

**CONDITIONS IN THE COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS**

HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED TENTH CONGRESS
FIRST SESSION

TO

RECEIVE TESTIMONY ON LABOR, IMMIGRATION, LAW ENFORCEMENT
AND ECONOMIC CONDITIONS IN THE COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS

FEBRUARY 8, 2007



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CONDITIONS IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

THURSDAY, FEBRUARY 8, 2007

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Jeff Bingaman, chairman, presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. Okay, why don't we try to get started here? We've got quite a few witnesses this morning and want to give everyone a chance to make their statement.

Let me welcome all the witnesses, first of all. This is a hearing on the Commonwealth of the Northern Mariana Islands. This is the fourth hearing of this committee in the last 10 years on the issues of labor and immigration and law enforcement issues in the Islands. In many respects the discussions started in 1986 with the letter from the Reagan administration to then-Governor Pedro Tenorio stating "the tremendous growth in alien labor is extremely disturbing." That administration, the Reagan administration, urged "timely and effective action to reverse the situation" and warned "the uncontrolled influx of alien workers can only result in increased social and cultural problems." Efforts to respond to these concerns led this committee to report legislation three times during the period 1998 through 2001, and it led the Senate to pass legislation in the year 2000. Legislation received strong support from this administration in 2001, but no further action was taken.

The purpose of today's hearing is to determine, given the passage of time and the new information and new circumstances, whether a bill along those lines should be reconsidered. During the intervening 6 years the Nation's security situation has fundamentally changed. The Federal Government released several reports dealing fully or partly with conditions in the Marianas. Based on this additional information, I believe that the case for legislation is at least as strong and probably stronger today than it was 6 years ago. However, complicating this need for reform is the fact that the local economy is shrinking. The garment industry that accounts for about 40 percent of local revenues is departing because global garment quotas ended in December 2005. In addition several factors have contributed to the decline in the tourism industry, another major sector in the economy. Finally, consideration of minimum

wage legislation in the Congress is creating uncertainty about future wage policy in the Islands.

The Covenant between the United States and the Marianas began 30 years ago in a spirit of partnership. The Marianas are beautiful islands with industrious people and tremendous potential. It's my hope that today we can rekindle that spirit of partnership and pull together to better understand these problems and build a sound foundation for the Island's future.

We've got several other Senators with us. Senator Murkowski, let me call on you to make any statements you would like, and then Senator Akaka, any statement that he has.

**STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR
FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman. I appreciate you holding the hearing this morning and welcome those of you on this panel and the panel that will follow this.

As you've noted the ranking member, Senator Domenici, is not here because he's in budget hearings. I think it's unfortunate that this is the time of year that we all seem to have conflicting hearings, so I won't be able to stay for the full hearing this morning, but I will be paying very close attention to the testimony that we receive.

I have a series of questions that I will submit for written response and look forward to those. In many respects, and you mentioned this Mr. Chairman, today's hearing is a follow-up of so many of the hearings that we have had over the years.

It's been almost 11 years to the week after the issue of immigration worker abuse in the CNMI first surfaced before this Energy Committee. Back in 1996, my father, then-Senator Murkowski, accompanied you, Senator Akaka, on a trip to the CNMI. In Saipan you both toured the garment factories where the guest workers were literally toiling in sweat shops. I was told by my father's staff that at one plant, literally as they walked in to the shop, the fans were just then coming on in anticipation of the delegation. On that trip they met foreign workers, construction workers, and security guards who were recruited to come to the Island and sometimes faced the problems found in classic company towns that we would have found in America's Wild West. Situations where workers were paid, forced to pay much of their low wages for their room and their board, having to work off recruitment fees before they could change their jobs. Additionally, there were workers who would not get paid for months on end, who ended up in unsafe working conditions and in some cases were coerced into prostitution, or into having abortions so that they could continue to work without interruption. These abuses prompted the legislation—legislation that passed the Senate—but ultimately it did not become law. They also spawned a variety of actions intended to remedy the concerns and protect guest workers in CNMI.

In 1999, the Federal Ombudsman's Office was created to give guest workers a place to file complaints, and in that same year, 23 of the garment factories entered into a strategic partnership with the U.S. Department of Labor's Occupational Safety and Health Administration set up safety and health standards for each work

site and the staff housing. It was then, in 2003, that the independent Garment Oversight Board was created as a result of a class action lawsuit and it now monitors the remaining garment factories in the CNMI. Also, in 2003, the CNMI Government also worked with the Department of the Interior's office to establish a refugee protection system. I hope that we will hear today whether that system is really sufficient to prevent refugee asylum problems.

Following 9/11, there has been progress on improving immigration entrance inspections to CNMI—from where access to the mainland is much easier—both to protect against terrorists and also to combat against human trafficking. Although, I understand that there may still be questions about the enforcement of immigration rules and adequacy of staff and funding to enforce the CNMI's rules. The CNMI Government has negotiated agreements with the Chinese Economic Development Association to prescreen Chinese Nationals coming to work in the CNMI to limit the fees that workers can be charged. The question really is, though, whether these changes have gone far enough to protect the guest workers from abuses.

We've certainly been told that the problems have been remedied and I would like to believe that is the case, but in preparation for this morning's hearings, we have seen relatively recent letters from the Ombudsman's office attempting to remedy cases where businesses in the CNMI have not paid workers on a bi-weekly basis. Security guards are again facing problems. We've seen complaints where construction workers were not paid for the work performed. We've heard new complaints about garment workers being recruited to come to the Islands and perhaps being pushed into prostitution as a result. This sounds far too much like many of the problems that were faced a decade ago. I'm hopeful that this hearing will attempt to resolve whether these are isolated incidents or whether there are still widespread problems in the CNMI that will require additional reforms to address.

I don't want to worsen economic conditions in the Commonwealth needlessly. I understand the pain that could be caused by Congress addressing both the minimum wage and immigration and placing difficult burdens on the Commonwealth, but when it comes to the immigration matters, I clearly do not want to look the other way if worker abuses are continuing. I've got a lot of questions. I'm a long way from feeling comfortable that I know what is in the best interest of the citizens of the CNMI, what is best for the guest workers in the Commonwealth, and really what's best for America here, but I do know that coming from Alaska, being born in that State when it was still a territory, I'm, along with Senator Akaka and Senator Inouye, among the relatively few in the Senate that understands the frustration that residents feel when their futures are determined by lawmakers who are very, very far away both geographically and mentally, in terms of understanding the conditions on the ground. We are being legislated by those who have never seen where we live and never really understand so many of our issues.

I look forward to the testimony that will arise from this hearing—and the debate that it may engender—that is helping me to

decide how we move forward with the issues that face the CNMI in this Congress. I thank you Mr. Chairman.

Mr. CHAIRMAN. Thank you very much.
Senator Akaka.

**STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR
FROM HAWAII**

Senator AKAKA. Thank you very much, Mr. Chairman, and thank you for having this hearing. I want to first welcome our panelists, all of you, as well as those who have traveled so far to be here at this hearing.

As many of you know I travel, as was mentioned by Senator Murkowski. I traveled to the Marianas twice in the 1990's with the then-Chairman, Frank Murkowski, to investigate allegations of labor abuses at that time, and what we saw was very troubling. Workers had gone months without pay. I remember one of them that we talked to showed me a wad of checks and said, "I can't cash them." To not receive any pay, they lived in horrible conditions and the local government bureaucracy appeared overextended by trying to manage a massive guest worker program. We developed legislation to respond to those problems by extending Federal immigration law with special provisions to guest workers and other provisions to make the needs of the CNMI.

Today is this committee's first hearing on labor immigration and law enforcement in 7 years, Mr. Chairman. I share the concerns of my new Chairman, that the war on terror and evidence in several recent reports indicate that serious labor problems continue to exist. Also of concern to all of us is that the CNMI economy is in a serious downturn because of the steady departure of the garment industry that accounts for about 40 percent of the government revenue. This shrinkage in the economy will almost certainly aggravate the problems associated with the guest program because government resources will be reduced and the number of laid-off workers will increase. Is the CNMI prepared to deal with this without Federal help? I don't think so, and I look upon a hearing like this and what we do in the future to not only help this country deal with these problems, but to help the people of CNMI toward a better life.

We also have to think about CNMI's future development. Last year I joined with the Chairman, Senator Domenici and Senator Murkowski to urge the Finance Committee to consider certain trade and tax measures to improve the CNMI's investment attractiveness and to increase the transfer of Federal taxes paid by CNMI residents. Some argue that the extension of Federal immigration law will deprive the CNMI of the work force it needs. That was certainly not the intent of the previous legislation and I believe that those who have studied it closely would agree that it was carefully crafted to meet the CNMI's special needs.

For the next several years the CNMI will be facing a very difficult economic situation and labor immigration reform is certain to be a part of building a new foundation for the Island's future economy and we need to address and look at that as well. You know it's been 30 years now, 30 years ago the Covenant between the United States and CNMI established, as was mentioned, a new

partnership, and this is something that we need to build on and to make it better. I look forward to working, Mr. Chairman, with CNMI and the administration officials in that same spirit. Aloha.

The CHAIRMAN. Thank you very much. Senator Tester, did you have any statements you'd like to make before we hear the witnesses?

**STATEMENT OF HON. JON TESTER, U.S. SENATOR
FROM MONTANA**

Senator TESTER. Very, very quickly, Mr. Chairman and I to want to thank you for putting this hearing together. I want to thank the panelists for being here.

I can tell you that there are a lot of issues that deal with the Commonwealth that are very concerning to me. The drug smuggling, organized crime, the ability to take the active ingredients of methamphetamines and bring them into this country is a huge issue. It's a huge issue for not only this country, but for Montana where we have a significant meth problem. Illegal immigration, labor abuse, as Senator Akaka has talked about, these are all critically important issues and I really want to thank you, Mr. Chairman, and I want to thank the panel, and I look very much forward to what you have to say.

[The prepared statement of Senator Domenici follows:]

PREPARED STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW
MEXICO

Over the last several years, our Committee has held oversight hearings on the economic situation of the territories of the United States. I am pleased to see that Chairman Bingaman is continuing this focus. Last year, the Resident Representative, the Honorable Pedro A. Tenorio, of the Commonwealth of the Northern Mariana Islands (CNMI) testified about the economic challenges in the CNMI, and the mechanisms they were implementing to control them. In addition to the local controls being undertaken, the CNMI requested that Congress provide guidance as well. To date we have done the following:

- We have asked the Department of the Interior to provide an update on issues concerning immigration and options to help ameliorate some of the economic challenges confronting the CNMI. The DOI has since responded, noting improved developments regarding matters on labor and immigration; however, they note that more needs to be done to address the serious fiscal and economic challenges in the CNMI.
- In addition, we directed the Department of the Interior to provide the Committee specific information regarding both immigration and financial data.

I am pleased to note that the Department of the Interior has begun a process to develop the data, concerning immigration and the economy, and has provided the Committee answers to our questions. I look forward to working with the Department in analyzing the data, and to develop a road map for addressing the challenges faced in the CNMI. I take very seriously our oversight responsibility for the CNMI, and I intend to make sure that we address the problems they face.

Again, I believe that any formal change in policy that impacts the CNMI either administratively or legislatively should proceed cautiously, and in a manner that allows for participation from all interested parties, federal and local, and that takes into consideration the current conditions of the CNMI. I look forward to hearing from our witnesses.

The CHAIRMAN. Well, thank you very much.

We have a very distinguished group of witnesses today and let me introduce the whole group before we call on them. First is The Honorable David Cohen who's the Deputy Assistant Secretary for Insular Affairs in the Department of Interior. Next is The Honor-

able Tim Villagomez who is the Lieutenant Governor of the Commonwealth of the Northern Mariana Islands. Next Honorable Pedro Tenorio who's the Office of the Resident Representative here in Washington and Ms. Jeanette Franzel who is the Director of Financial Management and Assurance with the U.S. Government Accountability Office. So we appreciate all of them being here and then we have others on the second panel that we will also hear from but let me first indicate that all of your statements, your full statements, will be included in the record so you do not need to give us the entire statement orally. If you could summarize the main points you want to make and maybe take 5 minutes or so each and tell us what the main points are that we need to understand, that would be greatly appreciated.

Let me start with David Cohen, first, and then we'll just go, let's see here what the best route is, I guess, Mr. Benedetto, I didn't get to introduce you. Let me do that. I missed you when I went through the listing here. We welcome you as well. Thank you very much, Mr. Cohen, why don't you start first? Then I'll go over here to the left-hand side and Ms. Franzel and then across.

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

Mr. COHEN. Thank you Mr. Chairman. Mr. Chairman and members of the committee, thank you for the opportunity to testify. I am here with Jim Benedetto, who's the Federal Ombudsman. The Federal Ombudsman's Office, as was mentioned, is an office under the Office of Insular Affairs, which I supervise that is dedicated to making sure that the guest workers in the CNMI have the ability to assert their rights and protections.

I testified before you last March about the CNMI's very difficult economic and fiscal challenges. The situation has changed since then. It's gotten worse. The simultaneous decline of the CNMI's only two major industries has caused revenues to drop approximately 25 percent since 2004. Continued declines of this magnitude would cast doubt on the government's ability to remain solvent and to provide even the most basic critical services.

On labor issues, good progress has been made in recent years but we continue to have concerns that are summarized in my written statement. The deteriorating economy deprives the government of the resources that it needs to effectively prevent, investigate and prosecute labor abuse. Senator Akaka made this point. The closure of large factories places significant demands upon the local government and simultaneously causes it to lose revenues that it needs to meet those demands and all of its other obligations. While the departure of the garment industry may be in the long-term best interests of the CNMI, an immediate, abrupt departure is not. We also remained troubled by the serious structural imbalances in the CNMI economy and in CNMI society. The CNMI remains a two-tier economy where the private sector is overly reliant on foreign workers and where the local population is overly reliant on public employment.

As noted in my written statement, the CNMI has made commendable progress over the last several years in curbing labor

abuse. However, excessive reliance on a foreign low wage work force creates a risk of exploitation and abuse. That risk could be overcome with a high level of effort, vigilance and resources, but this would probably be difficult to sustain under current conditions. Mr. Chairman, I call your attention to the unique situation of the long term foreign workers that have become an integral part of CNMI society. A number of foreign workers have been working there for 5, 10, 15 or more years. Many are raising children there and their children are U.S. citizens. These workers were invited to come because they were needed. They came and have stayed legally and they have contributed much to the community. They were essential in building this economy from the ground up. I hope that the committee and the CNMI government will keep these long-term members of the community in mind as they consider immigration reforms.

The question is not whether the current economic structure is a good one. It is not. The question is how to help the people of the CNMI build a strong, prosperous and just society without causing, in the transition, needless pain to innocent people including the foreign workers. This was a point made by Senator Murkowski. The administration is committed to working with Congress and the CNMI to establish a framework that will allow the people of the CNMI to build such a society. We're ready to explore with you and the CNMI various options for establishing such a framework, including Federalizing the immigration system in a manner that it would not cause needless economic or fiscal harm.

We offer the following principles to guide any discussion of Federalization. First, we must properly address national security and homeland security issues. Second, we should minimize damage to the economy and maximize the potential for economic growth. For the CNMI to build a viable new economy, it will likely need to remain readily accessible not only to a reasonable number of workers, but to customers such as tourists and students. Third, we must ensure that the new economy is not as conducive to worker exploitation and abuse as was the old economy. Since the CNMI has a very limited local labor pool, it is reasonable to rely to some degree on foreign workers, but the mistakes of the past must not be repeated with a large class of politically powerless foreign workers populating the lower tier of a two-tier economy. Fourth, we should carefully analyze the likely impact of major proposals before we implement them, and this point was made by all of the Senators. Labeling our efforts as reform does not relieve us of the duty to carefully consider the potential consequences of our actions. This is especially true when we are dealing with an economy and society as fragile and potentially volatile as that of the CNMI. If we leap before we look, we could inadvertently and needlessly hurt people that we are trying to help. We should, however, be expeditious in our analysis and not use the need to study as an excuse to delay. The people of the CNMI are eager to get on with their future.

Finally, we must ensure that the people of the CNMI fully participate in decisions that will affect their future. A better future for the CNMI cannot be imposed unilaterally from Washington, DC, ignoring the insights, wisdom and aspirations of those to whom this future belongs. Three years ago this month I testified for the ad-

ministration in favor of granting the CNMI a non-voting delegate to the U.S. House of Representatives. I pointed out how soldiers from the CNMI were fighting and dying so that the peoples of Iraq and Afghanistan could have the right to elect representatives to their respective national legislatures. I pointed out that these soldiers did not themselves have the right to elect a representative to their national legislature, a right held by residents of every other U.S. commonwealth and territory and the District of Columbia. Since I delivered that testimony, Mr. Chairman, I have attended the funerals of Sergeant Eddie Chen, Sergeant Wilgene Lieto and Corporal Dereence Jack. Just last week we lost Marine Lance Corporal Adam Quitugua Emul, killed in action in Iraq. These sons of Saipan died so that the people of Iraq could enjoy rights that are still not enjoyed by the loved ones that these brave young men have left behind. Before considering legislation that would drastically change the lives of the people of the CNMI, we hope that Congress will consider granting them a seat at the table at which their fate will be decided. Thank you.

[The prepared statement of Mr. Cohen follows:]

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

Mr. Chairman and members of the Committee, thank you for the opportunity to testify on the important issues facing the Commonwealth of the Northern Mariana Islands (CNMI). 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 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.

Mr. Chairman, we would like to thank you and Senator Domenici for the comprehensive set of questions that you recently asked Secretary of the Interior Dirk Kempthorne on labor, immigration, law enforcement and economic issues in the CNMI. We have done our best to provide the information that you requested, and we have also identified areas where important information is currently unavailable. I will not use my statement to summarize the information that we have gathered for you, although I will be happy to answer questions about it and look forward to reviewing and discussing that information with your Committee's staff in the weeks ahead. Rather, I will provide a general summary of the current state of affairs in the CNMI as we see it, followed by some thoughts about where we might go from here.

I testified before this Committee last March about the very difficult economic and fiscal challenges that the CNMI was facing as its only two major private sector industries, garment manufacturing and tourism, were facing significant declines at the same time. The situation has changed since then. It has gotten worse.

The most compelling challenge that the CNMI faces today is how to deal with a deepening economic crisis that has triggered a growing fiscal crisis. Both of the CNMI's major industries continue to decline rapidly and simultaneously. Between 2000 and 2006, garment sales declined 49.5 percent, from \$1 billion to \$527 million. According to the CNMI Department of Finance, garment makers contributed, directly and indirectly, 37.9 percent of general fund revenues in fiscal year 2000. In fiscal year 2006, that share was down to 25.1 percent—and it is headed down still further since garment factory closing continues. In 2000, there were 34 holders of garment making and shipping licenses in CNMI. In December 2006, after the closure of Concorde Garment Manufacturing Inc.'s factory caused the loss of approximately 1,400 jobs, only 19 garment factories remained.

The CNMI's other major industry, tourism, is also experiencing troubling declines. Just as the industry, dependent more heavily on Japan than it is on any other market, was recovering during the middle of the decade, Japan Airlines (JAL) discontinued flights to the CNMI in October 2005. This was a major setback to the CNMI's tourism industry because JAL carried 40 percent of all Japanese tourists to the CNMI and 29 percent of all tourists to the CNMI. With no carrier filling the

void immediately and others only incrementally during 2006, tourist traffic was down 16 percent during the year. The tax contribution of tourism to the CNMI treasury cannot be measured as directly as that of garment manufacturers. However, it is reasonable to say that tourism is the only other major source of income and taxes in the CNMI.

The simultaneous decline of the CNMI's only two major industries has caused government revenues to decline sharply, dropping approximately 25 percent from \$221.2 million in 2004 to a projected \$165.8 million for the current fiscal year. Continued declines of this magnitude would cast doubt on the CNMI government's ability to remain solvent and to provide even the most basic critical services to CNMI residents.

I would like to also address the labor situation in the CNMI. Much has transpired since this Committee last held an oversight hearing on this subject in September 2000. The following are examples of the significant progress that the CNMI government has achieved since then:

- The independent Garment Oversight Board has been in place since 2003 as a result of a class-action lawsuit. The Board monitors compliance by CNMI garment factories with 59 standards relating to working and living conditions. The Board, which is made up of three former judges (including former California Supreme Court Justice Cruz Reynoso and former Washington Supreme Court Chief Justice Richard Guy), has engaged the nonprofit organizations Verité and Global Social Compliance to conduct comprehensive inspections of each factory twice a year (with additional inspections as necessary). A factory placed on probation as a result of a failed inspection loses its eligibility to sell to 26 major retailers.
- The Federal Ombudsman's Office reports that the number of complaints filed annually had been reduced by over 60% since the inception of the office in 1999: from 1221 complaints per year to 473. In recent years, the complaints generally have concerned matters less grievous in nature than those identified in the early years.
- In 2003, the CNMI government signed a Memorandum of Agreement with the Department of the Interior's Office of Insular Affairs to establish a refugee protection system. Under the guidance of U.S. Citizenship and Immigration Services, the CNMI amended its immigration statute, promulgated implementing regulations, and established a refugee protection program with financial assistance from the Office of Insular Affairs.
- Under the Memorandum of Agreement with the Office of Insular Affairs, the CNMI also agreed to cooperate with the United States to combat human trafficking. In furtherance of that goal, the CNMI enacted the Anti-Trafficking Act of 2005.
- In 1999, 23 garment factories entered into a strategic partnership with the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) that requires each participant to maintain a formal, written safety and health management system for each worksite and associated staff housing, and to establish a joint employer/employee safety and health team. OSHA credits this program with reducing the lost workday injury rate in these factories to well below the average for the industry nationwide. OSHA reports that over 44 full time health and safety managers have been hired by the garment factories pursuant to this partnership.
- The CNMI government has negotiated agreements with the Chinese Economic Development Association to pre-screen Chinese nationals coming to work in the CNMI, limit the fees the workers can be charged by approved recruiters, and intercede on the workers' behalf when a dispute arises; implemented secondary preference for jobless alien workers already present in the CNMI; and completed a comprehensive revision of the alien labor rules and regulations to guarantee due process rights to alien worker complainants. While this type of pre-screening is not intended to, and does not, substitute for a visa screening process administered as a foreign affairs and national security function of the United States, it does assist in regulating the numbers of nonresident workers who come to work in the CNMI, ensuring that some minimum standards are met with respect to the qualifications of those workers, and in protecting their legal rights.
- We congratulate the CNMI Attorney General's Office for aggressively investigating and winning convictions against club owners who pressured foreign employees into prostitution.

We give the CNMI government a great deal of credit for the progress that has been made in the last several years. A number of others deserve a great deal of

credit as well, including Members of Congress who have pushed for reforms, the garment workers and their attorneys who brought the class action suit against the garment industry, international non-profit organizations such as Verité which conduct rigorous inspections of the garment factories, and longtime workers rights advocates such as former California Supreme Court Justice Cruz Reynosa who have worked to oversee the inspection regime. We recognize, however, that the situation remains far from perfect, and we continue to have a number of concerns. For example:

- The CNMI Department of Labor still has too few experienced investigators and hearing officers to deal with the labor complaints that have been generated. Although about 1,200 of the backlogged cases dating back to 1997 were recently closed, those cases were the ones most readily resolved (such as default cases and those where no further investigation was needed). Meanwhile, the CNMI Department of Labor continues to fall behind in completing its investigations and adjudications, resulting in 1,349 cases still pending from 2004, 2005 and 2006.
- We believe that enforcement in labor cases is hampered by an insufficient commitment by the CNMI law enforcement authorities to prosecuting or sanctioning repeat offenders.
- We are concerned about foreign attempts to influence the adjudication of particular cases in the CNMI's fledgling refugee protection program.
- We continue to be concerned about reports that increasing numbers of laid-off garment workers are turning to prostitution.
- The CNMI's current fiscal crisis casts doubt on its ability to ensure the timely repatriation of thousands of garment workers employed by factories who may not have the resources to pay their wages in full and provide them a plane ticket to their point of hire. In addition, of the bonding companies who have a secondary obligation to pay back wages and provide tickets, a majority do not have sufficient assets to meet their obligations.
- On November 30, 2006, the CNMI held a Workforce Development Summit co-sponsored by the Northern Marianas College Small Business Development Center and the CNMI Workforce Investment Agency. The goals of the Summit were twofold: (1) offer an in-depth discussion of employment issues facing local residents and the public and private sectors, and (2) gather business and government leaders to discuss the CNMI employment needs with a goal of developing the local workforce to fill positions that are currently occupied by foreign employees. The Summit brought together business and government leaders to discuss the CNMI's critical employment needs so that government counseling, training, education, financial assistance, internship and placement programs could unify their efforts and maximize resources to develop the necessary resident labor talent. As a result, the CNMI is creating a demand-driven talent development action plan that will result in a higher percentage of resident workers employed in the private sector. The U.S. Department of Labor's Employment and Training Administration is assisting the CNMI with mapping their public and private resources and assets to begin development of their talent development action plan.

The labor situation in the CNMI is inextricably linked to the fiscal and economic situation. The most significant threat to the human rights of foreign employees in the CNMI today is the deteriorating economy. This manifests itself in a number of ways, including by depriving the government of the resources that it needs to effectively prevent, investigate and prosecute labor abuse. The closure of large garment factories places significant demands upon the local government, and simultaneously causes the government to lose revenues that it desperately needs to meet those demands and all of its other obligations. This mutually reinforcing negative cycle illustrates that while the departure of the garment industry may be in the long-term best interests of the CNMI, an immediate, abrupt departure is not. Change is necessary, but we should be wary of exacerbating a situation that is already fraught with peril.

In addition to these concerns, we remain troubled by the serious structural imbalances in the CNMI economy and in CNMI society. The CNMI remains a two-tier economy where the private sector is overly reliant on foreign employees, and where the indigenous population is overly reliant on the public sector for employment. Because of the unique economic structure of the CNMI and the fact that approximately 50% of the residents are foreign employees, the ability to import labor is a factor that tends to depress wages in the private sector, which in turn tends to reinforce the reluctance of U.S. citizens to work outside of the public sector. There have been

attempts to address this unique structural problem through local legislation, but the problem persists.

Additionally, having a large alien work force with little economic power and relatively limited legal rights has created a great risk of exploitation and abuse in the CNMI. As noted above, the CNMI has made commendable progress over the last several years in curbing labor abuse. Our experience tells us, however, that excessive reliance within the CNMI on a foreign, low-wage work force creates a risk of abuse. That risk could be overcome with a high level of effort, vigilance and resources, but it would probably be difficult to sustain such efforts under the CNMI's current fiscal and economic conditions. Perhaps we would not all have to work so hard to prevent abuse if the structure of the CNMI's economy did not give rise to such risks. And eliminating the most overt forms of abuse will not necessarily eliminate subtler forms of exploitation that arise when foreign employees have little power and a great deal to lose if they assert even the limited rights they have.

Mr. Chairman, I call to your attention the unique situation of the long-term foreign employees that have become an integral part of CNMI society. A number of foreign employees have been working in the CNMI for five, ten, fifteen or more years. Many are raising children in the CNMI, and their children are U.S. citizens. These employees were invited to come to the CNMI because they were needed, they came and have stayed legally, and they have contributed much to the community. They were essential in building the CNMI economy from the ground up from what it was at the inception of the Commonwealth: a rural economy with little industry, tourism or other commercial activity. Long-term foreign employees are integrated into all levels of the CNMI's workforce and society, serving as doctors, nurses, journalists, business managers, engineers, architects, service industry employees, housekeepers, farmers, construction workers, and in countless other occupations. I hope that the Committee and the CNMI Government will keep the situation of these long-term members of the CNMI community in mind as they consider reforms to the CNMI's immigration system.

We stress, Mr. Chairman, that the CNMI's situation is unique, and that our discussion of the CNMI should not be extrapolated to draw observations about other economies, including that of the U.S. as a whole. The CNMI's proportional reliance on foreign labor is overwhelming when compared to that of many other economies, including the U.S.'s economy as a whole; foreign employees constitute approximately half of the CNMI's population. The CNMI also has the ability to admit foreign employees from low-wage economies in the region without being subject to Federal laws designed to protect opportunities for the U.S. workforce. The sheer scope and scale of the foreign labor situation in the CNMI make the CNMI a special case.

The question, Mr. Chairman, is not whether the CNMI's current economic structure is a good one. It is not. The question is how to help the people of the CNMI build a strong, prosperous and just society without causing needless pain and suffering to innocent people—including the foreign employees—in the transition. The Administration is committed to working with Congress and with the CNMI's representatives to establish a framework that will allow the people of the CNMI to build such a society. We are ready to explore with you and with the CNMI's representatives various options for establishing such a framework, including federalizing the CNMI's immigration system in a manner that would not cause needless economic or fiscal harm. Since federalization would constitute a paradigm shift from the current system, we believe that various options for federalization should be considered carefully in order to avoid unintended consequences. We would respectfully offer the following as suggested principles to guide any discussion of federalization:

First, we must ensure that national security and homeland security issues are properly addressed. In a post-9/11 world, this principle must take priority over all others. Any proposal should be fully vetted by the experts at the Departments of Homeland Security, State, and Justice to ensure that it provides adequate protections for the CNMI and for the rest of the U.S.

The second principle is that, subject to the need to address compelling national security and homeland security concerns, we should minimize damage to the CNMI economy and maximize the potential for future economic growth. We must recognize that the CNMI is in a very fragile economic and fiscal condition. The Federal Government must make every effort to avoid imposing measures that could plunge the CNMI even deeper into crisis. The cash-strapped local government, which is struggling to absorb sharp decreases in revenues, is already unable to provide critical services such as water and power in a reliable fashion. If the current crisis is exacerbated, it could endanger the health, safety and welfare of innocent people, threaten the public order, and leave large numbers of foreign workers jobless and stranded.

Once the CNMI gets through the current crisis, it will have to build a sustainable economic future. This is probably an opportune moment in the CNMI's history for the people of the CNMI to engage in a facilitated process to develop a homegrown strategic plan for its economic future. The process should involve all segments of society, and the ultimate product should be one that the large majority of the community is willing to buy in to. If the CNMI were to embark on such a process, there would not necessarily be a need for Congress to delay its effort to establish a framework for a new immigration system. We would suggest that Congress build sufficient flexibility into that framework, however, so that the CNMI's vision for its future could be duly considered and, to the extent possible, accommodated when it is ready.

Regardless of whether such a strategic planning process occurs or what it produces, we should recognize that the CNMI's unique circumstances should be taken into account. By controlling its own immigration system, the CNMI enjoys a competitive access advantage—in other words, it has the ability to make it easier for certain classes of visitors to enter the CNMI than to enter the rest of the U.S. This competitive access advantage enabled the CNMI to reach out to other tourist markets after it lost a significant share of its Japanese market. It has also allowed the CNMI to consider legitimate economic opportunities that might arise from admitting students, retirees, investors and others who might not have easy access to the rest of the U.S. If the CNMI were to lose its competitive access advantage with respect to legitimate foreign visitors, it would significantly restrict the already limited range of options that the CNMI has to build a viable economy.

As part of the bargain through which the CNMI currently retains the flexibility to control its own immigration system, the U.S. seeks to insulate itself from the impact of CNMI immigration decisions by maintaining a “second firewall” between the CNMI and the rest of the U.S. Aliens seeking admission to the CNMI must be processed and inspected through CNMI immigration procedures, which could be thought of as the “first firewall.” Admission to the CNMI confers no right of admission to the rest of the U.S. Aliens seeking to travel from the CNMI to the rest of the U.S. must apply separately for admission to the U.S., and all persons traveling from the CNMI to the rest of the U.S. are inspected as if they were arriving from a foreign country (the “second firewall”). While DHS has statutory authority to inspect and determine the admissibility of aliens proceeding from all insular territories to the remainder of the United States, including those territories governed by U.S. immigration law, the “second firewall” authority is broader and more significant in the case of a territory like the CNMI which operates its own immigration system.

Even under an immigration system administered by the Federal Government, the law could provide greater flexibility to admit foreign visitors to the CNMI than is currently allowed under the Immigration and Nationality Act. This greater flexibility could be justified by the fact that the CNMI's economic viability is arguably dependent upon having it. As with the current system, the U.S. could seek to insulate itself from any impact to the rest of the U.S. from granting greater flexibility to the CNMI by maintaining the “second firewall” between the CNMI and the rest of the U.S. Under such a scenario, aliens entering the CNMI after qualifying for special visas or visa waivers would have to qualify separately for admission to the rest of the U.S., and all persons traveling from the CNMI to the rest of the U.S. would continue to be inspected as if they were arriving from a foreign country.

We raise these ideas not as concrete proposals, but as discussion items that Congress, the Administration and the CNMI government could explore together. The underlying point here is that for the CNMI to build a viable new economy, it will likely need to remain readily accessible not only to a reasonable number of workers, but, more importantly, to customers such as tourists and students. Achieving this objective may require some degree of flexibility and creativity.

The third principle is that we must ensure that the new CNMI economy is not as conducive to worker exploitation and abuse as was the old CNMI economy. Since the CNMI has a very limited indigenous labor pool, it is reasonable for its economy to rely to some degree on foreign workers. But the mistakes of the past must not be repeated, with a large class of politically powerless foreign employees populating the lower tier of a two-tier CNMI economy, regulated by a government without adequate resources to prevent exploitative practices.

The fourth principle is that we should carefully analyze the likely impact of major proposals before we implement them. Just as we would not perform major surgery on a patient without first performing a detailed diagnosis and medical analysis, and just as we do not build even schools or hospitals without conducting an environmental analysis or impact study, neither should we attempt to perform major surgery on the CNMI's economy and society without first analyzing the likely impact. Labeling our efforts as “reform” does not relieve us of the responsibility to carefully

consider the potential consequences of our actions before we take them. This is especially true when we are dealing with an economy and society that is as fragile and potentially volatile as that of the CNMI. If we leap before we look, we could inadvertently and needlessly hurt people that we are trying to help. We should, however, be expeditious in our analysis, and not use the need to study as an excuse to delay. The people of the CNMI are eager to get on with their future.

The fifth and final principle is that we must ensure that the people of the CNMI participate fully in decisions that will affect their future. 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.

Mr. Chairman, three years ago this month, I testified on behalf of the Bush Administration before the House Committee on Resources in favor of granting the CNMI a non-voting delegate to the U.S. House of Representatives. In my testimony, I spoke of the courageous military service to two Chamorros: Captain James Pangelinan, who served with the 25th Infantry Division in the Sunni Triangle and has since been promoted to Major, and Specialist Monique Sablan, who was seriously wounded in Iraq while serving with the 101st Army Airborne Division. If I may, Mr. Chairman, I would like to read a short passage from my testimony from three years ago:

Capt. Pangelinan and Specialist Sablan have put their lives on the line so that the people of Iraq can achieve the dream of a democracy, in which every community is represented in an elected national government. Other servicemen and servicewomen from the CNMI are fighting so that the people of Afghanistan can achieve the same dream.

. . . [T]hese brave young men and women from Saipan, from Tinian, from Rota, have the same dream for themselves as they do for the peoples of Iraq and Afghanistan. They dream of being represented in the national legislature of their country, the country whose uniform they proudly wear, the country that they proudly defend. They dream that they will one day have the representation that has been afforded to every other state, territory and commonwealth in the American family.

Mr. Chairman, since I delivered that testimony, I have attended the funeral of Army Sergeant Wilgene Lieta in Tanapag, of Army Specialist Derence Jack in Chalan Kanoa, and of Army Sergeant Eddie Chen in Arlington National Cemetery. Just last week, Mr. Chairman, we lost Marine Lance Corporal Adam Quitugua Emul of Tanapag, killed in action in Iraq. These sons of Saipan died so that the people of Iraq could enjoy rights that are still not enjoyed by the loved ones that these brave young men have left behind.

Before considering legislation that would drastically change the lives of the people of the CNMI, we hope that Congress will consider granting them a seat at the table at which their fate will be decided.

Thank you.

The CHAIRMAN. Thank you very much. Why don't hear from Ms. Franzel?

STATEMENT OF JEANETTE M. FRANZEL, DIRECTOR, FINANCIAL MANAGEMENT AND ASSURANCE, GOVERNMENT ACCOUNTABILITY OFFICE

Ms. FRANZEL. Thank you Mr. Chairman. I'm pleased to be here today to discuss our December 2006 report on the U.S. Insular areas. My comments today will highlight information from our report but specifically focus on CNMI's current economic challenges, its weakened fiscal condition and its financial accountability issues. We have updated the information from our December report to include information for fiscal years 2005 and 2006. Overall we have concluded that the government of CNMI does face serious economic, fiscal and accountability challenges.

First I will discuss CNMI's economic challenges. As we've heard CNMI's economy is highly dependent on two industries: garment manufacturing and tourism. The garment manufacturing industry has suffered a significant decline in the past few years. As of last

summer 10 of CNMI's 27 garment factories had closed. U.S. Commerce status showed that the value of CNMI's shipments of garments to the U.S. markets dropped by almost 40 percent from 2004 to 2006. CNMI's tourism sector sharply declined in the late 1990's and has not recovered since then. This decline is attributed to a series of external events including economic trends in nearby countries and changes in airline routes.

