.42%
July	76.20%	69.28%	77.07%	83.46%	81.94%	74.24%	51.89%	59.65%	62.06%	57.40%	67.87%	59.53%	70.87%	73.89%	64.42%	
Aug	77.70%	87.24%	87.35%	91.87%	90.22%	75.08%	55.83%	60.62%	63.83%	61.63%	71.61%	63.39%	74.66%	71.77%	66.47%	
Sep.	85.90%	75.87%	83.77%	89.09%	87.29%	77.92%	52.78%	60.89%	62.79%	47.88%	64.06%	71.64%	79.33%	79.65%	63.08%	
Oct.	73.80%	67.56%	69.29%	77.90%	83.26%	73.67%	47.05%	60.46%	59.82%	32.98%	54.68%	63.67%	63.26%	60.66%	58.53%	
Nov	78.40%	73.56%	82.32%	87.29%	90.14%	81.53%	57.62%	65.27%	62.84%	39.33%	63.84%	71.37%	67.23%	60.90%	58.74%	
Dec.	75.10%	71.39%	74.58%	83.51%	75.70%	74.26%	57.32%	61.16%	57.37%	48.41%	75.57%	71.22%	71.59%	63.20%	61.04%	
	78.10%	**73.49%**	**77.03%**	**82.62%**	**85.57%**	**81.35%**	**58.05%**	**60.44%**	**61.23%**	**54.43%**	**63.36%**	**64.88%**	**71.75%**	**70.16%**	**63.57%**	

AVERAGE MONTHLY ROOM RATE

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Jan.	$117.98	$126.96	$120.66	$128.14	$137.01	$153.97	$152.90	$113.47	$101.10	$102.27	$95.48	$97.81	$87.50	$89.96	$105.62	$107.06
Feb.	$121.84	$123.63	$116.50	$119.29	$137.56	$145.88	$137.17	$92.17	$88.38	$86.45	$71.83	$87.76	$80.67	$80.90	$89.26	$94.41
Mar.	$121.43	$124.38	$114.60	$116.34	$117.08	$143.26	$137.65	$104.65	$83.91	$89.28	$82.01	$82.43	$79.33	$82.27	$91.17	$86.01
Apr.	$102.05	$108.99	$106.09	$105.93	$117.52	$125.96	$117.26	$96.04	$85.24	$87.49	$78.26	$73.64	$79.24	$82.76	$85.40	$84.67
May	$103.63	$109.37	$102.19	$107.44	$115.96	$123.44	$113.64	$96.02	$88.42	$88.90	$81.75	$72.74	$79.32	$87.36	$88.71	$89.56
June	$107.71	$110.17	$101.54	$110.23	$120.40	$128.68	$107.87	$89.09	$76.90	$80.54	$72.02	$70.61	$72.99	$78.91	$80.23	$82.88
July	$123.04	$116.64	$113.05	$125.32	$135.40	$145.17	$120.93	$107.64	$90.56	$92.24	$80.85	$79.25	$79.86	$84.57	$93.03	
Aug	$141.95	$134.05	$130.17	$146.21	$162.96	$172.53	$140.73	$138.73	$113.55	$122.65	$107.46	$109.37	$91.95	$99.08	$113.62	
Sep.	$114.59	$111.28	$113.35	$119.74	$125.11	$130.45	$95.15	$88.17	$80.33	$80.41	$74.68	$75.00	$78.05	$81.51	$83.72	
Oct.	$95.32	$97.22	$95.30	$101.79	$108.96	$113.53	$83.84	$83.15	$73.49	$77.13	$72.05	$75.51	$73.62	$78.78	$84.41	
Nov	$93.49	$103.64	$92.26	$103.18	$111.29	$115.32	$81.47	$81.42	$80.30	$73.91	$74.30	$70.31	$75.31	$77.70	$82.47	
Dec.	$109.69	$111.79	$108.05	$117.63	$143.52	$134.60	$118.12	$97.22	$94.61	$89.93	$86.79	$90.97	$87.21	$90.66	$97.81	
	$112.82	**$114.84**	**$109.48**	**$116.77**	**$127.73**	**$136.06**	**$117.23**	**$98.98**	**$88.06**	**$89.27**	**$81.46**	**$82.11**	**$80.42**	**$84.54**	**$91.29**	

TOTAL EMPLOYMENT

Jan	1,951
Feb	2,018
Mar	2,003
Apr	1,981
May	1,964
June	1,959

Mrs. CHRISTENSEN. The Chair now recognizes Mr. Borja for five minutes.

STATEMENT OF JESUS C. BORJA, THE ENTERPRISE GROUP

Mr. BORJA. Thank you. Good afternoon. The CNMI Enterprise group thanks Representative Christensen and the members of the House Subcommittee on Insular Affairs for extending an invitation to it to testify before the Subcommittee. We welcome you to our great Commonwealth and to Saipan in particular. Mr. Jose S. Dela Cruz regrets that he could not appear before you due to a previous commitment that he could not get out of.

The Enterprise Group is completely in support of the primary intent of the bill, to protect the national and homeland security of the United States. The members are also in complete support of Section 201, permitting a resident of our Commonwealth to sit as a Delegate to the House of Representatives of the U.S. Congress. Although a nonvoting delegate at least it is putting us on a par with the other insular areas. Hopefully, all insular areas in Washington, D.C., will eventually have a seat equal to all the states from this great country of ours. We also support Section 103, dealing with asylum.

While we do support the provisions I just mentioned, we do have serious concerns that we wish to share with your Subcommittee. Our concerns have been stated in writing and submitted to you. I would like to emphasize a few of those concerns.