The economic factors I just described have a significant impact on the CNMI government's fiscal condition which has steadily weakened from 2001 to 2005. One of the financial indicators that we've looked at is CNMI's fund balance, which generally reflects amounts of resources available for government spending and operations. CNMI's fund balance went into deficit balance in 2002 and has steadily declined since then to a deficit of \$84 million dollars in 2005. In order to finance its activities in an environment where expenditures have been exceeding revenues, CNMI has increased its debt and has stopped making required payments to its pension plan. Although CNMI's 2006 audited financial data is not yet available there are several indicators pointing to a severe fiscal crisis during fiscal year 2006 and this is indicating a need for long-term solutions. The CNMI government has implemented several drastic cost cutting and restructuring measures in fiscal 2006. For instance it has enacted austerity holidays which basically consist of bi-weekly unpaid furloughs for government workers during which many government operations are shut down. This is to save money on personnel and operating costs. Legislation was also enacted to authorize the government to suspend its contributions to the retiree fund for the remainder of fiscal 2006 and 2007 due to severe cash-flow problems. Again this is a short-term measure that's going to need a long-term solution. Several other restructuring and reforms were also enacted during 2006.

Finally, I'd like to briefly discuss CNMI's ongoing accountability challenges. The government of CNMI has had long-standing financial accountability problems including the inability to achieve clean audit opinions on its financial statements and numerous other internal control and compliance weaknesses. CNMI has made some progress but really needs to get to the point where reliable financial information is readily available and it can pass a financial audit. This is especially important during difficult fiscal conditions when difficult decisions need to be made, spending needs to be closely monitored and this type of information is needed on a daily basis for ongoing decisions and reforms.

Before concluding I'd like to briefly summarize some of the recommendations from our 2006 report. Our recommendations were addressed to Department of Interior's Office of Insular Affairs which plays a key role in helping CNMI and other insular areas to attract potential investors and businesses and in monitoring and addressing accountability issues and other emerging issues. Our recommendations were geared toward increasing the effectiveness of assistance being provided to CNMI and included formal evaluation of efforts to attract businesses to the insular areas, formalizing the framework used by OIA for site visits and for monitoring issues in CNMI and closer monitoring of progress in resolving some of the accountability issues that currently exist. OIA has agreed with our

recommendations and pointed out areas where it was already taking steps in these areas.

In summary, strong leadership is needed to address CNMI's serious economic, fiscal, and accountability challenges and to achieve long-term stability and prosperity. The CNMI government needs to continue to work toward sustainable solutions and OIA in response to our recent report expressed its commitment to monitoring and assisting CNMI and the other insular areas in promoting economic development and in improving financial management and accountability. Mr. Chairman this concludes my statement. I will be pleased to respond to any questions you or the other members of the committee have.

[The prepared statement of Ms. Franzel follows:]

PREPARED STATEMENT OF JEANETTE M. FRANZEL, DIRECTOR, FINANCIAL
MANAGEMENT AND ASSURANCE, GOVERNMENT ACCOUNTABILITY OFFICE

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS: SERIOUS ECONOMIC, FISCAL,
AND ACCOUNTABILITY CHALLENGES

GAO HIGHLIGHTS

Why GAO Did This Study

The U.S. insular area of the Commonwealth of the Northern Mariana Islands (CNMI) is a self-governing commonwealth of the United States that comprises 14 islands in the North Pacific.

In a December 2006 report—U.S. Insular Areas: Economic, Fiscal, and Financial Accountability Challenges (GAO-07-119)—regarding four insular areas including CNMI, GAO identified and reported the following: (1) economic challenges, including the effect of changing tax and trade laws on their economies; (2) fiscal condition; and (3) financial accountability, including compliance with the Single Audit Act.

The Chairman of the Senate Committee on Energy and Natural Resources, which requested the December 2006 report, asked GAO to present and discuss the results as they pertain to CNMI. Our summary and conclusions are based on our work performed for our December 2006 report on U.S. insular areas. For this testimony we also had available CNMI's fiscal year 2005 audited financial statements, which we have included in our review, along with some recent developments in fiscal year 2006.

What GAO Found

The Commonwealth of the Northern Mariana Islands (CNMI) faces serious economic, fiscal, and financial accountability challenges. CNMI's economy depends heavily on two industries, garment manufacturing and tourism. However, recent changes in U.S. trade law have increased foreign competition for CNMI's garment industry, while other external events have negatively affected its tourism sector.

CNMI's garment industry has declined in recent years with factory closings and reduced production. The value of garment shipments to the United States dropped by more than 16 percent between 2004 and 2005 and by an estimated 25 percent in 2006.

Tourism in CNMI declined sharply in the late 1990's as a result of a series of external events, including the Asian financial crisis; cancellation of Korean Air service; and fears of international crises such as the SARS epidemic, terrorism, and the Iraq war. In 2005, Japan Airlines withdrew direct flights to the capital.

The fiscal condition of CNMI's government has steadily weakened from fiscal year 2001 through fiscal year 2005, as government spending has exceeded revenues each year since 2002. CNMI ended fiscal year 2005 with a deficit of \$84.1 million in its governmental fund balance. CNMI's liabilities also exceed its assets for its primary government. Indicators point to a severe financial crisis in fiscal year 2006. In response, the CNMI government has implemented cost-cutting and restructuring measures, including "austerity holidays," consisting of biweekly furloughs during which government workers are not paid and many government operations are closed to reduce personnel and operating costs.

CNMI's long-standing financial accountability problems include the late submission of financial audit reports, inability to achieve "clean" opinions in its financial statements by the independent financial auditors, and reports showing serious inter-

nal control weaknesses over financial reporting. Many of the auditors' findings are longstanding, going back in some cases to 1987.

Federal agencies and CNMI have sponsored and participated in conferences, training sessions, technical assistance, and other programs to improve CNMI's economy, fiscal condition, and accountability. During 2006, the CNMI government took steps to reverse its prior patterns of deficit spending. It will need to continue to work toward long-term sustainable solutions, with concentrated attention on the challenges facing the islands and feedback mechanisms for continuing improvement. Leadership on the part of the CNMI government and the Department of the Interior's Office of Insular Affairs is critical to providing long-term stability and prosperity for this U.S. insular area.

Mr. Chairman and Members of the Committee: I am pleased to be here today to discuss the Commonwealth of the Northern Mariana Islands' (CNMI) serious challenges in strengthening its economy, fiscal condition, and financial accountability. CNMI is a self-governing commonwealth of the United States that administers its own local government functions under its own constitution. CNMI consists of 14 islands in the North Pacific with a total land area about 2.5 times the size of Washington, D.C. In recent years, CNMI has experienced serious economic and fiscal challenges, and several indicators point to a fiscal crisis in fiscal year 2006.

Today, I will highlight our December 2006 report¹ on the recent economic trends in the CNMI economy, its weakening fiscal condition, and its financial accountability challenges, which we have updated to include information for fiscal years 2005 and 2006.

Our summary and conclusions are based on our work performed for our December 2006 report on U.S. insular areas, which included audited financial statements through fiscal year 2004. For this testimony we also had available CNMI's fiscal year 2005 audited financial statements, which we have included in our review, along with some recent developments in fiscal year 2006. We provided a draft of this statement to Department of the Interior (DOI) officials who agreed with our conclusions and provided technical comments, which we have incorporated throughout the statement as appropriate. We conducted our work in accordance with generally accepted government auditing standards.

SUMMARY

The government of CNMI faces serious economic, fiscal, and financial accountability challenges. The government's ability to strengthen CNMI's economy has been constrained by CNMI's lack of diversification in industries. CNMI's economy is highly dependent on two industries: garment manufacturing and tourism. The garment manufacturing industry is facing the challenges of remaining internationally competitive against low-wage nations given recent changes in trade agreements. CNMI's tourism sector experienced a sharp decline in the late 1990s, and a series of external events, such as the economic trends of nearby countries and changes in airline practices, have further hampered the sector. Both the garment and tourism industries employ non-citizen workers who are paid wages lower than the U.S. minimum wage.

The fiscal condition of CNMI's government has steadily weakened from fiscal year 2001 through fiscal year 2005, the most recent year for which audited financial statements for CNMI were available. CNMI's fund balance, which generally reflects the amount of resources available for current government operations, went into a deficit balance during fiscal year 2002 and continued to decline to a deficit balance of \$84.1 million by the end of fiscal year 2005. CNMI has also shown significant declines and negative balances in its reported net assets, which is another measure of fiscal health, and which represents the balance of total assets less liabilities. In order to finance its government activities in an environment where expenditures have exceeded revenues, CNMI has increased its debt, causing its debt to asset ratio to increase significantly since fiscal year 2002. In addition, several indicators point to a severe fiscal crisis during fiscal year 2006. The CNMI government has implemented several drastic cost-cutting and restructuring measures, including "austerity holidays" consisting of biweekly furloughs, during which government workers are not paid and many government operations are closed to reduce personnel and operating costs during fiscal years 2006 and 2007. In addition, other measures were passed, including restructuring of payments to the retirement plan and reforming the rate of compensation for boards and commissions.

The government of CNMI has long-standing financial accountability problems, including the inability to achieve unqualified ("clean") audit opinions on its financial

¹ GAO, U.S. Insular Areas: Economic, Fiscal, and Financial Accountability Challenges, GAO-07-119 (Washington, D.C.: Dec. 12, 2006). CNMI is one of the subjects of this report.

statements, and numerous, long-standing material weaknesses in internal control over financial reporting and compliance with laws and regulations governing federal grant awards. CNMI received \$65.6 million in federal grants in fiscal year 2005, and its audited financial statements are used by federal agencies for overseeing and monitoring the use of federal grants. Progress has been made by CNMI concerning the timely submission of its audit reports. Specifically, for fiscal year 2004, CNMI's audited financial statements were 22 months late compared with 1 month late for its fiscal year 2005 submission. However, given CNMI's continued inability to achieve clean opinions on its financial statements and the continuing material internal control weaknesses over financial reporting, there is limited accountability over federal grants to this insular area. Furthermore, the lack of timely and reliable financial information hampers CNMI's ability to monitor programs and the reliability of financial information, such as revenues and expenditures, in order to make informed decisions.

The DOI's Office of Insular Affairs² (OIA) has ongoing efforts to support economic development in CNMI and assist CNMI in addressing its accountability issues. To help diversify and strengthen the insular area economies (including CNMI), OIA has programs aimed at attracting American businesses to the insular areas. However, the effectiveness of these conferences and business opportunity missions is uncertain due to the lack of formal evaluation of these efforts. In addition, DOI's OIA and Inspector General (IG), along with other federal IGs, oversee CNMI's efforts to improve its financial accountability. OIA monitors the progress of completion and issuance of audit reports and provides general technical assistance funds to train insular area employees and enhance financial management systems and processes. Yet, progress has been slow and inconsistent. A focused effort is called for where direct and targeted attention is concentrated on the challenges facing CNMI to help CNMI achieve economic and fiscal stability. OIA plays a key role in this effort by helping CNMI and the other insular areas improve their business climates, identify areas of potential for private sector investment, and market insular areas to potential investors.

Strong leadership is needed to address CNMI's current challenges. During 2006, the CNMI government took dramatic steps to reverse prior patterns of deficit spending. The CNMI government will need to continue to work toward long-term sustainable solutions. In response to our recent report, OIA expressed its commitments to continuing its comprehensive approach and to implementing other innovative ideas to assist CNMI and the other insular areas to continue to improve financial management and accountability and to support economic development. We are encouraged by OIA's commitment to taking a leadership position in assisting CNMI and monitoring CNMI's progress in facing its current economic, fiscal, and accountability challenges.

NARROW ECONOMIC BASE AND INTRINSIC AND EXTERNAL FACTORS LIMIT ECONOMIC PROGRESS IN CNMI

Several factors constrain CNMI's economic potential, including the lack of diversification, scarce natural resources, small domestic markets, limited infrastructure, and shortages of skilled labor. The United States exercises sovereignty over CNMI, and, in general, federal laws apply to CNMI.³ However, federal minimum wage provisions and federal immigration laws do not apply.⁴ CNMI immigration policies and the demands for labor by the garment manufacturing industry and tourism sector have resulted in rapid population growth since 1980 such that the majority of the population are non-U.S. citizens. (See fig. 1.)* According to U.S. Census Bureau data for 2000, the most recent census data available, about 56 percent of the CNMI population of 69,221 were not U.S. citizens.

According to U.S. Census Bureau data for 2000, the median household income in CNMI was \$22,898, a little more than half of the U.S. median household income of almost \$42,000 for 2000. The percentage of individuals in poverty in 2000 was

² OIA's mission is to promote sound financial management processes, boost economic development, and increase the federal government's responsiveness to the unique needs of the insular areas.

* Graphic has been retained in committee files.

³ CNMI is an unincorporated territory to which Congress has determined that only selected parts of the U.S. Constitution apply. Residents born in CNMI are U.S. citizens and although they have many of the rights of citizens of the 50 states, CNMI residents cannot vote in national elections and do not have voting representation in Congress.

⁴ The U.S. House of Representatives and the Senate recently passed H.R. 2, "Fair Minimum Wage Act of 2007," which, if enacted, would make the federal minimum wage provisions applicable to CNMI with a phased-in implementation.

46 percent, nearly four times the continental U.S. rate of 12 percent in that same year.

CNMI's economy depends on two industries, garment manufacturing and tourism, for its employment, production, and exports. These two industries rely heavily on a noncitizen workforce. This workforce⁵ represents more than three quarters of the labor pool that are subject to the CNMI minimum wage, which is lower than the U.S. minimum wage. The garment industry, for example, uses textiles and labor imported mostly from China. A 1999 study found that garment manufacturing and tourism accounted for about 85 percent of CNMI's total economic activity and 96 percent of its exports.⁶ A 2005 estimate of CNMI's gross domestic product (GDP) suggest that, in 2002, the garment industry contributed to roughly 40 percent of CNMI's GDP and 47 percent of payroll.⁷ However, recent changes in trade laws have increased foreign competition for CNMI's garment industry, while other external events have negatively impacted its tourism sector.

Decline in Garment Industry Tied to Trade Law Changes

Recent developments in international trade laws have reduced CNMI's trade advantages, and the garment industry has declined in recent years. Historically, while garment exporters from other countries faced quotas and duties in shipping to the U.S. market, CNMI's garment industry benefited from quota-free and duty-free access to U.S. markets for shipments of goods in which 50 percent of the value was added in CNMI.⁸ In recent years, however, U.S. agreements with other textile-producing countries have liberalized the textile and apparel trade. For example, in January 2005, in accordance with one of the 1994 World Trade Organization (WTO) Uruguay Round agreements, the United States eliminated quotas on textile and apparel imports from other textile-producing countries, leaving CNMI's apparel industry to operate under stiffer competition, especially from low-wage countries such as China.⁹ According to a DOI official, more than 3,800 garment jobs were lost between April 2004 and the end of July 2006, with 10 out of 27 garment factories closing.¹⁰ U.S. Department of Commerce data show that the value of CNMI shipments of garments to the United States dropped by more than 16 percent between 2004 and 2005, from about \$807 million to \$677 million, and down from a peak of \$1 billion in 1998–2000. In 2006, reported garment exports to the United States fell further, by an estimated 25 percent compared to 2005, with exports declining to an estimated \$497 million. The reported level of shipments to the United States in 2006 was comparable to levels of sales in 1995–1996, prior to the significant build-up of the industry. (See fig. 2.)* In December 2006, the largest and oldest garment factory closed. Given that the garment industry is significant to CNMI's economy, these developments will likely have a negative financial effect on government revenue. For example, reported fees collected by the government on garment exports fell 37 percent from \$38.6 million in 2000 to \$24.4 million in 2005.

External Events Affect Tourism

CNMI's tourism sector experienced a sharp decline in the late 1990s, and a series of external events have further hampered the sector. Tourism became a significant sector of economic activity in CNMI by the mid-1980s and continued to grow into the 1990s. Due to its proximity to Asia, Asian economic trends and other events have a direct effect on CNMI's economy. For example, tourism in CNMI experienced

⁵The 2000 U.S. Census shows that noncitizens, predominantly Chinese and Filipinos, make up over half of CNMI's population. Almost all of these temporary foreign workers came to CNMI after 1990.

⁶Business Development Center, Northern Marianas College, An Economic Study for the Commonwealth of the Northern Mariana Islands, U.S. Department of the Interior, October 1999.

⁷See M. Rubin and S. Sawaya, Final Trip Report on Benchmark Estimates of 2002 Gross Domestic Product in the Commonwealth of the Northern Mariana Islands (Washington, D.C.: U.S. Census Bureau, 2005). Many businesses, including the garment factories, are owned and operated by foreigners.

* Graphic has been retained in committee files.

⁸According to the U.S. Harmonized Tariff Schedule, certain items of which at least 50 percent of the value was added in a U.S. possession are eligible for duty-free shipment to the United States.

⁹GAO, U.S.-China Trade: Textile Safeguard Procedures Should Be Improved, GAO-05-296 (Washington, D.C.: Apr. 4, 2005.)

¹⁰The burden of this job loss on the government may be mitigated to some extent by the fact that garment industry workers are almost exclusively foreigners on temporary guest visas. Also, data we obtained from the U.S. Census Bureau indicate that foreign workers send much of their earnings back to their countries of origin in the form of remittances; the remainder, which is spent on local goods and services, is relatively small, and as a result, has limited effect on local economic activity. Remittances were estimated at about \$80 million for 2002, roughly 10 percent of GDP, and at over \$100 million in 2005.

a sharp decline in the late 1990s with the Asian financial crisis and due to the cancellation of Korean Air service to CNMI following an airplane crash on Guam in August 1997. (See fig. 3.)* Visitors from Korea, the second largest source of tourists, decreased by 85 percent from 1996 to 1998. After a modest recovery in 2000, tourism faltered again with the September 11, 2001, terrorist attacks on the United States. In 2003, according to CNMI officials, tourism slowed—with a double-digit decline in arrivals for several months—in reaction to the SARS epidemic and to the war in Iraq.

Tourism in CNMI is also subject to changes in airline practices. For example, Japan Airlines (JAL) withdrew its direct flights between Tokyo and Saipan in October 2005, raising concerns because roughly 30 percent of all tourists and 40 percent of Japanese tourists arrive in CNMI on JAL flights, according to CNMI and DOI officials. The Marianas Visitors Authority's June 2006 data show that the downward trend in Japanese arrivals is not being offset by the growth in arrivals from other markets such as China and South Korea, with the total number of foreign visitors dropping from 43,115 in June 2005 to 38,510 a year later.¹¹ At the same time, CNMI has experienced increased Chinese tourists in recent years, which offer the potential to reenergize the industry.

CNMI'S REPORTED FISCAL CONDITION CONTINUES TO WEAKEN

The fiscal condition of CNMI's government has steadily weakened from fiscal year 2001 through fiscal year 2005, the most recent year for which audited financial statements for CNMI were available. In addition, several indicators point to a severe financial crisis in fiscal year 2006. As shown in figure 4,* CNMI's reported governmental fund balance declined from a positive \$3.5 million at the beginning of fiscal year 2001 to a deficit of \$84.1 million by the end of fiscal year 2005, as CNMI's expenditures for its governmental activities consistently exceeded revenues in each year since fiscal year 2002. Most of CNMI's governmental activities, which include basic services such as public safety, health care, general administration, streets and parks, and security and safety, are reported in its governmental activities, or government funds. The fund balance (or deficit) for these activities reflects the amount of funds available at the end of the year for spending. A significant contributing factor to the gap between expenditures and revenues is that actual expenditures have exceeded budgeted expenditures each fiscal year during the period 2001 through 2005.¹²

Another measure of fiscal health is the measure of net assets for governmental activities, which represents total assets minus total liabilities. As shown in table 1, CNMI has experienced a negative trend in its balance of net assets for governmental activities, going from a reported positive \$40.6 million balance at the end of fiscal year 2001 to a negative \$38 million balance at the end of fiscal year 2005.¹³ The primary difference between the fund balance measure and net assets is that the net assets include capital assets and long-term liabilities, whereas the fund balance figure focuses on assets available for current period expenditures and liabilities that are due and payable in the current period.

* Graphic has been retained in committee files.

¹¹China Southern Airlines' August 2006 decision to suspend its flights from Guangzhou City in China to Saipan in September because of low load factor, high fuel costs, and low yield in fares is likely to slow the growth of Chinese visitors and hinder CNMI's efforts to attract more tourists from China.

* Graphic has been retained in committee files.

¹²The over-expenditure of budget amounts has been recorded as a finding in CNMI's single audits since fiscal year 2000.

¹³The net asset amount at September 30, 2005, when compared to the fund balance amount as of the same date, includes an additional positive balance of \$46 million resulting from capital and deferred assets of approximately \$180.8 million less long-term liabilities of \$134.8 million.

Table 1.—CNMI'S FISCAL CONDITION

	Fiscal Years Ending September 30,			
	2001	2002	2003	2004
Data:				
Population	71,868	74,003	76,129	78,252
Own source revenues	227,709,651	215,650,986	225,412,808	235,754,891
Federal contributions	49,348,134	71,964,627	57,560,034	63,006,595
Total Revenues	\$277,057,785	\$287,615,613	\$282,972,842	\$298,761,486
Total Expenditures	\$258,177,431	\$314,985,333	\$303,986,379	\$352,488,419
Revenues less Expenditures [Surplus/(Deficit)]	\$18,880,354	\$(27,369,720)	\$(21,013,537)	\$(53,726,933)
Total net other financing ¹	\$6,511,003	\$3,510,667	\$0	\$39,493,350
Governmental funds begin- ning year balance ³	\$3,540,878	² \$19,609,305	\$(4,249,748)	² \$(35,011,807)
Governmental funds end of year balance	\$17,219,852	\$(4,249,748)	\$(25,263,285)	\$(49,245,390)
Net Assets, end of year ⁴	\$40,575,181	⁵ \$30,760,955	\$15,596,170	\$(18,656,437)
Change in net assets .....	.....	\$(9,814,226)	\$(15,164,785)	\$(34,252,607)
Calculations:				
Federal contributions as a percent of revenues	17.8	25.0	20.3	21.1
Government revenue per capita	\$3,855	\$3,887	\$3,717	\$3,818
Government expenditures per capita	\$3,592	\$4,256	\$3,993	\$4,505
Government revenue as per- cent of GDP ⁶ .....	.....	.30	.....	.....
Government expenditures as percent of GDP ⁶ .....	.....	.33	.....	.....

Source.—GAO analysis of single audit reports covering fiscal years 2001, 2002, 2003, 2004, and 2005. The estimate of GDP, in the amount of \$946,854,877, came from Final Trip Report on Benchmark Estimates of 2002 Gross Domestic Product in the Commonwealth of the Northern Mariana Islands, U.S. Census Bureau, Feb. 11, 2005.

Notes.—Financial data in table 1 reflects CNMI's financial statements for its governmental activities, which include most of CNMI's basic services. This financial data does not include CNMI's component units, which are legally separate but related to CNMI. This financial data also does not include CNMI's fiduciary funds, because those funds cannot be used to finance CNMI operations. CNMI's audited financial statements received qualified opinions from its external auditors and therefore, these amounts are subject to the limitations cited by the auditors in their opinions and to the material internal control weaknesses identified.

- ¹ Other financing includes transfers in and out of other funds.
- ² The end-of-year fund balance for the prior fiscal year may not agree with the beginning of year fund balance for the succeeding fiscal year due to amounts being restated in subsequent financial statements. We could not readily identify explanations for these restatements because comparative information was not always available or disclosures were not made in subsequent financial statements.
- ³ Governmental funds finance most of the basic services provided by the government.
- ⁴ Net assets are capital assets and other assets, such as cash and receivables, less liabilities.
- ⁵ The amount reported is the restated amount from the 2003 Single Audit Report, corrected because of excluded and misstated amounts.
- ⁶ GDP estimates are not available for 2001, 2003, 2004, and 2005.

In order to finance its government activities in an environment where expenditures have exceeded revenues, CNMI has increased its debt and has not made the required contributions to its retirement fund. CNMI's reported balance of notes and bonds payable has increased from \$83 million in fiscal year 2002 to \$113 million in fiscal year 2005, representing an increase of 36 percent. CNMI's balance owed to its pension fund has increased from \$72 million in 2002 to \$120 million in 2005, representing an increase of 67 percent. CNMI has also been incurring penalties on the unpaid liabilities to the pension fund. The total amount of assessed penalties was \$24 million as of September 30, 2005.

As shown in figure 5,* CNMI's reported debt to assets ratio¹⁴ has increased significantly, from 89.8 percent in fiscal year 2002 to 113.5 percent in 2005. In other words, at the end of fiscal year 2005, CNMI owed \$1.14 for every \$1.00 in assets that it held.

Although CNMI's audited fiscal year 2006 financial statements are not yet available, indicators point to a severe fiscal crisis during fiscal year 2006. In a May 5, 2006 letter to the CNMI Legislative leaders, Governor Benigno R. Fitial stated that "the Commonwealth is facing an unsustainable economic emergency . . . I regret to say that the nature and extent of these financial problems are such that there is no simple or painless solution." CNMI has implemented several significant cost-cutting and restructuring measures during fiscal year 2006. For instance, in August 2006, CNMI enacted its Public Law No. 15-24 to implement "austerity holidays" consisting of bi-weekly furloughs, during which government employees are not paid and many government operations are closed. This measure was taken to help alleviate the financial crisis by saving millions of dollars in both personnel and operational costs. The measure declared unpaid holidays once per pay period for the remainder of fiscal years 2006 and 2007, reducing the government's normal pay period to 72 hours every 2 weeks. In June of 2006, CNMI enacted Public Law No. 15-15 to authorize the CNMI government to suspend the government's employer contributions to the retirement fund for the remainder of fiscal years 2006 and 2007. In addition, CNMI has passed laws to restructure loans among its component units, reform the rate of compensation for members of boards and commissions, increase the governor's authority to reprogram funds, extend the date for full funding of the retirement fund's defined benefit plan,¹⁵ and create a defined contribution retirement plan for government employees hired on or after January 1, 2007. These measures are immediate and dramatic, and are indicative of severe financial problems that will likely call for long-term solutions.

CNMI'S FINANCIAL ACCOUNTABILITY REMAINS WEAK

CNMI has had long-standing financial accountability problems, including the late issuance of its single audit reports, the inability to achieve unqualified ("clean") audit opinions on its financial statements, and numerous material weaknesses in internal controls over financial operations and compliance with laws and regulations governing federal grant awards.

CNMI's Compliance with Single Audit Requirements

CNMI received a reported \$65.6 million in federal grants in fiscal year 2005 from a number of federal agencies. The five largest federal grantors in 2005 for CNMI included the Departments of Agriculture, Health and Human Services, Interior, Homeland Security, and Labor. As a nonfederal entity expending more than \$500,000 a year in federal awards, CNMI is required to submit a single audit report each year to comply with the Single Audit Act, as amended.¹⁶ Single audits are audits of the recipient organization—the government in the case of CNMI—that focus on the recipient's financial statements, internal controls,¹⁷ and compliance with laws and regulations governing federal grants.¹⁸ One of the objectives of the act is

*Graphic has been retained in committee files.

¹⁴The debt to asset ratio measures the extent to which CNMI had funded its assets with debt. The lower the debt percentage, the more equity CNMI has in its assets.

¹⁵Based on the actuarial report, dated October 1, 2004, the unfunded pension liability was estimated at \$552,042,142.

¹⁶31 U.S.C. Chp. 75.

¹⁷Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved—effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations. Internal control also serves as the first line of defense in safeguarding assets and preventing and detecting errors and fraud.

¹⁸Office of Management and Budget (OMB) Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations, establishes policies for federal agencies to use in imple-

to promote sound financial management, including effective internal controls, with respect to federal expenditures of the recipient organization. Single audits also provide key information about the federal grantee's financial management and reporting and are an important control used by federal agencies for overseeing and monitoring the use of federal grants.

For fiscal years 1997 through 2005, CNMI did not submit its single audit reports by the due date, which is generally no later than 9 months after the fiscal year end.¹⁹ CNMI's late submission of single audit reports means that the federal agencies overseeing federal grants to CNMI did not have current audited information about CNMI's use of federal grant funds. As shown in table 2, CNMI's single audit submissions were significantly late for fiscal years 1997 through 2004. However, CNMI has made significant progress in 2005 by submitting its fiscal year 2005 single audit report less than 1 month late.

Table 2.—REPORTED SINGLE AUDIT ACT REPORT SUBMISSIONS FOR FISCAL YEARS 1997 THROUGH 2005

Fiscal Year End	Date single audit report due	Date single audit report received	Number of months late ¹
09/30/1997	10/31/1998	12/28/1999	14
09/30/1998	10/31/1999	12/28/1999	2
09/30/1999	06/30/2000	10/19/2000	4
09/30/2000	06/30/2001	10/17/2002	16
09/30/2001	06/30/2002	06/06/2003	11
09/30/2002	06/30/2003	08/09/2004	13
09/30/2003	06/30/2004	07/06/2005	12
09/30/2004	² 06/30/2005	04/17/2006	22
09/30/2005	06/30/2006	07/19/2006	1

Source.—Auditors' reports, Federal Audit Clearinghouse, and GAO analysis.

¹Calculated based on the submission form date without regard to extensions granted to CNMI. The form date is the date the Federal Audit Clearinghouse receives the required single audit form certifying that the audit has been performed and summarizing its findings.

²CNMI received an extension until February 28, 2006 for submission of the fiscal year 2004 single audit report.

CNMI Unable to Achieve "Clean" Audit Opinions Due to Persistent, Significant Weaknesses

Auditors are required by OMB Circular No. A-133 to provide opinions (or disclaimers of opinion, as appropriate) as to whether the (1) financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles (GAAP) and (2) auditee complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major federal program.

The CNMI government has been unable to achieve unqualified ("clean")²⁰ audit opinions on its financial statements, receiving qualified opinions on the financial statements issued for fiscal years 1997 through 2005. Auditors render a qualified opinion when they identify one or more specific matters that affect the fair presentation of the financial statements. The effect of the auditors' qualified opinion can be significant enough to reduce the usefulness and reliability of CNMI's financial statements.

CNMI has made some progress in addressing the matters that resulted in the qualified opinions on its financial statements for fiscal years 2001 through 2003. However, some of the issues continued to exist in 2004 and 2005. The auditors identified the following issues in fiscal year 2005 that resulted in the most recent qualified audit opinion: (1) inadequacies in the accounting records regarding taxes receivable, advances, accounts payable, tax rebates payable, other liabilities and accruals, and the reserve for continuing appropriations, (2) inadequacies in accounting records and internal controls regarding the capital assets of the Northern Marianas

menting the Single Audit Act and provides an administrative foundation for consistent and uniform audit requirements for nonfederal entities administering federal awards.

¹⁹Under the Single Audit Act, the single audit reporting package is generally required to be submitted to the Federal Audit Clearinghouse either 30 days after the receipt of the auditor's report or 9 months after the end of the period under audit.

²⁰Auditors express an unqualified ("clean") opinion on financial statements when they have determined, based on sufficient review work, that the financial statements are presented fairly in all material respects, in accordance with generally accepted accounting principles.

College, and (3) the lack of audited financial statements for the Commonwealth Utilities Corporation, which represents a significant component unit of CNMI.

Auditors for CNMI also rendered qualified opinions on CNMI's compliance with the requirements for major federal award programs from 1997 through 2005. In fiscal year 2005, the auditors cited noncompliance in the areas of allowable costs, cash management, eligibility, property management, procurement, and other requirements.

Weaknesses over Financial Reporting and Compliance with Requirements for Major Federal Programs

CNMI has long-standing and significant internal control weaknesses over financial reporting and compliance with requirements for federal grants. Table 3 shows the number of material weaknesses and reportable conditions for CNMI for fiscal years 2001 through 2005. The large number and the significance of reported internal control weaknesses raise serious questions about the integrity and reliability of CNMI's financial statements and its compliance with requirements of major federal programs. Furthermore, the lack of reliable financial information hampers CNMI's ability to monitor programs and financial information such as revenues and expenses and to make timely, informed decisions.

Table 3.—REPORTED WEAKNESSES IDENTIFIED IN THE AUDITORS' REPORTS FOR FISCAL YEARS 2001 THROUGH 2005

Fiscal Year	Internal control over financial reporting in accordance with government auditing standards (report on financial statements)			Compliance with requirements applicable to each major program and internal control over compliance with OMB Circular No. A-133 (report on federal awards)		
	Material weaknesses	Reportable conditions	Total	Material weaknesses	Reportable conditions	Total
2001	10	0	10	4	13	17
2002	9	1	10	2	14	16
2003	10	2	12	1	15	16
2004	8	5	13	2	31	33
2005	9	4	13	2	36	38

Source.—CNMI single audit reports for fiscal years 2001 through 2005.

CNMI's 13 internal control reportable conditions²¹ for fiscal year 2005, 9 of which were material weaknesses,²² indicate a lack of sound internal control over financial reporting needed to provide adequate assurance that transactions are properly recorded, assets are properly safeguarded, and controls are adequate to prevent or detect fraud, waste, abuse, and mismanagement. For example, one of the material internal control weaknesses that the auditors reported for CNMI's government for fiscal year 2005 was the lack of audited fiscal year 2005 financial statements of the Commonwealth Utilities Corporation (Corporation), a significant component unit of CNMI.²³ Because the Corporation's financial statements were unaudited, the auditors could not determine the propriety of account balances presented in the financial statements that would affect CNMI's basic financial statements. CNMI's auditors also reported other significant material internal control weaknesses that have continued from previous years, such as improper tracking and lack of support for advances to vendors, travel advances to employees, liabilities recorded in the General Fund, and tax rebates payable. Due to the lack of detailed subsidiary ledgers and other supporting evidence, the auditors could not determine the propriety of these

²¹ Reportable conditions over financial reporting are matters that come to an auditor's attention related to significant deficiencies in the design or operation of internal controls that could adversely affect the entity's ability to produce financial statements that fairly represent the entity's financial condition.

²² Material weaknesses in financial reporting are reportable conditions in which the design or operation of internal controls does not reduce to a relatively low level the risk that misstatements caused by error or fraud—material in relation to the financial statements being audited—may occur and not be detected in a timely period by employees in the normal course of performing their duties.

²³ A component unit is an organization that is not part of the primary government activities but for which the nature and significance of their relationship with a primary government are such that excluding the organization would cause the reporting entity's statements to be misleading or incomplete.

account balances. According to the auditors, the effect of these weaknesses is a possible misstatement of expenditures and related advances and liabilities, which also resulted in a qualification of the opinion on the fiscal year 2005 CNMI financial statements. Consequently, CNMI's financial statements may not be reliable.

As shown in table 3, auditors also reported 38 reportable conditions²⁴ in CNMI's compliance with requirements for major federal programs and the internal controls intended to ensure compliance with these requirements. Two of these reportable conditions were considered material weaknesses.²⁵

One of the two material internal control weaknesses affecting compliance with federal programs reported for CNMI's government for fiscal year 2005 included the failure to record expenditures for the Medical Assistance Program when they were incurred. Specifically, the auditors identified expenditures in fiscal year 2005 for billings from service providers for services rendered in previous years. The effect of this weakness is that expenditures reported to the grantor agency, the U.S. Department of Health and Human Services, are based on the paid date and not, as required, the service date. In addition, actual expenditures incurred during the year are not properly recorded and, therefore, current year expenditures and unrecorded liabilities are understated. The other material weakness affecting compliance related to the lack of adherence to established policies and procedures for managing and tracking property and equipment purchased with federal grant funds. As a result, CNMI's government was not in compliance with federal property standards and its own property management policies and procedures. The other 36 reportable conditions concerned compliance with requirements regarding allowable costs; cash management; eligibility; equipment and property management; matching, level of effort, and earmarking; procurement and suspensions and debarment; reporting; sub-recipient monitoring; and special tests and provisions that are applicable to CNMI's major federal programs.

In CNMI's corrective action plan for fiscal year 2005, CNMI officials agreed with almost all of the auditors' findings. According to its fiscal year 2005 corrective action plan, CNMI is working to get a current audit of its component unit, the Commonwealth Utilities Corporation. Other planned actions include properly reconciling advances to vendors; reviewing travel advance balances and making adjustments as needed, including making payroll deductions if expense vouchers are not filed timely; implementing procurement receiving procedures for prepaid items; making necessary corrections to its automated tax system to enable auditors to better review tax returns; determining the correct balances for construction projects; implementing controls over verifying eligibility for Medicaid and restricting access to the related data; and ensuring proper completion of inventories. The plan provides that most of the findings will be addressed by the end of fiscal year 2007. It is important to note however, that many of the auditors' findings, particularly those categorized as material weaknesses, are longstanding findings going back in some cases to 1987.

EFFORTS TO ASSIST CNMI IN ITS ECONOMIC AND ACCOUNTABILITY CHALLENGES

OIA has ongoing efforts to support economic development in CNMI and assist CNMI in addressing its accountability issues. OIA has in the last 3 years sponsored conferences in the United States and business-opportunity missions in the insular areas to attract American businesses to the insular areas. The main goal of these efforts is to facilitate interaction and the exchange of information between U.S. firms and government and business officials from the insular areas to spur new investment in a variety of industries. Innovative projects such as setting up a production and mass mailing facility in CNMI aimed at the Japanese market are reported to be underway.

OIA's efforts in helping to create links between the business communities in the United States and CNMI are key to helping meet some of the economic challenges. In our recent report,²⁶ we concluded that the insular areas would benefit from formal periodic OIA evaluation of its conferences and business-opportunity missions, including assessments of the cost and benefit of its activities and the extent to

²⁴In the context of compliance, reportable conditions are matters that come to an auditor's attention related to significant deficiencies in the design or operation of internal controls over compliance that could adversely affect the entity's ability to operate a major federal program within the applicable requirements of laws, regulations, contracts, and grants.

²⁵Material weaknesses in this context are reportable conditions in which internal controls do not reduce to a relatively low level the risk of noncompliance with applicable requirements of laws, regulations, contracts, and grants that would be material to the major federal program being audited and undetected in a timely way by employees in the normal course of performing their duties.

²⁶GAO-07-119.

which these efforts are creating partnerships with businesses in other nations. In our December 2006 report, we recommended that OIA conduct such formal periodic evaluations to assess the effect of these activities on creating private sector jobs and increasing insular area income. OIA agreed with our recommendation.

DOI's OIA and IG, other federal inspectors general, and local auditing authorities assist or oversee CNMI's efforts to improve its financial accountability.²⁷ OIA monitors the progress of completion and issuance of the single audit reports as well as providing general technical assistance funds to provide training for insular area employees and funds to enhance financial management systems and processes. DOI's IG has audit oversight responsibilities for federal funds in the insular area.

To promote sound financial management processes in the insular area government, OIA has increased its focus on bringing the CNMI government into compliance with the Single Audit Act. For example, OIA created an incentive for CNMI to comply with the act by stating that an insular area cannot receive capital funding unless its government is in compliance with the act or has presented a plan, approved by OIA, that is designed to bring the government into compliance by a certain date.

In addition, OIA provides general technical assistance funds for training and other direct assistance, such as grants, to help the insular area governments comply with the act and to improve their financial management systems and environments. The Graduate School of the U.S. Department of Agriculture (USDA) has been working with OIA for over a decade through its Pacific Islands and Virgin Islands Training Initiatives (PITI and VITI) to provide training and technical assistance.

OIA staff members make site visits to CNMI as part of its oversight activities. In our December 2006 report, we recommended that OIA develop a standardized framework for its site visits to improve the effectiveness of its monitoring. We also recommended that OIA develop and implement procedures for formal evaluation of progress made by the insular areas to resolve accountability findings and set a time frame for achieving clean audit opinions. OIA agreed with our recommendations and noted that it had already made some progress during fiscal year 2006. Establishing a routine procedure of documenting the results of site visits in a standard framework would help ensure that (1) all staff members making site visits are consistent in their focus on overall accountability objectives and (2) OIA staff has a mechanism for recording and following up on the unique situations facing CNMI.

CONCLUSIONS

CNMI faces daunting economic, fiscal, and financial accountability challenges. CNMI's economic and fiscal conditions are affected by its economy's general dependence on two key industries. In addition, although progress has been made in improving financial accountability, CNMI continues to have serious internal control and accountability problems that increase its risk of fraud, waste, abuse, and mismanagement.

Efforts to meet formidable fiscal challenges in CNMI are exacerbated by delayed and incomplete financial reporting that does not provide officials with the timely and complete information they need for effective decision making. Timely and reliable financial information is especially important as CNMI continues to take actions to deal with its fiscal crisis.

OIA has ongoing efforts to assist CNMI in addressing its accountability issues and to support economic development in CNMI. OIA officials monitor CNMI's progress in submitting single audit reports, and OIA provides funding to improve financial management. Yet, progress has been slow and inconsistent. The benefit to CNMI of past and current assistance is unclear. Federal agencies and CNMI have sponsored and participated in conferences, training sessions, and other programs to improve accountability, but knowing what has and has not been effective and drawing the right lessons from this experience is hampered by a lack of formal evaluation and data collection.

Strong leadership is needed for CNMI to weather its current crisis and establish a sustainable and prosperous path for the future. During 2006, the CNMI government took dramatic steps to reverse prior patterns of deficit spending. The CNMI government will need to continue to work toward long-term sustainable solutions. A focused effort is called for in which direct and targeted attention is concentrated on the challenges facing CNMI, with feedback mechanisms for continuing improve-

²⁷ Although the insular areas receive grants from many federal agencies, one of the grant-making agencies is designated as the cognizant agency for purposes of the Single Audit Act. The cognizant agencies have specific responsibilities under OMB Circular No. A-133. The cognizant agency is usually the agency that provides the predominant amount of funding. The cognizant agency for CNMI is DOI.

ment to help CNMI achieve economic, fiscal, and financial stability. OIA plays a key role in this effort. In its comments on our December 2006 report, OIA pointed out that it provides "a crucial leadership role and can provide important technical assistance" to help CNMI and the other insular areas improve their business climates, identify areas of potential for private sector investment, and market insular areas to potential investors. It also noted that improving accountability for federal financial assistance for CNMI and other insular areas is a major priority. OIA has stated its commitment to continuing its comprehensive approach and to implementing other innovative ideas to assist CNMI and the other insular areas in continuing to improve financial management and accountability. Leadership on the part of the CNMI government and OIA is critical to addressing the challenges CNMI faces and to providing long-term stability and prosperity for this insular area.

Mr. Chairman and Members of the Committee, this concludes my statement. I would be pleased to answer any questions that you and other Members of the Committee may have at this time.

The CHAIRMAN. Thank you very much. Before you finish, we've taken two of the charts from your report and made large copies of them. Could someone bring those a little closer so the members of the committee could see them and could you describe what those charts say? Are you familiar with these charts?

Ms. FRANZEL. Yes, these are in fact included in our written statement.

The CHAIRMAN. Right, I know they are, and I just thought it would be useful for committee members to understand what the charts indicate.

Ms. FRANZEL. Certainly. Some of these charts also relate to other charts provided in our written statement.

The first chart shows the growth in CNMI population by citizenship with a breakout between non-U.S. citizens, U.S. citizens and Chamorro and you'll see the tremendous growth in population up until 2000. That trend dovetails with another chart that's in our written statement which shows the apparel industry growth which I guess we do not have here. You'll see the similar rise in the apparel industry growth along with the population because the population growth was needed to support the garment industry. Our figure in our written statement also shows the subsequent decline in the garment industry. Unfortunately it is my understanding from the CNMI officials and from our own work that we currently don't have an updated reliable population figures, but if any of the other witnesses have those figures, I'd welcome them to add to this chart.

The other chart shows government revenues and expenditures. You'll see that in 2002 the dotted line, which represents expenditures, becomes higher than revenues, which is the dark, almost flat line. This chart only goes through 2005. 2006 numbers were not available to us but the CNMI government is reporting that that revenue figure, the strong dark line, has in fact taken a large dip in 2006 and again I would welcome any further information on that from the other witnesses. The small dotted line at the bottom shows the resulting impact of the deficit on the fund balance of CNMI which is currently negative. That means there are not funds readily available for financing government operations and the way that it can be negative while financing operations is through the increased debt that the CNMI has incurred.

The CHAIRMAN. Thank you very much. Let me now go right ahead with testimony from Honorable Pedro Tenorio with the Office of the Resident Representative here in Washington. Thank you very much for being here.

**STATEMENT OF PEDRO A. TENORIO, OFFICE OF THE
RESIDENT REPRESENTATIVE**

Mr. TENORIO. Thank you Mr. Chairman, Hafa Adai to also the members of the committee. Thank you for inviting me to testify. Unlike the other territories we do not have a delegate in the House and we appreciate your willingness in affording the resident representative an opportunity to speak on behalf of the people of CNMI.

Last March, Mr. Chairman, I came before you to testify on the state of our financial situation and our economy. Unfortunately there has been no improvement in either area and the outlook is as gloomy as it was then. With the help of this committee we have made progress on amending General Note 3(a) and I've also received some of the tax cover over funds owed to us by the U.S. Treasury. Thank you for your help. We appreciate and look forward to your ongoing support in the Commonwealth.

I would like to address several policy issues on the subject of immigration. Any immigration legislation that is implemented without due consideration of existing conditions in the CNMI will have a negative effect on our economy. If the goal of this committee is to transform CNMI immigration into a Federal framework we urge Congress to please proceed carefully. Congress must ensure that the outcome is positive and beneficial to both sides. I'd first like to provide a historical perspective to this discussion. As a member of the Marianas Political Status Commission which negotiated the Covenant we participated in the discussions that authorize local control of immigration. We debated two issues on the subject. The first, providing protection to our small indigenous population from being overwhelmed by immigrants and second, having sufficient work force to develop our economy. At the time of our negotiations, tens of thousands of Southeast Asian refugees were arriving in Guam under the U.S. immigration policy and we were fearful that full implementation of INA would allow those and other immigrants to migrate to the CNMI. We felt that the early years of our new status should be focused on building a stable economy. This concern was shared by the United States.

On the other hand, we recognized that we needed a larger level force that we had to fast-track construction of our utilities, other public facilities, resort hotels, golf courses and others. It was our intent that the need for these workers would be temporary. Although some are critical of how we build our economy, utilizing local control of immigration, that precision does not negate the need for skilled workers that are not readily available from elsewhere in the United States or its freely-associated partners.

During the Covenant negotiations we assumed it would be a significant U.S. presence in our Islands from a buildup by the Department of Defense. We gave up more than 18,000 acres of valuable public land for that purpose. We anticipated that the military buildup would jump-start our economy and provide a long-term stable base for private sector growth and local employment. The model we used, we all considered, was Guam. That did not happen. Tourism gradually developed but also took a toll on our resources and demanded workers and skills not available in the local population.

Garment manufacturing began in Guam but found a home in Saipan.

In retrospect, we probably should have paid closer attention to the demands that that industry placed on our resources. Nonetheless, the textile and tourism sectors formed the backbone of a private sector and the source of government revenues required to provide services to our residents. Hindsight is a wonderful gift, but we need to deal with where we are now rather than the economy that we anticipated 30 years ago when this committee approved the Covenant.

Mr. Chairman, we're here to participate in the serious process with the committee to ensure not simply that additional mistakes are not made and that will strengthen our local economy. Sometimes in looking at the current problems we forgot how much progress has been made. This committee has been sensitive over the years to how the territories differ from the mainland and each other and how mainland standards don't always work in non-contiguous areas. We have been fortunate that this committee has had members from both Alaska and Hawaii, areas that are non-contiguous and that also have an interest in the U.S. Pacific territories and an appreciation of the Pacific basin and its promises and problems. For that reason if Congress chooses to extend U.S. immigration to the CNMI we will need to look to you to craft the provisions that ensure a smooth transition and that ensure that the local economy is strengthened by your decision.

I will be proposing a series of CNMI-specific amendments to U.S. immigration policy that will allow the CNMI to continue to develop its economy. This list is not exhaustive or complete, but rather a starting point for further discussions. No. 1, Visa Waiver Program; No. 2, special H1 and H2 program outside of the U.S. caps; No. 3, special visa provision for existing and future foreign investors; No. 4, special guest workers programs to meet work force requirements; No. 5, special waiver program for its educational centers; and, No. 6, retaining the existing CNMI refugee and asylum program. I also want to mention, Mr. Chairman, that we want to ensure that indigenous population protections from social and political alienations are there. Mr. Chairman we acknowledge without question that section 503 of the Covenant specifically allows Congress to extend the immigration and naturalization laws in the CNMI. Furthermore, I respectfully emphasize that section 701 requires the United States "to assist the government of the Northern Mariana Islands in its effort to achieve a progressively higher standard of living for its people as part of the American community and to develop its economic resources needed to meet the financial responsibilities of local self government."

We look forward to working with you and your committee, Mr. Chairman, to successfully merge these two important fundamental principles of our political agreement into a new reality for the Commonwealth. Through this I respectfully recommend an extensive study, deliberations and consultation be included in developing this new framework. I recommend that a joint congressional, administrative and CNMI study group be formed to thoroughly study all aspects of the CNMI's economy, current immigration laws, and long-term economic prospects as a crucial step in developing a new

immigration policy for the CNMI. It has taken the CNMI three decades to reach this point in our development. Only through careful consideration can we move the CNMI toward economic recovery and into an era of prosperity while returning to us to a state of self-sufficiency and stability that we once enjoyed. Thank you Mr. Chairman, and I look forward to your questions.

[The prepared statement of Mr. Tenorio follows:]

PREPARED STATEMENT OF PEDRO A. TENORIO, OFFICE OF THE RESIDENT REPRESENTATIVE

Hafa Adai, Mr. Chairman, Senator Domenici, and Members of the Committee. Thank you for this opportunity to share with you my thoughts on issues relating to labor, immigration, law enforcement, and economic conditions in the Commonwealth of the Northern Mariana Islands. As you know, unlike the other territories, we do not have a Delegate in the House, so all of us in the Commonwealth appreciate your courtesy and willingness over the years in affording the Resident Representative an opportunity to speak on behalf of the United States citizens residing almost half way around the world. It was almost a year ago that I came before you to testify on the state of the CNMI economy. Unfortunately, there has been no improvement in our economic condition, and the outlook today is as gloomy as it was then.

With this Committee's help we have made progress on amending General Note 3(a) of the Harmonized Tariff Schedule and have received some of the tax cover over funds owed to us by the U.S. Treasury. I appreciate your ongoing support and interest in the Commonwealth.

Today our Lt. Governor and others will be providing you with updated information on our economy as well as the status of labor, immigration and law enforcement initiatives in the CNMI. I would like to address several policy issues that I feel must be considered prior to normalizing federal immigration policy in the CNMI.

Legislation that is developed without due consideration of existing socio-economic conditions in the CNMI will have a profound and negative effect on our economy. A 1997 U.S. Commission on Immigration Reform report stated that "immediate imposition of all parts of the Immigration and Nationality Act would harm the CNMI's economic development. Moving a society that has become so dependent on foreign contract labor towards a more sustainable economy cannot occur overnight."

Mr. Chairman those words were true in 1997 and they are even more true today. If the goal of this committee is to normalize CNMI immigration into a federal framework, we urge Congress to proceed carefully as this is a very complicated endeavor. It must be guaranteed that comprehensive economic and social statistics reflecting current conditions and realities are carefully collected and evaluated so as to ensure that the outcome of normalization is positive and beneficial to both the CNMI and the federal government.

I would first like to provide an historical perspective to this discussion. As a member of the Marianas Political Status Commission, which negotiated the Covenant, I remember first hand the discussions that led to the provisions that maintained local control of immigration. We debated two issues on the subject: providing protection to our small indigenous population from being overwhelmed by immigrants and having a sufficient workforce to develop our economy.

At the time of our negotiations, tens of thousands of Southeast Asian refugees were arriving in Guam under U.S. immigration policy, and we were fearful that full implementation of the INA would allow those and other U.S. immigrants to migrate to the CNMI. We felt that the early years of our status as a U.S. Commonwealth should be focused on building a stable economy.

On the other hand we recognized that we needed a larger labor force than we had to build our infrastructure, hotels, and other business establishments. It was our intent that the need for these workers would be temporary. Though some are critical of how we built our economy through our local control of immigration, that criticism does not negate the need for skilled workers that are not readily available from elsewhere in the U.S. or its freely associated partners.

When the Covenant was being negotiated, all sides assumed there would be a significant United States presence in our islands from a buildup by the Department of Defense. One of the more difficult issues to resolve, but one we were willing to accommodate the United States on, was the land requirements that the United States wanted for defense purposes, including use of our main harbor area and the most productive agriculture lands on Tinian. We all anticipated that the buildup

would not only jump start our economy as the infrastructure was constructed, but would provide a long term stable base for private sector growth in small businesses as well as local employment. The model we all considered was Guam.

That did not happen and as we continued to develop from the mixed subsistence/cash economy under the Trusteeship, the principal source of employment became the public sector as we struggled to provide services to our residents at mainland standards. Tourism gradually developed, but also took a toll on our resources and demanded workers and skills not available within the local population. Garment manufacturing began in Guam, but found a home in Saipan. In retrospect we probably should have paid closer attention to the demands that industry placed on our services and also on our resources, but nonetheless, the textile and tourism sectors form the backbone of our private sector and the source of the revenues our government requires to provide services to our residents. Hindsight is a wonderful gift, but we need to deal with where we are now rather than with the economy that we anticipated thirty years ago when this Committee considered and approved the Covenant.

We are here to participate in a serious process with the Committee and the Congress to ensure not simply that additional mistakes are not made, but more importantly, what can we do to strengthen our local economy. When the Covenant was originally negotiated, as this Committee will recall, a provision was included that provided an annual grant for operations for our local government. With the assistance of this Committee and your support over the years, our economy improved and the grant was slowly transformed to eliminate any payments for operations and to dedicate the funds exclusively to infrastructure development and for replacement of the aging works installed during Japanese Mandate and Trust Territory of the Pacific Island government times. As we progressed, unlike any other territory, our annual payment began to require a local match. I want to emphasize that, we were required to provide a local match for appropriations that have no such requirement in other areas. Finally, over the past decade, increasingly a portion of the annual funding guaranteed under the Covenant has been diverted to other areas—for example, approximately \$10 million/year goes to American Samoa for infrastructure grants with no matching requirement. Other portions are diverted to support federal activities, and a portion—now about 1/3 has been made available to the CNMI.

I mention this because sometimes in looking at the current problems we forget how much progress has been made since the Covenant first went fully into effect only about twenty years ago. This Committee has been particularly sensitive over the years to how the territories differ from the mainland and in some cases from each other and how mainland standards don't always work in non-contiguous areas. We have been fortunate over the years that this Committee has had Members from both Alaska and Hawaii—areas that are non-contiguous and that also have an interest in the Pacific and an appreciation for the Pacific Basin and its promises and problems. For that reason, if Congress chooses to extend U.S. immigration laws to the CNMI, we will need to look to you to craft the provisions that ensure a smooth transition and strengthen the local economy.

I will be proposing a series of CNMI specific amendments to U.S. immigration policy which will accomplish this. By no means is this list exhaustive or complete, but rather a starting point for further discussion.

First, I request that Congress provide us with our own Visa Waiver Program similar yet distinct from Guam's Visa Waiver Program. Much of our tourism planning focuses on new markets in China and Russia. Several years ago with the assistance of the U.S. State Department, we were granted Approved Destination Status by the People's Republic of China. That designation and market as well as the Russian market would be cut off to us without a visa waiver program.

Second, as you know we have a very small indigenous labor pool, and have turned to guest workers to build our economy. Whether it be for doctors, nurses, engineers, cooks, or hotel maids, applying existing H1 and H2 caps to the CNMI would disrupt our health care system, our government and our economy. Therefore I request that special provisions be made outside of standard H1 and H2 caps and rules for the CNMI. I would mention that when this Committee last considered such legislation, provisions were included to expand the pool of available workers without exceeding overall U.S. quota limits by allocating unclaimed spaces from certain categories and reallocating those to the CNMI. It is that type of creative provision I am suggesting to ensure an adequate supply of workers for our economy.

Third, since many of our businesses are owned and operated by foreign corporations and were begun under our own immigration rules, I am concerned that normalizing immigration might disrupt these businesses if they are not grandfathered in to the new system. Likewise, as we are trying to attract new investors into the CNMI, I fear that the existing cumbersome, slow and overly bureaucratic processing

system for standard H1 visas would be a deterrent to our economic recovery. Therefore, I request that special provisions for current and future foreign investors be included in any legislation.

Fourth, we have been criticized for building our economy on two labor intensive industries, i.e. apparel and tourism. To change this we will need federal financial assistance and guidance to diversify our economic base beyond these two. However, the CNMI's indigenous population is still not large enough to provide for an adequately sized labor force to support a sustainable economy and will thus greatly limit our options to widen our economic base. Therefore, immigration policies must be sensitive to the workforce and training needs that will arise from a shift in available jobs required by new industries. A specifically and carefully designed guest worker program to meet the CNMI's workforce requirements must be an integral part of a new immigration framework. Again I would note that this Committee was particularly sensitive to this issue when you last considered similar legislation and Senator Akaka and the Chairman, Senator Murkowski, proposed directives to both the Departments of Commerce and Labor to help diversify our economy and to train our local population. Those provisions, I submit, are worthy of consideration even outside the context of immigration policy and converge nicely with efforts that the Department of the Interior has undertaken to try to attract businesses to the territories.

Fifth, our proximity to Asia makes the CNMI an excellent location to provide specialized training such as English for Asian businessmen and students and nursing NCLEX prep classes. We currently provide NCLEX prep classes to Asian nurses, who upon passage come to the U.S. to fill a void created by a severe nursing shortage. I understand that U.S. student visas are now very difficult to acquire. Within a visa waiver program, I request that special consideration be granted to the CNMI for foreign student visas.

Sixth, several years ago the CNMI negotiated an MOU with various federal agencies to provide for the enforcement of U.S. treaty obligations relating to refugees and asylum. Full implementation of the INA in regards to refugees and asylum seekers may have adverse consequences for both the CNMI and the U.S. Careful study of the situation is required and possibly delayed implementation would be best.

Seventh, it was the intent of the Covenant to preserve the Northern Marianas for its indigenous people. Too many times in the history of the U.S. we have seen indigenous peoples displaced and outnumbered leaving them a political and economic minority in their own homeland. I caution the committee to be careful in the construction of a new immigration framework so as to avoid the political and social alienation of the Chamorro and Carolinian peoples.

In essence, Mr. Chairman, this Committee is embarking on a long and difficult voyage. We acknowledge without question that Section 503 of the Covenant specifically allows Congress to extend the immigration and naturalization laws to the CNMI. Furthermore, I respectfully emphasize that Section 701, requires the U.S. 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 community and to develop its economic resources . . .". We look forward to working with your Committee to successfully merge these two important fundamental principles of our political agreement into a new reality for the Commonwealth.

To do this I respectfully recommend that extensive study, deliberation and consultation be included in developing this new framework. I recommend that a joint congressional, administrative, and CNMI study group be formed to thoroughly study all aspects of the CNMI's economy, current immigration laws, and long term economic prospects as a crucial step in developing a new immigration policy for the CNMI. It has taken the CNMI three decades to reach this point in our development. Only through careful consideration can we move the CNMI toward economic recovery and into a new era of prosperity while returning us to a state of self sufficiency and stability that we once enjoyed. Thank you.

The CHAIRMAN. Thank you very much. Next is the Honorable Lieutenant Governor of the Commonwealth, Tim Villagomez. We appreciate you being here. Go right ahead.

STATEMENT OF HON. TIMOTHY P. VILLAGOMEZ, LIEUTENANT GOVERNOR, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. VILLAGOMEZ. Thank you, Mr. Chairman, and members of the committee, for the opportunity to appear before you today and tes-

tify on behalf of the people of the Commonwealth of the Northern Mariana Islands. Governor Fitial expresses his deep regrets as he hoped to attend these hearings personally today, but he's still in recovery from two back surgeries in December.

Mr. Chairman, present with me today are Howard Willens, Governor Special Legal Council; Eloy Inos, Secretary of Finance; Matthew Gregory, the Attorney General; and, Mel Grey, Director of Immigration. While it is my intent to answer all your questions myself, should questions arise that are more technical I would like to defer to them.

We have submitted a written statement for the record on behalf of the Commonwealth responsive to your inquiries on matters of immigration, labor, law enforcement and economic conditions in the Commonwealth. I would like this opportunity to touch on some of its key points.

Under the terms of the Covenant immigration is the responsibility of the Commonwealth government. It is clear from the negotiating history that one of the purposes of this provision was to enable the CNMI to have access to aid and labor that was essential to the development of its economy. The question of bringing control of immigration under the Federal Government has been discussed on several occasions by this committee and different administrations. We believe that the Commonwealth has an effective immigration program and that the transferring of this responsibility to Federal officials may have a negative impact not fully understood. Consideration of any such legislations have to take into account the gravity of the Commonwealth's current economic situation.

As you know our two main industries, tourism and the apparel industry, have suffered from developments beyond our control. Tourism has suffered a drop in visitor arrivals of 40 percent since 1996. The apparel industry is generating less than half the revenues of a few years ago and of the 34 factories that once did business in the Commonwealth, only 15 remain. Government revenues are declining at a rate that is difficult to absorb. Revenues fell by 28 percent from the peak in 1997 to 2006. Revenues are anticipated to drop by another 15 percent this year from the amount estimated in our 2007 budget. We have been required to reduce government expenditures. The CNMI payroll per person has dropped by 29 percent since 2003. We reduced the number of government employees by 10 percent in 2006 from 2005. As mentioned we have instituted unpaid austerity Fridays. Further reductions in the number of employees and payroll are inevitable.

Control over immigration was one of the unique economic tools provided under the Covenant. The other tools were control over minimum wage, exemption from the Jones Act, control over customs, and the authority to rebate taxes and local source income. These tools have been critical to the development of the CNMI economy in the past. This has been recognized by several independent reports including those coming from the Government Accountability Office. These tools continue to be critical to our efforts to attract new investment to the Commonwealth. We have seen some problems in developments in recent months. The developments of new resources continuing, the new financial services company of Saipan, interest from private educational institutions, and

new tourist markets in China and Russia. All of this, Mr. Chairman, depends in large measure on these economic tools under the Covenant.

Mr. Chairman, we believe that the Commonwealth operates an effective immigration system to protect its borders and to control the entry and exit of all those who come to the CNMI. Neither local nor Federal officials have produced any evidence of organized criminal activity in the Commonwealth. We operate a computerized arrival and departure tracking system. We have better enforcement results in this administration than in past years, fewer unqualified entrants, more voluntary repatriations, more deportations, and more successful investigations and prosecutions. We continue to work closely with Federal officials on cases involving alien smuggling, human trafficking, and firearms trafficking. We believe that the CNMI immigration enforcement and tracking system is at least as effective as the Federal system.

In order to address labor criticism our Department of Labor has worked with the Federal Government's under the Federal CNMI Initiative on labor, immigration and law enforcement. There has been a significant decline in the number of complaints alleging unpaid wages. The number of hearings doubled between 2005 and 2006 and mediation was used to resolve half the cases in 2006. The backlog of cases has been substantially reduced already, and with more reductions expected by the end of May 2007. The Department of Labor has initiated a new, no-hire accountability program to publicly identify non-residents who are no longer authorized to be in the CNMI. We ask the committee to defer Federalization of immigration in light of the changed circumstances in the Commonwealth and our strong enforcement records. As we have said before, an isolated island community of 70,000 residents faces entirely different challenges with respect to its access to the labor market comparable to communities on the mainland.

Mr. Chairman, we recommend that the committee request a new study by the Government Accountability Office regarding the CNMI. Such a study would focus on several issues of importance of the Commonwealth and to this committee. It would examine the most recent statistics regarding the CNMI's population, its work force and its economy. It might examine the recent trends in the apparel industry, tourism and new investments in the Commonwealth. It could look at the expected impacts on the economy of increases in the minimum wage or restrictions on the use of alien labors over the next several years. A GAO report on this and related issues would provide a much-needed basis for further deliberation and consultation between the Commonwealth and the committee on the immigration issue. I am confident that the members of this committee who consider this matter carefully before taken any action. Thank you.

[The prepared statement of Mr. Villagomez follows:]

PREPARED STATEMENT OF HON. TIMOTHY P. VILLAGOMEZ, LIEUTENANT GOVERNOR OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Hafa Adai, Mr. Chairman and Members of the Committee. I am Timothy P. Villagomez. I have served as Lieutenant Governor of the Commonwealth since January 9, 2006. I am pleased to have this opportunity to discuss the control of immigration within the Commonwealth.

SUMMARY OF POSITION

Under the terms of the Covenant between the Northern Mariana Islands and the United States, immigration is currently the responsibility of the Commonwealth Government. The question of “federalizing” the control of immigration within the Commonwealth has been discussed on occasion by this Committee and different Administrations over the past dozen years. We believe that the Commonwealth has an effective immigration program and that legislation transferring this responsibility to federal officials may have a negative impact not fully understood. We recommend instead that the Committee request the Government Accountability Office to conduct a thorough study of the Commonwealth’s economic circumstances and the important issues raised by any such legislation. The Commonwealth’s position can be summarized as follows.

Serious Economic Downturn

The Commonwealth is currently facing its most serious economic challenge since its beginning in January 1978. External factors beyond our control have severely curtailed our two most important revenue-producing industries. During our first year in office this Administration has concentrated on two objectives: the reduction in government costs necessary in light of declining revenues and the attraction of new investors to help reinvigorate the private sector. We respectfully suggest that any proposed change in the immigration laws be evaluated in light of its impact—positive or negative—on the Commonwealth’s ability to survive economically in the near term and provide meaningful services and an appropriate standard of living to its citizens in the long run.

Essential Economic Tools

The special economic tools provided by the Covenant, including Commonwealth control over minimum wage and immigration, have been indispensable to the Commonwealth’s economic development over the past 25 years. Independent studies, including those by the Government Accountability Office, have emphasized the difficulties facing fragile, small island economies with limited human and natural resources. They have stressed the importance of these tools in giving the Commonwealth a much-needed economic advantage in attracting new investors to its islands. The Congress is now considering a substantial change in the federal laws affecting minimum wage levels in the Commonwealth. If enacted into law, some increases in the Commonwealth’s minimum wage are likely in the near term—with potentially significant impacts on the local economy and workforce. Depriving the Commonwealth of its control of immigration now, before these impacts can be fairly assessed, would be premature and entail unnecessary risk to CNMI citizens.

Effective Immigration Enforcement

The Commonwealth has demonstrated that it has the institutional capability to administer an effective system of immigration control and has demonstrated a genuine commitment to enforce such a system. The computerized arrival and departure tracking system has been fully in effect since 2003 and electronic passport readers are now in use with respect to all non-military travelers, regardless of citizenship, entering and departing the Commonwealth. A rigorous enforcement effort directed at “overstays” identified by our computer systems has been implemented by this Administration. Vacancies in the Division of Immigration are being addressed: there are now 64 personnel on duty with 31 new hires under consideration. Since 2001 there has been more effective immigration control—as represented by the decline in the number of unqualified applicants for admission into the CNMI. In collaboration with federal agencies, numerous investigations and criminal prosecutions have been pursued successfully by the Commonwealth over the past several years, dealing with such matters as alien smuggling, international firearms trafficking, and human trafficking. The Commonwealth’s immigration laws, including its visa waiver system, are enforced in a manner fully consistent with the federal immigration laws. In some important respects, the local immigration requirements are stricter than their federal counterparts. The CNMI supports its immigration enforcement efforts with prompt hearings and appeals, including those cases involving refugee and asylum claims.

Effective Disposition of Labor Abuses

The Commonwealth’s control over immigration under the Covenant, in particular its reliance on guest workers in its tourism and manufacturing industries, has been criticized for contributing to widespread labor law violations. In collaboration with the federal government under the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement, the CNMI Department of Labor has successfully addressed

these criticisms. The Department's enforcement efforts have resulted in a significant decline in the number of complaints alleging unpaid wages. A high priority has been assigned to the identification and prosecution of human and sex trafficking cases. Department hearing officers have doubled the number of annual hearings from 2005 to 2006. Mediation is employed in all cases promptly and has resulted in the prompt resolution of over 50 percent of all complaints during 2006. Where necessary, hearings are now scheduled within 60 days after filing of the complaint. The backlog of pending cases has been substantially reduced. Some 979 old cases were closed in 2006. We will complete all cases filed in 2002 by the end of February and are on schedule to complete all cases filed in 2003 and 2004 by the end of May 2007. The Department is currently evaluating the enforcement of laws preserving certain jobs in the Commonwealth for local workers and other means of facilitating the employment in the private sector of local workers—including those previously employed by the CNMI Government.

Recommendation

The Commonwealth urges that implementation of federalization of immigration in the Commonwealth be deferred in light of the changed circumstances in the CNMI and our strong enforcement record. We have appointed Melvin Grey, a man with more than 29 years of experience in the federal immigration service, as Director of Immigration. He is enforcing the Commonwealth's laws fairly and vigorously and cooperating fully with the responsible federal officials.

An isolated island community of 70,000 residents faces entirely different challenges, with respect to its access to the labor market, than comparable communities on the Mainland. Federal control of critical immigration decisions affecting the Commonwealth's economy and citizens—no matter how sensitive or well-intentioned—can never be fully responsive to local aspirations and concerns. We have looked carefully at Senate Bill No. 1052, passed by the U.S. Senate in 2000, and believe that it raises several important questions that deserve further consideration.

Under these circumstances the Commonwealth recommends that this Committee request a new study by the Government Accountability Office regarding the CNMI. Such a study would focus on several issues of importance to the Commonwealth and this Committee. It would examine the most recent statistics regarding the CNMI's population, its workforce, and its economy. It might examine the current trends in the garment industry, the visitor industry, and new investment in the Commonwealth. It could look at the expected impacts on the economy of increases in the minimum wage level or restrictions on the use of alien workers over the next several years. A GAO report on these and related issues would provide a much needed basis for further deliberation and consultation between the Commonwealth and the Congress on this immigration issue.

I am confident that the Members of this Committee will consider this matter carefully before taking action.

DISCUSSION

The Challenge Facing the Commonwealth

The challenge facing the Commonwealth today is best understood by acknowledging its phenomenal growth after becoming part of the United States. The new Commonwealth prospered far beyond the expectations of the Covenant negotiators. From a population of 15,000 and annual government revenues of \$5,000,000 in 1978, the Commonwealth's population expanded to about 17,000 in 1980, 43,000 in 1990, 59,000 in 1995, and 70,000 in 2000.¹ Government revenues grew similarly—from \$10,000,000 in 1980, to \$102,000,000 in 1990, \$190,000,000 in 1995, and peaked at \$248,000,000 in 1997. According to the Bank of Hawaii, the 8.7 percent growth rate during 1980–1995 was “by far the highest population growth rate on record for any economy in the Pacific.” The economic development producing these results was concentrated in two industries: tourism and apparel manufacturing.

The premier industry in the CNMI, tourism, has had visitor arrivals drop 40% since 1996, affected by such factors as the Asian financial crisis in 1997, the terrorist attack on the United States in September 2001, SARS, and the recent increases in fuel costs. Arrivals are down 16% from 2005 to 2006. The island's largest air carrier, Japan Airlines, discontinued service to the CNMI due to problems with its profitability in serving all leisure markets. Similarly, Continental Airlines discontinued all direct flights from Japan—historically the largest and most important source of tourists for the Commonwealth. Northwest Airlines picked up some of the lost service, but this airline also has been in bankruptcy and has struggled. The oc-

¹Population statistics regarding the CNMI are set forth in Exhibits 1 and 2 to this Statement.

cupancy rates, and room rates, in our local hotels have declined substantially, with some hotels closing down or converting to other uses.

At its peak in 1999, the apparel industry comprised 34 factories, which generated sales of \$1.06 billion and created 25,000 jobs—half of all island jobs—in direct and indirect employment. With just 15 garment factories remaining now, sales fell to \$489 million in 2006, and industry employment has dwindled to about 8,700. One factory recently closed which employed about 1,400 workers, most of whom are non-resident workers who will be repatriated unless they find a transfer employer approved by the Department of Labor within the 45-day transfer period recently granted by a Department of Labor Hearing Officer. The apparel industry still accounts for nearly 30 percent of government revenues. The Commonwealth is hopeful that the Congress will reconsider the bill rejected last year that would have provided some relief to our garment and other manufacturers. In the absence of such relief and with the changes in world trade rules expected by the end of 2008, it seems likely that very few apparel factories will continue to operate in the CNMI by 2009. A significant increase in the minimum wage rate would prompt a more rapid departure of these factories from the CNMI.

The combined impact of declines in these two industries has had a pervasive influence on the Commonwealth's economy and citizens. With fewer tourists, those businesses specializing in the visitor trade—such as hotels, restaurants, gift shops, and optional tours—have fewer customers, lower gross revenues, and declining profits. With less money in the hands of consumers generally, the entire range of retail businesses in the Commonwealth—grocery stores, shoe stores, clothing stores, and hair salons—have a similar downturn. Then, of course, the wholesalers or suppliers to these establishments experience decline and even closure. Empty stores and abandoned buildings in the Commonwealth provide silent, but dramatic, testimony to this effect.

The impact on Commonwealth tax revenues has been substantial—down about 22% (from \$248 million to \$198 million) from the peak in 1997 to 2006. The CNMI payroll has dropped from \$193 million (2003) to a projected \$137 million in 2007—a drop of 29 percent. The failure of the federal government to reimburse fully the CNMI for the compact impact costs resulting from the free flow of Micronesians into the Commonwealth has added to our burdens.² The number of government employees has declined from 5,463 in 2005 to 4,890 at the present time—a reduction of about 10.5 percent.³ All non-essential CNMI government employees are now required to take every other Friday off without pay until fiscal year 2008. It is now projected that government revenues will drop by at least another 15 percent since the 2007 fiscal year budget went into effect on October 1, 2006 and this will undoubtedly result in other personnel reductions and decline of public services. As an example, the Commonwealth Utilities Corporation enforced regularly scheduled power outages from July 2006 through mid-October 2006 as it was unable to fund scheduled diesel fuel payments for island generators. All CUC customers had their power rates raised about 100 percent in July 2006.

These developments over the past few years are impacting the Commonwealth residents in several important respects. The unemployment rate was estimated at 5.5 percent in 2003 and is probably much higher at the present time.⁴ Only about six percent of the 1,265 residents registered recently with the CNMI Labor Office found employment. About 800 residents recently signed up for the Medicaid program for which they were previously not qualified. Given the decline in the employees within the apparel industry in particular, it seems very likely that the overall population and the number of nonresident workers in the CNMI have declined significantly in the last few years.⁵ This is supported as well by considerable anecdotal evidence, such as the recent departure figures collected by the Division of Immigration and the declining enrollment at the Northern Marianas College. If the trends in the apparel industry continue and the local economy can not produce jobs for those U.S. citizens and nonresident workers currently unemployed, it is very possible that by the year 2010 the number of nonresident workers will fall toward 15,000 and the total population will be in the 60,000 to 65,000 range.

² Exhibit 3 sets forth compact impact costs during 1986 to 2006 of \$222,687,480 and total reimbursement of only \$22,145,102.

³ Exhibit 4.