Section 701 of our Covenant is the source of the language used in the bill that the United States will assist the Commonwealth "to achieve a progressively higher standard of living for its people as part of the American economic community and to develop economic resources needed to meet the financial responsibilities of local self-government." This provision became effective on January 9, 1978, when our Constitution went into full force and effect, and our Constitutional Government was established. From 1978 to 2007, 29 years, the promise made by the United States in Section 701 of our Covenant has still not been accomplished. This is evident with the use of the same language in the bill.

If after 29 years, the United States has still not met its goal of a standard of living for our people equal to the American economic community and the development of the economic resources needed to meet the financial responsibilities of local self government, how is it that the bill concludes that such will be accomplished in ten years? The transition period should be made flexible so that it may be extended if warranted. A possible amendment would be to include a provision that the transition may be extended if a panel consisting of CNMI and Federal officials agree that it should be extended.

The Enterprise Group knows that what is stated in Section 102(a)(2) regarding the intentions of the bill will not be accomplished with the plan that is contained in the bill. The Enterprise Group surely believes that the bill is in retaliation for abuses that our Commonwealth has committed. If this is really the case, is it fair that the majority of the people of our Commonwealth, good and decent people, be penalized for the sins of the few? The Enterprise Group does not condone the abuses that have occurred, but the Enterprise Group does not believe it fair that the United States enact a law that punishes even good people and derogates from its promise to assist us achieve a standard of living comparable to the standard of living of the American economic community and from developing our resources so that we can meet the financial responsibilities of local self government.

We firmly and sincerely believe that the bill can be drafted so that the United States will actually continue to live up to its promise under Section 701 of our Covenant. In particular, the Enterprise Group sincerely believes that the bill can be crafted so that the much needed tourist and foreign investors can continue to arrive into our Commonwealth without endangering our national and homeland security.

We do not believe that having a provision saying that after ten years employers can only have non-resident employees, if the employees become immigrants of the United States, is in the best interest of the Commonwealth. Neither do we believe that stopping all foreign investors is in the best interest of the CNMI. These specific provisions sound and smell of vindictiveness and retaliation.

Our economy is very fragile and is affected by events occurring outside the CNMI without much control by us. Our only industry

now is the tourist industry, and it not only is not improving, it is going down. Our human resources are very limited and we doubt very much that it would be sufficient both in terms of numbers and in terms of types of skills in ten years to meet the demands of our economy.

We hope and pray that your Subcommittee will review the bill and do the necessary amendments so that the bill is really for the good of the people of the Commonwealth of the Northern Mariana Islands. Thank you.

Mrs. CHRISTENSEN. Thank you, Mr. Borja.

[The prepared statement of Mr. Borja follows:]

Statement of Jesus C. Borja on behalf of The CNMI Enterprise Group

On behalf of the CNMI Enterprise Group, I would like to thank the Chairwoman of the House Subcommittee on Insular Affairs, Representative Donna Christensen of the Virgin Islands, for inviting our Group to testify at the hearing to be held on August 15, 2007, with respect to H.R. 3079. It is a privilege and an honor to testify before the U.S. Subcommittee on Insular Affairs, which has oversight jurisdiction over the territories and commonwealths of the United States.

It is indeed rare for a Subcommittee of the United States Congress to conduct its hearing in one of the territories or commonwealth. It is to the Subcommittee's credit that it is conducting this particular hearing in the Northern Mariana Islands. The legislation under consideration, which proposes the inclusion of the Northern Mariana Islands within the overall scope and jurisdiction of the U.S. Immigration and Nationality Act, is of great importance to the Commonwealth of the Northern Mariana Islands and its people.

General Overview of H.R. 3079

If the proposed federal immigration legislation is enacted into law, the CNMI immigration regime that the Commonwealth of the Northern Islands has practiced for almost thirty (30) years will cease within one-year of enactment of the federal legislation. The measure is, therefore, of great significance to the Commonwealth of the Northern Mariana Islands and its people because of its potential effect on the economy of the Northern Mariana Islands and its potential impact on the social fabric, political make-up and cultural dynamics of its people. The legislation would, we believe, affect adversely the economic well-being of the Northern Mariana Islands, particularly at a time when the local economy is extremely depressed and is not moving. The legislation would change in a very fundamental way the social demographics of the local population. And it would make sweeping changes to the social fabric and local dynamics of the fairly small population of the Northern Mariana Islands. Finally, this federal legislation would bring major social and political changes to the CNMI that we believe would adversely affect the Commonwealth's welfare and well-being, because of the timing and the manner in which the legislation is being implemented—abruptly and without much consideration as to its potential consequences on the local economy. We believe that the effects of this legislation on the people of the CNMI should be the second paramount objective of this legislation. The first of course is our national security objectives.

About the CNMI Enterprise Group

As the Subcommittee may be aware, the CNMI Enterprise Group is a voluntary association of concerned citizens of the Northern Mariana Islands that meets every now and then to discuss some of the major issues affecting the Northern Mariana Islands and its people. Whenever the Group feels it appropriate or necessary to do so, we make formal recommendations either to the local government or to business and civic leaders to enact legislation, promulgate regulation, or adopt appropriate public policy or directive that would address an issue affecting the CNMI and its people. Major issues affecting the CNMI which our Group has reviewed and considered in the past has run the gamut from the problems affecting the CNMI visitor industry (in view of its demise in recent years), to our recommendation to the CNMI government early last year strongly urging an increase in the local minimum wage, but on an incremental basis and based on the living standard here in the CNMI, not on the comparatively high living standards of the U.S. mainland.