⁴ Exhibit 5 contains labor force statistics generated by the 2000 census and a CNMI household survey in 2003. The census figures showed an unemployment rate of 3.8 percent and the household survey limited to Saipan showed a rate of 5.5 percent.

⁵ Exhibits 6 and 7 set forth statistics regarding the CNMI labor force participation by citizenship and the number of work permits issued by industry.

Faced with these recent developments, the Commonwealth has mounted a diversified campaign to stimulate the economy. Some of these efforts have produced promising results:

- *Communications.*—NTT DoCoMo Inc., a leading communications company with over 52 million customers in Japan, has made a substantial investment in the Commonwealth and will soon be closing a major merger in the CNMI and Guam. Another Japanese company, Sumitomo, has in 2006 invested over \$25 million in partnership with PTI Communications in our local telephone system.
- *Resorts.*—Two new casino resorts are being developed on Tinian. Saipan hotels have expended \$60 million in renovations and improvements.
- *Financial Services.*—A major financial services company has moved its headquarters from the Virgin Islands to Saipan.
- *Private Educational Institutions.*—The education industry is showing encouraging signs of development. Facilitated by a new student visa program and observing the success of one recently established school, four new private educational institutions have expressed interest in the CNMI as an English-language location for the training of foreign students. Other educational institutions, including one with a nurse training program, are also under consideration.
- *Outsourcing Centers.*—One call center operation is ready to begin training local residents for possible operation and a second, larger back office processing concern from the Philippines is investigating the establishment of facilities in the CNMI.
- *Tourism.*—Tourist arrivals in 2006, although significantly lower than in 2005, nonetheless exceeded expectations. Most significant were the increases in two of the Commonwealth's newest tourist markets: China and Russia. In December 2004, former Governor Juan N. Babauta signed an agreement with the People's Republic of China awarding the CNMI its coveted "Approved Destination Status" and, by the end of 2006, the Commonwealth was receiving two weekly flights each from Beijing, Shanghai, and Guangzhou. These flights brought a total of 36,978 Chinese tourists to the CNMI in 2006. Under the current Administration's five-year plan, it is anticipated that by 2010 visitors from China will number 250,000, or 25 percent of the total visitor arrivals. Although many fewer in number, the tourists from Russia are a promising market and on January 3, 2007, the CNMI welcomed the first-ever charter flight from Russia. It is hoped that the number of Russian tourists will more than triple by 2010. Continued efforts to secure more direct flights between Japan and the Commonwealth have shown some success in 2007, with Japan Airlines committed to several weekly charter flights directly to Saipan during the months of March and April. In June of 2006, JTB, the largest tour agent of Japan, opened its new facility on Saipan. The company cited confidence in the future of the CNMI as a long-term destination for Japanese tourists. JTB has also participated in efforts to increase tourism to the CNMI from China.
- *Retirement Market.*—Recently enacted legislation in the CNMI authorizes the creation of condominium facilities consistent with the land alienation provisions of the CNMI Constitution. We are hopeful that this legislation and flexible visa arrangements will attract more interest in the Commonwealth as a retirement community for Japanese and other Asian citizens.

As is apparent, some of these encouraging developments are not likely to increase the Commonwealth's revenues significantly in the next few years, but they reflect continued dependence on the visitor industry and a change in emphasis from large manufacturing operations to smaller, more service-oriented businesses.

The Covenant's Unique Economic Tools Have Been Indispensable to the Commonwealth's Economic Development

The Covenant provisions relating to the economic development of the future Commonwealth were as important to the Northern Marianas negotiators as those provisions relating to political status. These included the following: (a) CNMI control over immigration; (b) CNMI control over minimum wage levels; (c) exemption from the U.S. coastwise laws to reduce shipping costs; (d) control over customs to provide flexibility; and (e) the authority to rebate taxes on local source income. Negotiators from both the United States and the Northern Marianas recognized the limitations presented by the Commonwealth's small population and sparse natural resources. In addition, they recognized that this future addition to the American political family, 8,500 miles from Washington D.C., would naturally be influenced economically by factors different from those affecting the States on the Mainland. They agreed that the future Commonwealth should have maximum self-government over its in-

ternal affairs, and recognized that decisions regarding economic development would best serve Commonwealth citizens if made by their own elected officials. More broadly, the United States in Section 701 of the Covenant promised 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 needed to meet the financial responsibilities of local self-government.”

The negotiating history of the Covenant provisions relating to immigration is somewhat more complicated than often portrayed. It is true that the Covenant negotiators were concerned about application of the federal immigration laws to the future Commonwealth because of the possible mass migration to the Northern Mariana Islands by those seeking an entry point from which to pursue U.S. citizenship. But the Marianas Political Status Commission members also recognized that their opportunity to develop an economy producing the standard of living promised by the Covenant would need to rely heavily on the use of alien labor. The Commission's economist in 1973 provided the Commission members and the U.S. Delegation with detailed analyses of the Northern Marianas population at that time and with projections for 1975 and 1981. Anticipating an increase in the number of hotel rooms from 500 in 1975 to 1500 in 1981, he projected that the population (including aliens) would grow from 14,980 in 1973 to 24,193 in 1981, and that the number of aliens would increase from 1,500 in 1973 to 7,500 in 1981. These figures were an important component of the debate between the negotiating parties as to the pace and extent of economic growth in the future Commonwealth that would produce the per capita income and standard of living appropriate for members of the American political family. The Commission ultimately persuaded the U.S. Delegation that the question of post-termination application of the federal immigration laws should be determined “by consultation between the local government and the U.S. Government” in order to “ensure that the decision whether the U.S. immigration laws ought to apply in full force or with certain modifications will be made when all the facts are available and when the post-termination economic and social structure of the Marianas can more clearly be seen.”⁶

When assessed after twenty years, a 1999 Economic Study, prepared under the auspices of the Northern Marianas College and funded by the Department of the Interior, confirmed the importance and success of these Covenant provisions. The study observed that the “spectacular economic growth” of the Commonwealth was due to the rapidly growing tourist industry and the emergence and growth of the garment industry. (Executive Summary, 2). It concluded that total garment and visitor industry related employment accounted for about 80 percent of all employment in the CNMI in 1995. It pointed out that the jobs in these two industries held by CNMI permanent residents accounted for 71 percent of all permanent resident jobs in the CNMI, including government jobs, in that year. The report emphasized the importance of the garment industry, especially at a time when the tourist industry was suffering a serious decline. But the authors cautioned that the anticipated decline in the garment industry in 2005 “could have disastrous effects on the CNMI economy.” (p.3)

The 1999 Study advanced many recommendations for consideration by CNMI and Department of the Interior officials. It urged that these officials and other readers of the Study,

recognize the CNMI's relative economic position. It is very unlike that of typical US communities in several respects (distance to markets and sources of supply, the absence of economies of scale, the lack of a large and highly trained labor force, etc.). Its Gross Domestic Product per capita is only a fraction of the US average. Wages and productivity are significantly lower than in the US, eliminating the US as a realistic source of labor. The CNMI may have to rely to a large extent on foreign workers for the foreseeable future to develop the visitor industry and for any economic diversification of significance. In addition, because of its size, insularity and location, the CNMI may have to rely indefinitely on a higher proportion of foreign workers than the US. Severe restrictions on the CNMI's access to foreign labor could seriously curtail its economic recovery and development for the foreseeable future. (pp. 4-5).

⁶Paper of the Marianas Political Status Commission (May 28, 1974), p.5. The issue of economic development, including the use of alien labor, is discussed (with citations to the original documents) in Willens & Siemer, *An Honorable Accord: The Covenant between the Northern Mariana Islands and the United States* (University of Hawaii Press, 2001), pp. 107-08, 123-25, 180-81.

Specifically, the 1999 Study recommended that “No change should be made in immigration policy or law without a clear determination of how such change would affect the supply of labor in the CNMI.” (p. 3) It went on to state:

The CNMI’s economic recovery and future development could be seriously retarded by an excessively restrictive immigration system. Such a system could deprive the garment industry, the visitor industry, and all future industries of an adequate supply of skilled labor. It is not known exactly what the effects would be of a federal immigration takeover; however, its explicit purpose is to reduce the number of alien workers in the CNMI. What is known for certain is that the CNMI resident labor force is neither large enough nor skilled enough by itself to support the garment industry, the visitor industry, or future development in new industries. (p.3)

These comments—and the need for a careful study of effects of such a change—are as true today as they were in 1999.

The General Accounting Office (now the Government Accountability Office) relied on many of the earlier study’s factual findings in its report to Congressional committees in 2000. It included some more recent data on the contributions to the Commonwealth’s total revenues of the two leading industries: in 1997 the tourist industry contributed about 14 percent of the government’s total budget and in 1998 the garment industry contributed about 22 percent. It too emphasized the vulnerability of the CNMI’s economy “to outside events because of its heavy reliance on only two industries, which may be affected by changes in Asian economic conditions, legislation in the United States, or international trade agreements.” (p. 9) The GAO report concluded that the CNMI “is more self-sufficient fiscally than other outlying areas, such as Guam, Puerto Rico, the U.S. Virgin Islands, and the Freely Associated States. Between 1994 and 1997, about 87 percent of the CNMI government’s general revenue came from local sources rather than from payments from the U.S. Treasury.” (p. 9) The GAO report went on to observe that “The ratio of locally derived government revenue to gross domestic product (GDP) in the CNMI is also higher than that of most other outlying areas and is larger than the comparable ratio for all levels of government in the United States.” (pp. 9-10) Because of the severe declines in the CNMI revenues over the past few years, it is uncertain that these conclusions remain valid, but they demonstrate the past utility and continued importance to the Commonwealth of the economic tools provided by the Covenant.

The GAO rejected most of the Interior Department’s criticisms of its report. Contrary to the Department’s view regarding the impact of the tourist and garment industries, the GAO concluded “that the local resident population—most of whom are U.S. citizens—have benefited from the economic growth and development in the past 20 years because incomes and employment opportunities have increased with economic growth.” (p. 14) The GAO defended its inclusion of the Freely Associated States for purposes of comparing the CNMI’s revenue-raising efforts on the grounds that these areas receive federal funds, they have a shared history with the CNMI, and their citizens have the right of residency in the CNMI. The GAO did confirm that it shared the Interior Department’s concern “that the CNMI’s reliance on the garment and tourist industries and on foreign workers makes it vulnerable to outside events that impact either industry or the economy’s access to foreign workers.” (p. 15) Commonwealth officials, of course, have been even more concerned about this dependence, increasingly in the last several years, but their efforts supported by the Interior Department over the past 20 years to diversify the CNMI economy have produced very modest results.

A more recent GAO report in December 2006 focused on the long-standing economic, fiscal, and financial accountability challenges facing the CNMI, Guam, American Samoa, and the U.S. Virgin Islands. The GAO found that the abilities of all four insular areas “to strengthen their economies have been constrained by their lack of diversification in industries, scarce natural resources, small domestic markets, limited infrastructure, and shortages of skilled labor.” (p. 2) Echoing the earlier reports, it commented that the few key industries in these areas were vulnerable to changes in favorable U.S. federal government trade and tax policies as well as various external factors, such as fluctuations in the economies of nearby countries and the effect of the terrorist attack on the United States in September 2001. (p. 2) GAO acknowledged the conferences sponsored by the Department of the Interior over the past three years to attract American businesses to these areas, but concluded that “the effectiveness of these conferences and business opportunities missions is uncertain due to the lack of formal evaluation of these efforts.” (p. 2)

The recent GAO report provided ample detail regarding the decline in CNMI government revenues over the past several years, the changes in international trade arrangements leading to the closure of ten garment factories as of July 2006, and

the reasons underlying the decline in visitor arrivals from its peak in 1997. (pp. 16-18) It reported that “CNMI’s total government funds balance declined from a positive \$3.5 million at the beginning of 2001 to a deficit of \$49.2 million by the end of 2004 as total government spending rose more rapidly than revenues.” (p. 25) (The GAO report does not include data from 2006 reflecting the current CNMI Administration’s effort to reduce government expenditures and address the substantially greater deficit at the end of 2005 that it inherited.) The GAO report also compared the levels of federal government expenditure in each of the four insular areas as a percent of revenues and per capita. It concluded that the CNMI, like the U.S. Virgin Islands, “receives a significantly lower proportion of its revenues from the federal government than do American Samoa or Guam.” (p. 25)

We do not dispute that over the past decade Commonwealth officials have made mistakes in dealing with the pace and direction of economic development and creating (and maintaining) the necessary infrastructure. With the benefit of hindsight, it is always clear that public officials could have acted quicker and more decisively. But the economic forces battering the Commonwealth over the past decade would have almost certainly caused economic hardship of a magnitude even the most effective local officials could not have anticipated.

These independent reports strongly support three conclusions of great importance to any Congressional consideration of “federalizing” control over immigration. First, small island economies are unique and fragile; principles and policies commonly applied to large, diversified economies may have little, or no, relevance to the CNMI. Second, the special tools provided in the Covenant did enable the CNMI in recent years to develop an economy that met the needs of its citizens and lessened the need for federal government support. Third, maintenance of these tools provides the best hope for enabling the CNMI to overcome its current economic crisis in the near term, although significant new financial assistance from the United States may be necessary. Especially with the anticipated change in the minimum wage levels in the CNMI, any substantial change in prevailing immigration rules would add an unwelcome measure of uncertainty and instability facing any prospective new investor in the Commonwealth.

The Commonwealth’s Control of Immigration Has Been Effective

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. We are protecting our mutual interest in national and border security while protecting the health and safety of U.S. citizens and all others residing in the Commonwealth. These laws and regulations are enforced by the CNMI Division of Immigration managed by a Director of Immigration. This Administration in 2006 appointed Melvin Grey, a man with 29 years of experience with the U.S. immigration service, to serve as Director of Immigration. The Division mirrors the federal structure and programs, including sections dealing with Inspections, Investigations, Processing, and Legal. Detention of aliens, when required is accomplished through the use of CNMI Department of Corrections as a practical and effective cost saving measure. Deportation hearings are conducted in the Commonwealth Superior Court.

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 (“BMS”) has been fully operational since 2003, with the entry and departure of each traveler recorded. Reports are prepared regarding those non U.S. citizens who appear to have “overstayed” their visit to the CNMI under their particular visa status. A recent test of the system confirmed its utility. The system was tasked to identify Tourist “overstays” from March 2006 through October 2006, recognizing that any cutoff date produces some loose ends—for example, a person who entered on October 5 for a 30-day stay with the option of requesting another 60 days. The system initially produced 99 “overstays” of a total of 334,195 entries during the period. However, after cross-checking other data bases within our system, including the Labor and Immigration Identification System (“LIIDS”), we concluded that there were only six “overstays”—people for whom we show no departure, no extensions, no adjustment of status, no pending claims, and no detention status. These six are now under investigation.

The Commonwealth administers a visa waiver system that is fully consistent with the federal system and, in some respects, more stringent. Visitors from seven countries are eligible for CNMI visa/entry permit waivers: Australia, Canada, Hong Kong, Japan, Ireland, South Korea, and Great Britain. Visitors from 28 countries, plus the Fujian Province of China, are excluded from entry. 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—principally foreign passports, CNMI Electronic Visas, and other CNMI-issued entry permits. The CNMI also recognizes U.S.-issued BI/B2 visitor visas, the U.S. Lawful Permanent Resident card, and U.S. military travel orders with military ID for U.S. military personnel. With these exceptions, all other travelers, 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.

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 to 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, detention, prosecution, and repatriation. Some exceptions or waivers of these sponsorship requirements are available on a very restricted basis, such as for nurses and student nurses coming to the CNMI to take the National Collegiate License Examination (NCLEX). Virtually all of these nurses are primarily interested in going to the United States to apply their special education and severely-needed occupational skills under the federal immigration and labor laws.

The CNMI Division of Immigration alone has the authority to grant entry permits to the Commonwealth. To facilitate the processing of these permits, three travel agencies have been granted authority to gather information regarding prospective visitors, fill out applications, and submit the completed applications to the Division for review and decision whether to approve or deny. Each of the approved travel agencies, one of which is affiliated with the Tinian Dynasty Hotel and Casino, 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. A similar procedure was followed recently with a single charter flight from Russia sponsored by local tour agencies, each of which has substantial bonds with the CNMI to ensure appropriate pre-screening of applicants for entry into the Commonwealth. Visitor Entry Permits were issued by CNMI Immigration after review of the applications and the visitors were inspected at the Saipan airport before being allowed to enter.

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. Where violations are found, the Division of Immigration promptly conducts hearings and appeals as required. It takes approximately 30 days to conduct the hearing after arrest and about 60 days to process appeals. Federal policies with respect to the granting of refugee and asylum have attracted some illegal immigration into Guam and the remainder of the United States resulting in multi-year adjudications of removal proceedings involving refugee and asylum applications before an Immigration Judge. In contrast, the CNMI under its federally-approved process, which is fully consistent with the international law obligations of the United States, can complete its refugee and asylum processing and hearing in less than eight months.

The Commonwealth's law enforcement efforts over the past several years show many significant 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 there were unable to address. At no point during the period since 2000 have either federal or local officials developed, or received, credible evidence suggesting any organized criminal activity in the Commonwealth.⁷

To further fortify our legal attack on human smugglers, in late 2005 we enacted legislation specifically directed at human smugglers that imposes severe penalties for a wide range of criminal conduct. A significant case has already been charged under the new statute. Cooperation between CNMI law enforcement officials and the U.S. Immigration and Customs Enforcement and the U.S. Coast Guard Investigative Services offices located on Guam resulted in an important conviction in

⁷ Whatever merit they had at the time, the vague allegations to the contrary in a 1997 report of the Immigration and Naturalization Service are refuted by the consistent experience and performance of federal and local law enforcement officials in the Commonwealth over the past decade.

2006 of two terrorists associated with the Tamil Tigers in Sri Lanka. Unaware of the fact that the CNMI was part of the United States, the terrorist/traffickers were willing to enter the CNMI with the belief that they would be smuggled into Guam to consummate the arms deal. The federal officials involved were very appreciative of the assistance provided by the CNMI, indicating that the case would have been extremely difficult, if not impossible, to conclude successfully under Mainland federal jurisdiction. We expect that enforcement directed at alien smuggling will continue to be a high priority during 2007.

The CNMI Department of Labor Effectively Controls the Commonwealth's Use of Guest Workers

The use of guest workers in the Northern Marianas is extensively regulated by CNMI law and regulations. The law prohibits the private sector from hiring nonresident workers to fill certain positions. Where private sector companies are able to hire such workers, they must provide benefits not required to be provided to resident employees. These include (a) all medical costs incurred by nonresident workers for the period of their employment contract and 96 days after the contract expires if the worker is still in the CNMI; and (b) the costs of repatriating the company's nonresident workers. Employers of these guest workers are also required to cover all costs associated with processing the nonresident worker permits applications, typically costing about \$300 per employee annually. Finally, employers of guest workers must post a bond or other financial assurance to cover repatriation costs, three months wages, and medical expenses for each nonresident worker employed.⁸

Once employed by a private sector employer, the nonresident workers are protected by a broad regulatory umbrella. Unlike resident workers, most of whom are subject to employment at will, nonresident workers must be employed pursuant to a contract that has been approved by the Department of Labor. Any change in the contract terms must be approved by the Department. Early termination of a nonresident worker's employment must also be approved. These workers are entitled to have any work-related grievance heard by a neutral Department hearing officer, and may seek administrative or judicial review of such final administrative orders. Adverse decisions against employers may result in fines, imposition of liquidated damages, and debarment from further employment of guest workers, among other remedies. Finally, employers of nonresidents are subject to workplace inspections and other oversight not imposed upon employers of resident workers. The Department's Health and Safety Unit since 2001 has conducted annually more than 1,000 safety inspections of CNMI businesses and barracks. It is in this context that the Department's handling of labor complaints should be assessed.

Abuses—both actual and alleged—in the apparel industry in the 1990s led to extensive monitoring of practices in the industry to supplement the enforcement efforts of CNMI agencies. The Wage and Hour Division and the OSHA Division of the U.S. Department of Labor became more active after the Congressional hearings in 1998 and 1999. The Environmental Protection Agency became involved. A class action in the U.S. District Court in the Northern Marianas was resolved by a consent decree under which a Garment Oversight Board, composed of three judges, was created to scrutinize industry practices with the assistance of two internationally recognized monitoring firms. The buyers of garments from the CNMI factories conduct their own monitoring of industry worksites and dormitories, conducting employee interviews with the use of Chinese translators. In addition, the garment industry and the brands and labels group have their own standards, against which the practices of CNMI factories have been regularly assessed. Finally, and inevitably, the international and local media have been consistently alert to any suggestion of labor abuses in the CNMI. There can be no serious question but that these efforts have contributed to a substantial reduction in labor abuses in the Commonwealth.

The recent efforts of the Department of Labor's Enforcement Unit confirm a significant decline in the number of labor complaints alleging unpaid wages. This reflects the current Administration's insistence on addressing the most serious labor violations, unpaid wages, sponsorship schemes, and human and sex trafficking. As Exhibit 10 reflects, the total number of labor complaints filed during the years 2000-2006 have remained fairly constant, but the number of complaints alleging unpaid wages or overtime have declined by almost 50 percent.

In early 2006, an investigation by the Enforcement Unit of a labor claim by a night club dancer uncovered numerous violations of CNMI labor and criminal laws, and led the Attorney General's Office to indict four employees at the nightclub on sex and human trafficking charges. The criminal case is scheduled for trial in 2007.

⁸Exhibits 8 and 9 set forth statistics regarding immigration entry permits by immigration class.

In April 2006 the Department filed a Determination and Notice of Violation, finding that the employers owed the employees more than \$350,000 in wages for the hours the employees were confined in the company barracks and for the illegal deductions. The Labor case is stayed pending decision on various motions. Whenever similar allegations are presented to the CNMI's Office of the Attorney General, they are investigated promptly and prosecuted to the fullest extent of the law. Information regarding pending investigations cannot be made public in order to preserve the integrity of the law enforcement effort and the privacy and civil rights of any suspect under investigation.

In April 2006 the Secretary of Labor entered into a Memorandum of Understanding with several other CNMI agencies, Karidat (a local social services agency), and the U.S. Attorney's Office establishing the CNMI Human Trafficking Intervention Coalition. Late in 2006 the U.S. Department of Justice supported this Coalition with a grant of several hundred thousand dollars.

Beginning on October 1, 2006, the Department of Labor has mounted a serious effort to reduce significantly the backlog of about 3,000 pending labor cases involving about 5,500 employees from 1997 through 2004. In the first stage of the project the Department closed nearly 1,000 cases by the end of December 2006—in each instance granting the relief sought by the employee. These involved cases with (a) settlements evidenced by a written agreement that was approved by a hearing officer, or (b) a request by the employee for repatriation followed by an exit from the Commonwealth, or (c) an administrative order issued by a hearing officer after an evidentiary hearing. The Department expects to close all cases filed through 2002 before the end of February 2007, concentrating on cases in which the employee asked only for transfer relief (the right to move to a new employer) and the present employer did not oppose the request. The last category of cases involves those in which the employee asked for transfer relief or repatriation and money damages. These cases may require a hearing on the record. Department officials are on schedule to complete the processing of all cases filed in 2003 and 2004, including hearings where necessary and the filing of opinions by the hearing officers, by the end of May 2007.

Procedures are now in place to make sure that current cases are resolved in a timely manner to prevent any further growth in the backlog. These accomplishments are largely due to changes implemented at the Department by its investigators and the hearing officers. The Department's Hearing Office has dramatically increased the number of hearings conducted and the dollar amounts awarded and collected.⁹ Significant increases in the number of hearings began in 2003, but this trend accelerated in 2006 when the hearing officers conducted twice the number of hearings held in 2005. The number of hearings naturally varies from year to year depending on several variables, including the number of complaints filed, the complexity of the cases, the length of particular hearings, and the number of hearing officers working in a given period.

New procedures at the Department have contributed significantly to the expedited processing of complaints. Within a week or ten days after a complaint is filed, there is now an effort to engage the parties in mediation supervised by a hearing officer. In 2006 more than 50% of the complaints filed were resolved through mediation, thereby eliminating any need for a hearing. The Department's regulations were amended in 2004, dealing with procedural matters such as motions, appearances, service of process, discovery, protective orders, and disqualification of hearing officers. The amendments codified existing practices, or implemented new procedures, and provided needed clarity for the complainants and the lawyers who participated in the hearing process. The Secretary of Labor in 2006 initiated a change in the scheduling of hearings that permits the Hearing Office to set cases for hearing at the time the case is referred for investigation. The hearing officers now set cases for hearing between 30 and 90 days from the date of referral to investigation. Under the prior system, cases would be referred to investigation for an indefinite amount of time until the investigators advised the Hearing Office that the case was ready to be placed back on the calendar for hearing. The prompt scheduling of a hearing provides an additional incentive for the participants to settle the matter before the hearing date.

In 2003 and 2004 the Department experienced the filing of hundreds of duplicative or so-called "copycat complaints" filed by garment workers. The Department suspected that these nearly identical complaints might be frivolous—i.e., claims filed for the sole purpose of obtaining a temporary work authorization ("TWA") to enable the worker to work for another factory that might be offering more overtime to its employees. The Department's Enforcement Unit estimates that 169 duplicative

⁹Exhibit 11.

cases were filed in 2003 and 399 were filed in 2004. A case was generally placed in this category if: (a) the complaint is against a garment factory; (b) the complaint is a form letter that is identical to others that have been filed; (c) the complainant is represented by one of a few translators who are associated with the copycat cases; and (d) the complaint principally alleges poor work conditions (such as bad food or dirty restrooms) rather than significant wage claims. Many of the complainants in these cases refused to engage in good faith mediation and sought instead to receive TWAs.

The Department recognized that its effort to reduce the backlog required a serious response to these "copycat" cases. First, relying on its amended regulations, the Department mediators began to deny worker requests for TWAs unless the worker engaged in good faith effort to settle the complaint. Faced with a denial of their request for a TWA, many workers opted to stay with their current employers. Second, in 2005 the Hearing Office held, after an evidentiary hearing, that many of these claims were frivolous and ordered the complaining workers to depart from the CNMI as a sanction for filing a frivolous complaint. This sent a strong message that discouraged other employees from filing claims without merit. Third, the Department cautioned local translators that it would carefully scrutinize the activities of those who filed multiple boilerplate complaints against the same employer. In this regard, the Department of Labor and the Office of the Attorney General established by regulation a Code of Professional Responsibility for Translators, which is modeled after the standards adopted by the National Center for State Courts. Sanctions include rejecting the services of a translator for violation of these rules. Lastly, the Department has enlisted the volunteer assistance of an experienced attorney to serve as hearing officer of the still unresolved duplicative cases that have not yet been resolved and it is expected that these will be resolved within the next several months.

To address another longstanding problem, the Department of Labor, with assistance from the Office of the Attorney General, created a "Collection Unit" to concentrate on enforcing the orders requiring employers to pay wages or meet other financial obligations. Several tools are being utilized to achieve this objective. When the Unit finds that an employer has missed a payment deadline, it can (and does) suspend processing of all pending or forthcoming nonresident worker applications by that employer. Or it may seek an order to show cause at the Hearing Office, in which proceeding Department officials may request that the delinquent employer be permanently barred from employing nonresident workers. If these efforts fail, the Department may tap the employer's bonds or bring a collection action in court. Aggressive action by the Collection Unit in recent months along these lines has produced some excellent, and expeditious, results.

The issues of high recruitment fees, and the possibility that some CNMI employers may receive kickbacks from recruiters of nonresident workers in another country, have long been of concern to the Department of Labor and the CNMI Government generally. The limitations on the Commonwealth's jurisdiction (and the federal government's as well) to investigate transactions and relationships in foreign countries make it extremely difficult to pursue such allegations effectively. One very significant, and different, approach was taken recently when the CNMI Attorney General and the Chinese Economic Development Association ("CEDA") entered into a Memorandum of Understanding in November 2004. Under this agreement, CEDA agreed to review most permit applications submitted by Chinese nationals to work in the CNMI. CEDA agreed to certify only those applications submitted by employees who utilized a recruiter licensed by the Chinese Government, and who had agreed to charge a fee of no more than 12.5 percent of base wages set forth in the employment contract. By regulation adopted in January 2005, compliance with this agreement (and all others with foreign governments pertaining to employment of their nationals), was made a precondition to issuing a nonresident work permit to a Chinese national. New CNMI regulations issued early in 2007 further address the problem of recruiting abuses in the Commonwealth by defining lawful (and unlawful) recruiting practices, expressly prohibiting "kickbacks" and other unlawful arrangements, requiring recruiters to be licensed and registered in the CNMI, and authorizing Department of Labor officials to seek injunctive and other relief against recruiters doing business in the CNMI.

The many closures of garment factories in the last two years, and the prospect of more departures in the next few years, present administrative and enforcement problems for both the Department of Labor and the Division of Immigration. Most recently, the Concorde factory, employing some 1,400 employees, announced its closure within 60 days and then, in light of the response of its employees, decided to implement its decision even more promptly. Utilizing the experience garnered with respect to earlier closings, the Department of Labor immediately initiated an expe-

dited investigation of the closure and convened public hearings for the employees to advise them of their rights. The Department also helped negotiate an agreement with Concorde under which the company agreed to reimburse the recruitment fees paid by its recent hires. An administrative hearing was then held on January 3, 2007, at which all affected workers were granted 45 days to search for a transfer employer. A second hearing will be held to address various labor claims asserted by some of the workers, including claims by some of the more recent hires that they were fraudulently induced to enter into their employment contracts at a time when the employer knew it could not fulfill the terms of the contracts. Several hundreds of the employees immediately sought and secured from Concorde arrangements for their repatriation. If, as is expected in light of the Commonwealth's current economic circumstances, most of the discharged Concorde workers remaining in the CNMI are unable to find another job, they will be required to leave the Commonwealth at the end of the 45-day transfer period, or after the labor claims have been resolved, whichever is later. If they do not do so voluntarily, the Division of Immigration will initiate deportation proceedings.

As the backlog cleanup effort got underway in October 2006, the Department of Labor began to look more comprehensively at the problem of nonresident workers who may have overstayed their lawful period for working in the Commonwealth. The objective was to identify and publicize those aliens who seemed to be in the Commonwealth without proper authorization. The computer staff began work on the project in December 2006, trying to integrate carefully the input from a number of different computer systems that record employment status with the LIIDS computer system and the Border Management System ("BMS"). This was the first time that the system was asked to produce such a list and it was not an easy task.

The Department of Labor on January 31, 2007, issued its first "NO HIRE" list of aliens who appear not to have an immigration status allowing employment in the Commonwealth. The Department is advising both CNMI employers generally and the listed aliens that the Department's records indicate that the aliens cannot be lawfully employed without an appropriate adjustment of the alien's status. Employers and the listed aliens are given ten days to advise the Department with respect to the accuracy of the list and what steps will be taken, if necessary, to permit the alien to be employed lawfully in the CNMI. If the system has erroneously identified a person who is in fact fully entitled to work in the Commonwealth, that person's name will be on a published corrections list. After the ten-day period and corrections in the list have been made, CNMI employers will be subject to legal sanctions if they hire aliens whose status has not been certified as legal and the aliens will be subject to repatriation—voluntarily or through deportation proceedings. Based on the initial results, this program will yield substantial improvements in the CNMI's computerized programs and the reliable identification of aliens no longer entitled to remain in the Commonwealth.

CONCLUSION

As a result of the hearings conducted by this Committee in 1998-99, legislation was enacted by the Senate to bring the CNMI under the federal immigration laws. There was general agreement at the time that both federal and local officials had failed to enforce effectively the laws in place to control labor abuses. Reforms instituted over the next several years showed progress towards dealing with these problems and federal officials, from time to time, commented favorably on these developments. The general media, of course, continued to focus on the earlier, and more sensational, events and the Commonwealth's improved performance was rarely acknowledged. Our testimony today has been designed to provide the Members of this Committee and the public with a current report of the Commonwealth's economic circumstances and its enforcement of the CNMI immigration and labor laws. We are prepared to supply any additional information that will assist the Members in considering the issues before the Committee.

EXHIBITS*

Exhibit 1.—Population by Citizenship, CNMI: 1980, 1990, 1995, 2000 and 2003.

Exhibit 2.—Total Population by Place of Birth: 1973–2000.

Exhibit 3.—Compact Impact Costs Incurred vs. Reimbursements: 1986–2006.

Exhibit 4.—Number of Public Service Employees: FYs 2003–2006.

Exhibit 5.—Labor Force Statistics: 2000 and 2003.

Exhibit 6.—CNMI Labor Force Participation by Citizenship: 1973–2000.

Exhibit 7.—Work Permits Issued by Industry: 1999–2006.

* Exhibits will be retained in committee files.

Exhibit 8.—Immigration Entry Permits by Immigration Class: Calendar Years 2006–2000 (without 706K contract workers).

Exhibit 9.—Immigration Entry Permits by Immigration Class Calendar Years 2006–2000 (including 706K contract workers).

Exhibit 10.—Total Labor Complaints Filed & Total Complaints Alleging Unpaid Wages Calendar Years 2000–2006.

Exhibit 11.—Department of Labor Hearings and Mediation.

The CHAIRMAN. Thank you very much. Let me ask questions. We'll just do 5-minute rounds, and then Senator Akaka, and then Senator Tester.

Let me ask David Cohen first. I think you've indicated in your statement that you acknowledge that the economy structure that is currently in place there at CNMI "is not a good one," I think was the phrase you used at the current time, and I think most experts seem to agree with that. Obviously we have a difficult problem of transitioning from what is currently in place to a more sustainable model. In the meantime, this loss of the garment industry, or many of the plants in the garment industry, is causing a need for repatriation of tens of thousands of unemployed workers and overstayed tourists, as I understand it. Do you believe CNMI is able to do that, manage that effort without Federal assistance?

Mr. COHEN. Mr. Chairman, I think that will be quite a challenge and part of it might depend on the pace of the exit of the garment industry. If, for example, the garment industry, in reaction to world events or Federal legislation, were to exit abruptly, within the next few months, for example, if they can't deal with the changes that are coming and the remaining 15 to 19 factories decide to close shop at once, which is a possible scenario, I think it would be a real challenge. The structures that are in place to make sure that there is an orderly repatriation in that circumstance might be severely taxed. The funds that the government is supposed to keep to make sure that there's a way to settle back wage claims and pay for transportation back home, I think that fund will not be sufficient to do the job. The bonds that are supposed to be in place, and are technically in place, to provide funds for these purposes, I think will not do the job. I think we'll find that many of the bonding companies are insolvent and will not be able to make good on their claims, so if there is a sudden exodus it will present a really serious challenge to everyone involved.

I have to say that there was a recent closure of, at the time, the largest factory, the Concorde Factory, and so far that's been handled quite well. The company has stepped up and agreed to pay workers, for example, refunds on their recruitment fees that go beyond what the law requires. A number of the workers have already been repatriated. There have been mass hearings to make sure their claims are properly addressed and that's been handled well, but once we get down to the lower tiers—the less financially stable factories, for example—if they all close at once, that's going to be a real problem.

The CHAIRMAN. Let me press you on that. Is it your view that because of this potential economic risk, we should not be legislating in this Congress or are you saying we can legislate if we do so carefully?

Mr. COHEN. I would say the latter. I would say good legislation can be helpful and legislation conversely that's not well thought

out—not to suggest that would ever occur—but if we aren’t careful and think through all the consequences, we could do serious damage. So I’m not saying that this is not an opportunity for legislation.

The CHAIRMAN. So, is it the administration’s position then that it wants to work with Congress to develop legislation that will be sensitive to these problems that can be passed in this Congress? Is that the administration position?

Mr. COHEN. Yes, we’re absolutely ready to work with Congress on good legislation. We don’t necessarily say that that’s the only option but we’re here and ready to work with you to fashion good legislation.

The CHAIRMAN. Is there a better option?

Mr. COHEN. Perhaps not. Good legislation perhaps is the best option and we’re still studying that. We’re also studying the legislation that had been passed before in light of current circumstances and current needs. I think we mostly want to make sure that we don’t inadvertently do anything that would be harmful.

The CHAIRMAN. Right. In 2001, the administration strongly supported the bill that this committee reported out and passed through the full Senate. I guess you’re saying that you’re a little lukewarm on the whole idea of us passing legislation in this area now, or am I misreading that? I’m just trying to figure to what extent the administration is willing to fully engage with the Congress and with this committee in developing legislation that we can then move ahead with.

Mr. COHEN. Mr. Chairman, I would not say we’re lukewarm about working with you to pass legislation. We’re just cautioning against the potential side effects of bad legislation, but I think good legislation, which is something that would result from the type of process that we’re all talking about, can really help the situation and put the CNMI on a path to a much stronger and more secure future.

The CHAIRMAN. Okay, alright, well let me defer to Senator Akaka for his questions.

Senator AKAKA. Thank you very much, Mr. Chairman. Thirty years ago a Covenant was approved between CNMI and the U.S. Government. It appears that some of the agreements that were made at that time need to be changed to improve the conditions there. So my feeling at this point in time is that some of the agreements that were made at that time need to be improved.

I want to ask Jim Benedetto a question. When I visited CNMI in the 1990’s, I met with many security guards at that time who had gone months without pay, but had no alternative but to go to work to share food and housing with others because they had no money. You wrote a letter on April 1, 2005 to the CNMI Department of Labor regarding Island Security Service—ISS, Inc.—in which you stated, “there are serious questions about ISS’s insolvency given the history of nonpayment of wages.” You asked why this employer had not been barred from hiring alien workers and been criminally prosecuted. My question to you is: how many workers have been involved and what is the status of this situation?