Our Group has also reviewed the emotional and very divisive issue pertaining to the CNMI land alienation restriction. We have addressed the fundamental need for

CNMI residents to be trained and to acquire the skills needed to be gainfully employed by the private sector; as well as the corresponding need for the CNMI government to begin weaning itself out of its long-time role as the biggest employer in the CNMI. We are, in a sense, a public interest group. So our testimony before the Subcommittee is as a CNMI public interest group, whose primary concern is the welfare and well-being of the people of the CNMI, now and in the future.

Statement of General Concerns Regarding the Impact of H.R. 3079 on the CNMI Economy

While the Group understands and appreciates the basic intent of the proposed legislation, namely, to implement the U.S. Immigration and Nationality Act in the Commonwealth of the Northern Mariana Islands, so that every jurisdiction under the U.S. flag follows the same uniform rules of immigration, we are very concerned about the legislation's potential impact on the fragile economy of the CNMI. We understand and appreciate the underlying reasons for doing so: namely, to ensure that the national security interests and the homeland security interest of the United States are promoted, and so that effective border control procedures could be implemented and carried out.

Our Group wholeheartedly agrees with these national security objectives and concerns. Indeed, in this day and age when the overall security interest of the United States is being actively threatened, it is not only necessary but mandatory as well for every member of the American political family to participate in and help implement such overriding national security objectives. Every resident of the Northern Mariana Islands, we believe, understands this and each resident gladly agrees to do his/her share to help ensure that our national security interests are preserved and protected. The best example of our commitment is the participation of our young people in the Iraq and Afghanistan conflicts.

The issue that our Group has with the proposed legislation relates to the second part of the legislative intent:

(2) to minimize, to the greatest extent practicable, potential adverse economic and fiscal effects of phasing out the Commonwealth's nonresident contract worker program and to maximize the Commonwealth's potential for future economic and business growth...

Section 102 (a) (2). Our Group has great difficulty agreeing with this part of the legislative intent because we believe that such statement is only paying lip-service to the intent (a) to as much as possible not disrupt the economy of the Northern Mariana Islands; and (b) to encourage the development and growth of a diverse economy for the Northern Mariana Islands. Our Group feels very strongly that the proposed legislation, as now drafted (with the many exceptions being carved out from the uniform immigration laws of the United States), would instead when implemented adversely affect the economic well-being of the Northern Mariana Islands and its people. Why is the proposed legislation carving out so many exceptions from the uniform immigration laws of the United States? Many of the provisions of the proposed legislation depart quite radically from the uniform immigration laws of the United States. Many of them do not make any sense both from a national perspective and from a CNMI economic perspective.

Put differently, how could an insular economy, like the fragile economy of the Northern Mariana Islands, "develop, diversify and grow" when limitations are being imposed under the proposed federal legislation which would, among other things, prohibit new foreign investors from coming in and investing in the CNMI? How could a fragile, insular economy grow and develop when the proposed federal legislation would prohibit the future hiring of guest workers that local businesses would need, because there are not enough trained or skilled workers locally to supplement the labor needs of local businesses and the visitor industry? Why can't the application of the Immigration and Nationality Act in the CNMI be drafted in a manner that would truly help to "develop, diversify and grow" the economy of the CNMI? After all, the Federal Government, and not the CNMI Government, will be enforcing the federal immigration law regime. Any fear of the CNMI government "fumbling" its responsibility on immigration and labor matters, as some have stated in the past, should no longer be the case. It will be the Secretary of Homeland Security that would make the call, not the CNMI government.

The Fragile, Insular Economy of the CNMI

The Group urges the Subcommittee to please seriously consider the fact that the CNMI has a very fragile, insular economy, which is completely different from the developed economy of the United States mainland where the standard of living is probably three to four times higher than here in the islands. The Group also urges the Subcommittee to recognize that the CNMI has almost no natural resources to

supplement its tourist-based economy. Although we are surrounded by the vast Pacific, the CNMI does not have the capability or the means to harvest the abundant resources of the ocean so as to be able to have a viable fishing industry. Indeed, when we began local self-government thirty (30) years ago, the economy of the Northern Mariana Islands was essentially a subsistence economy. In other words, the people of the Northern Mariana Islands used to live by fishing and farming for their livelihood; and a good number of our people still fish and farm to supplement their meager salary.

It is, therefore, imperative on the part of the U.S. Congress, whenever it enacts legislation affecting the Northern Mariana Islands and the other insular territories, that it takes a more sensitive approach to and closely scrutinize how a federal legislation that is being proposed would impact on our small, insular population and our fragile and limited resources. They have a saying here in the Northern Marianas that when Japan sneezes, the CNMI catches a cold. Indeed, the CNMI is so dependent on Japan for our local tourist industry and for investments in the islands that when Japan Airline stopped servicing the islands in October 2005, the CNMI visitor industry literally became paralyzed.

Resolving the visitor industry problem has now been one of the top priorities of the CNMI government and business leaders, but so far no new air carrier has stepped in to replace Japan Airline. Indeed, this is one area where the Federal Government could be doing something concrete to help the CNMI. It could be actively participating in assisting the CNMI get another air carrier to come and service the Japan-CNMI route. This is one very practical way that the Federal Government could help "develop, grow and diversify" the economy of the Northern Mariana Islands, not by removing the CNMI's ability to hire guest workers whenever there is a need to do so.