Mr. BENEDETTO. Actually there were a series of about six letters and that was probably the fifth letter that I wrote on Island Secu-

riety Service starting in 2002. The situation involves scores of its workers and a lot of open cases that date back; there have been prior enforcement actions against ISS by the CNMI Department of Labor and by the United States Department of Labor's wage/hour division. Some of the previous cases resulted in settlement consent decrees, wherein ISS agreed to remain timely on their wage payments that were coming up bi-weekly, and also to pay a little extra to catch up with the back wages that were owed. In every case that I am aware of ISS has defaulted on those obligations.

On January 25 of this year a dozen or so workers spoke with the Marianas Variety and told the reporter there that they were all owed back wages between \$2,000 and \$9,000. My office assisted those 12 workers in filing individual labor complaints with the Department of Labor. I've heard that there is a possibility that ISS actually is going to go into bankruptcy. I don't have independent verification of that, but if so that would be a serious situation, even more serious than it is now. As I stated in the letters, there were a couple of failures of security guard companies in the 1990's, three of which that I'm aware of that all left or closed up their businesses, owing security guards \$750,000, \$800,000, \$900,000, and that resulted in the Department of Labor promulgating emergency regulations. Those emergency regulations state that before a security guard company can hire or renew, they're required to post a cash bond for a certain amount of the wages. There has to be an evaluation of their fitness to do business and a submission of tax records and payroll records to ensure that they're current on all their wage payments. If any of these things had been done, then we wouldn't be in this situation, because ISS would not have been able to renew its workers each year.

Senator AKAKA. Can you comment on the Missumis Construction Inc and RIFU Garment Inc and their situation?

Mr. BENEDETTO. The Missumis case is, or the series of cases is—unfortunately, there are two sides to that. On the one hand, we have a straight failure to pay wages and a lot of violations and at least 34 different cases that have been filed with the assistance of the Ombudsman's Office going back all the way to 1999. I wrote a letter in 2005 that asks the Department of Labor what the status of those cases is, and I believe that some of those cases have been resolved. The ones from 1999; but the last time I checked the 2004 ones were still outstanding.

There's another side to that. It's not exactly the way it appears on the surface, but it leads to another problem, and that is that when somebody has a labor case pending in the CNMI and they have evidence of a pending labor case, they cannot be deported. Under CNMI's Non-resident Workers' Act, at the end of your contract you have an expiration transfer period of 45 days, so currently you have 45 days to find another employer if you wish to, and if you can that allows you to remain in the Commonwealth.

My understanding from discussions with the Department of Labor is that there are a number of employers who will be approached by people who are close to the end of their 45-day expiration transfer period and they will say, essentially: "I really can't find a job, can you help me out? I'll pay my application fee and then you can put me on the books as one of your workers," and

that gives them immigration status, even though the expectation is both from the employer and the worker that no work is going to be provided. They nevertheless will put an employment contract together, submit it to Labor and then if the person is able to find an employer later on in that year, they can go and get a consensual transfer which allows the person, essentially, to extend their expiration transfer period out beyond, maybe a whole year beyond the 45 days. So, that's what we call an "illegal sponsorship" because the intent is not to have people on the books on paper and allow them to remain in the Commonwealth. If there's no jobs there then the intent of the Non-resident Worker's Act is that they depart.

Senator AKAKA. Thank you for your response. Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator TESTER.

Senator TESTER. I've got a lot of questions here, Mr. Chairman. We'll try to make them short and I would hope we could get right to the answers if it's possible.

I'll stay with you, Mr. Benedetto. So the illegal stuff goes on, going on Senator Akaka's question; there's no ability to deal with these folks from an employer's standpoint or an employee's standpoint, just let it go? Where does the jurisdiction fall to say "stop"?

Mr. BENEDETTO. Well, that is perhaps a better question to be addressed to the CNMI government officials that are here. When Congress created the Ombudsman's Office it didn't give us any teeth, and so my role is basically to nag. So I write letters and I point out what the options are and I try in individual cases to press to adjudicate to get a fair result, if we can, for the workers that we take. In most cases, I would say that the Department of Labor, once the investigation has been concluded, is able to reach a fair result and they handle it quite well.

Senator TESTER. Okay.

Mr. BENEDETTO. I believe that what your question is going to, is why aren't these cases getting resolved? That is because the investigations are not getting completed. The backlog of cases that the Department of Labor has labored under itself is 2,000 cases, and I believe that they've closed about 1,200 of those cases. However, in the meantime there are another 1,300-plus unresolved cases from 2004, 2005 and 2006. They simply need to devote more resources to the investigation section in Labor.

Senator TESTER. Alright, what's the ISS's jurisdiction?

Mr. BENEDETTO. Well, since there were allegations in the letters that the overtime pay was not paid, there's a jurisdiction with the U.S. Department of Labor's wage hour division.

Senator TESTER. Okay, outside of that, though, what is their jurisdiction? What do they do? What do they oversee? Outside of what I just talked about, do they oversee immigration? What do they oversee?

Mr. BENEDETTO. Island Security Services is a private security guard company.

Senator TESTER. Yes.

Mr. BENEDETTO. They get contracts with government agencies and large businesses around the Commonwealth and they provide the security guards for their sites, their work sites.

Senator TESTER. Their work sites, okay. As far as meth goes, as far as the potential smuggling of active ingredients, as far as making immigration more difficult, or at least following the law, is what I mean: is there any ability to do that? What's being done to crack down on illegal immigration and potential smuggling of ingredients of drugs?

Mr. BENEDETTO. Well, drugs, and ingredients of that type, are outside my scope.

Senator TESTER. Okay, who could answer that? Anybody on the panel? Go ahead. Thank you.

Mr. VILLAGOMEZ. Senator, since you are asking a specific question regarding that issue, may I refer you to the Attorney General?

Senator TESTER. It's up to the chair, but I don't have a problem with that; it's whatever you want. I'll tell you what: if you could just get that question answered for me, that would be fine. It doesn't have to be done now, but I do have a question for Ms. Franzel, real quick. I read in your documentation there's \$65 million or something like that that's granted to the Marianas. What is that granted for? It's probably in your documentation. If you could just give me a quick summation of what that's granted for, that'd be great. Is it granted for any of the security stuff we're talking about?

Ms. FRANZEL. The grants come from several different Federal agencies to support several different Federal programs. The Department of the Interior is one of the bigger grantors to deal with infrastructure and other types of assistance. There are grants from Agriculture, Homeland Security as well as Health and Human Services. Those would be the biggest grantors, so Homeland Security is one of the bigger grantors to CNMI.

Senator TESTER. Okay, good. I understand that the reason that they can't get a clean financial audit is because, with the exception of maybe this last year, they didn't do an audit or didn't get it done. What's the scoop there?

Ms. FRANZEL. It's really a combination of factors. There are some isolated factors with some of the separate entities, such as the utility corporation which has been having multiple difficulties. So the utility corporation has not been audited at all, but that is separate from the main government activities. In the main government activities, many of the difficulties are with basic bookkeeping, payments to vendors, accounts receivable and tax rebates payable.

Senator TESTER. Whose job is it to see that the audits get done in our shop? Is there anybody that oversees that?

Ms. FRANZEL. Well, under the Single Audit Act, CNMI is required to have its audit done and that is a Federal law. So the primary responsibility for complying is with the CNMI. Department of Interior is the cognizant oversight agency, to make sure that it is getting done.

Senator TESTER. Okay. This is kind of a comment, because I really do respect the work that the bureaucracy does; they do a lot of tough work and this is not pointed to anybody in this room that I know of. It is absolutely amazing to me, and we're talking about small figures here in the overall budget, but it is absolutely amazing to me, that I think in 1997, the audit wasn't done, 'til 2004; for 7 or 8 years, there's no accountability. It's incredible that it can

go on for that length of time and there are probably things much bigger than that out there. How can this happen? Who needs to be fired? What's going on?

Ms. FRANZEL. We have had discussions with OIA about this and OIA has increased its focus. There has actually been significant improvement on the accountability side, but still not to the point where some of the basic bookkeeping is happening properly, and where the financial statements as a whole are in fact fairly stated. It is also a complex reporting environment. CNMI does have reporting elements of State, local and Federal governments. I think in the future it may help to separate some of this and really focus on getting the basic accounting and bookkeeping right—that's certainly something that is very achievable—and perhaps hiring some expertise to deal with some of the more complex issues.

Senator TESTER. With the Chair's permission, Mr. Cohen, did you have something you wanted to say to that?

Mr. COHEN. Yes, Senator. I want to address the point about helping the Island governments, including the CNMI, comply with their obligations under the Single Audit Act. When I came into office the top two priorities that we established for our office were No. 1, private sector economic development throughout the Islands, which is the top priority; and, No. 1A, improving accountability, including improving compliance with the Single Audit Act, even though it's not our obligation to actually fulfill this requirement for the Islands.

We recognize that there were and continue to be serious capacity problems in complying with new reporting requirements, including some that came into play just a few years ago and are proving to be a very daunting challenge for all of our Island communities. So we increased the amount of resources that we dedicated to training, capacity building, and we have instituted a crash program really to get all of the Island governments caught up on their delinquent single audits. We've had excellent success on that and we think, if I'm correct, and maybe Ms. Franzel might remember this off the top of her head, but we've gotten all of our Island governments current, I believe with the exception of one. We're also improving the cleanliness of the audits as well. We assign a very high priority to this. We've devoted resources to it. It is, as Ms. Franzel has suggested, quite a challenging task just because of the distance that we needed to travel because the Islands have gotten so far behind and were wrestling with new requirements. But we're very much working on this.

Senator TESTER. I appreciate that. I can just tell you from my perspective when you're talking about programs that need help and there's no audit to verify that the money is going where it needs to go, all sorts of red flags fly up in the air. Then when we talk about developing policy to help situations that have arisen or potentially will arise, if there's no sound financial structure behind the dollars there's no way I, in good faith, say we're going to give you more money, if that's one of the resources that are needed. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. Ms. Franzel, let me just ask you one other question. You pointed out various problems in the management of the finances there in the CNMI. You have any

conclusion or views as to whether those capacity problems, I guess that's the right phrase that Mr. Cohen used, whether those would be expected to extend over into the immigration area. It seems to me what we're doing is we're saying they've got real problems with the finance management issue, but we at least so far are willing to leave the immigration issues in their control as well. Do you have any views as to whether or not there is some analogy or some lesson that we ought to be taking from that?

Ms. FRANZEL. I can make a couple of comments on that. First of all, the financial management area has been hampered by the limited pool of resources and expertise available just by the very nature of the Island economy and the geographic isolation and, frankly, the difficulty that others who do not have a connection to the Island really have in integrating and staying on the Islands. So there is an inherent limited pool available. There is also a complexity to this type of government which has elements of Federal, State and local responsibilities all wound together. The financial management piece is a pretty basic area of good management and some of the issues and the long-standing problems, although there have been improvements, are indicative of a very difficult environment and perhaps a risky type of control environment. These factors could potentially be impacting the other operations as well.

The CHAIRMAN. Senator Akaka had some additional questions.

Senator AKAKA. Yes, thank you Mr. Chairman. Let me follow up on capacities that you just mentioned and direct this question to the Lieutenant Governor. In previous hearings before this committee the INS and bipartisan U.S. Commission on Immigration reform stated that CNMI can—and let me stress this word, can—never establish proper immigration control because it lacks the authority to prescreen people through a visa issuing process, and because it lacks access to classified data bases used to screen people at the border. My question to you: does the CNMI currently have either of these two capacities?

Mr. VILLAGOMEZ. Thank you, Senator. Since taking office in January last year we have concentrated on issues regarding immigration and so forth and it is for this reason that our administration has appointed Mr. Mel Grey, who has a 29 years INS experience as a Federal official, and is now the Director of Immigration. In response to your question: yes, Senator Akaka, we have an effective computerized system in place right now on tracking arriving and departing passengers out of the Commonwealth, and this in that sense, is the LIDS system that is currently in place and was funded by Federal assistance. The immigration process works closely with other Federal officials and in cooperation with Federal agencies.

Senator AKAKA. Thank you for that response. Representative Pete Tenorio, I want to thank you for your testimony and for your specific suggestions as to how we can strengthen legislation. In 1997, the DUI report on the initiative stated, "CNMI alien labor policies are having a profound negative effect on public services and infrastructures such as education, health care, public safety, water, sewer and solid waste disposal." Generally how is the public services situation changed over the past 9 years?

Mr. TENORIO. Thank you Senator. It's a very, very important question. In fact it's one of those things that I've been trying to address for so long. We have a very, very weak infrastructure in terms of utilities, water, water systems, power systems and even wastewater disposal systems. The presence of a large number of non-resident workers has generally aggravated the situation and the system has really become overloaded and insufficient to provide for a real kind of utility services that we are so used to here in the Mainland. For example, let me just tell you that about 50 percent of the Island of Saipan right now does not have 24 hours of water service for its people, and for those that have a water service in their homes, none of them could drink the water from the tap because it's just not potable. It's too salty. It's not properly treated, so people don't use their water in the faucets for drinking purposes. They have to go out and buy water—well water from the stores, or processed water on the Island—and we have had continuing problems with our power generation.

The government is trying to find ways to make the power generation activity a self-sufficient activity, but it cannot do so because it does not collect enough revenue from its operations. Fuel costs are escalating to a huge, unreasonable amount, so people cannot really afford to use electricity on a 24-hour basis that we are so used to. The cost of electricity has doubled in just the last several months because of the government's initiative to increase the rate of the utility charges on a popular-watt basis to find resources to be able to purchase imported fossil fuel gas and diesel. So again, despite the presence of the large number of resident workers that we had hoped would contribute to improving the overall capacity of the utilities to generate income, it doesn't. It exacerbates the problem of operating utilities throughout the Islands.

Senator AKAKA. Well, thank you very much. My time has expired. I have other questions that I will submit for the record.

The CHAIRMAN. We will certainly submit several questions for the record. We do have one more panel and we have a vote at 11:30, so I would submit additional questions. Senator Tester, did you have any other questions of this panel before we go to the second panel?

Senator TESTER. Just real quick and a "yes" or "no" answer will work. Is trade the major reason why you've lost 10 of the 27 garment manufacturers? Is it trade loss?

Mr. VILLAGOMEZ. Mr. Chairman. Senator, yes.

Senator TESTER. Thank you.

The CHAIRMAN. Alright, well thank you all very much for your testimony. We appreciate it and why don't we call the second panel forward and hear from them?

Okay, we have three witnesses on this panel, and a couple of others who are here accompanying one of the witnesses. Let me just introduce them while they're taking their seats. First, we have Ambassador Haydn Williams, who is a former Covenant negotiator. We appreciate him being here. Second, we have Ms. Lauri Ogumoro, who is accompanied by Sister Stella of the Sisters of the Good Shepherd, and also Kayleen Entena. We appreciate both of them being here accompanying Ms. Ogumoro. Also, our other wit-

ness is Mr. Juan T. Guerrero, who is the President of the Saipan Chamber of Commerce. Thank you very much for being here.

Why don't we just take our witnesses in that order? If Ambassador Williams would want to start, we appreciate your being here and look forward to your testimony.

**STATEMENT OF F. HAYDN WILLIAMS, AMBASSADOR, FORMER
COVENANT NEGOTIATOR**

Ambassador WILLIAMS. Mr. Chairman and other distinguished members of the committee, I thank you for the invitation to appear before you today. I have had a long association with the Marianas going back to World War II. As Deputy Assistant Secretary of Defense for International Security Affairs under President Eisenhower and Kennedy, my office had responsibility for the Department of Defense's interest in the Trust Territory of the Pacific Islands, including the Marianas. In the 1970's, I was the President's personal representative for the negotiation of the NMI Covenant and seeing the Covenant through the House and the Senate. Frequent visits in the 1980's and 1990's kept my interest alive, along with my efforts to win congressional support for the American Memorial Park in Saipan and the building of the American memorial to our war dead in the Battles of Saipan, Tinian and the Philippine Sea.

My message is a simple one. It is time for the Congress to take a critical look at the current situation in the Northern Marianas in the best interest of the citizens of the CNMI and the broader interests of the United States. This committee is aware that the CNMI today is in dire straits and has turned to Washington for help. In your oversight hearings, I believe, Mr. Chairman, that it is important to focus your attention on the CNMI's immigration policies and control of its borders. In addressing this matter a brief look back at the Covenant negotiations may be useful to remember the times and the spirit in which the talks were conducted, namely the long-held desire of the NMI to become a permanent part of America.

The two preeminent issues were U.S. sovereignty and the rights to internal self-government. Once these two matters were agreed in principle, the negotiations turned to other questions, including what Federal laws would apply to the new Commonwealth. The Marianas and negotiators were especially concerned about U.S. immigration laws. They were worried about their Island culture, their Chamorro and Carolinian heritage being overwhelmed by an influx from Asia. They wanted protection from this happening and also from the threat of war refugees entering the Northern Mariana Islands from Southeast Asia. They therefore proposed that immigration control be in their hands to enable them to carefully restrict the numbers entering the NMI. While the United States could not accept this proposal, it agreed that in a transition period before the end of the trusteeship and the coming into force of U.S. sovereignty, the new Commonwealth would be given transitional responsibility for immigration. Under section 503 of the Covenant Congress retained the ultimate authority to make U.S. immigration laws applicable to the CNMI following termination of the trusteeship. It was anticipated at that time that such action would be

taken quickly by the Congress given the known attitude of some leading key members on the immigration question regarding territories.

When the Covenant was approved in 1976, it was expected that the trusteeship would come to an end in a couple of years, once the compacts of free association with the other districts were concluded. But these negotiations lingered on and on, and instead of 2, it was some 10 years before the U.N. Security Council terminated the trusteeship. This far, far longer-than-expected interim period enabled largely non-indigenous entrepreneurs to take advantage of the Covenant's liberal trade privileges and wage and immigration exemptions to establish their presence in the CNMI and to begin the importation of increasingly large numbers of low-paid alien workers for their enterprises. It was during this transition period that local, political and business opposition to any Federal implementation of section 503 became institutionalized. The opposition was committed to blocking—with the help of hired Washington lobbyists—any Federal action on minimum wages and immigration. The subsequent story of the social, economic and environmental impact of the CNMI's labor and immigration policies on life in the CNMI—the consequences of encouraging an alien population growth of some 500 percent, of turning the indigenous citizens of the Commonwealth into a small minority—is well documented.

Three administrations, beginning with President Reagan, have voiced deep concern over these developments. This committee, too, recognized the need for remedial action. In 2000, the CNMI Covenant Implementation Act authored by Senators Murkowski and Akaka call for the extension of U.S. immigration laws to the CNMI with protective transitional measures and exemptions. This Act was passed unanimously by the Senate. Regretfully, this Senate initiative died in the House without even a hearing for reasons that are now publicly well-known. As a former defense official, I am most concerned about the need to protect and control our borders. Today we are no longer living in a soft security environment, and it had been reported by the Justice Department that critical security vulnerabilities had existed in the CNMI for several years. In view of heightened terrorist threats and the Marianas strategic location, the Federal Government's responsibility for protecting the people of the CNMI and all American citizens has taken on new and urgent importance.

The CNMI simply does not have the institutional capability to adequately prescreen or screen persons entering the Commonwealth. Border control is an inherently sovereign function. I repeat, border control is an inherently sovereign function, and in the present threatening world security environment and the growing reach of global crime syndicates, the responsibility for protecting the Nation's borders in the CNMI should be in the hands of the Federal Government.

Before closing, I would like to say—going back to the Covenant negotiations, that the United States then was fully sensitive and sympathetic to the Northern Marianas' legitimate need for imported labor to help it reach its goals of economic self-sufficiency. Carrying forward this same spirit, the Murkowski-Akaka Bill stated that the extension of immigration laws to the CNMI would be

done “in an orderly manner with the commitment to mitigate any adverse effects on the local economy.” The bill spoke to how the law could help the CNMI diversify, stabilize, and strengthen its economy with special provisions to meet legitimate imported labor needs.

The CNMI is going through a difficult period. I am confident that with good will, with open ongoing consultations and cooperation between Saipan and Washington, that the CNMI can begin to establish a new, more stable and sustainable economic foundation for its future. In meeting this challenge, I believe this effort will be greatly aided by the discipline, the orderliness, the management experience and the long-term benefits that will flow from the extension of U.S. immigration laws to the Commonwealth of the Northern Mariana Islands. In the interest of the people of the Northern Marianas, Mr. Chairman, I urge this committee to take this long overdue action. Thank you.

[The prepared statement of Ambassador Williams follows:]

PREPARED STATEMENT OF F. HAYDN WILLIAMS, AMBASSADOR, FORMER COVENANT NEGOTIATOR

Mr. Chairman, Senator Domenici, Senator Akaka, and other members of the Committee, I thank you for the invitation to appear before you today. I have had a long association with the Marianas going back to World War II. As Deputy Assistant Secretary of Defense for International and Security Affairs under Presidents Eisenhower and Kennedy my office had responsibility for DOD interests in the Trust Territory of the Pacific Islands including the Marianas. In the 1970s, I was the President's Personal Representative for the negotiation of the CNMI Covenant, and seeing the Covenant through the House and the Senate. Frequent visits in the '80s and '90s kept my interest alive along with my efforts to win congressional support for the American Memorial Park in Saipan, and the building of the American Memorial to our war dead in the battles of Saipan, Tinian, and the Philippine Sea.

My message is a simple one. It is time for the Congress to take a critical across-the-board look at the current situation in the CNMI in the best interests of the citizens of the CNMI and the broader interests of the U.S. This Committee is aware that the CNMI today is in dire straits and has turned to Washington for help. In your CNMI oversight hearings, I believe, Mr. Chairman, that it is in everyone's interest to focus in particular on the CNMI's immigration policies and the control of its borders.

In addressing this matter a brief look back at the Covenant negotiations may be useful—to remember the times, the context and the spirit in which the talks were conducted—namely the long held desire of the NMI to become a permanent part of America. The two preeminent issues were, U.S. sovereignty, and the rights to internal self-government. Once these two matters were agreed to in principle, the negotiations turned to other questions including what Federal laws would apply to the new Commonwealth.

The Marianas delegation was especially concerned about U.S. immigration laws. They were worried about their island culture, their Chamorro and Carolinian heritage being overwhelmed by an influx from Asia. They wanted protection from this happening, and also from the threat of war refugees entering the NMI from South East Asia. They proposed that immigration control be in their hands to enable them to restrict the numbers entering the NMI.

The U.S. could not accept this proposal, but agreed that in a transition period before the end of the Trusteeship and the coming into force of U.S. sovereignty, the new Commonwealth would be given transitional responsibility for immigration. Under Section 503 of the Covenant, Congress retained the ultimate authority to make U.S. immigration laws applicable to the CNMI following termination of the Trusteeship. It was anticipated at the time, that such action would be taken quickly, given the, known attitude of some leading key members of Congress on the immigration question regarding territories.

When the Covenant was approved, it was expected that the Trusteeship would come to an end in a couple of years, once the Compacts of Free Association with the other Districts were concluded. But those negotiations lingered on and on. Instead of two, it was 10 years before final U.N. Security Council action terminated

the Trusteeship for the Marianas. This far longer than expected interim period enabled largely non-indigenous entrepreneurs to take advantage of the Covenant's trade privileges, and its wage and immigration exemptions to establish their presence in the CNMI, and to begin the importation of large numbers of low-paid alien workers for their enterprises.

It was during this transition period that local political and interested business opposition to any Federal implementation of section 503 became institutionalized. It was committed to blocking, with the help of hired Washington lobbyists, any Federal action on minimum wages and immigration.

The subsequent story of the serious social, economic, and environmental impact of the CNMI's labor and immigration policies over the past 30 years on the life in the CNMI, the consequences of encouraging a population growth of some 500 percent, and turning the indigenous citizens of the Commonwealth into a small minority, has been well documented.

Three Administrations, beginning with President Reagan, have all voiced deep concern over these developments. This Committee too has recognized the need for remedial action. In 2000, the CNMI Covenant Implementation Act, authored by Senators Murkowski and Akaka, called for the extension of U.S. immigration laws to the CNMI with proper transitional measures and exemptions. The Act was passed unanimously by the Senate. Regretfully, this Senate initiative died in the House without even a hearing, for reasons that are now well known.

As a former defense official, I am most concerned about the need to protect and properly control our borders. Today, we are no longer living in a soft security environment and it has been reported by the Justice Department that critical security vulnerabilities have existed in the CNMI for several years. In view of heightened terrorist threats and the Mariana's strategic location, the Federal government's responsibility for protecting the people of the CNMI and all American citizens has taken on new and urgent importance.

The CNMI does not have the institutional capacity to adequately pre-screen or screen persons entering the Commonwealth. Border control is an inherently sovereign function and in the present threatening world security environment and the reach of global crime syndicates, the responsibility for protecting the nation's borders in the CNMI should be in the hands of the Federal government.

Before closing, I would like to say, going back to the Covenant negotiations that the U.S. was fully sensitive and sympathetic to the CNMI's legitimate need for imported labor to help it reach its stated goals of economic self-sufficiency. Carrying forward this same spirit, the Murkowski/Akaka bill stated that the extension of immigration laws to the CNMI would be done "in an orderly manner with a commitment . . . to mitigate any adverse effects . . . on the local economy." The Bill speaks to how the law can help the CNMI diversify, stabilize, and strengthen its economy with special provisions to respond to imported labor needs.

The CNMI is going through a difficult period. I am confident that with goodwill, with open ongoing consultations and cooperation between Saipan and Washington, that the CNMI can begin to establish a new, more stable and sustainable economic foundation for its future. In meeting this challenge, I believe the CNMI will be greatly aided by the discipline, the orderliness, and the long-term benefits that will flow from the extension of U.S. immigration laws to the Commonwealth of the Northern Mariana Islands. Thank you.

The CHAIRMAN. Thank you very much for your statement. Ms. Ogumoro, we're glad to have you here. Please go right ahead.

**STATEMENT OF LAURI OGUMORO, MSW, ACSW, KARIDAT
SOCIAL SERVICES, SAIPAN**

Ms. OGUMORO. Thank you, Mr. Chairman, for inviting me to speak today. My name is Lauri Bennett Ogumoro. I'm a social worker with Karidat, a Catholic Social Services Agency in the Commonwealth. I'm speaking before this committee with the blessing and support of His Excellency Bishop Tomas A. Camacho from the diocese of Chalan Kanoa in the Northern Mariana Islands. I've lived and worked in the CNMI for the past 25 years. I'm married to a Carolinian from the Island of Saipan.

I'm accompanied today by Sister Mary Stella Mangona, Sisters of the Good Shepherd and Miss Kayleen Entena. There's a rumor

going around the Island that Miss Entena is testifying today for this committee in exchange for a T Visa. This is not true. The unfortunate reality is that Miss Entena has been granted a T Visa from the United States because she is victim of human trafficking in the CNMI. She is a victim of human trafficking in its most heinous form, sex trafficking. In fact it is Miss Entena's strength that gives me the courage to tell her story and that of many women in the CNMI. Thank you Kayleen.

As a social worker for the past 25 years on the Island of Saipan I have been blessed to have come to know many of the indigenous families of the Commonwealth. As a social worker I have also had the opportunity to meet and work with many of the non-residents in the community. Although some would say it is an oxymoron to call these individuals non-residents when they have actually lived and worked in the Islands for 10, 15 or 20 years or more. It is as if there are really two separate groups of people living in the Commonwealth, resident and non-resident. Although not quite disenfranchised, non-resident workers live and work almost seemingly apart from the local U.S. citizen resident population. Because the Islands are predominately Roman Catholic within both resident and non-resident populations the great equalizer then is the Catholic Church. Unfortunately after mass the groups once more divide.

Most on the Island will acknowledge there are problems, problems with labor abuses, undocumented workers and the like, what will not be acknowledged is that the measures taken to correct the labor abuses have not gone far enough. Each administration comes in and tries new approaches to fix the problem but it is almost as if the labor and immigration systems in the Commonwealth have taken on a life of their own. Lax controls and enforcement of regulations from the beginning have resulted in the complex set of problems being dealt with today. Many will say you have to give the Commonwealth a chance. It's a young Commonwealth. Unfortunately human lives are being destroyed in the process. The unintended consequences then are where we are now as a Commonwealth? With a non-resident guest worker population that outnumbers the indigenous U.S. citizens, one only needs to look at the history of some of our neighbors in the Pacific to understand we are headed, if something is not done to save the Commonwealth for its own people, the Chamorros and Carolinians. The unintended consequences have grown a labor and immigration system that can never quite keep track of itself. The reality is that unscrupulous persons, both resident and non-resident, know where the connections are, where the weak spots are in the system and therefore know how to use the system, for their own personal gain. This leads us to the abandonment of workers on Island: workers laboring 20 to 21 hours a day with no day off, and the exploitation of young women brought to the Islands to work in night clubs, then forced into prostitution. The vulnerable worker who works months without getting paid but trusts that his boss' words will ring true, "I'll pay you next month." The threat of being sent home is a most real threat that forces compliance.

I do not know what the answers are. I, too, like most living the Island, wonder how life will change for me and my family. How high will prices go? How many businesses will be shut down? How

many will lose jobs and who else will move off Island? What I do know is that the Commonwealth is a beautiful place. It is my home. The best analogy I can think of is something I tell women who are victims of domestic violence. I know you love your husband, but you can't live with him when he's hurting you. The Commonwealth of the Northern Mariana Islands cannot continue down the path it's been on because all of us are being hurt. If ever there was an opportunity for change, that opportunity is now. In social work theory, one sees a crisis as also an opportunity for change. If ever there was a crisis and a time for change, that time is now. Olomwaay.

[The prepared statement of Ms. Ogumoro follows:]

PREPARED STATEMENT OF LAURI OGUMORO, MSW, ACSW, KARIDAT SOCIAL SERVICES, SAIPAN

My name is Lauri Bennett Ogumoro; I am a U.S. citizen originally from the state of Oregon. I have lived and worked in the Commonwealth of the Northern Mariana Islands for the past 25 years. I am married to a Carolinian from the island of Saipan. My husbands' ancestors navigated the open ocean in canoes to come to Saipan. They came in the early 1800's after their islands, between Yap and Chuuk (now known as the Federated States of Micronesia), were devastated by two consecutive typhoons. In Carolinian the word for Saipan is "Saipol" meaning "empty place". At the time the Carolinians settled on Saipan it was indeed an empty place. The Spaniards had removed the Chamorro population from the islands north of Guam in order to colonize all the residents of the Mariana Islands on Guam.

I am a professional social worker. I have a Masters Degree in Social Work from the University of Hawaii, 1989. I am a member of the National Association of Social Workers, and the Academy of Certified Social Workers. I worked as a social worker for the Commonwealth government for twenty years, most of those years as a medical social worker at the Commonwealth Health Center. I am now employed as a social worker with Karidat, which was formerly known as Catholic Social Services. I am the manager of Guma' Esperansa—House of Hope, the shelter for battered women and their children on Saipan.

I would like to preface my testimony with the understanding that the Commonwealth of the Northern Mariana Islands is my home. The Commonwealth is a beautiful place with proud peoples of the Chamorro and Carolinian cultures. I have been blessed to live on the island of Saipan and to raise my children amongst a proud and traditional Carolinian family. I arrived on Saipan in June of 1982. This was shortly before the advent of the garment industry. The population of Saipan at that time was a little over 16,000.

My testimony is not to offer solutions, but to offer a glimpse of the conditions of many living in the Commonwealth. I will not offer my personal opinions as to the issue of federal take-over of CNMI immigration. I am aware that some in the Commonwealth have claimed that I have already faxed in my statement to this Committee saying the federal government should take over local immigration. This is not true. I would also like to make it clear to this Committee that there are many dedicated individuals working in the CNMI Immigration and Labor Departments, the Department of Public Safety and the Office of the Attorney General. These individuals work closely with Karidat to assist the victims I will describe in my testimony. I offer this testimony as a social worker and as an advocate for women. I humbly offer this testimony with the support of His Excellency Bishop Tomas A. Camacho in order to share with you some of the stories of the women and children served by Karidat. Bishop Camacho has asked that I share with you the facts, without editorializing.

Karidat, which means charity in Chamorro, is the only non-profit non-governmental social services agency in the Commonwealth of the Northern Mariana Islands. Karidat operates under the auspices of the Catholic Church in the Diocese of Chalan Kanoa. Karidat celebrated its first 25 years of service to the community in May 2005. Karidat runs several community-based programs such as individual and family counseling services, the House of Manhoben Teen Center, the Victim Hotline, the Emergency Food and Shelter Program, the Victim Advocacy Program, the Guest Worker Assistance Program which ran from October 1995 to November 2005, and Guma' Esperansa. The Guest Worker Assistance Program operated as a safety net for non-resident workers with valid labor complaints to get assistance

with food and shelter while they waited for resolution to their labor complaints and/or sought new employment. Funding for the Guest Worker Assistance Program came from the U.S. Department of the Interior, Office of Insular Affairs. Non-resident workers referred to the Guest Worker Assistance Program (GWAP) reported such complaints as unpaid wages and/or overtime, illegal deductions for medical care and housing, unlawful termination, and discrimination. Some reported losing their jobs due to pregnancy or the inability to keep up with the quota system i.e.: having to sew 500 sleeves a day. Most of the labor complainants seeking help from Karidat had labor complaints dealing with unpaid wages and overtime pay. Below is an overview of the numbers of clients served by the GWAP.

GUEST WORKER ASSISTANCE PROGRAM—NUMBER OF PERSONS SERVED

Year	Food	Rent
1996	556	(¹)
1997	413	(¹)
1998	955	(¹)
1999	1,162	278
2000	1,321	192
2001	1,089	195
2002	716	155
2003	1,482	290
2004	940	82
2005	700	0

¹Not available.

Founded in 2001, Guma' Esperansa, is the newest program operated by Karidat. With the opening of Guma' Esperansa the Commonwealth had its first permanent shelter for victims of domestic violence and sexual assault and their children. Funding for shelter personnel and operations comes mainly from two competitive federal grants: Victim of Crime Act (VOCA) and Violence Against Women Act (VAWA) STOP funding. The shelter also receives funding from several other smaller grants, such as the Emergency Shelter Grant from the U.S. Department of Housing and Urban Development; and the United Way Emergency Food and Shelter National Board Program.

In late 2005 Guma' Esperansa received funding from the United States Conference of Catholic Bishops—Refugee and Migration Program to provide funds to support the activities of daily living for the victims of human trafficking in our care. In July 2006 the funding for our services to victims of human trafficking was transferred to the Hawaii American Samoa Anti-Trafficking Services grant from the U.S. Department of Justice, Office of Victims of Crime. Hawaii, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands were included in this grant. Guma' Esperansa learned in August 2006 that our grant application for one of the ten discretionary grants for from the U.S. Department of Justice, Office of Victims of Crime, Human Trafficking Victim Services was awarded. We received the finding in November 2006. Thus our funding was once again transferred, this time to a grant specifically designed for Guma' Esperansa and the Northern Mariana Islands.

Guma' Esperansa also enjoys a wide base of support from the community in the Commonwealth through such things as canned food and clothing drives, sponsorship of our Real Men Calendar, and monetary donations. As the only shelter for victims of domestic violence, sexual assault, and human trafficking in the Commonwealth, Guma' Esperansa provides free and confidential shelter services to victims and their children regardless of citizenship, ethnicity, or immigration status.

The ethnic breakdown of clients and their children seeking refuge at Guma' Esperansa mirrors the ethnic diversity of the Commonwealth. Filipinos, followed by Chamorro, then Chinese women are the three largest ethnic groups served through the shelter. Because of the ethnic diversity of the CNMI population Guma' Esperansa has maintained a staff that can readily provide services in the predominant languages spoken such as Chamorro, Carolinian, Tagalog, Palauan, and Chuukese. Guma' Esperansa has contracts and/or relationships with Chinese, Korean, Vietnamese, and Thai translators that are available to provide translation services to shelter clients.

Below is a breakdown of population by ethnicity, as reported in the CNMI's 2000 Census of Population and Housing by the U.S. Department of Commerce, Census Bureau:

Table 1.—CNMI 2000 CENSUS OF POPULATIONS BY ETHNICITY

Ethnic Group	Population	Percentage
Indigenous	17,401	25.1
Chamorro	14,749	21.3
Carolinian	2,652	3.8
Other Micronesian	4,600	6.6
Chuukese (FSM)	1,394	2.0
Kosraean (FSM)	56	0.1
Marshallese	112	0.2
Palauan	1,685	2.4
Pohnpeian (FSM)	640	0.9
Yapese (FSM)	204	0.3
Other Pacific Islander	509	0.7
Asian	38,610	55.8
Bangladeshi	873	1.3
Chinese	15,311	22.1
Filipino	18,141	26.2
Japanese	952	1.4
Korean	2,021	2.9
Nepalese	300	0.4
Other Asian	1,012	1.5
Other	8,610	12.5
Caucasian	1,240	1.8
African American	41	0.1
Other (Other race or ethnic group; combination of 2 or more ethnic groups)	7,329	10.6
TOTAL	69,221	100

The ethnic diversity of the CNMI presents many challenges to social service providers in terms of language barriers, cultural differences, and labor and immigration concerns. There are also differing attitudes regarding domestic violence, sexual assault, and human trafficking within both the indigenous and non-resident communities.

DOMESTIC VIOLENCE

Based on the last two years, 54 % of women served through Guma' Esperansa are immigrant women. Most of these women met their husbands on Saipan. Many are married, some are living in common-law relationships, and most have children. About 15 percent of these women are non-resident women living in common-law relationships with or are married to their non-resident husbands.