That is why when one reads the second part of the legislative intent in the proposed legislation, namely, that one of its purposes is to "encourag[e] diversification and growth of the economy of the Commonwealth," the Subcommittee needs to ask itself how such intent could actually and successfully be carried out, if we all know now that the proposed legislation would most likely do just the opposite: namely, it would decrease the number of guest workers needed by CNMI businesses from what it is now, to zero by the year 2017. Such guest worker "attrition formula" is clearly unrealistic because it presumes that by the year 2017, there would be enough local workers to accommodate the needs of all employers in the CNMI.

What would happen if that is not the case? Do we then ask the Congress to amend the law again? We believe that the proposed legislation should be drafted now in a manner that realistically addresses the actual guest worker needs of the CNMI as the years go by, rather than to allow guest workers to be employed in the CNMI for a period of only ten years, during which period the guest worker population will begin dwindling down to zero. Is the worker-attrition approach economically realistic? We don't think so. And we also believe that this Subcommittee would not think so.

We urge the Subcommittee to seriously consider the extremely critical suggestion made by the CNMI Administration that the General Accountability Office (GAO) of the U.S. Congress should first perform a study on the potential impact of the proposed legislation on the economy of the CNMI, before the measure is acted upon by Congress. It is better to find out the potential consequences in advance, rather than find out later on that the legislation became the final blow that destroyed the CNMI economy. Does Congress want this to happen? The answer, we believe, is clearly "No."

The Apparent Inconsistency of Certain Provisions in Title I with the Provisions of the U.S. Immigration and Nationality Act

Under the Immigration and Nationality Act's (INA) H-2 worker visa program, we understand that the need of the employer to hire a guest worker is one of the key criteria required in order to hire a guest worker. But under the proposed immigration legislation for the CNMI alone, if the CNMI needs additional guest workers they could only be admitted as immigrants, i.e. as permanent residents. The irony with this particular requirement—that all new guest workers hereafter could only be admitted into the CNMI as immigrants—is that for the guest workers who are now and have been here in the CNMI for five years or more, the "status" that these long-time guest workers are being accorded under the proposed legislation is as "non-immigrants," similar to the status accorded citizens of the Freely Associated States. We realize, of course, that this matter, i.e. the granting of "status," is strictly a federal prerogative, but the approach being taken under the proposed federal legislation appears illogical or is intended to simply make it extremely difficult for CNMI employers to hire additional guest workers in the future.

The proposed legislation is essentially telling the CNMI: "If you need more guest workers, you could only bring them in as part of the permanent population of the CNMI." The additional irony with this particular requirement is that under the existing Immigration and Nationally Act, H-2 workers who are admitted to work in New York, California, Idaho or Kansas (or anywhere in the United States), are not admitted as immigrants, but as non-immigrant H-2 workers, who must leave the United States when their term of employment ends. So why is this very strange twist on the uniform federal immigration law being made for the CNMI alone? It simply doesn't make sense. It makes you wonder whether this provision is somehow a form of retribution against the CNMI for its alleged past labor abuse and misdeeds, by those who drafted the language of this legislation.

We urge the Subcommittee to look very closely at this provision; and we also urge the Subcommittee to seriously reconsider the "ten-year winding down of guest worker" provision. Both of these provisions do not make any sense, and both are unrealistic for the development and growth of the economy of the CNMI. How these provisions would help "develop, grow and diversify" the economy of the CNMI is truly incomprehensible. Indeed, it may also be wise for the Subcommittee to ask those who drafted this legislation how some of these provisions came about. The Subcommittee should require them to explain to the Subcommittee why they think these unusual provisions would help in the growth and development of the economy of the CNMI. They should be asked to provide the Subcommittee with answers that make sense. If it turns out that some of these provisions are in essence, as we suspect, a form of retribution against the CNMI for allegedly being "an errant member" of the American political family in the past, we believe that an august and hallowed institution, as the United States Congress is, should not be used wittingly or unwittingly by individuals in such a cavalier manner. We sincerely hope that our suspicion on this matter is incorrect, and that the people who drafted this legislation were motivated entirely by a truly sincere interest in the growth and development of a diverse economy for the CNMI. The burden of explaining this should, however, be on the drafters of the legislation: to show the Subcommittee that such is indeed the case, and not otherwise.

Specific Concerns with Respect to Certain Provisions of Title I of the Act

In addition to the foregoing concerns, we would like to point out to the Subcommittee several particular concerns that our Group has with some of the provisions of the proposed federal legislation. First, the Group would like to ask the Subcommittee to please clarify the provisions relating to "immigrants," as set forth in section 6 (c) of the proposed Amendment to the Joint Resolution Approving the Covenant. This particular subsection provides that no alien shall be admitted at a port of entry of the CNMI for purposes of admission as an immigrant alien, except family-sponsored immigrants and employment-based immigrants. We have earlier noted our concern as to why we do not understand why new admissions into the CNMI of additional guest workers have to be conditioned on their being admitted as immigrants only, and not as non-immigrants as is now and has been a long-standing rule under the INA. We are also not clear as to why a numerical limitation on family-sponsored immigrants is being set for the CNMI alone. Does this mean that once the numerical limit agreed to by the CNMI governor and the Secretary of Homeland Security has been reached, additional immediate relatives of U.S. citizens residing in the CNMI cannot be admitted into the CNMI? If so, why?

As to additional guest workers who could only be hired as immigrants, we urge the Subcommittee to seriously consider the impact the addition of such immigrants into the permanent population of the CNMI may have on the social demographics and dynamics of the CNMI. Would it have an adverse social impact on the relatively small population of the CNMI? We believe that unanticipated social, political and cultural issues would likely arise in the CNMI considering its small size: land-wise, population-wise and resource-wise. We, therefore, urge the Subcommittee to please consider the potential impact of the proposed federal legislation on the local demographics and on the social and cultural dynamics. The Subcommittee might also want to consider the question: what if the guest worker does not want to be an immigrant?

What has happened during the CNMI immigration regime in the past has been bad enough in terms of the lopsided population between residents and guest workers, as the Congress is fully aware of. So why is the proposed federal legislation trying to compound the problem by requiring that all new guest workers could be admitted only as permanent residents? It is almost as if the primary concern of the proposed legislation is not on the people of the CNMI, but on how guest workers would fare under the proposed federal legislation. We believe that the federal legislation should treat both residents and guest workers fairly and decently. Indeed, we

wish to point out that the people of the Northern Mariana Islands are the rightful subjects of the United States. The people of the CNMI are the ones who voted to join the American political family in 1978. Inasmuch as our leaders may not have done a commendable job in the area of immigration and labor in the past, we are urging this Subcommittee to please listen to and take into account our people's concerns. All we are asking is for the Congress correct the problem, not compound it further with this legislation.

The Extension to the CNMI of the Guam Visa-Waiver Program

Our group appreciates the proposed extension to the CNMI of the statutory visa-waiver program for visitors to Guam from several countries in Asia. For the Northern Mariana Islands-Only Visa Waiver Program, however, the Secretary of the Homeland Security is given the discretion to determine by regulations which other countries would be given visa-waiver privilege to be able to visit the CNMI. We wish to point out that the CNMI has been issued an "approved-destination" status by the People's Republic of China, for the CNMI to be able to receive visitors from China. Because of the sharp decline in the number of visitors from Japan over the past several years, the CNMI visitor industry is trying its best to bring in more visitors from China. Our Group is urging that a special provision be inserted in the proposed federal legislation so that the Secretary of Homeland Security would actually allow tourists from China to visit the Northern Mariana Islands.

The Matter of Long-Term Investor Visas for Future Investors

The proposed federal legislation would allow the issuance of non-immigrant investor visas for aliens that have been admitted to the Commonwealth, have been given long-term investor status, and have continuously maintained residence in the CNMI as long-term investors. The Group's concern is with respect to new alien investors who hereafter wish to invest in the CNMI. Could the proposed legislation be amended so that the legislation provide for the Secretary of Homeland Security to promulgate regulations that would allow new foreign investors to also be given non-immigrant investor visas? This is a very important matter for the economic growth and development of the CNMI: the infusion of fresh capital into the CNMI economy. The Subcommittee should be aware that most of the investors in the CNMI are from foreign countries like Japan and Korea; not from the United States, due in large part because of geographical consideration.

The Matter of Granting "Status" to Long-Term Guest Workers

Our Group has no particular comment on the granting of non-immigrant "status" to guest workers who have been in the CNMI for at least five years. This is a matter that we feel is strictly for the Federal Government to decide. But as with our previous comments, we urge the Subcommittee to determine the basis or the rationale for the granting of what is essentially a permanent residency status on such guest workers. Would it adversely affect the social, political and cultural dynamics in the CNMI? Also, is it the eventual plan to grant U.S. citizenship to these guest workers after having such status for five years? That is the sense we have in reading this provision; otherwise it does not make sense to have a group of "non-immigrants" staying permanently all over the United States, almost as if "stateless." Because such proposed "status" does not make sense, we request that the Subcommittee have this matter clarified by the drafters of this legislation.

The Matter of Granting Asylum to Refugees

Our Group has no problem whatsoever with the provisions requiring the CNMI Government to comply with the treaties and conventions entered into by the United States with respect to asylum for refugees. Indeed, our position on this matter is unconditional: that the CNMI must comply with all the laws pertaining to asylum for refugees. The only caveat is that if the matter involving refugees overwhelms the ability of the CNMI to handle an influx of refugees, then the Federal Government must step in to assist financially, logistically, manpower-wise and so forth.

The Collection and Retention by the Secretary of Homeland Security of User Fees Paid by Employers of Guest Workers

The proposed legislation provides for the Secretary of Homeland security to establish and collect user fees from the employers of guest workers. It further provides that such fees shall be retained by the U.S. Treasury to be used to administer the guest worker program, notwithstanding section 703 (b) of the Covenant which mandates that all fees collected by the Federal Government in the CNMI shall be transferred over to the CNMI Government treasury for use by the CNMI Government. We urge the Subcommittee to continue the application of section 703 (b) of the Covenant to such user fees. First, we believe that the burden of footing the expenses

for the work of the Department of Homeland Security in the CNMI is best left to the Federal Government pursuant to federal budgetary appropriations. Second, the user fees collected should be transferred to the CNMI Government, whose general revenue collection during the past two years has decreased dramatically. Third, we believe that section 703(b) of the Covenant should be honored by the Federal Government, because to do otherwise would give the impression that the United States is reneging on the terms of the Covenant.

The Ten Percent (10%) Matching Fund Contribution from the CNMI for Technical Assistance and Support Provided by the Department of Interior

Our Group appreciates the provisions of the proposed legislation that would provide the CNMI with technical assistance and support from the Department of Interior in economic matters. Section 103(e)(3). We urge the Subcommittee, however, to please consider removing the ten percent (10%) matching fund contribution that the CNMI would be required to pay for such technical assistance and support. As we have stated several times earlier in this testimony, the CNMI Government is literally broke and simply cannot afford to make this matching fund contribution. Maybe in the distant future, when the CNMI economy gets back to normal, such matching fund requirement would be reasonable to impose, but not for the foreseeable future.