Sometimes the battered woman tells us she is illegal and therefore usually chooses to only stay briefly in the shelter. We have successfully worked with the Attorney General's Office and the Department of Immigration to assist several women to regain their legal status in the Commonwealth. Some battered immigrant women report that they do not have a job but are "sponsored" by friends or relatives. Sponsorship arrangements are strictly prohibited by CNMI Labor regulations, but they are not uncommon nonetheless. The "sponsor" signs documents indicating that he or she will be the employer, even though there is no genuine job or wages. Finding a sponsor gives these women the appearance of legal status as non-resident workers so they are able to remain in the CNMI. This allows non-resident women to stay home and care for their children, as many cannot afford to pay for childcare. Meanwhile the father of their children (also a non-resident worker) works to support the entire family. One woman reported paying \$2,000.00 to a "sponsor" only to have the sponsor run away with her money. She had no recourse for the recovery of her money since the arrangement was prohibited in the first place. This particular woman remains "illegal". When a nonresident worker has a family, they often do not live in company-sponsored barracks, since children may not be permitted. Instead he may rent a room for his wife and children. Many times these low-cost rentals have communally shared bathrooms and kitchens. Stress on these families can be tremendous and often leads to domestic violence.

There is no provision in current CNMI Immigration law to protect battered non-resident women married to U.S. citizen spouses. Therefore the threats by a U.S. citizen spouse to send an immigrant (non-resident) woman back home is more than just words. These are the kinds of threats that force women to stay in abusive rela-

tionships. The threat of taking their U.S. citizen children (since children born in the CNMI are U.S. citizens) to Guam or the U.S. mainland so she will not be able to see them is also very real. I have known of many such threats and of several cases in which this has actually been done. In some cases these mothers, although they have committed no crime, may never be able to see their children again. There was talk several years ago that the CNMI Immigration law would be amended to allow battered women to self-petition as an Immediate Relative in the Commonwealth if they could show that their U.S. citizen spouse was convicted of domestic violence. This would have been a step in the right direction, but I am sure that most advocates for victims of domestic violence will tell you that this threshold, a criminal conviction, would be too high. The vast majority of domestic violence cases in the CNMI, as elsewhere, do not involve criminal charges. It was felt, however, that the threshold of a criminal conviction was necessary to avoid fraudulent claims of abuse in order for women to stay in the Commonwealth.

It has only been in the last few years that battered non-resident women married to U.S. citizens in the Commonwealth have been encouraged to self-petition for lawful permanent residence status in the United States under the provisions of the Violence Against Women Act. (This is commonly known as a VAWA petition.) A few years ago, I personally escorted an immigrant woman to get legal assistance to file a VAWA petition as a battered spouse. Unfortunately at that time we were told that U.S. Immigration law did not apply in the Commonwealth and therefore the attorney advised her that she needed to get her abusive husband to petition for her to get a green card. This particular woman's husband had broken her left femur bone. She had endured ongoing threats and abuse, as well as child abuse to her five-year-old son who had been adopted by her husband. Typical of abusive spouses, the husband had no intention of helping her improve her immigration status, and the woman remained in a dangerous situation for many more months. Fortunately, another victim in a similar situation who did not have access to discouraging legal advice took the initiative to complete the VAWA self-petition process and was successful. Lawful permanent residency to the U.S. has been granted to her and subsequently to several others. This gives us renewed hope that U.S. Immigration law in at least this respect protects immigrant women in the Commonwealth. I can also report that advocacy to the CNMI Immigration Director and the past Attorney General on individual cases of battered immigrant women to renew their CNMI Immediate Relative status without their spouses' consent has been successful. This has given these women time to consider their options, including the possibility of preparing a VAWA self-petition.

In November 2006 a 39-year-old Chinese woman was brought to the shelter by police officers assigned to the domestic violence unit. They told us this woman was a victim of domestic violence. Through translators we learned she had been on Saipan for almost one month. She spoke no English and had visible bruises on her arms and head. Through the translator it was learned that she came into Saipan on a tourist permit with the purpose of marrying a U.S. citizen. It seems a cousin already on Saipan who worked in a garment factory arranged the marriage. The cousin told this woman that this was the fastest way for her to get a job on Saipan because she would become IR (Immediate Relative status) when she got married then she could get a job. When asked why she came to Saipan this woman told us through the translator "to work and make babies". This woman left the shelter before we could assist her with a protective order. She told us she was afraid of getting her cousin in trouble. This same woman returned to the shelter just two days later, telling us she was afraid of her husband because he continued to hurt her. She told us she needed to get away from her husband and that her cousin was going to find her a new place to live. She again left the shelter before we could help her. Is this story indicative of more out there? I do not know. What I do know is that these women are vulnerable and afraid to utilize the system that is designed to protect them.

HUMAN TRAFFICKING

In May 2005 Guma' Esperansa took in its first victim of human trafficking. At the time we knew little about human trafficking or the services needed by the victims. We had to learn fast. Unfortunately the Commonwealth of the Northern Mariana Islands is not immune to the modern day form of slavery known as human trafficking. Our idyllic tropical islands have seen several trials in recent months in both the local and federal district courts of women who were brought to our islands and forced into prostitution by their traffickers. In the year 2006 Guma' Esperansa served thirty victims of human trafficking from four cases identified through local law enforcement. This number does not include those victims of human trafficking

discovered by federal law enforcement. These victims were subsequently sent to Guam for safe shelter. A prayer that was found in the back of a journal kept by one of the sex trafficking victims rescued on Saipan can best describe the needs of the victims and why human trafficking is a priority of the federal government.

Dearest Lord: Please help my job everyday. I need money for my family. I know you knew it already. So, I hope I will be able to meet a generous person. Please provide me that kind person. Lord I hope you understand me. As you know, I want to go back to the Philippines. I do not like it here anymore, so please speed up every single day that passes by. Please help me. Please do not forsake me. Please guide me down here.

The first victim of human trafficking assisted by Guma' Esperansa, is a 43 year old Chinese woman who ran away from her employer after having been assaulted. This woman flagged down a passer-by who brought her to the police station. The police escorted her to the hospital due to her injuries and subsequently brought her to Guma' Esperansa for safe shelter that same day. Through the assistance of translators we learned the details of X's life in the Commonwealth. X was recruited to work as a babysitter. After working for her employer for one month in China, her employer asked X to come to Saipan to work for her. X's contract states that she was a waitress on the island of Tinian. X's CNMI Labor contract was never translated to her; she signed her contract trusting her employer's explanation to her. She arrived on Saipan in late December 2004. During her employment on Saipan, X states she worked 20 to 21 hours a day, cooking, cleaning, and babysitting. She never had a day off. She not only cleaned her employer's apartment and watched her baby but she also cleaned another apartment where other employees were staying. X was promised that she would receive \$250.00 a month and that her employer would pay all of her processing fees. She was paid twice, but deductions were taken from her salary each time; her total net pay for four months of work was about \$255.00. X was also forced to sign a promissory note saying she owed her employer for her plane ticket and processing fees. She was assaulted by her employer and others working for her employer on at least four different occasions. X begged her employer to send her home to China. X was told that if she tried to runaway, her employer would find her, "dump" her body into the ocean, and tell her family in China that she was smuggled to Guam. The criminal trial against X's trafficker has not been completed. X's trafficker is charged with one count of assault and battery. A civil case has been filed in the U.S. District Court of the Northern Mariana Islands but is stayed pending the completion of the criminal case.

In September 2005 Guma' Esperansa took in two young women recruited in the Philippines to come to Saipan to work as waitresses for three months. Both women were promised to be paid \$400.00 a month. They were brought in legally on tourist permits. These young women were never told that tourist permits would not allow them to lawfully work. The applications for tourist permits were submitted to CNMI Immigration claiming the young women were respectively the niece and the girlfriend of their male employer/trafficker. Both arrived on Saipan early in the morning and were shown to their rooms in the massage/karaoke parlor and told to rest. In the afternoon of the day of their arrival each was given a box of condoms and a box of small yellow pills. They were instructed to take one pill every day. Later that afternoon a Korean male and "Mamasan" knocked on the door of one of the young women. "Mamasan" told her that the Korean was a good man and would take care of her. This victim recounts how she was terrified and shocked when she realized what was happening. She states she started crying. The Korean male then raped her. All in all four men raped her on the first day she was arrived on Saipan. Much the same happened to the second young woman. Both women stated they pleaded with Mamasan to give them the waitress job that was promised. One of the victim's states she even begged to be a "washer woman". Mamasan threatened them if they did not comply. She told them she would turn them into the police. Mamasan told them that they needed to work as prostitutes because they owed her money, and if they didn't pay her back they would never see their families again. Mamasan took their passports and travel documents. The two young women stated they would sometimes find themselves locked inside the massage parlor. These young women stated that they were forced to work as prostitutes for almost ten days. That is until they escaped with the help of several young Filipino males they actually met in the massage parlor.

The two young women in this case were able to testify at the criminal trial against their traffickers. The traffickers were found guilty on all counts but two. They have been sentenced to three years in jail, ordered to pay an \$8,000.00 fine and to serve 7.5 years probation. They are also barred from ever hiring non-resident workers again and their business license was revoked. The female trafficker in this

case, Mamasan, a Chinese national, has been ordered deported after serving her three-year sentence. In December 2006 this particular Chinese woman was found amongst a group of 16 Chinese nationals on a boat in CNMI waters that was intercepted by local and federal authorities as the group was allegedly trying to be smuggled to Guam.

In March 2006, Guma' Esperansa began serving seven young Filipino women, two of which were still minors at the time they were rescued. It is alleged that at one time this particular club employed as many as seven minors. These young women's employer/trafficker operated two nightclubs on Saipan. In April 2006 a task force of Law Enforcement Officers rescued eleven more young Filipino women from this same nightclub. These young women were all recruited from the provinces of the Philippines with the promise of earning 500,000 Philippine pesos (about \$10,000 U.S.) to be exotic dancers at the bars operated by their traffickers. Because several of these young women were minors and/or too young to work in a bar in Saipan, the traffickers told them to get birth certificates saying they were 21 years old. With the promise of 500,000 Philippine pesos for one year's work these young women were able to secure the needed birth certificates. They then gave these birth certificates to their traffickers who used their connections in the Philippines to get passports made using the fraudulent birth certificates. Before leaving the Philippines all of these young women were forced to sign a waiver of their personal rights on Saipan. Their traffickers told them that this was for their protection. The women were subsequently locked in their barracks during nonworking hours. They were all forced to cash their paychecks in the "bar" where deductions were taken from each paycheck for such things as costume rentals, and bed sheets. One young woman told us she paid almost \$600.00 to rent her bed sheets. These young women were also forced to do more than just perform exotic dances. They were forced to perform lewd acts with customers against their will. When they complained that they did not want to perform such acts the traffickers told them that the man was a "good customer" and threatened them with more deductions from their pay or to be sent home if they did not comply. Promised commissions for "ladies drinks" were never paid.

These young women told us they thought they could be "exotic dancers" for one year. After all they were promised 500,000 Philippine pesos, a lot of money to help their families back home. These young women's employers/traffickers are being charged with 227 counts of "unlawful exploitation of a minor; involuntary servitude; sexual servitude of a minor; human trafficking; immigration fraud; unlawful exploitation of a minor; solicitation, conspiracy; transporting persons for the purposes of prostitution; employment of illegal aliens; harboring illegal aliens; aiding, abetting and encouraging illegal entry; assisting illegal aliens; and conspiracy". This is the first case charged under the Commonwealth's Anti-Human Trafficking Law. The trial is set for February 2007.

All of the women from this case are pre-certified victims of human trafficking. They are now living in apartments around the island, which are subsidized by Karidat through a U.S. Department of Justice, Office of Victims of Crime grant for service to victims of human trafficking. Despite living away from the shelter, shelter staffs are in touch with most of the women on a daily basis. Karidat assisted these women to find jobs, now most are working. Several of the women have been attending Adult Basic Education classes in order to earn a high school diploma.

On December 4, 2006 a group of seven women from China arrived on Saipan after having been recruited for work in Saipan. Each paid \$6,000.00 (US) to recruiters in China for their job in Saipan. The women understood that two were to work as commercial cleaners, two were to work in a restaurant, and three would work in a garment factory. Upon arrival in Saipan they were told that the jobs they were promised did not exist. Instead, they were offered work as prostitutes and club workers on Tinian. Six of the women sought the help of authorities the next day. The six were brought to Guma' Esperansa for safe shelter. The seventh remains with the alleged employer/traffickers. This case remains under investigation at this time. The women remain anxious and frustrated. The reality that they may return to China without being able to pay back those they borrowed money from to get the job in Saipan is always in their minds. The following is a translated statement they wrote to the CNMI Labor Department:

Dear Labor Department Staff,

One of the girls had already gone back to China. Our case had still not being processed. We are wondering what's the explanation from your side. You might say that there is not enough evidence or you are still investigating about it. At least we had the right to know what's going on. The

rest of us can only get a return ticket home. If that's the end, we'll be very disappointed.

Even though you always said that our money was cheated in China, but if there were no connection from Saipan, how could we get here? Now the Chinese New Year is coming we are all hurry up and want to be back home. But if by that time all we get are just return tickets without further follow-up, then why not just cancel our case. That will save your time!

If there is anything that we wrote above has offended you, please excuse us.

[Letter signed by the five remaining victims from this case.]

Is this the tip of the iceberg? Are these isolated cases? There is some belief on island that the women who report such schemes as discussed above say they are victims of human trafficking in order to get the benefits. Not all victims of human trafficking, contrary to popular belief, want to go to the United States. They are not looking for T-Visas, most have never heard of such a thing. Unfortunately the reality is that due to their being a victim of human trafficking it may no longer be safe to go back home. This reality is not always easy for victims to comprehend as they long to see families they left behind.

It was reported in the local media in April 2006 that from 1999 to 2005, the number of non-resident workers in the CNMI with permits to work in nightclubs and bars ranged between 456 and 679 a year, according to data compiled by the Department of Commerce. It was further reported that the government issued the most permits for these workers in 2005, at 679, an almost 10 percent increase from the previous year's 618 permits. I have had the opportunity to talk with many women over the last few years. Many recounted how they were brought to Saipan to work in nightclubs, bars and karaoke's. Many stated they discovered that when they got to Saipan their job included much more than just being a waitress. Sometimes they were locked in their barracks, some report being escorted to the store and even church. One woman tearfully shared how one day the boss told them that they would now be required to serve customers topless. She told me she refused to serve customers topless because it was not in the contract. She stated that her employer bought her a plane ticket and sent her home to the Philippines the next day. Thus sending a message to the rest of her co-workers that they must do as they are told or they would be sent home. Another woman told me how she came to Saipan to work as a waitress but she was forced into prostitution. She told me she was able to escape by befriending one of the customers who got her out of the club and eventually married her.

When I talk with community members and tell them about human trafficking and what is happening to these young women working in the night clubs the response is much the same, "Oh he's been doing that for years, or that's just the way it is." This complacency amongst community members would no doubt be different if these young women were women from the Commonwealth being trafficked into China or the Philippines. Human trafficking is not just about something that happens in far away places. It happens in our own beloved Commonwealth.

LONG-TERM EFFECTS OF CNMI LABOR/IMMIGRATION POLICIES ON THE CNMI

Perhaps an unintended consequence of the Commonwealths' desire for growth and development is where we are now with a guest worker population that exceeds that of the indigenous/U.S. citizen population. Rapid population growth and development has put stress on island infrastructure and ecosystems. City water is "on" for only a few hours a day in many parts of the island. The public school system does not have enough teachers to meet the needs of an ever-growing student population. Public health and medical services struggle to keep enough doctors and nurses on island to meet the medical needs of the general public. The Medicaid program has over 10,000 cases, and is challenged to pay the medical bills of its clients. Many non-resident workers are afraid to seek medical treatment for fear of losing their job or having their employer deduct their medical expenses from their pay. The criminal justice system is burdened with an increasing robbery and burglary rate. Perhaps this is due to the ever widening economic hardships on island and the competition for a limited number of jobs.

The number of undocumented workers and workers who are "sponsored" living in the Commonwealth ranges from 500 to 5,000 depending on who you talk to. Some in the Commonwealth will make the charge that the United States has a lot of undocumented workers too. While this is true, the situations are not really similar. Unfortunately, the islands of the Commonwealth do not allow an undocumented worker to move from freely from island to island to find work. The undocumented worker cannot make it back across the border to his or her homeland. Unfortu-

nately, he or she remains on island, most living in plain sight of Commonwealth authorities. Nearly all undocumented nonresident workers in the Commonwealth have children born in the Commonwealth. These children attend Headstart and the public schools. If one of the parents is legal they may try to apply for Medicaid health insurance and food stamps for the children. One must also realize that the majority of the non-resident workers brought to the CNMI are of childbearing age. According to the 1995 Census 95% of the CNMI workforce is a "Guest Worker" or non-resident workforce. Just over half of the CNMI population is of Asian descent; this group is predominately individuals from the Philippines, China, Thailand, and Korea. There is a "melting pot" of guest workers that eagerly come to the Commonwealth seeking a better wage in order to care for their families back home.

Employers within the Commonwealth can readily seek non-resident workers from nearby Asian countries. While it is seemingly easy to bring in guest workers to the Commonwealth, on the other hand it seems very difficult to repatriate these workers to their home country when entry and work permits are expired and the workers are in hiding. Many non-resident workers claim that they have not been paid or have been abused by their employers thus there is an overwhelming backlog of labor cases. Some of these claims may be frivolous but others describe very real violations of human rights and/or of the Fair Labor Standards Act. The sheer number of labor cases to be reviewed and adjudicated is overwhelming. Contract workers continue to be stranded as they wait for employers to pay their back wages and provide them with plane tickets to go home. This may very well lead to exploitation of stranded workers already in the CNMI by unscrupulous employers, illegal sponsors, and human traffickers.

Bishop Tomas A. Camacho wrote so eloquently to all the people in the Commonwealth in his pastoral letter on human rights on the feast of St. Joseph the Worker, May 1, 2006. Bishop Camacho reminded this predominately Roman Catholic community, both resident and non-resident, of Catholic teaching on human rights and justice. If I may paraphrase Bishop Camacho's pastoral letter: ". . . Catholic social teaching emphasizes that no society can be considered truly prosperous if it neglects the needs of the poor and vulnerable". Karidat faces challenges on an almost daily basis to meet the needs of the poor and vulnerable in the CNMI society. Resident and non-resident alike deserve to be treated with respect, dignity and justice.

Many in the Commonwealth are afraid to speak out, for fear of reprisals to themselves or family members. I believe it is a matter of conscience. The abuses described above are not representative of indigenous values nor of Catholic social justice. If we do not speak out to correct the wrongs in our islands we will lose who we are as Chamorros, Carolinians, and Americans.

The CHAIRMAN. Thank you very much. I appreciate you being here and I appreciate Sister Stella and Kayleen Entena being here as well. Did either of you wish to make a statement or are you here to answer questions?

STATEMENT OF SISTER MARY STELLA MANGONA, SISTERS OF THE GOOD SHEPHERD

Sister MANGONA. I gave a written testimony. I am in support of what Miss Lauri Ogumoro has just said regarding the CNMI.

My role as a Good Shepherd Sister is to work with a number of non-resident workers, citizens in the community, and my work has called me to appreciate the Island. My mission is still to respect, to appreciate the beautiful culture of respect, but I am here in order to appeal to everybody to do something for the best interest of the Island, of the people of the CNMI. It has suffered such negative reputation based on the conditions existing in sweat shop garment factories which were exposed in 1990's. There has been some improvement, but one of the things that is close to my heart is the recent immigration policy has created a permanent type of third-class citizens of non-resident workers who remain non-resident workers, disenfranchised and without any rights, because they remain so.

As a human rights advocate I applaud some of the local labor departments' serious and timely investigation of the abuses that have been mentioned by many of the speakers. As a human being though, I do think logically that I'm mystified by why these particular workers were permitted to enter CNMI at all. I'm talking about the non-resident workers. One garment factory after another has been closing throughout 2006, as has been mentioned. But some companies continue to employ new workers; the question is why is this continuing? The companies didn't need new workers. It made more work for labor to investigate and repatriate them. They create a burden on CNMI society at large while they are unemployed and are waiting for the labor cases to be heard and settled, since in many cases they need to rely on charity for their basic support. The greatest suffering, however, is of course imposed on the individual non-resident workers who came with the dream to help their families back home. It would appear then that the only ones benefiting are the unscrupulous recruiters in the home companies.

So I would like to quote from Bishop Tomas Camacho's Pastoral Letter on Human Rights, issued in Saipan on May 1, 2006, because I am here to appeal that we may do the best we can for the CNMI citizens, non-resident workers and everybody that lives there, and we all advocate. I'm an advocate for human rights. "Some may feel that desperate times justify desperate measures to bolster the economy or simply to provide for our families. We must avoid this temptation in the light of Catholic teaching and human rights and justice. We must never exploit our fellow human beings nor sacrifice the rights on the altar of prosperity. Indeed Catholic social teaching emphasizes that no society can be considered truly prosperous if it neglects the needs of the poor and vulnerable. If our community allows human rights abuses they will continue to happen. If our community as a whole does not tolerate abusive activities they will stop."

I have shared my experiences, similar to experiences of Miss Lauri Ogumoro, only to provide information and insight into the conditions of contract workers and families in the CNMI. I believe the time has come for us in the light of the gospel to proclaim freedom for prisoners, recovery of sight for the blind and relief for the oppressed. Let us then have the courage to earnestly seek what is best for all people without respect to wealth or power. May justice reign in the CNMI that we may repair our tarnished international reputation. Thank you.

[The prepared statement of Sister Mary Stella Mangona follows:]

PREPARED STATEMENT OF SISTER MARY STELLA MANGONA, SISTERS OF THE GOOD SHEPHERD

My name is Sr. Mary Stella Mangona. I was born in the Philippines and became a naturalized citizen of the United States in 1992. I am a licensed Marriage and Family Therapist with an M.A. in Psychology from the Ateneo de Manila University in the Philippines. I also received training in Pastoral Counseling at Loyola University, Chicago. I have been employed since 1999 by the government of the Commonwealth of the Northern Mariana Islands (CNMI) as a mental health counselor with the Department of Public Health, Community Guidance Center. I am, however, attending these hearings of the United States Senate Committee on Energy and Natural Resources not in my capacity as an employee of the CNMI government but in my role as a Catholic Religious Woman, as a delegate of His Excellency Bishop Tomas A. Camacho of the Diocese of Chalan Kanoa. I am here primarily to offer support to other members of the Bishop's delegation and to assist with translation

from Tagalog, if necessary, for a victim of human trafficking who will be testifying before the Committee on February 8, 2007. I am also grateful for this opportunity to offer written observations particularly in regard to issues of labor and immigration in the CNMI. I will try to describe the life situations of many of my clients without advocating particular solutions.

I have been a Sister of the Good Shepherd for more than 40 years, that is, a member of a Roman Catholic international order of religious women with ministries spanning 71 countries including the CNMI. Good Shepherd work throughout the world is directed by the Church's teachings on Social Justice, with a special emphasis on advocacy for human rights and upholding the dignity of each individual. Our mission is especially to girls and women who are marginalized in society. I have been living and working on Saipan since 1999, when my Provincial Superior encouraged me to move from Guam to follow up on rumors about female victims of human trafficking and to find out whether we could provide assistance or intervention. My position with the CNMI Community Guidance Center has enabled me to work closely with other service agencies like Karidat (the local equivalent of Catholic Charities), Division of Youth Services, Public School System, Probation Department and the Department of Corrections. At times I have been approached by the Bishop, by parishioners referred contract workers, and by non-resident workers themselves as they feel I can be trusted with sensitive information in my capacity as a Religious and a counselor. My individual and family counseling sessions have been with both local population as well as other ethnic groups living in the CNMI. Outreach programs and educational presentations have touched on a large number of issues particularly domestic violence, human rights advocacy with non-resident workers, the rights and responsibilities of overseas workers (particularly to Filipino groups, given my background and ability to speak Tagalog), sexual abuse of children, depression and anxiety, and trauma recovery and empowerment for victims of human trafficking and sexual assault.

My mission on island makes me appreciate the beautiful culture of "respetu" of elders and family members. This tradition, which is also a Filipino value, has inspired me to extend the respect and honor to other members of CNMI society who may not be citizens. I have supported the laws and customs that reflect Catholic social teaching that emphasizes treating one another with dignity and justice based not on social position, achievements, wealth, or any other determinants. In my eight years here in the CNMI, I have met many persons in the public and private sectors who work tirelessly for the protection of the poor and vulnerable. These individuals' valiant efforts on behalf of specific victims of exploitation and discrimination, however, have not stemmed the tide of new problems. I see two prongs to this difficult situation. On the one hand, there are overt violations of human rights, mainly in the areas of non-payment of wages, hostile workplace practices and the illegal termination of workers who try to bring such conditions to the attention of authorities. Such incidents continue to be reported at an alarming rate, but at least these workers do have some recourse through local laws and Federal mechanisms such as the Fair Labor Standards Act and the Equal Opportunity Employment Commission (EEOC). On the other hand, there are many others—especially women and children—who are consigned to degrading living conditions and vulnerable to various sorts of scams purported to improve their status but in fact only benefiting the enterprising operators who prey upon them. It is my observation that these women and children are victims of unintended consequences of the "guest worker" immigration program of the CNMI.

The CNMI has suffered from a negative reputation based on the conditions existing in "sweat shop" garment factories which were exposed in the 1990's. Indeed there were heinous abuses at the time. Complaints were filed. Due process, along with the pressure generated by high-profile news media (the 20/20 story, for example), resulted in dramatic improvements. Changes were mandated. Some of the worst violators closed their CNMI factories. By 2003, I had seen a significant change in amelioration of the problems presented. The information about improvements in working conditions, however, never received the same level of publicity as the reports of the original violations. Among those relatively few people who even know of the existence of the CNMI, even to this day the reaction to mention of Saipan tends to be something along the lines of "Isn't that that terrible place with all those sweat shops?" Not surprisingly, this has engendered a defensive stance in industry and government. While it is true that some negative publicity from outside our Islands is based on out-dated information, the result of the defensive posture is that current legitimate concerns are downplayed by the insistence that progress has been made since the 90's or that any given report is an isolated case. The climate is not conducive for productive dialogue and search for systemic solutions to serious and

ongoing problems. Policies which are harmful not only to non-resident workers but to indigenous people remain in force.

I want to emphasize that my concerns pertain to “the system” as a whole, not to any particular department. The Labor and Immigration Departments are technically separate, but they are housed in the same building and their functions blur together. Because the guest worker population is currently larger than the resident population, the vast majority of incidents involve both labor and immigration because the issues are inextricably linked.

A CURRENT EXAMPLE OF A LABOR CASE INVOLVING A GARMENT FACTORY

From the Marianas Variety, February 2, 2007

Concorde Garment Manufacturing Corp. and L&T Group of Companies fraudulently induced 48 of its 1,406 former employees to sign contracts by hiring them even though the companies knew they were going to close the factory, according to the Department of Labor. Labor also found other violation of labor-laws and rules by Concorde and L&T, including their conditional renewal of contracts upon workers' payment of recruitment fees of up to 3,800 Chinese RMB or some \$489. These were among the findings in the compliance agency case filed by Labor on behalf of 1,406 former Concorde and L&T employees, according to an 'amended determination' issued on Monday by Labor Director Robert N. Magofna and reviewed by Assistant Attorney general Dorothy Hill. . . .

'It is the department's position that because respondents took affirmative steps to bring these employees to the CNMI after they knew, or should have known, that they were not going to be able to fulfill the terms of their contract with these workers, they fraudulently induced these employees to contract. As such, the department cannot approve these terminations as undertaken in good faith for economic necessity,' said Labor.

A labor investigation found that as early as Sept. 26, 2006, the respondents' corporate management in Hong Kong decided to implement a significant reduction in force of its Saipan operations, effective January 2007, and this was conveyed to senior management in Saipan in early Oct. 2006. However, Concorde's 48 new hires from China entered the CNMI on or after Oct. 28, 2006 and the last four arrived on Nov. 4, 2006.

As a human rights advocate, I applaud the local Labor Department's serious and timely investigation of these abuses. A step towards justice for the defrauded laborers—good! As a human being who tries to think logically, however, I am mystified why these particular workers were permitted to enter CNMI at all. One garment factory after another has been closing throughout 2006. As of October 2006, there were already hundreds, if not thousands, of displaced garment workers on Saipan, seeking transfers to those factories still operating. Even assuming that Concorde had been financially thriving and legitimately in need of augmenting its workforce, why was it authorized to import workers from off-Island rather than recruiting from the existing pool of experienced, unemployed garment workers already here? That is a question that everyone I know has been asking. It doesn't seem to make any sense. The companies didn't need the new workers. It made more work for Labor to investigate and repatriate them. They create a burden on CNMI society at large while they are unemployed and/or waiting for the labor cases to be heard and settled, since in many cases they need to rely on charity for their basic support. The greatest suffering, however, is of course imposed on the individual non-resident workers, who came to the CNMI with their dreams of helping their families back home, only to find they had wasted their resources and worsened their situations. It would appear that the only ones benefiting are the unscrupulous recruiters in the home companies. Why then did Labor and Immigration allow them to come in?

WHAT DOES “TEMPORARY” MEAN?

The establishment of the garment industry in the CNMI opened the door for non-resident workers to come and help because of the lack of local labor force. Non-resident workers are commonly called “contract workers”—both by themselves and by the local residents who hire them. This designation reflects the understanding that these alien workers are supposed to be in the Commonwealth on a temporary basis, according to the terms of their contracts (usually for one or two years). Since the contracts can be renewed, however, there are a substantial number of non-resident workers who have remained in the CNMI on a more or less continuous basis for 15-20 years. This has effectively created a permanent underclass of disenfranchised persons. If you have lived somewhere for 20 years, it really is your home, but these

workers have no official status of belonging. They are valued employees with stable employment histories, U.S. citizen children going to public schools, deep roots in the community, but no possibility of adjusting their year-to-year vulnerable, temporary status except by marrying a local person. In my counseling caseload, I encounter approximately 5 cases each year involving "contract marriages," where non-resident workers marry a U.S. citizen after the payment of a fee. I believe that the ones I actually see are only the tip of the iceberg. I do not wish to imply that the problem of contract marriages is unique to the Commonwealth, although I think that due to our small population, there may be a greater proportion per capita as compared with the U.S. mainland.

The long-term "temporary" alien workers described above are here legally; their contracts are regularly renewed, or they transfer to new employers and the proper papers are filed to establish new contracts. But what about those workers whose contracts are not renewed? The expectation of the non-resident employee system would be for all workers to return to their home countries upon the conclusion of their contracts. The employer of record is required to provide the return ticket. There is, however, a 45-day grace period during which the individual can seek to transfer to another employer. Perhaps during the boom years of economic expansion, this provision worked effectively. When there were plenty of jobs to be found, displaced workers could find new legal employers. The system is definitely not working well now. It is difficult for anyone to find a new job. Many people "go underground" by the end of the 45 days. They do not report to their original employer for the ticket back. They become over-staying aliens subject to deportation, essentially hiding in plain sight. They eke out an existence, and they stay, sometimes for years. A peculiar problem arises when an over-staying alien happens to die in the Commonwealth. Who is responsible for the funeral or repatriation of the body? I have personally known of three such cases where the body stayed in the morgue for months because nobody claimed responsibility and there was no mechanism to assign it.

There does not appear to be any reliable answer to the question of how many undocumented persons currently reside in the Commonwealth. The Department of Labor recently published a list of 1,001 names, but it included some who have already departed and others who can prove that they have legal status. My Filipino clients and friends have also informed me that they know of many "illegals" whose names do not appear on the list. What does this imply about the accuracy of the tracking system?

DISPLACEMENT OF LOCAL WORKERS

The establishment of garment factories on Saipan necessitated the availability of thousands of workers, which led to the inauguration of the guest worker program. Labor laws and policies are very clear that CNMI residents (often calls "locals") and their immediate relatives (IR's) have preference in hiring. Employers are only permitted to hire a non-resident worker after they have demonstrated that they tried to recruit from the local labor force but no suitable applicant was available. I have personally assisted many women to look for employment and I have learned that this policy is widely circumvented. On any given day, there are a number of "help wanted" ads in the newspapers. Telephone inquiries about the vacancies, however, elicit the response, "It's only a renewal," meaning that a non-resident worker's contract is expiring and is about to be renewed. The employer duly advertises the position, giving the appearance of following the law, but without the intention of allowing for possible recruitment. The "vacancy" is actually a "no vacancy." This is very disheartening for local and IR women who need to be able to support themselves and their children so they can separate from abusive spouses and common-law partners. The lack of good-faith recruiting can be reported to the Department of Labor, but gaining a reputation as a "troublemaker" will not endear the applicant to the prospective employer. It is often said that local people are unwilling to work in minimum wage jobs for \$3.05 an hour. My observation is that few locals are ever given the opportunity to test their willingness. It is more expedient for employers to hire non-residents who are both less likely to know their legal rights and less able to resist exploitation.

CATHOLIC SOCIAL JUSTICE TEACHING

In conclusion, I quote from Bishop Tomas A. Camacho's Pastoral Letter on Human Rights, issued on Saipan on May 1, 2006.

Some may feel that desperate times justify desperate measures to bolster the economy or simply to provide for our families. We must avoid this temptation in the light of Catholic teaching on human rights and justice . . . We must never exploit our fellow human beings nor sacrifice

their rights on the altar of 'prosperity.' Indeed, Catholic social teaching emphasizes that no society can be considered truly prosperous if it neglects the needs of the poor and vulnerable. . . .

If our community allows human rights abuses, they will continue to happen.

If our community as a whole does not tolerate abusive activities, they will stop.

I have shared my experiences to provide information and insight into the conditions of workers and families in the CNMI. The CNMI is a beautiful place with proud and ancient traditions for its residents and offering hope to those non-resident workers who continue to seek opportunities on these Islands, but our tarnished international reputation is like a deep wound with a small band-aid on it. Let us have the courage to earnestly seek healing. I believe the time has come for us, in the light of the gospel, "to proclaim freedom for prisoners, recovery of sight for the blind, and release for the oppressed."

May justice reign in the CNMI!

The CHAIRMAN. Thank you very much. I appreciate your statement. Kayleen, did you wish to make a statement also? If so, you're welcome to do that.

STATEMENT OF KAYLEEN D. ENTENA, RESIDENT, THE PHILIPPINES

Ms. ENTENA. Good morning. I am Kayleen Entena. I want the CNMI government and immigration official to revise or make their requirements stricter, especially for entering Saipan, Tinian, and Rota. I am hoping that this kind of illegal system will stop, the way it happened to me, the way I was treated. I do not want this to happen to anyone. I know that there are other women out in the community like me. They are just afraid to speak out because they don't know where to go or just because they have to support their family back home. Please help change the way the government functions here on the CNMI. The way it is so easy to bring people from the Philippines and force them into prostitution like me. If there's no change in the system and the people who are doing this are not held responsible for their actions, no matter where they are from—China, the Philippines or even Saipan—then it will continue to happen to innocent victims like me. I hope you will hear my wish. I am thankfully grateful.

[The prepared statement of Ms. Entena follows:]

PREPARED STATEMENT OF KAYLEEN D. ENTENA, RESIDENT, THE PHILIPPINES

My name is Kayleen D. Entena. I am 23 years old; I am from Laguna Province in the Philippines. Laguna Province is about two hours by bus from Metro Manila. I am the eldest child in my family. I have four brothers, my father passed away when I was in elementary school. My mother works sometimes as a housekeeper. When I was recruited in the Philippines for work in Saipan in September, 2005, I was excited about the opportunity to work abroad. I was promised to be paid \$400.00 a month to work as a waitress, they told me I would be working in a restaurant. I was looking forward to earning money to help my family and to go back to college. My Mom did not want me to go to Saipan. She was worried because everything happened so fast. I told her I wanted to go because I trusted what Sir Ed and Arnel were telling me.

I arrived on Saipan early in the morning. Sir Ed was on the plane with us from the Philippines. His wife met us at the airport. She told us to call her Mamasong. They took us to the restaurant; they showed me to my room and told me to take a rest. Later in the afternoon when I woke up Mamasong came to my room and gave me a box of small yellow pills and a box of condoms. She told me to take one pill everyday, she told me it would make me feel good and that the pills were for my health. I did not question the box of condoms because I did not look inside the box when she gave it to me.

I remember after about one hour Mamasong knocked on my door she was with a guy, I think he was a Korean: Mamasong told me to massage him. I was shocked. I did not know what kind of massage. Mamasong left. I started massaging they guy's back, he told me "not that kind, I already paid Mamasong", then he said you "give me satisfaction". I did not know what I was going to do, I was scared, I started crying, I told him, "I don't like, I don't like", he then started to rape me. I started crying, the man complained to Mamasong, he told her "your girl is no good", he wanted a "yellow massage", which is having sex with a guy. Four men raped me in this same way on my first day in Saipan.

This kind of thing went on for almost ten days to me and the other girl from the Philippines. We tried to run away twice, but they were always at the front, we did not have a chance to get out. Mamasong told us if we tried to leave she would call the police. We were very scared. We begged Mamasong to give us the jobs that they promised us in the Philippines. Mamasong was really mad; she told us if we are only waitresses we would not make enough money to pay for our plane tickets and passport. I wanted to kill myself, but the girl with me told me "don't do that, we came here together, God is here with us and He will help us, He will not forsake us". She told me we have to be strong. She said, "I have a son and I need to be strong because of my son. You, you are the eldest in your family so you need to be strong too. When we have the opportunity we will run away".