TITLE II: THE NORTHERN MARIANA ISLANDS DELEGATE ACT

The CNMI Enterprise Group wholeheartedly endorses and supports Title II of the Act. If enacted into law, the people of the Northern Mariana Islands would, after thirty long years of waiting, finally have real representation in the United States Congress. We thank the present Subcommittee on Insular Affairs and its distinguished Chair for its willingness and sensitivity in agreeing with the people of the Northern Mariana Islands that the Commonwealth of the Northern Mariana Islands, as a member of the American political family, should be accorded representation in our national lawmaking body. Democracy demands no less; and America, as we know, is the bulwark of democracy. Thank you very much for having the determination and commitment to make our representation in the U.S. Congress representation a reality. We are clearly elated with this very important proposal.

CONCLUSION

The foregoing sets forth the testimony of the CNMI Enterprise Group with respect to H.R. 3079. On behalf of the members of our Group, I wish to thank the Subcommittee Chair and Members for giving us the opportunity to comment on a very significant piece of legislation, one that will directly affect the future welfare and well-being of the people of the Northern Mariana Islands for years to come. Our Group will be happy to answer questions that the Subcommittee may have regarding our testimony.

Mrs. CHRISTENSEN. I now recognize myself for five minutes. I'll begin questions with Mr. Sablan. You testified that the Administration, you would prefer for us to wait until the GAO report was issued and get a chance to look at it. Mr. Cohen testified that the Administration does not want to wait until—unless it feels it's needed and necessary to wait for that GAO report, but that the security needs and the state of affairs here should bring that flexible Federalization into play right now, and that the report itself will then inform the transition period, which is to be worked on between the Government of the CNMI and the Federal Government. Do you not agree that, that—given what Mr. Cohen said, do you still feel that we should wait?

Mr. SABLAN. Yes.

Mrs. CHRISTENSEN. And why?

Mr. SABLAN. I believe so because, it's quite interesting obviously, by virtue of the fact that this bill has been brought to task and we're now addressing the homeland security effort, but we've had six years to do so in the Commonwealth. 2001 occurred and yes, we have gotten great grants through Homeland Security. We have

an office here. We have—provisions have been put into play that affect homeland security. But where is the great urgency, I guess, is the point we're trying to make.

Mrs. CHRISTENSEN. Well, I think some of it may be because of the military buildup and the fact that we're bringing, you know, the number of Marines, Navy, Air Force to the region and we do want the CNMI to also be the beneficiaries of some of that buildup.

Mr. SABLAN. I understand that. And what we would like to see is, yes, the buildup in Guahan occur. It will definitely benefit the region, but we also need to be cognizant that, looking at the dynamic that we have here, we do not have a military base as a second pillar of our economy. We had the garment industry; maybe if we'd gotten some provision changes and had done 3A earlier, we may have been able to salvage that. We did not get that, political or whatever. What we have now is tourism left. That is the only pillar we've got left. And so looking around in the region, what diversification opportunities do we really have? I think we need to look around us. I think Guahan is a prime example. In '93 when the military was pulling out, it had tourism left and, forgive me Congresswoman Bordallo, but you know Guam is in trouble and they do have the horizon to look forward to $15 billion dollars potentially coming over 15 years is what everybody hears. We don't have that potential.

Mrs. CHRISTENSEN. Well, what I was saying is that you will share in some of that potential and I am sure she'll——

Mr. SABLAN. As the Governor was saying, the hopes, I think is the——

Mrs. CHRISTENSEN. Well——

Mr. SABLAN.—the scenario we're looking at.

Mrs. CHRISTENSEN. I think you know, well—I am not going to address that but, you know, we're not here to blow smoke.

Mr. SABLAN. Sure. I am not like that.

Mrs. CHRISTENSEN. Let me ask Ms. Knight. I hear your very clear opposition to the bill, and I take it then that the Hotel Association doesn't believe that the bill's provisions providing for a special visa waiver for the CNMI to allow tourist to come in, who might even otherwise not qualify for a visa to enter the Mainland U.S., the screenings, as well as the special H2-visa, to be able to continue to allow the CNMI to have the unprecedented ability to bring in necessary labor, also under the safeguards of the Federal law, but outside of the cap to have their own ability to do that. Do you not feel that those are enough to mitigate any potentially negative effects—impacts that the bill might have otherwise?

Ms. KNIGHT. Madam Chair, that's a very good question, but unfortunately, no, our members do not have the confidence. And the reason is because there is absolutely no detail here. There is no detail about cost; there is no detail about how or who or where visas will be obtained. U.S. Embassies, we have some experience with that. We have some experience with I20-visas for students for example and it's all very bureaucratic, very expensive, very, very long processing. So, our members do not have confidence.

Mrs. CHRISTENSEN. And the fact that this will be negotiated with the Governor of the CNMI and the agencies, the Federal agencies

involved and you would have representation in Congress acting on your behalf does not increase your confidence?

Ms. KNIGHT. No. A number of Federal offices have opened and closed here over the years. And there hasn't been any that have had real significant long-term presence that gives us confidence. It's kind of like, how could we support something without a plan? That's why I am saying this is just too—this is very, very uncertain. You can't plan business investments. We can't plan next year's business plan on something like this without more detail.

Mrs. CHRISTENSEN. Well, I am going to yield to my colleagues, but the plan has ten years to be put into place and this is just setting the framework for that plan to be developed between the Federal government and the local government. I yield five minutes to Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Madam Chair. I thank the members of the panel for their statements. Underlying the comments that had been made by Ms. Knight, this is the final leg of the stool so to speak in terms of the most basic fundamental industry that is now currently left here in the economy of the CNMI. How do you contrast that the—and I assume that there has been full implementation of the national immigration laws, for example, a place like the State of Hawaii, and their tourism industry seems to be still in real good condition. I noticed Continental and Japan Airlines have left and I guess making it more difficult for you to attract tourists coming from the Asian countries. Are you saying that this proposed bill is going to kill the tourism industry rather than help in getting a more even-handed format, I suppose, and making sure that immigration and all of this is to be carried out in a more fair way? Can you comment on your concerns about the fact that you feel that this bill is not going to be helpful to your tourism industry?

Ms. KNIGHT. Well, let me address the first part about Hawaii. Hawaii is booming because of mainland American and Canadian tourists. We cannot get mainland American and Canadian tourists out here to the CNMI. We're dependent on Asia. And we're competing with destinations like Okinawa and Phuket and Maldives and Hainan Island, and that's what we're competing. So, it's a whole——

Mr. FALEOMAVAEGA. How many tourists are you getting right here?

Ms. KNIGHT.—whole different ball game.

Mr. FALEOMAVAEGA. How many tourists are you getting right now?

Ms. KNIGHT. This year, it will be around 400,000. Our peak year was 775,000. So you can see how far down we are. And that's because of competition. But mostly it's because of air service.

Mr. FALEOMAVAEGA. How does that compare to Guam?

Ms. KNIGHT. Guam is 1.2 million, and trying for 1.5.

Ms. BORDALLO. A little bit over, yes.

Ms. KNIGHT. But it's largely an air service problem, Congressman. We lost so much of our Japan Air service because there are only a certain number of slots out of the Narita Airport in Tokyo and there are other destinations that are larger, like Guam, that have a little bit higher yield than we do. We have a very, very high

cost of aviation fuel. That's why I am saying these are some issues that are beyond our control that perhaps the U.S. Government can work with us and help.

Mr. FALEOMAVAEGA. You don't think that the provision of H.R. 3079 is in the right direction in helping you?

Ms. KNIGHT. These don't solve our problems, in my opinion. Our economic problems will be compounded by this bill.

Mr. FALEOMAVAEGA. Very interesting observation there. Mr. Borja, you mentioned about Section 701 of the Covenant. Twenty-nine years later you feel that the U.S. has not fulfilled its obligations or responsibilities under that provision of the Covenant?

Mr. BORJA. That's correct, Congressman.

Mr. FALEOMAVAEGA. You think that perhaps—while I can understand the Federal government does—will take responsibilities of the failure of the development of Section 701, but perhaps part of that failure can also be due to the problems of the CNMI had created itself?

Mr. BORJA. Possibly.

Mr. FALEOMAVAEGA. Possibly?

Mr. BORJA. Yes. Yeah, as I mentioned in my testimony, Congressman, there have been—we don't deny the abuses that have occurred. We don't deny that there have been problems in the running of our immigration, but I have yet to hear from anybody to tell me that the immigration laws of the United States are perfect when applied on the Mainland.

Mr. FALEOMAVAEGA. Oh, I don't think we're talking specifically about just on immigration issues. I am talking about the overall situation in terms of the benefits and many other programs that the people of CNMI are beneficiaries coming from the Federal Government. I mean the——

Mr. BORJA. Well, Congressman, if I may, the bill itself makes mention of trying to up the standard of living here. So, to me, that's an admission that the promise made by the United States under 701 has not been fulfilled. Otherwise, it would say here that we've done it, but we want to help you some more.

Mr. FALEOMAVAEGA. So, what is your proposed solution to alleviate this?

Mr. BORJA. Well, like I suggested——

Mr. FALEOMAVAEGA. Demand more assistance from the Federal government?

Mr. BORJA. Perhaps. But what the plan has in the bill, Congressman, won't do it. That we're pretty certain of. You asked Ms. Lynn Knight here as to what specifically in the bill would be detrimental to the tourist industry and the plan here is vague on a lot of things, but you have a plan that aims on a zero non-resident workers after ten years. Everybody here knows we're not going to have human resources to assist and support the tourist industry without non-resident workers. How is that going to help us? You have a provision in the bill that says no more foreign investors after ten years. How is that going to help us?

Mr. FALEOMAVAEGA. Well, I appreciate your response and comments. I wish I had more time, but my time is up, and Madam Chair, thank you.

Mrs. CHRISTENSEN. Thank you. I am not sure that the bill says anywhere that there would be zero guest workers at the end of ten years, but—and we'll find the reference. Ms. Bordallo?

Ms. BORDALLO. Thank you. Thank you, Madam Chair. I want to thank Mr. Sablan and Ms. Knight and Mr. Borja. Your testimonies to follow-up on what Congressman Faleomavaega said, your testimonies are very interesting and you know I think it's very important that we look at the economic side of this issue. I consider the members of the business community to be of utmost importance as we go forward with deliberations on this bill. I was a member for two terms of the Small Business Committee in the U.S. House of Representatives, and I know businesses are the engine of the community, and it's important what you have to say.

I do serve on the Armed Services Committee and I think someone referenced the military buildup. In the military briefings we have had so far in Washington, there are plans to include the CNMI in the buildup. So, I want to assure you that, I can't go into specifics, but I do know that you are included. And because of the interest of time, I have been told that we're really very limited. I have some closing statements, but I will yield back my time.

Mrs. CHRISTENSEN. If you didn't have any questions, I would now refer to—yield time to Mr. Faleomavaega for his closing statement and then return to you, Ms. Bordallo.