We asked everyone that came into that place to help us. Most said they were scared they did not want to get involved. Finally a young guy, 21 years old, who was half Chamorro/half Filipino and his friends, helped us. His friends were young too; one of them was only 16 years old. Mamasong served them drinks. I did not know that if you are only 16 years old you are not allowed to drink in a bar. When a group of Japanese customers came into the bar we decided it was the right time to run away, but Mamasong saw us, and we went back inside. Later that same night when Mamasong was busy with the customers we ran away and kept on running to where the young guys told us to meet them. The guys were waiting for us; they took us to one of their houses. One of the guy's mom helped us, we told her our story and she called Immigration. Finally they took us to Karidat. I am not sure what would have happened to me if all these people didn't help me.

I want the CNMI Government and Immigration officials to revise or make their requirements stricter especially for entering Saipan, Tinian, and Rota. I am hoping that this kind of illegal system will stop, the way it happened to me, the way I was treated. I do not want this to happen to anyone. I know that there are other women out in the community like me. They are just afraid to speak out because they don't know where to go or just because they have to support their family back home. Please help change the way the government functions here on the CNMI. If there's no change or people are not held responsible for their actions then it will continue to happen to innocent victims. I hope you will hear my wish. I am forever grateful.

The CHAIRMAN. Thank you very much. Thanks for being here and thanks for your statement. Our final witness today is Mr. Juan Guerrero, who is the spokesperson and President of the Saipan Chamber of Commerce. Go right ahead, please.

**STATEMENT OF JUAN T. GUERRERO, PRESIDENT, SAIPAN
CHAMBER OF COMMERCE**

Mr. GUERRERO. Hafa Adai. Mr. Chairman and members of the committee, I am Juan Tino Guerrero, current president of the Saipan Chamber of Commerce. I represent the Chamber's 151 members and I thank you for the opportunity to address this committee on the issue of potential extension of Federal immigration labor law to the Commonwealth of the Northern Mariana Islands.

The Chamber of Commerce's written testimony more fully outlines our belief and concerns. What I'd like to specifically address today is what effect the contemplated legislation will have on the Commonwealth's ability to survive the challenges ahead of us. In the Chamber's written testimony we attempt to provide this committee on the overall sense of life on the remote island, the depressed state of our economy and the likely consequences of losing local control immigration and the minimum wage. Over the past 3

years we have lost a quarter million seats of inbound passenger capacity as a result of our two largest carriers canceling all service to and from our largest source of inbound tourists, Japan. Visitors' arrivals from Japan has declined 28 percent. Overall tourist arrivals have decreased by more than 16 percent. If it were not for the China, Russia and South Korea markets, overall tourist numbers would have been as bleak as the Japanese numbers. We no longer have jet service to Guam, Hong Kong or Taiwan. Our only hope for a rebound in tourism at this point is for the CNMI to remain accessible to countries whose citizens are not currently able to enter the U.S. mainland under the Federal Visa Waiver Program.

The second important aspect of the Commonwealth's ability to control immigration of the local labor relates to our ability to fulfill necessary jobs on our Islands both in terms of numbers and in terms of skills. Even at the preventing of United States' minimum wage, very few people who work in the mainland would choose to live and work in the CNMI, because of their very real inconvenience and cost considerations discussed in our written testimony. Therefore in order to compete with our mainland, our actual wages would have to be far above the Federal minimum wage, or more to the point, the prevailing wage for similar jobs. This, in addition to the already higher cost of both capital goods and consumer goods, would price us right out of the market. We must have access to foreign workers to whom CNMI wages and standard of living represent an attractive alternative to that in their home countries. With the imposition of the Federal immigration this would no longer be possible. Related to this matter of minimum wage, most members of the Chamber of Commerce do not agree generally with an increase in the minimum wage, but do believe that 140 percent over a 48-month period is too much and too fast, especially compared to proposed increases to historical United States minimum wages and considering this is an economy that has been shrinking for 10 years and is now in a depression. We generally favor a creation of a Federal wage review board and a gradual increase to the local minimum wage in a manner that would not lead to the collapse of our fragile economy. The imposition of Federal minimum wage law and immigration law would remove two of the only tools that the CNMI possesses to shape its economy and its future.

We do believe the Federal, technical and financial system would enhance enforcement of our local laws. We hope that the U.S. Congress will acknowledge the uniqueness of our community and our economy and we invite you to visit our Islands in order to better understand the true essence of our people. The unique challenges, both natural and man-made, that we face.

We do not believe that much of what you have read or heard through the media clearly or accurately represents who we are or the true state of affairs in the Commonwealth. We look forward to the opportunity to work together to reach an agreement on this important issue in ways that answers the concern of all interested parties without destroying our local economy. Also, Mr. Chairman, with me today is Alex Sablan, the vice president of the Saipan Chamber of Commerce; Marion Piece, president of the DFS Saipan; Robert Jones, who is also a local businessman and chairman of the Strategic Economic Development Committee; and Josephine Nes-

tor, from Hyatt, also representing the hotel association. With that Mr. Chairman I want to say thank you and Si Yu'us Ma'ase.

[The prepared statement of Mr. Guerrero follows:]

PREPARED STATEMENT OF JUAN T. GUERRERO, PRESIDENT, SAIPAN CHAMBER OF COMMERCE

Hafa A dai, Mr. Chairman and Members of the Committee. I am Juan T. Guerrero, current president of the Saipan Chamber of Commerce. I represent the Chamber's 151 members and am honored by the opportunity to address this Committee on the issue of potential extension of federal immigration law to the Commonwealth of the Northern Mariana Islands.

INTRODUCTION

The Chamber, along with your Committee, is keenly aware of the lengthy history of the subject matter before the United States Congress. The Chamber believes that: (1) the Commonwealth's resident labor pool is inadequate, both in terms of population and skill, to adequately answer the needs of businesses in the CNMI; (2) "federalization"—of either CNMI immigration laws or minimum wage laws will not solve, but, rather, will exacerbate that problem; (3) the laws of the Commonwealth are adequately designed to protect the interests of the islands, the United States government, and non-resident workers; (4) enforcement, which as a general rule never fulfills all of the hopes of the drafters of any legislation, has continued to improve since the last time this Committee visited the issue at hand; and (5) specific allegations designed to cast a cloud over the CNMI's ability to manage its internal affairs, rest on outdated, untrue, sensationalized, or aberrant facts.

DISCUSSION

While the Commonwealth is similar to many islands inasmuch as it does not have the land mass, population, or ready access to markets required to host a diverse economy, it is unique in many ways, including: it does not enjoy the economic backstop provided by America's military machine, as does Guam; the islands' tourism base is not made of 2.6 million mostly western vacationers and we are not home to one of the world's largest petroleum refineries, as is the United States Virgin Islands; we do not enjoy anything near the per capita federal subsidization of American Samoa.

The Commonwealth is unique to the United States, even in the context of the "insular areas." The CNMI economy has, for the past 29 years, been comprised almost exclusively of Asian-sourced tourism and garment manufacturing. "Almost exclusively" is meant in the very real sense of approximately 85 percent of the islands' total economic activity and 96 percent of the islands' exports, according to a 2006 General Accountability Office report. It is easy to criticize, as many in the United States have done over the years, a community for allowing its economy to become dependent on only two revenue streams. What is less easy to offer are alternatives to a people whose capitol island is 46 square miles of land, over 6,000 thousand miles of open ocean from the west coast, accessible only by a grueling journey involving a minimum of 13 hours of air travel in addition to between 6 and 12 hours of layovers. Small population base, even smaller worker base, difficult and expensive access, phenomenally higher prices for basic staples of life shipped or flown from thousands of miles away, few sources of naturally-occurring potable water, often visited by destructive typhoons—this does not describe a locale to which many mainland-based industries, or employees, aspire to relocate.

Under the best of circumstances, travel and shipping to and from the Commonwealth and the cost of goods affected thereby present a challenge to daily life. Our current economic situation, however, is far from being "the best of circumstances." Passenger jet air service now consists of two flights daily to Japan on Northwest Airlines, following the termination within the last two years of scheduled air service by Japan Airlines and Continental Airlines. These terminations reduced the annual number of passenger seats into the CNMI by over 200,000. We have one flight daily to Seoul on Asiana Airlines, and one flight twice weekly to Manila on Continental Airlines. The remaining flights to and from our islands are passenger propeller aircraft with limited cargo capacity, and serve mainly as commuter flights to Tinian, Rota, and Guam. Lack of competition brought about by the relatively small (and shrinking) market has had the expected effect on prices and availability, both for passenger transportation and shipping. Pricing of and the ability to send cargo by waterborne transport have also taken dramatic turns for the worse in recent years. One of the three shipping companies that provide direct service to the islands from

Asian ports has ceased all CNMI operations. The remaining carriers are currently considering a reduction in port calls. The CNMI has also seen inter-island container carriage to and from Guam reduced from twice-weekly to once-a-week service. This contraction in the shipping market has been accompanied by an average across-the-board 25 percent cost increase due to fuel price escalation and diminished outbound garment volume. By way of example, a refrigerated freight container sent from the United States mainland was priced at \$5,580, just two years ago. Today, the same container costs \$7,600 on average.

The now ten-year-old recession, originally visited upon the CNMI in the wake of the 1997 Asian financial markets collapse, has taken its toll on the economic landscape of the islands. The 40 percent decrease over the past ten years in tourist arrivals coupled with the more recent reduction of more than 50 percent in the garment industry has had a massive impact on the local market. The implementation of a (admittedly necessary) ten percent decrease in government payroll by the current administration, a 100 percent increase in the cost of power for consumers, a mass exodus of workers (both local and foreign), and the ever-increasing cost of goods and services, have resulting in economic turmoil that would be further, and likely irrevocably, exacerbated by the implementation of federal minimum wage and immigration laws at this time. The local business community has estimated that federalization of the Commonwealth's immigration as proposed in the form of S-1052 would have the effect of slashing the local economy by approximately 50 percent. Any hindrance of the Commonwealth's attempt to rebuild and sustain a viable and diverse visitor base from Japan, South Korea, China, Russia, the Philippines, and other Asian countries would ruin the islands' hopes for any economic rebound. Competing with such island destinations as Guam and Hawaii, the CNMI, because of its size and limited diversity of attractions, increasingly must rely on its ability to attract tourists from countries such as China or Russia, where the availability of passports to the average citizen on a wide-scale basis is a recent development. This diversification is especially important as the average Japanese and Korean traveler is becoming increasingly worldly, sophisticated, and in search of destinations with greater perceived "status."

Over the past ten years, the Commonwealth has experienced a decline in U.S. citizen/local labor force participation. This should not be surprising. The size of the average Chamorro and Carolinian family has decreased steadily as the CNMI becomes more culturally "westernized." In the past ten years, children of the very residents who were just young adults at the time of the Covenant signing have begun to move to the mainland for further education and employment opportunities in numbers never before seen, as their parents and grandparents for the most part had neither the financial ability, the need, or the impetus to do so. The limited employment and advancement opportunities (even if the minimum wage were commensurate with the mainland) for those with advanced degrees in what is becoming, at heart, primarily a service economy, is a determining factor in the current decision for many of the younger generation to relocate.

Any substantial across-the-board decrease in the availability of affordable foreign labor would negatively impact the local economy, even if such a decrease was phased in over a number of years. As noted above, the local labor pool is inadequate, under any scenario, to fill the number of jobs currently held by non-resident workers. Although individuals may prefer to remain close to their families, especially when visits require lengthy and expensive travel, they also place great weight on economic considerations in choosing where to live. It is difficult to rationalize living in a relatively inaccessible, small island community, where the cost of living is 25 to 30 percent higher than the mainland U.S. and comparable income is far lower, even when close familial ties are factored in. Individuals who might choose such living and working arrangements are, for the most part, individuals whose alternatives are less attractive. Those individuals are not United States citizens. Those individuals are foreign nationals.

One popular misconception is that repatriated foreign workers can simply be replaced by workers from the mainland. Those unfamiliar with realities of island life might pose the question: why not employ United States citizens from the mainland to staff the economy? The fact is that some do come to the islands—but many individuals from the mainland who move to the islands for employment reasons find adjustment difficult and do not remain long after their initial enthusiasm wears off. Usually, disenchantment of one spouse or the other is likely to result from one or more of the following: high cost of living compared with the United States, particularly for utilities and food; limited and expensive supply of fresh fruit, vegetables, and other refrigerated foods; perceived limited medical facilities or educational opportunities; inability to adapt to a different environment; limited employment opportunities for a spouse; the expense of moving household effects vast distances and

the cost of re-establishing one's household; limited opportunities for professional growth; hot and humid climate; separation from family members on the mainland and the expense of returning for frequent visits. The Commonwealth is a service-oriented economy with limited opportunities for many professions; opportunities for cultural enrichment are limited; there is no public transportation; there are water shortages and power outages and, in some cases, special medical needs cannot be met in the islands. Once again, those individuals with the options available to them that abound in the mainland are less likely to endure perceived or actual inconveniences than those whose living conditions in their home countries may be similar or, likely, worse.

One notion that the Chamber finds particularly disturbing is the oft-repeated characterization of the CNMI minimum wage as being a "slave labor" wage. In 2005, non-resident workers remitted to their home countries over \$114,000,000 of wage income. This represents 12 percent of the gross territorial product of the CNMI and a phenomenal percentage of the overall net wages of non-resident workers. While the Chamber agrees with a measured increase in the CNMI minimum wage after thoughtful analysis, this must be done with a realization and acknowledgement that the current minimum is not akin to slave labor, as evidenced by the massive amount of wage dollars annually exported from the islands.

In addition to the need for affordable labor, the CNMI also relies on local control of immigration to fuel the less-criticized second half of the driving force behind the local economy: tourists. Tourists from countries requiring visas under United States immigration policies represent over one-third of all tourist arrivals in the CNMI. The CNMI government is aware of national security and other concerns raised by issues relating to visitors from such countries. The Chamber believes that the LEEDS system currently in use by the CNMI Division of Immigration has resulted in far fewer illegal visitor "overstays" on a percentage basis than is the case in United States mainland. The Chamber is also aware that it has been the choice of federal agencies not to share relevant information with the CNMI concerning undesirable visitors.

The Chamber believes that local immigration laws have been enforced with increasing efficiency over the past several years. The Division of Immigration's enforcement of policies and practices that are very similar to the federal immigration policies and practices of the United States has led to increasingly effective processing and tracking of those who enter the CNMI as tourists. The Commonwealth's border management system, visa waiver program, and visitor entry permit program are, the Chamber believes, extremely effective tools for ensuring the entry of qualified, legitimate foreign visitors. Similarly, the Chamber believes that the CNMI's refugee and asylum program, which was implemented with federal approval and oversight, is a fair and efficient process for handling such matters in means consistent with United States international obligations. The Chamber believes that the effectiveness of the immigration processes in place could be further improved if relevant federal agencies agreed to share information with the local Division, but understands that those agencies have declined to do so to date.

Similarly, local labor law is fully consistent with federal labor law, in its entirety, with the sole exception of the minimum wage provision. In addition to compliance with all federal standards, CNMI labor law contains special protections for foreign workers that are not available in the mainland. All foreign workers are employed pursuant to contracts, each of which is approved by the Department of Labor—that is, no foreign workers are employed "at will." Furthermore, local law mandates that employers provide for repatriation of foreign workers at the conclusion of their employment, it requires employers to cover all necessary medical costs incurred by their employees, it provides for foreign workers dispute resolution mechanisms that are not even available to the local workforce, and includes protections to ensure that foreign workers' due process rights are protected. Perhaps the only downside to a program that so comprehensively protects the rights of foreign workers is that it has led to instances of "copycat" complaints by workers who believe that the Department's rigorous enforcement of the rights of aggrieved employees might be an effective alternate means to obtaining financial security. The Chamber believes that in many ways, the CNMI's labor laws, regulations, and policies for foreign workers offer greater protection than those same workers would qualify for in the United States mainland. By way of example, it has been noted that there is no guarantee that a domestic worker complainant of abuse in the United States mainland would be allowed to remain and seek legal redress. This is not the case in the Commonwealth, where regulatory mechanisms afford such workers rights to remain and seek alternative employment, while adjudicating a legal action, if they so desire.

If there is one area that the Chamber believes could be improved upon with respect to the issues at hand, it is enforcement. This is not meant to suggest that local

enforcement efforts have been ineffective—they have, if anything, improved significantly in recent years—but, rather, Chamber members perceive enforcement agencies to be underfunded and understaffed. While the Chamber is fully satisfied that local laws concerning labor, immigration, and minimum wage are appropriate and adequate to address the needs and concerns of the Commonwealth, the federal government, and nonresident workers (as does the Federal Ombudsman’s Office, which noted that the relevant local laws and regulations “give the CNMI Department of Labor all the tools it needs to fulfill its mandate”), the Chamber would not be opposed to federal technical and financial assistance as regards enforcement of those laws.

One specific area of concern is federal enforcement of federal laws. The Commonwealth has neither the manpower nor the budget to provide adequate compliance and enforcement personnel with respect to federal labor law. The Chamber believes that the federal government should strengthen its presence through appropriate offices and agencies in the Commonwealth to provide all workers, not just foreign workers, easy access to those offices intended to address such matters. This position is bolstered by the findings of the Federal Ombudsman’s Office in 2006 that “[e]nforcement efforts by some federal agencies have been somewhat sporadic in the past, as a result of limited resources, the remoteness of the CNMI, the expense of providing an enforcement presence, and the perception that larger or more populous jurisdictions should be a higher priority than the CNMI is for the agencies’ dwindling enforcement dollars.”

There have been a number of reports, some dating back 20 years, of foreign worker abuse, non- or under-payment of wages, rape, forced prostitution, inhumane working and living conditions, and the like. The Chamber deplores any occurrences of such actions or events, but in no way believes that sensationalized reports represent the actual, current state of working and living conditions of non-resident workers in the CNMI. Law enforcement, public prosecutors, and relevant sections of the Division of Immigration and Department of Labor have proven engaged, effective, and equitable.

It is an unfortunate reality that there are bad people who commit criminal acts in every part of the world. For example, the National Organization of Women reports that there are approximately 132,000 incidents of reported rape or attempted rape in the United States each year and that somewhere between two to six times that number that go unreported. The Chamber finds such statistics as disheartening as the reported incidents of rape or forced prostitution that occur within the Commonwealth. An important distinction, however, is that few people suggest that the United States is fostering such behavior through its labor and immigration laws or minimum wage laws. The Chamber firmly believes that these social issues need to be, and are, addressed by the appropriate authorities in the CNMI. The Chamber also believes it unfortunate that some have attempted to capitalize on the plight of a relatively few victims of such crimes in the Commonwealth. We take very seriously such allegations, and find this promotion of a sense of state- or culture-sanctioned criminal behavior both utterly without merit and highly misleading. While the Chamber acknowledges certain allegations made decades ago, many of which were, the Chamber believes, sensationalized aggrandizements of individual occurrences, we believe that such incidents—which happen everywhere in the world, including the United States—are on the decline in the Commonwealth. Statistics and anecdotal evidence bear out this fact, and we hope that the United States Congress will not succumb to such sensationalist reports.

The Chamber hopes that members of this Committee and their staff will take this opportunity to independently investigate what those critics of the Commonwealth would prefer you not know or consider: there are many positive facets to the CNMI that reflect our unique character and the warm, giving, and cohesive nature of our community. The NMI Chapter of the American Red Cross, for example, has been recognized by the national American Red Cross as one of the most successful chapters in the country, on a per-capita basis, and has supported, through the provision of volunteer workers and supplies, disaster relief efforts outside our islands in places such as Yap and American Samoa, as well as in Texas and Louisiana (in response to Hurricanes Wilma and Katrina) and New York City (in response to the September 11, 2001 attacks). A relatively new group on island, Beautify CNMI!, attracts on a weekly basis, dozens (and sometimes hundreds) of community volunteers to clean and maintain the natural beauty of our islands, and in one large event last October, organized over 3,000 volunteers for a one-day, island-wide clean up. The Chamber itself sponsors, through fundraising and private donations, a number of scholarships for CNMI students. The CNMI Mayor’s Office sponsors international exchange programs, primarily with Japan. There has been a resurgence in local sports, such as outrigger canoe racing. Despite almost no government funding (be-

cause of the current economic crisis), but because of widespread community support, both in terms of donated manpower and dollars, the Commonwealth last year hosted the Micronesian Games, a quadrennial regional sporting event that brought together over 1,000 athletes and supporters from Palau, the Federal States of Micronesia, the Republic of the Marshall Islands, Guam, and the CNMI. These are just a few aspects of the CNMI about which you will never receive a GAO or congressional report, or about which you will never receive an email or read a story in a national magazine, but which more accurately represent the true essence of our community.

CONCLUSION

The imposition of federal minimum wage law and immigration law will remove two of the very few means that the CNMI possesses to shape its economy and its future. The Chamber recognizes that the minimum wage should rise, and agrees that immigration enforcement could be improved. However, the Chamber does not believe that an across-the-board imposition of federal law with respect to either will solve any problems, real or perceived, that may exist in the CNMI. We hope the United States Congress will acknowledge the uniqueness of our community and our economy and will understand that answers to problems that are conceived and implemented by and for a country of hundreds of millions of citizens with the largest national economy on earth do not necessarily translate well in a tiny group of islands thousands of miles away. The Chamber invites interested federal officials to visit our islands in order to better understand the unique challenges, both natural and man-made, that we face. We look 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 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.

The CHAIRMAN. Thank all of you for being here and testifying. Let me just ask Mr. Guerrero—let me understand the Chamber's position on this. Is it your position that we should not legislate any changes with regard to Federal authority over immigration laws, that we should leave it the way it is? Is that your view?

Mr. GUERRERO. It is the position of the Chamber of Commerce, yes sir.

The CHAIRMAN. And you believe that long-term the economic circumstance of the Island will be better if there is no change in the current handling of immigration matters?

Mr. GUERRERO. We believe in good government, good management as indicated by some of the witnesses. I believe that the current administration is on the right track; however, it's been impacted with financial decline due to the sudden closing of the garments and the recent decline. I believe that if it's managed properly, we would sustain and revitalize our economy, yes, sir.

The CHAIRMAN. Okay. Let me just ask Ambassador Williams. You made a very strong statement in favor of us going ahead and extending Federal immigration laws to the Islands. It's your view, I gather, that that could be accomplished without having the kind of adverse economic effect that obviously some of the business community are concerned about. You believe that the economy could do as well under Federal immigration laws in place over the long-term, as without. Is that a correct reading of your position?

Ambassador WILLIAMS. That is correct. I think long-term that the economy and the people of the Northern Marianas would be well-served by the extension of U.S. immigration laws and control of their borders by the Federal Government.

The CHAIRMAN. Okay, and Ms. Ogumoro, as I understand your testimony and Ms. Entena's testimony and Sister Stella's, your

thought is that a change with regard to immigration laws and an extension of Federal immigration laws to the Islands is one part of the solution to the abuse of people that you are particularly focused on. Is that an accurate understanding of your testimony?

Ms. OGUMORO. Yes, sir. To illustrate my point, if an individual has the ability to go in the morning and put in seven applications for work and enter permits and get them out at 4 the same day, and bring in seven women from China in 1 day, there's something wrong with the system.

The CHAIRMAN. So you're saying that for those folks who are there on the Mariana Islands they would be benefited from having Federal immigration laws extended.

Ms. OGUMORO. Well, we certainly cannot continue the way we are now, and there has to be some kind of change, whether it requires Federal intervention or not, I don't know. But I know that now people's lives are being destroyed. Since I've been here in Washington, DC, we've welcomed another woman from China into the shelter. She was brought to us by the Attorney General's investigative unit. She's a supposed or alleged victim of human trafficking, and that's since I have left the Island, so there are some problems that need to be faced.

The CHAIRMAN. Right. Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman. Let me follow up with Lauri Ogumoro. As you have heard some say that these cases of coerced prostitution and trafficking are rare and sensationalized. My question to you: is how prevalent are these cases in the CNMI, and do you think that the rate has increased or decreased since the year 2000?

Ms. OGUMORO. Well, the Trafficking Victims Protection Act was authorized in 2000, and since 2005 is when we started our program to provide services to victims of human trafficking. I've been told by people at the Department of Justice that they consider the CNMI a hot spot for victim trafficking, human trafficking, because of our close proximity to Asia and because we have our own labor and immigration system.

Thankfully on the Island we have been able to identify people, but there are more out there that need the assistance. It's very easy to get a tourist permit and to bring somebody into the Island and then they are forced into prostitution or they are forced into indentured servitude, so there seems to be some loopholes in the system that need to be tightened up. We worked very closely with the Attorney General's office and with people at immigration and labor. There are good people in the system, but the system itself needs to be fixed because it's just so easy. And like I said, I received an email from people at the shelter. We welcomed another woman from China into the shelter who is an alleged victim. It's my understanding in 2006 the CNMI had 30 victims of human trafficking. Our friends in American Samoa have three. There's two identified victims in Hawaii and there's no victims in Guam.

Senator AKAKA. Sister Stella, Mr. Guerrero in his testimony suggests that local control of immigration provides greater protection for its guest workers than Federal control, and my simple question is do you agree with Mr. Guerrero's statement based on your experience?

Sister MANGONA. I agree with her statement, because the emphasis of my statement is concerned with the system as a whole. We would like some changes in the system, not just in any particular department, but if the particular department that needs to change their policies or implementation of policies. They have good policies but implementation is really lacking. It's, then, we would need something to counteract that.

Senator AKAKA. Mr. Guerrero, in 1997 the report of the U.S. Commission on Immigration and Reform found that the CNMI economy was unsustainable because there would be no advantage for the garment industry when the multi-fiber agreement comes into force at the end of 2005. My question to you is: what steps did CNMI and the community take over the past 10 years to prepare for the departure of the garment industry?

Mr. GUERRERO. Senator, on the garment industry, that question is a very loaded question. You're asking what is our government doing to replace the garment. The government has been emphasizing on the building of the tourism economy just like Hawaii. We're targeting 1 million arrival in the next 5 years. Fortunately with the departure of Japan Airlines and our regional carrier, Continental Airlines, which no longer serves us—other than the twice-weekly from Saipan to Manila—have departed the gates of the Japanese market. The tourism, the CNMI is an island economy. It offers basically the attraction that tourists look for, which are beaches, clean water, nice sunshine, night golf course and a place to enjoy without worrying about this cold weather outside. We like to value ourselves and put our economy in focus so that we can, with the help of the Federal Government, probably we can get essential air services back to further build our tourism. We'd like to see more of the tourism because it's more friendly than garment.

We'd like to see more U.S. investors to come to the CNMI. As you know, OIA, through the office of Mr. Cohen, did a number of investment conferences here in the United States and in Hawaii a few months ago. We're still positive that we will see some U.S. investors coming to the Island; unfortunately not at the rate that we expect. I'd like to see Mr. Cohen's office again to ask if perhaps we should look at the Asian market to attract the small- and medium-type businesses to come and do business in the Commonwealth.

I know our Islands is not perfect. We're going through a transition. We're faced with many difficulties, but I do believe, I strongly believe as a business leader in the community, that with good management, good governance that we can proceed and change back our Islands so we don't exploit. The Chamber of Commerce does not endorse exploitation of workers. We'd like to see a gradual minimum wage increase so that we can replace and make the value of people more meaningful. We'd like to see more enforcement of Federal features to visit our Islands; OSHA. We'd like to see the Coast Guard. We'd like to see more immigration control. We'd like to see more enforcement to safeguard the problems that we face with implementation or of the Fair Labor Standard Act as it applies in every State so we can stop, rather than let it happen and then try to stop it, or correct it, and that's basically how we see it. We'd like to urge this committee to work with us so that we can come up with more solutions, better solutions that would be more sustain-

able to help the people in the Commonwealth and be a responsible citizen of the United States, sir.

Senator AKAKA. Well I want to thank you very much for your vision, the business vision of the future for CNMI, and I thank you for that.

I also want to thank Ms. Entena for being with us today, and for your statement. I know it must be difficult to share your experience, but your courage to endure must be commended, and I thank you for being here with us today and for adding to the record.

I want to also thank the Ambassador. Your statement was tremendous of the history of how the agreements have come about, and your part in it as well, and for you to recognize what should be happening is very important to us and is very valuable. I want to thank you, Mr. Ambassador, for your statement, and with that I want to thank the Chairman for having this hearing, and we look forward to trying, really to try to do our best to not only help this country but to help CNMI as well. Thank you very much.

The CHAIRMAN. Thank you, Senator Akaka. You've been a real leader on this issue and thank you for continuing to do that. I want to thank all the witnesses as well. I think it's been a very useful hearing and we have a lot of good suggestions and ideas and information here that we can take. I hope we can move ahead with some legislation that will help deal with some of these problems. Thank you all very much. The hearing is adjourned.

[Whereupon, at 11:40 a.m. the hearing was adjourned.]

APPENDIXES

APPENDIX I

RESPONSES TO ADDITIONAL QUESTIONS

[NOTE.—The following questions were sent to the Department of the Interior in advance of the February 8, 2007 hearing from the Energy and Natural Resources Committee:]

SOCIO-ECONOMICS

Question 1. With the enactment of P.L. 103-332 in 1994, Congress established the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement to respond to concerns about conditions in the CNMI. Please update the following socio-economic estimates/indicators as used in prior reports of the Initiative, and present them in graphs showing trends from 1980 through 2005:

- Total CNMI population, with a breakout of U.S. citizens and non-U.S. citizens;
- Birthplace of CNMI residents: foreign born, mother CNMI born, and mother born elsewhere;
- Total number of guest workers;
- GDP;
- Per capita income among U.S. citizens;
- Unemployment rate among U.S. citizens;
- Other socio-economic indicators that are available that you believe would be useful to the Committee.

Answer.

Total CNMI Population, With a Breakout of U.S. Citizens and Non-U.S. Citizens

POPULATION BY CITIZENSHIP, CNMI: 1980, 1990, 1995 AND 2000

Citizenship	Number of Persons			
	1980	1990	1995	2000
All persons	16,780	43,345	58,846	69,220
U.S. citizen	13,071	20,082	27,489	30,135
Born in CNMI	11,993	16,752	22,220	24,820
Born U.S. or other territory	1,078	2,405	4,061	3,870
Born abroad of U.S. parents		237	189	410
Naturalized citizen		688	1,019	1,035
Not a U.S. citizen	3,709	23,263	31,357	39,090
Permanent resident		2,188	3,405	4,350
Temporary resident		21,075	27,952	34,740

Source.—Central Statistics Division; CNMI Census Reports.

The Office of Insular Affairs of the Department of the Interior funded a technical assistance request from the CNMI for an estimate of the population of Saipan only through a 10 percent sample survey of population for the year 2003. The purpose of the survey was to obtain current information on total population by classifications

of citizenship, as had been the case in the 2000 and other previous censuses. The estimates derived through the sample survey are as follows:

POPULATION BY CITIZENSHIP, CNMI: 2003

Citizenship	2003
All persons	63,419
U.S. citizen	29,326
Born in CNMI	25,703
Born U.S. or other territory	1,923
Born abroad of U.S. parents	718
Naturalized citizen	982
Not a U.S. citizen	34,093
Permanent resident	3,756
Temporary resident	30,337

Source.—Central Statistics Division.

Birthplace of CNMI Residents: Foreign Born, Mother CNMI Born, and Mother Born Elsewhere

Foreign-born residents, consisting of U.S. citizens born abroad and non-U.S. citizens, are presented below:

FOREIGN-BORN RESIDENTS

Year	Number
1980	3,709
1990	24,188
1995	32,565
2000	40,535

The number of foreign-born residents was estimated to be 35,075 in 2003 on Saipan, based on the 10 percent sample survey on the island. Saipan represented 90.1 percent of the CNMI total population in the 2000 U.S. Census. Extrapolating from the Saipan sample of 2003, a rough estimate of total CNMI foreign born residents in 2003 would be 38,972 (which would assume a ratable distribution of foreign-born residents, which may not be an accurate assumption). CNMI residents by mother's place of birth are presented in the table below:

MOTHER'S PLACE OF BIRTH, CNMI: 1980, 1990, 1995 AND 2000

Mother's Place of Birth	2000	1995	1990	1980
Born in CNMI	18,093	13,674	14,236	8,876
Born in the United States	1,716	1,383	1,062	451
Born in Puerto Rico or other U.S. Island Area	1,245	977	753	738
Born Elsewhere	48,167	25,365	27,294	4,251

Source: CNMI Census Reports: 1980, 1990, 1995, 2000.

As indicated earlier with regard to total population, the birthplace of Saipan residents only for 2003 was estimated from the 10 percent sample. Those figures are presented in the table below.

MOTHER'S PLACE OF BIRTH, CNMI: 2003

Mother's Place of Birth	2003
Born in CNMI	16,777
Born in the United States	1,116
Born in Puerto Rico or other U.S. Island Area	588
Born Elsewhere	27,312

Source.—2003 Community Survey, based on a 10 percent sample.

Total Number of Guest Workers

Guest (temporary alien) workers legally working in the CNMI must be authorized to do so by a work permit, which is issued and/or renewed on an annual basis. The exception to this rule is that aliens with a pending labor claim may be authorized to work pursuant to a Temporary Work Authorization (TWA). The table below sets forth the number of work permits issued and/or renewed each year since 1999. We have been informed by the CNMI Department of Labor that approximately 1,500 TWAs are currently outstanding, so adding this amount to the number of work permits issued in 2006 should yield an amount roughly equivalent to the number of legally authorized guest workers in the CNMI in 2006. The total number of work permits in the table below for the year 2006 was estimated from data collected for the first three quarters.

WORK PERMITS ISSUED BY INDUSTRY

INDUSTRY	1999	2000	2001	2002	2003	2004	2005	2006
Banking	10	15	9	10	15	11	13	15
Construction	2,844	2,604	1,794	1,739	1,496	2,076	1,938	1,900
Fishing	11	18	20	18	19	28	16	17
Garment	14,833	16,639	15,104	12,372	11,982	14,512	13,922	10,089
Hotel	2,035	2,887	2,370	2,194	2,203	2,687	2,447	2,375
CNMI Gov't	67	78	53	67	89	193	281	236
Night Club/Bar	500	598	456	471	480	679	618	540
Farmer	543	558	432	417	445	699	658	653
Private Household	1,610	1,823	1,410	1,529	1,597	2,012	1,802	1,699
Restaurant	1,171	1,419	987	1,096	1,021	1,670	1,420	1,279
Services	6,961	8,756	6,954	7,172	7,181	10,998	9,534	8,480
Tourism	339	468	380	389	369	588	491	424
Manpower	49	178	87	81	59	58	15	15
Security Services	84	220	214	178	192	194	139	181
TOTAL Permits Issued	31,057	36,261	30,270	27,733	27,148	36,405	33,294	27,903

Source.—CNMI Department of Labor.

GDP

The CNMI has yet to develop local expertise to generate national income and product account or macroeconomic data in a manner the Bureau of Economic Analysis (BEA) of the U.S. Department of Commerce produces for the United States and the 50 states. One reason for this and other data deficiencies is that the CNMI (like the other U.S. territories of American Samoa, Guam and the U.S. Virgin Islands) is not included in the American Community Survey (ACS). The U.S. Census Bureau's ACS provides the most complete and current economic and demographic data available on the United States and the 50 states. Nor is the CNMI included in some other surveys that generate current and complete data on industries, production and household income and expenditures. The CNMI and the other territories noted above are included only in the U.S. Census and the Economic Census, which the Census Bureau conducts every five years ending in "2" and "7".

The Office of Insular Affairs (OIA) of the Department of the Interior is addressing some of the data deficiencies in the CNMI and other U.S. territories (and the U.S.-affiliated freely associated states in the North Pacific) through a technical assistance grant for the Census Bureau to perform certain computational tasks, do survey work and train local personnel. OIA's small technical assistance budget makes it essential to be selective and focus only on areas believed critical to monitoring economic and financial progress by the island governments, OIA and Congress.

The Bureau estimated that the CNMI's GDP ranged from \$1 billion to \$1.3 billion in 2002. It employed, for the first time, the methods and techniques of the BEA, the final arbiter of GDP methodology and data in the United States. Given an estimated population of 70,465¹ in 2003 (and no estimate for 2002), per capita GDP would range from \$14,191 to \$18,448 in 2002-2003. Since both the off-Census population and OIA-sponsored GDP estimates are preliminary, they are tentative and subject to revision. Moving from a point (single year) estimate of GDP to a series that would resemble U.S. GDP is the next step in the OIA's efforts to help the CNMI develop economic statistics capacity and standards that are in line with national norms.

Per Capita Income Among U.S. Citizens

PER CAPITA INCOME, CNMI: 1980, 1990, 1995 AND 2000

Census Years	Total	U.S. Citizens	Non-U.S. Citizens
2000	9,151	9,666	8,754
1995	7,580	(1)	(1)
1990	7,199	(1)	(1)
1980	3,298	(1)	(1)

Source.—CNMI Census Reports, "Recent Trends in Population, Labor Force, Employment, Unemployment and Wages, CNMI: 1980 to 2000".

¹Means data not available.