Mr. FALEOMAVAEGA. I just want to make a closing statement, again, to thank Governor Fitial and the members of the Administration, the leadership of the Legislature of CNMI and the various leaders of the business community, and in general the good people of CNMI for, again, allowing us to come in to share with us some of their concerns and problems, not only relating to the proposed bill, but overall just the need for those of us working in Washington to pay more attention to the problems affecting the needs of the people here in the CNMI. Thank you, Madam Chair and thank you members of the Panel.

Mrs. CHRISTENSEN. Ms. Bordallo, I recognize you for your closing statement.

Ms. BORDALLO. Thank you. Thank you very much, Madam Chair. Ladies and gentlemen, I want to thank you all for your warm welcome, your wonderful hospitality, and for all the ideas and views that you have shared with us regarding H.R. 3079, and the associated matters of interest to the CNMI and your community. My colleagues and our professional (unintelligible) staff and I came here to listen, listen to your views. And I will keep them in mind as I continue to evaluate proposals in Washington, as a member of the Committee on Natural Resources and, of course, on the House Armed Services Committee, which will be of great interest to all of the insular areas here in the Pacific. So, I am pleased that I have a seat in that committee. I share a deep affection for your islands and your people. Resident Representative Pete A. Tenorio and I work well together in Washington, as he will allude to, and I look forward to the day when Congresswoman Christensen, Congressman Faleomavaega, our colleagues in the House and I can work alongside and with our Representative in Congress from your community. Until such time that that happens, I will be your Representative through Mr. Tenorio.

The people of Guam and the CNMI share a common heritage and a history together. We are islanders. We're proud of our families and our way of life, proud of our customs and our traditions that have helped shaped our people and communities over time. And today, we face many challenges together and together we must approach solutions to them. When we work together, we achieve the best results. I found this out when I became a member of the U.S. Congress. I look forward to continuing to do my part in addressing these issues of concern and to meet the interest of our nation and the people and the leaders of the CNMI.

And I want to again, in closing, thank the Governor, the Lieutenant Governor and your offices, the Resident Representative and his staff, the members of the Legislature, the community, civic and business leaders and all of the others who have participated in this hearing today, and who strive to make this dialogue with Congress most meaningful and informative. I thank you very much, Si Yu'us ma'ase.

Mrs. CHRISTENSEN. Thank you, Ms. Bordallo and Mr. Faleomavaega. I just wanted to reference page 29 of the bill, where it states that the government can, within 180 days at the end of the 10-year transition period, extend the provision for the program for increments of five years. So, it doesn't really end—does not have to end at that 10-year period. And the plan is to phase out the CNMI Guest Worker Program either in the 10 years, or either the five-year extensions, if requested, and then replace it with the Federal Guest Worker Program. So, I hope that clarifies, but you can go to page 29 and beyond to the spot. I am going to give my closing.

Mr. BORJA. Madam Chair, if I may, you also referenced our statement to the effect that you're not sure that the bill mentioned zero. On page 26, lines 10 to—(pauses; peruses document)——

Mrs. CHRISTENSEN. That's the end of the CNMI program, but there is a provision to extend it in five-year increments. So, I mean, it's not—all I am saying is that, it does not end in five years, if the CNMI sees the need to extend it in five-year increments thereafter. So, there is no hard and fast closure.

Mr. BORJA. (Audible but unintelligible).

Mrs. CHRISTENSEN. Right, and just being referred to the page where it says, "in five-year increments, of the provisions of this paragraph are necessary to ensure an adequate number of workers will be available for legitimate businesses in the Commonwealth." We take every—we take your comments and your concerns, but I just wanted to clarify that for the record.

And in closing, I want to assure the people of the Commonwealth of the Northern Mariana Islands and your leadership that this committee hearing is not an empty exercise. Both your oral and your written statements as submitted and admitted into the record would be fully considered as H.R. 3079 goes through the legislative process. I also want to assure you that the Subcommittee, the members of which are chiefly Delegates from your sister territories, will keep foremost in our minds and our work, the well-being of the people of the CNMI, as we seek to find resolutions to the plight of the temporary guest workers who've been allowed to live here for many years and as we respond to the needs for the increased secu-

rity of this very important and sensitive region where so many of our U.S. territories and freely associated states exist. Again, the Subcommittee considers it a very high honor to have been able to convene this historic hearing in the Commonwealth of the Northern Mariana Islands. And we thank the Governor, the Lieutenant Governor, Representative Tenorio, the members of the Senate and the House, and the people of the CNMI for their hospitality. We thank everyone who has testified today. We thank the Deputy Assistant Secretary for coming. But again, we particularly want to thank all of you for your very gracious hospitality. We will return to our homes and to Washington, D.C., with very pleasant memories and warm feeling for all of you. Si Yu'us ma'ase.

If there is no further business before the Subcommittee, the Chairman again thanks the members of the Subcommittee and our witnesses and we stand adjourned.

[Whereupon, at 1:28 p.m., the Subcommittee was adjourned.]

NOTE: Statements submitted for the record by the following individuals have been retained in the Committee's official files.

- Daniel Aquino Jr.
- Engracio "Jerry" Custodio, Human Dignity Movement
- Wendy Doromal
- Ron Hodges
- Maribeth Lumasag
- Daisy Mendiola
- Senator Maria Frica T. Pangelinan, 15th Northern Marianas Legislature
- Pukar Patel
- Antony Wibberly
- Reynaldo O. Yana
- Vincent Santos
- Li, Helian; Wang, Hongmin; Li, Pengfei; Li, Shanshan; Guo, Baolong; Guo, Qiang; Wu, Yinglai; Liu, Changmei; He, Jeing; Liu, Lanlan; He, Ganglan
- Ambrose M. Bennett
- Pachino Tat
- Jennifer Kordell

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