Unemployment Rate Among U.S. Citizens

UNEMPLOYMENT RATES

Citizenship	1973	1980	1990	1995	2000
All persons	12.6	2.4	2.3	7.3	3.8
U.S. Citizen	14.3	3.0	5.7	12.7	11.1
CNMI born	15.1	3.2	6.7	14.3	12.9
Other U.S. citizen	8.2	1.3	2.7	8.9	7.2
Not a Citizen	7.8	1.5	1.2	5.3	1.8
Permanent resident	14.5	3.1	7.4	14.2	8.1
Temporary resident	3.2	0.9	0.7	4.7	1.3
All females	21.7	2.6	2.7	8.6	3.4
U.S. Citizen	21.5	2.8	6.8	15.3	12.5
CNMI born	22.3	2.9	7.7	16.8	14.3
Other U.S. citizen	13.6	1.5	3.6	11.6	8.8

¹This estimate is derived by taking the 2003 estimate of the Saipan population and assuming that the Saipan population in 2003 was the same percentage of total population—90.1—as it was in 2000. This may not be an accurate assumption, as a higher concentration of guest workers on Saipan may have led to a disproportionate population loss there.

UNEMPLOYMENT RATES—Continued

Citizenship	1973	1980	1990	1995	2000
Not a Citizen	22.6	2.3	1.4	6.6	1.6
Permanent resident	30.3	4.2	7.9	16.8	8.7
Temporary resident	11.7	1.0	0.9	6.0	1.0

Source.—CNMI Census Reports, “Recent Trends in Population, Labor Force, Employment, Unemployment and Wages, CNMI: 1980 to 2000”.

Other Socio-Economic Indicators That Are Available That You Believe Would Be Useful to the Committee

In the absence of current GDP data, one important indicator of an economy’s health, especially its business sector, is business receipts subject to local taxes. In the CNMI, business sales are subject to a business gross receipt tax. Unlike localities and states that impose explicit sales and excise taxes, normally shown on retail sales receipts, CNMI business gross receipt (BGR) taxes are imbedded in retail prices. The BGR’s base, the amount on which merchants and vendors pay taxes, is among the most useful indicators of business activity, especially in economies where other sources of information such as GDP are not available. Sales and taxes have been stagnant or declining in the CNMI for quite some time now, as shown in the accompanying graph.*

Another important piece of evidence of a deteriorating tax base is total local tax receipts from business that correspond with the timeline in the Business Gross Revenues graph.* In fiscal year 1997, the last peak in the local business cycle, total local tax receipts were \$201.9 million. In fiscal year 2006, local tax receipts were \$160.3 million, 20.6 percent below the peak. (In fiscal year 2007, they are projected to be even lower.)

It is not unusual for business taxes to decline during recessions (business contractions) that occur normally in market economies. Once the business cycle turns the other way, tax collections follow. However, tax collections and the tax base of the CNMI are not in a cyclical decline. Instead, these declines are secular and will likely continue at least until all garment makers leave the CNMI. What economic order will emerge from the demise of garments and a declining tourism market is difficult to predict. What is predictable is a long and bumpy road ahead for the CNMI and other small, isolated economies that are left with no choice but to watch and follow global trends and, in the case of the U.S. territories, policy changes from Washington, D.C.

Question 2. What is the number of non-U.S. citizens resident in the CNMI who are not guest workers and what is the basis for their being in the CNMI—for example: are they Compact migrants, investors, dependents of workers, illegal residents, or others?

Answer. Based on the 2000 Census data, there was a total of 39,090 non-U.S. citizen residents in the CNMI, including 36,261 temporary alien workers (guest workers). This would suggest a total of 2,829 non-citizens who were not working pursuant to a work permit. We do not have definitive data on the allocation of this population among aliens working pursuant to temporary work authorizations (TWAs), migrants from the freely associated states under the Compacts of Free Association, dependents, investors and others. It is also quite possible that there may have been a significant number of illegal residents that were not captured by the Census figures. In 2003, extrapolating from a sample survey on Saipan, there were an estimated 37,881² non-U.S. citizens, and of these non-U.S. citizens, 27,148 were guest workers working under permits. The difference of the two counts was 10,733, which would include aliens working under TWAs, Compact migrants (discussed below), investors (discussed below), dependents and others. It is possible that this figure does not significantly capture illegal residents.

Among the significant segments of non-U.S. citizens who are not work permit holders are Compact migrants. The most recent data on Compact migrants are those for 2003, when the Department of the Interior conducted a census of Micronesians in the summer of that year. The census reported that:

- there were 4,244 freely associated state (FAS) migrants in the CNMI;

* Graphic has been retained in committee files.

²Again, this is based upon an extrapolation of the estimate for Saipan derived by grossing up the estimated number of non-citizens on Saipan on the basis of the percentage of the CNMI population that Saipan’s population represented in 2000. These assumptions could certainly be challenged, but our intention is merely to provide a rough estimate.

- Of these FAS migrants, 3,570 (84 percent) were determined to be in the CNMI as a result of migration provisions contained in the Compact of Free Association between the migrants' home country and the United States (post-Compact migrants);
- The remaining 674 (16 percent of the total) were determined to be in the CNMI prior to Compact approval (pre-Compact migrants); and
- FAS migrants represented 5.6 percent of the CNMI's total population in 2003.

The provision of the amended Compact legislation that compensates the CNMI, Guam, Hawaii and American Samoa for expenses connected to Compact migrants requires a census of Micronesians every five years until it terminates after fiscal year 2023. The Department of the Interior will conduct the next enumeration of Micronesians in the CNMI, Guam, Hawaii and American Samoa in fiscal year 2008.

Information on investor permits is provided in the answer to Question 3 below. We do not have definitive data on the number of non-citizens who are dependents or in other categories.

Question 3. The CNMI has a foreign investor program that permits investors to enter the CNMI with \$50,000 to start a business.

- Has this program ever been independently evaluated, and if so what were the findings and recommendations of that evaluation?
- How many such investors are there in the CNMI?

Answer. According to the CNMI Department of Commerce, there has never been an independent evaluation of the program. The numbers of investors of record are as follows:

FOREIGN INVESTOR PERMITS ISSUED, CNMI: 1995 TO 2006

Year	Numbers
2006	304
2005	275
2004	340
2003	294
2002	361
2001	336
2000	432
1999	400
1998	410
1997	536
1996	548
1995	528

Source.—Foreign Investment Office, Department of Commerce.

Note.—Total figures include all different categories of permits.

Question 4. Please provide historical and current estimates for the number of private sector and public sector jobs in the CNMI economy, and the number that are held by U.S. citizens.

Answer.

CNMI TOTAL EMPLOYMENT BY CLASS OF WORKER, 1980 TO 2000

Class of Worker	U.S. Citizen			
	1980	1990	1995	2000
Employed persons 16 years and over	3,673	6,302	8,745	8,620
Private for wage and salary workers	1,564	3,102	4,044	4,190
Government workers	2,013	2,942	4,300	4,175
Self-employed workers	88	240	378	235
Unpaid family workers	8	18	23	25
Non-U.S. Citizen Employed persons 16 years and over	2,268	19,663	26,067	34,130
Private for wage and salary workers	1,744	18,925	24,797	33,080
Government workers	487	568	718	825
Self-employed workers	36	142	488	210
Unpaid family workers	1	28	64	20

CNMI TOTAL EMPLOYMENT BY CLASS OF WORKER, 1980 TO 2000—
Continued

Class of Worker	U.S. Citizen			
	1980	1990	1995	2000
Percent Non-US Citizen Employed persons 16 years and over	38.2	75.7	74.9	79.8
Private for wage and salary workers	52.7	85.9	86.0	88.8
Government workers	19.5	16.2	14.3	16.5
Self-employed workers	29.0	37.2	56.4	47.2
Unpaid family workers	11.1	60.9	73.6	44.4

Source.—CNMI Census Reports, "Recent Trends in Population, Labor Force, Employment, Unemployment and Wages, CNMI: 1980 to 2000".

We are aware of no estimates of employment more current than the 2000 Census data.

Question 5. What is the amount of money estimated to leave the CNMI economy annually through remittances by guest workers and alien investors?

Answer.

OUTWARD REMITTANCES CNMI: CY1991 TO CY2006

Calendar Year	No. of Licenses	Total Amount Remitted	Country of Destination		
			Philippines	China	Other
1991	18	\$28,795,262	\$28,795,262		
1992	20	34,047,991	34,047,991		
1993	15	37,768,126	37,768,126		
1994	13	38,975,439	38,975,439		
1995	11	44,401,533	44,401,533		
1996	10	49,455,740	48,553,066	\$902,674	
1997	9	52,409,994	48,297,339	4,112,655	
1998	10	58,880,902	49,011,756	9,869,146	
1999	10	65,098,884	47,147,249	17,951,635	
2000	13	73,286,726	47,887,242	24,443,977	\$955,507
2001	14	76,687,693	50,773,522	24,719,049	1,195,122
2002	16	80,105,771	50,144,046	28,880,312	1,081,413
2003	17	81,549,563	51,404,326	29,479,139	666,098
2004	20	94,019,358	56,108,229	37,359,971	551,158
2005	20	114,538,092	68,414,794	45,688,843	434,455
2006 3rd Q.	18	74,254,040	40,460,240	33,527,305	266,495

Source.—Department of Commerce, Banking Section.

Note.—This does not include outward remittances from banks.

Question 6. What is the rate of emigration of U.S. citizens from the CNMI and what factors will affect the historic trend?

Answer. Emigration of U.S. citizens from the CNMI cannot be tracked at this time. The tracking of emigration of U.S. citizens from the CNMI is currently beyond the capability of the CNMI's Labor and Immigration Identification and Documentation Systems (LIIDS). Departures can be accounted for, but they are not grouped in categories such as emigrants, residents, tourists, short-term residents, businessmen. Persons leaving the CNMI could only be tracked over time to determine whether or not they return. LIIDS would have to be re-configured to monitor emigration.

There has been, over recent months, a noticeable awareness among the local citizenry that people have already been opting to move to the mainland for better employment opportunities.

Question 7. How much financial and technical assistance has the Interior Department provided to the CNMI and to the U.S. Bureau of Census to support and improve the CNMI's statistical capabilities, and what is the status of those efforts?

Answer. During fiscal years 1997-2006, the OIA provided \$604,220 in technical assistance grants to the CNMI government and the Bureau of the Census specifically for statistics work. The purpose has been to help the CNMI government do statistics and survey work to generate estimates of population, household income

and expenditures, consumer prices and, in the last couple of years, national income and product account data. As pointed out earlier, since the CNMI is not included in the American Community Survey (ACS) and does not have an ACS-like ongoing data gathering and fact finding program of its own to generate current data, there is generally no current information during the periods between the censuses. If government, business and individuals need information on population, household income and expenditures for years other than the national or local census, they may explore other alternatives such as sample surveys. As one would expect, this is not a practical option for individuals and small businesses.

In an effort to fill at least some of the information gap, OIA provides technical assistance to help the CNMI government build the institutional capacity to provide current and complete economic, financial and other data. As helpful as we believe OIA's technical assistance has been, it is too little in the context of resources necessary to develop the institutional capacity that would generate current and complete data systematically.

The CNMI's efforts to generate and maintain comprehensive and current statistics are hampered by its troubled financial condition. In the current situation, progress will be slow, but the Department of the Interior is committed to doing its part to help move the CNMI on the path to providing current and complete information.

Question 8. Please provide historical and current information on the adequacy and reliability of essential public services including: water, power, wastewater, healthcare, and education.

Answer.

Medical Care

Historically, the people of the CNMI received medical care from various medical hospitals, including the Japanese Hospital, Dr. Tones Hospital, and village dispensaries.

Currently, medical care is provided through the Commonwealth Health Center, the Dr. Jose T. Villagomez Public Health and Dialysis Center, which houses programs for health education and promotion; disease prevention and control services; and mental health and substance abuse. These facilities also provide in-patient beds, off-island referral services, out-patient care, emergency room care, pharmaceutical services and counseling. On the islands of Tinian and Rota, the health centers provide a range of services, but patients with more serious medical problems must be sent to Saipan for treatment. For very specialized services, patients are referred to off-island facilities mainly in Guam or the Philippines. Such specialized services may include cancer treatment, complicated cardiac care and surgeries, very specialized surgeries, extensive trauma care and advanced diagnostics.

Water Operations

The water operations for Saipan are neither adequate nor reliable.

The largest island of Saipan is the only U.S. community of its size without potable water available 24 hours a day. The source of water is rain, which falls primarily from August through December. The public utility has 143 deep wells; 72 do not meet federal standards for drinking water. The utility requires an expenditure of \$4 million for new well drilling and the decommissioning of poor quality wells. Simultaneously, the distribution pipelines must be pressurized at a cost of \$170 million, as estimated by the U.S. Army Corps of Engineers. Without 24-hour pressurization, the pipelines become contaminated beyond the control of disinfectants. Contamination also leaks in through older pipelines. If these projects are not achieved in tandem, good water is released through leaking or contaminated pipelines.

In December 2003, the CNMI created a separate entity, the Water Task Force, to implement a schedule of projects outlined in the April 2003 U.S. Army Corps of Engineers' "Water Infrastructure Development Plan for the Island of Saipan." Its two-year goal was to establish 24-hour pressurization of the water system on Saipan. To date funding totaling \$20 million, administered through the Office of Insular Affairs, has been earmarked for various projects, including metering, leak detection and repair, and well drilling an optimization. Varying degrees of success have been achieved, with the most improvement coming during the first two years of the program.

The U.S. Environmental Protection Agency (EPA) found, in May 2006, 39 major deficiencies in the Saipan operations that affect the quality of public water supply. Due to budget limitations, the utility is struggling in its efforts to take corrective action. There are severe shortages in staffing and materials for maintenance, in addition to the lack of capital funding.

In January 2007, with OIA funding, advisors will help the public utility identify requirements and funding levels for critical compliance with the EPA water and

wastewater regulations. Although some grants may be identified for minor projects or personnel training, obtaining potable drinking water will require a major capital outlay.

A water rate study was completed in 2006, which has not yet been submitted to the utility. It is expected there will be a significant increase in water rates in 2007. CNMI residents have already voiced discontentment over having to pay for non-drinkable water. Furthermore, the rate structure does not include capital expansion. Current water rates are based on a graduated scale, ranging as little as 50 cents per 1,000 gallons for the first 3,000 gallons of use; \$3.50 per 1,000 gallons, using between 3,001-60,000 gallons; and the highest charge is \$4.00 per 1,000 gallons for usage above 60,000 gallons per month.

Both the islands of Rota and Tinian encountered violations relating to water treatment and bacteriological testing in 2006.

WASTEWATER OPERATIONS

Although Saipan has two secondary sewage treatment plants (STP), both are at capacity. Both suffer from a lack of funding for maintenance. Only 60 percent of Saipan has sewers. The Utility suffers from a lack of qualified personnel. Only the Wastewater Manager holds EPA certification, although staff is undergoing certification testing.

The Wastewater Division has sharply decreased the number of sewage spills throughout the collection systems due to improvements in pipelines and new pumps that keep pace with the increasing amounts of sewage relating to the tourism market.

Any new industrial growth for Saipan must include a plan for wastewater treatment expansion. To date, only one new STP is planned for this island in the largest homestead of Kagman. The U.S. Army Corps is currently handling the design phase. Construction and collection systems will cost a minimum of \$25 million. Complete capital costs will again be a problem.

The islands of Rota and Tinian have no wastewater treatment systems. The Department of the Interior provided capital improvement project funding for portions of the designs and construction. Funding to complete the project is lacking.

Wastewater rates mirror the water rates. Wastewater is not metered; customers are billed according to the water meter usage.

ELECTRICITY

Even with a depressed economy resulting in factory closures, the island of Saipan requires 90 megawatts of new or improved capacity. It is difficult to attract industry if electric capacity is insufficient. Electricity is the backbone of an emerging or recovering economy. Electricity is neither adequate nor reliable in the CNMI.

The base load generators at the capital island power plant are inefficient and frequently break down. The island of Saipan experienced 1,349 hours of power outages in 2006; 1,190 were due to generation failures or inability to procure fuel.

As mandated by the Department of the Interior and local law, the public utility must establish rates based on the actual or full costs of its services. For the first time since its inception in 1986, CUC has recently and successfully achieved such full cost recovery this for its electric operations. Charging adequate and accurate electric fees is not without challenges. Just after implementing permanent rates in November 2006, the government created a public utilities commission that will soon review, and possibly adjust, these rates. Other bills under consideration suggest legislating electric rates. These actions are not surprising since the price for a kilowatt of power rose from 14.5 to an average of 28 cents—literally overnight.

Arguably, the CNMI is not alone in establishing high electric rates. Cities in both Hawaii and Alaska have similar fossil fuel-based energy systems. In those states, fuel companies have a larger customer base resulting in lower prices for diesel and unleaded gasoline, fuel deliveries, and storage facilities. There are also a number of private and public utilities that buy fuel. In the CNMI, the public utility is the largest fuel customer. The CNMI is more remote and dependent on the importation of fuel. The contractual “ad ons” for profit and fuel deliveries in Saipan is 16 percent, in Tinian 39 percent, and for Rota 40 percent. Moreover, the fluctuating market makes the general price of electricity difficult to gauge.

Although the public utility rate structure is now sufficient to purchase fuel and basic generation requirements, it does not generate sufficient revenue to fund the required overhauls of the existing generation fleet. Three units are overdue for repairs that are estimated to cost \$13 million. Payment is expected in advance. Each overhaul will take a minimum of six months. As that time elapses, the remaining

generation equipment will also require major overhaul. Power outages are expected to continue.

Electric interruptions cause major problems for all industries. Some suffer production losses, while others, such as the major hotels, worry that tourists who are inconvenienced will take home a poor image of the island. Power failures prevent the treatment of water—both from public and desalination units. Frequent outages cause businesses to install backup generation and staff these mini power plants all over the island. Even on the island of Rota, with its ecotourism, generation equipment is antiquated and funding for repairs is lacking. Therefore, two of the three islands cannot tout reliability.

The public utility does not currently have the resources to install more efficient generating facilities. The recent rate increase does not provide for sufficient funding to build new generation facilities. Capital costs to purchase efficient generators are estimated, at minimum, \$1.5 million per megawatt. Alternate energy expansion estimates are even higher. The lack of land is also an issue.

The lack of reliable generation makes it difficult for the CNMI to attract private or industrialized business. For these reasons, the CNMI government completed a new study in 2006 for the privatization of generation and transmission operations on both Saipan and Rota. A public bid for the sale of CNMI assets not only requires contract approval by the public utility commission, but also will likely involve a Federal review to protect Federal investments in these electric systems. As of January 2007, the CNMI government had yet to release the project for bid.

Question 9. How do the incentives and disincentives compare, for both CNMI businesses and for the CNMI government, for the hiring of aliens versus the hiring of U.S. citizens?

Answer.

Incentives for Private Employers To Hire U.S. Citizens

The Nonresident Workers Act, 3 CMC § 4411, et. seq., mandates that U.S. citizens be given preference in employment in the Commonwealth. 3 CMC § 4413. Section 4421 requires the CNMI Secretary of Labor to “[o]lverse, monitor, and review the use of nonresident workers and all matters related to such use, including the health, safety, meals, lodging, salaries, and working hours and conditions of such workers, and the specific contractual provisions for the services or labor of such workers,” therefore, private employers may avoid the direct and transactional costs inherent in complying with the regulations pertaining to the hiring and retention of nonresident workers by hiring U.S. citizens instead. These costs are substantial, and include the cost of recruiting alien workers and negotiating and executing contracts of employment; the application and annual renewal fee of \$275 per nonresident worker; the cost of preparing and advertising a Job Vacancy Announcement (JVA), unless that requirement is waived by the Director of Labor; and the loss of productivity resulting from the delay inherent in hiring a nonresident worker, when a U.S. citizen may be available for work immediately.

In addition to the transactional or indirect costs, there are fees and other direct costs associated with hiring a nonresident worker, including the annual application and renewal fee of \$275; the cost of securing a labor bond or other surety for each nonresident worker (3 CMC § 4435(a)); the cost of repatriating the nonresident worker at the end of the contract or any subsequent renewal, unless the worker secures a transfer to another employer; and the cost of providing either health insurance or reasonably necessary medical care (3 CMC § 4437), among others.

Disincentives for Private Employers To Hire U.S. Citizens

Private employers have had great difficulty in filling job vacancies with U.S. citizens in the Commonwealth, due to the reluctance of U.S. citizens to work at the CNMI's minimum wage, which has been \$3.05 since 1997. Nonresident workers, by contrast, may find the CNMI's minimum wage attractive, compared to hourly wage rates in their countries of origin.

Incentives for Government Employers To Hire U.S. Citizens

The Commonwealth government's incentive to hire U.S. citizens is political, not economic. Government officials are under increasing pressure to reduce the number of jobs that go to nonresident workers, and correspondingly, to increase employment opportunities for U.S. citizens.

In addition, the Commonwealth government is prohibited from hiring nonresident workers for most positions, except for the following agencies, and under the following restrictions:

- the Public School System may continue to employ nonresident workers who were employed as of March 6, 1996; however, nonresident workers employed as

- classroom teachers or supervisory personnel must be graduates of a college accredited by United States accrediting associations, or alternatively, must be graduate of a college or university and must pass an English proficiency test;
- the Department of Public Health may employ nonresident workers as nurses, doctors, midwives and dentists, providing they have appropriate professional degrees from recognized colleges and universities and satisfy all licensing requirements;
 - the office of the Public Auditor may employ nonresident workers, provided they meet minimum professional qualifications as established by the Public Auditor;
 - the Department of Public Works may employ nonresident workers who meet professional qualifications imposed by the Secretary of the Department of Public Works;
 - the Northern Marianas College may employ nonresident workers as instructors or researchers, if they are college graduates and meet certain professional requirements; and
 - the Commonwealth Utilities Corporation may employ qualified nonresident workers in technical and professional positions.

The limited nature of the Commonwealth government's opportunities to employ nonresident workers removes any incentive to hire any nonresident workers but those needed to fill vacancies that cannot be filled by the U.S. citizen workforce.

Incentives for Government Employers To Hire Nonresident Workers

The disincentive to hiring nonresident workers that applies to private employers—i.e., the payment of an annual fee of \$275 per worker—does not operate as a disincentive to the Commonwealth government, since it is exempt from paying the application fee for nonresident workers it employs, pursuant to 3 CMC § 4424(b).

Question 10. In its June 5, 2001 report to the U.S. Senate, the Committee on Energy and Natural Resources found: "What job creation exists in the private sector goes to foreign workers. The ability to obtain skilled foreign workers at low wages effectively forecloses opportunities for United States residents in both entry and skilled positions." Do you generally agree with this finding?

Answer. Because of the unique economic structure of the CNMI and the fact that approximately 50% of CNMI residents are guest workers, we generally agree with this finding. The most recent CNMI census data that we have available, from 2000, shows the unemployment rate for U.S. citizens in the CNMI to be almost six times as high as that for guest workers. Although the Nonresident Workers Act mandates that U.S. citizens be given preference in employment for most jobs in the CNMI, there are few U.S. residents who are willing to work for the CNMI's minimum wage, which has been \$3.05 since 1997. This practice is especially evident in the skilled positions, particularly trade occupations. There are few U.S. resident carpenters, electricians, plumbers, masons and heavy equipment operators, and the Northern Marianas College has dropped its vocational training courses due to a lack of interest in lower-paying jobs. The result is a workforce in which local workers are heavily concentrated in the public sector and non-U.S. citizens hold the large majority of private sector jobs. We note that these economic impacts appear to be related to the scope and scale of the guest worker program that exists in the CNMI, where guest workers make up approximately 50% of the population and the minimum wage is set at a much lower rate than the wages demanded by U.S. citizens. The CNMI's guest workers are integrated into all levels of the workforce, comprising a majority of its doctors, nurses and journalists, in addition to its housekeepers, farmers, garment and construction workers. The economic impacts of a guest worker program of this proportion on a small island economy are unique and should not be extrapolated to draw observations about other economies, including that of the U.S. as a whole.

Question 11. The report added, "A by-product of this situation has been increased pressure on the public sector to expand solely to provide jobs." Do you generally agree with this finding?

Answer. We agree with the finding. The CNMI government employs some 4,000 workers for a population of permanent residents of only 35,000. Anemic job creation in the private sector, the low minimum wage, and the lack of a general welfare program in the CNMI have all contributed to a system where U.S. resident workers look to the government to provide jobs, and where U.S. resident secondary school students aspire to be government workers. In addition, U.S. residents have begun to emigrate to the U.S. mainland to look for work, due to the poor performance of the local economy and the paucity of jobs in the private sector that pay substantially more than the statutory minimum wage.

FEDERAL-CNMI INITIATIVE

Question 12a. Under the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement the Administration established an Interagency Task Force to coordinate Initiative activities in Washington D.C., one in Saipan to coordinate activities there, and agreed to send an annual report to the Congress.

Please provide the funding levels for the Initiative from FY95 through FY2006.

Answer. In 1995, the Congress set aside \$7 million to allow the CNMI and Federal agencies to establish an initiative to correct labor, immigration and related law enforcement problems. Congress again addressed the matter in 1996 with P.L. 104-134, which authorized as much as \$3 million annually for the joint Federal/CNMI Initiative. The Initiative was intended to provide a diminishing level of funding as agencies, both federal and local, were able to assume the fiscal responsibility for their respective mandates. For 1997, the full \$3 million was appropriated. For each of the ensuing fiscal years through FY 2001, \$2 million was appropriated. For FY 2002, OIA reduced the amount going to the Federal agencies, for a total that year of \$1.5 million. For FY 2003, the amount was further reduced to \$1,160,000. For FY 2004, the amount was \$1,000,000, not including \$1 million of old, unused funding that was regranted to the Initiative. For FY 2005, the amount remained at \$600,000, but regrants of old funds totaling \$144,000 were also regranted. For FY 2006, no funds were allocated to the Labor, Immigration & Law Enforcement Initiative, due to the large amount of unexpended funds from previous years' grants. For FY 2007, it is expected that OIA will fund the Initiative with approximately \$500,000.

Question 12b. Please provide updated performance information for Federal and CNMI:

- Labor (resources/inspections/violations),
- Immigration (resources/exclusions/deportations), and
- Law Enforcement (resources/cases/convictions).

Answer.

Federal

Department of Labor

The following chart summarizes the available information from the U.S. Department of Labor's Wage and Hour Division (WHD) on the number of investigators, investigations concluded, back wages collected and employees receiving back wages. Investigation data for fiscal years 1995 through 1997 was taken from annual reports submitted by the Department of the Interior to Congress on the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement. The remaining data are from the Wage and Hour Investigator Support and Reporting Database (WHISARD). WHD converted its investigation database in late 1999 and 2000. As a result of the conversion, case investigation information from FY 1999 may not have been concluded in the database until FY 2000.

DEPARTMENT OF LABOR—FEDERAL

Fiscal Year	WHD Investigators Assigned	Concluded Investigations	Back Wages Collected	Employees Receiving Back Wages
1995	2	(¹)		
1996	2	32	\$420,000	693
1997	2	20	\$660,000	² 1,000
1998	3	28	\$6,828,296	3,927
1999	3	8	\$241,883	32
2000	3	75	\$5,287,385	3,355
2001	1	34	\$2,841,384	1,066
2002	4	53	\$4,149,799	1,718
2003	4	49	\$2,264,810	1,858
2004	2	43	\$1,984,763	2,473
2005	³ 2	55	\$2,246,200	2,718
2006	2	40	\$1,137,881	717

¹ WHD established a CNMI office with two investigators in April 1995. The record of investigations and back wage amounts are not available for FY 1995. However, from the period beginning in April 1995 and ending June 1996, WHD conducted 20 investigations and collected \$1,288,000 for 1,600 workers.

² Available records indicate that the number of employees receiving back wages was "nearly 1,000."

³One of the assigned investigators was on military duty for approximately four months during FY 2005 and eight months during FY 2006.

WHD continues to maintain a presence on the CNMI. Two investigators currently located in Saipan continue to conduct directed investigations in the low-wage industries, respond to complaints and provide compliance assistance.

The Federal Bureau of Investigation was asked to provide information in response to this question, but unfortunately, has not forwarded any information to us at this time.

The United States Attorney's Office was asked to provide information in response to this question, and contacted us to say they did not have approval to forward any information to us.

CNMI

The CNMI Department of Labor provided a report summarizing its activities; this response is culled from the pertinent sections of that report.

Resources

The CNMI Department of Labor provided no response to the portion of the question asking for the current status of departmental resources.

Inspections

According to the CNMI Department of Labor, its Health and Safety Unit has conducted approximately 1,000 inspections of business establishments and a few hundred inspections of employee housing units every year since 2001. In recent years, the number of inspections has been steadily increasing. For instance, in 2004, Department of Labor personnel inspected 1,025 business establishments and 202 employee housing units. In 2005, 1,257 business establishments and 285 employee housing units were inspected. As of early December 2006, Labor personnel had inspected 1,213 business establishments and 266 employee housing units.

Violations

The CNMI Department of Labor has provided the following tables detailing its statistics concerning violations:

TOTAL LABOR COMPLAINTS FILED 2000-2006

Year	New Cases	Closed	Pending
2000	327	159	168
2001	188	134	54
2002	296	196	100
2003	524	220	304
2004	812	146	666
2005	420	54	366
2006	343	26	317

COMPLAINTS ALLEGING UNPAID WAGES

Year	Unpaid Wages and OT
2000	136
2001	107
2002	125
2003	97
2004	127
2005	71
2006	74

OIA's Federal Ombudsman's Office had difficulty reconciling some of the data contained in this table with data in the Federal Ombudsman's Database. For example, Ombudsman data shows some 49 workers complained of unpaid overtime in calendar year 2006, and 118 complained of nonpayment of regular wages in the same year. In calendar year 2006, the Federal Ombudsman's Office assisted 142 workers in filing complaints with the Department of Labor. Moreover, the Department of Labor makes no mention of compliance agency cases, where the Director of Labor initiates an action on behalf of multiple workers having the same claim against a single employer. Examples of cases where more than one worker alleged unpaid

wages or overtime, but which would not show up as individual complaints include, Director of Labor v. Pacific Utility & Communication, Inc. (seven employees were not paid for seven months), and Director of Labor v. K&K Corp., d/b/a Zion Tailoring (three workers were owed several paychecks), among others referred to the Department of Labor by the Federal Ombudsman in 2006.

CNMI Immigration

Resources

According to Melvin Grey, Director of the CNMI's Division of Immigration, the Division has 95 authorized positions, with 58 currently on duty, and another 37 hires in process. The Division's personnel are broken out into the following sections: processing section: 10 authorized, seven on duty; visitor entry permits (VEP's): four authorized, three on duty; airport section: 45 authorized, 25 on duty; investigation: 12 authorized, seven on duty; Rota: 11 authorized, seven on duty; and Tinian: 13 authorized, seven on duty.

Exclusions

In 2006, there were seven persons denied entry into the CNMI; six from China, and one from the Republic of the Philippines. The number of exclusions has been dropping over the past several years, and the Division of Immigration says this is to be expected, as its screening capability gets 24 better. For example, in 2005, the Division excluded 25 persons; in 2004, 29; in 2003, 16; in 2002, 26; and 2001, 74.

Deportations

In 2006, the Division of Immigration filed 166 deportation cases, resulting in 45 persons being ordered deported. An additional 19 persons stipulated to deportation (an order of deportation is a prerequisite to applying for refugee protection, which causes many seeking refugee protection to stipulate). Twenty persons had their cases dismissed, and were allowed to voluntarily depart (persons who are deported are barred from returning to the CNMI, so many agree to voluntarily depart, in hopes that they may be allowed to return in the future). Twenty-seven others had their cases dismissed outright, which may occur if, for example, the person had a labor case pending (persons with pending labor complaints are not deportable), which did not come to the attention of the authorities until the case had been filed. Twenty-eight are "off-calendar" (no explanation offered for this designation), and 27 cases are still pending adjudication.

Question 12c. Please summarize the current activities of the two Task Forces, such as agenda/objectives, and assessment of progress.

Answer. Currently, there is an Interagency Task Force in Washington, D.C., organized by the Department of the Interior, that is performing a comprehensive review of CNMI labor and immigration issues. Membership includes the Departments of the Interior, Homeland Security, Labor, Justice, and State.

The Interagency Task Force in Saipan is now called the Labor Enforcement Group, and is comprised of Department of the Interior personnel representing the Federal Ombudsman's Office and the CNMI Field Representative, representatives from the Equal Employment Opportunity Commission in Honolulu and its solicitor in Los Angeles, representatives from the U.S. Department of Labor's Wage/Hour Division in Honolulu and its solicitor in San Francisco, the Federal Bureau of Investigation, the United States Attorneys Office, and the CNMI Attorney General.

Telephonic conferences are held approximately every three months. Issues discussed include current and pending cases involving garment factory closures, human trafficking, and other issues that may be of concern to law enforcement personnel. Proposed legislative changes are also discussed. If other agencies are interested in reports of violations, we have established mechanisms and procedures for the sharing of information to avoid duplication of effort, conservation of resources and enhanced enforcement opportunities.

CRIMINAL ACTIVITY/LAW ENFORCEMENT

Question 13. In 1997, reports by the Immigration and Naturalization Service, and by the U.S. Commission on Immigration Reform expressed a concern regarding organized criminal activity.

- Please describe the gambling industry in the CNMI, how it is regulated, whether any Federal agency has ever evaluated the performance of the local gambling regulatory authorities, and if so, their findings.

Answer. Currently, the Tinian Dynasty Hotel and Casino operates the only casino in the CNMI. Casinos are currently authorized for Tinian only. Regulation of casinos is overseen by the five-member Tinian Casino Gaming Control Commission pur-

suant to a comprehensive gaming statute and regulations promulgated thereunder. The Commission has the authority to issue up to five permits, and three have been issued (including that for the Tinian Dynasty). The application fee for a license is \$200,000 (non-refundable), which covers, among other things, the cost of procuring background investigations.

According to the CNMI Attorney General, the U.S. Internal Revenue Service has had two agents stationed in the CNMI in past years and at one time one of the resident agents did some preliminary review of the industry. We are still attempting to determine whether there is a report summarizing the outcome of that review. We are unaware of any other Federal evaluation of the CNMI gaming industry.

The Federal Bureau of Investigation and the United States Attorney's office were both contacted and asked to provide answers to this question. They were unable to provide any pertinent information at this time.

Question 14. How does the presence of organized crime elements from Japan, China, and Russia in the CNMI compare with that of Guam?

Answer. According to a 2002 risk assessment prepared by the U.S. Justice Department at the request of Frederick A. Black, then U.S. Attorney for the Districts of Guam and the Northern Mariana Islands:

Individuals belonging to Chinese Triad gangs, Japanese Yakuza, Russian Mafia, and Korean Mafia organizations each participate to some degree in the criminal activity of the [Northern Mariana Islands]. Gambling, prostitution, drugs, money laundering and the exploitation of the large segments of the alien population are fully orchestrated by these organizations.

The risk assessment also makes mention of "the presence of several transnational criminal organizations on Guam."

Another report, the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement in the Commonwealth of the Northern Mariana Islands, Fourth Annual Report (1998), states, "Japanese and Chinese organized crime groups have become more active in the CNMI over the past few years," and cites an organized crime task force formed between the FBI and CNMI law enforcement:

Since FY 1995, the FBI has led investigations which resulted in the convictions of 12 former or current Japanese organized crime figures, three former or current Chinese gang members, and 15 others on drug and fraud charges . . . Since FY 1995, DEA agents have assisted local police in 64 drug-related arrests, (18 in FY 1998 to date), 42 convictions, the seizure of 1260 grams of methamphetamine, 14 kilograms of heroin, 7 vehicles and 1 pleasure boat.

More recently, however, the CNMI Attorney General's Office provided the following statement:

Neither local CNMI nor federal law enforcement agencies have produced any reports, arrest records, or convictions that indicate any country-of-origin-based organized crime elements from Japan, China or Russia are operating organized criminal activity in the CNMI.

Aliens from Japan, China or Russia engaging in criminal activity are seemingly operating as opportunistic individuals either individually or as loosely connected opportunistic groups. No information to the contrary has been presented by any local or federal law enforcement agencies.

Yakuza members have been identified as entering the CNMI, but it has not been made known by or to local CNMI law enforcement, nor has any federal agency made it known to CNMI law enforcement that the Yakuza have any organizational operations in the CNMI. Disenfranchised members of the Yakuza have been known to be involved in drug activity in the CNMI but the organization itself has not been identified to local CNMI law enforcement by any other law enforcement entity that the organization is fronting or otherwise participating in criminal activity. The last federal prosecution of a former Yakuza member was the case of United States v. Yoshio Takahashi, Crim. No. 97-00032 (D.N.M.I.), which went to trial in January 1998.

While unidentified members of China or Russia-based organizations may have entered the CNMI, no information or evidence has been presented to show that they are operating, or in control of, any criminal operations in the CNMI. There was a murder in 2000 by possible Chinese organized crime elements, but the suspect escaped to Southeast Asia before he was identified. The U.S. Attorney's Office charged potential confederates with gambling offenses so they could be convicted and promptly deported. See

United States v. Liu Jun Wei, Crim. No. 00-00028 (Chen Yung Yao remains a fugitive); United States v. Chen Guo Xiong, Crim. No. 01-00021.

Guam, operating under federal immigration laws, does have a “no fly” list for identified Yakuza members. Criminal operations on Guam connected to China or Russia based organized crime are unknown.

NATIONAL SECURITY/TERRORISM

Question 15. During the Committee’s September, 1999 hearing on the Marianas, Senator Akaka asked the Administration witness, “. . .do you foresee any (emphasis added) circumstances under which the government of the commonwealth could operate an immigration system that is satisfactory to the Federal Government?” The witness replied, “No, Mr. Akaka, I do not.”

Please provide the Committee the current Administration position regarding whether the Commonwealth could operate an immigration system that is satisfactory to the Federal Government.

Answer. We do not take the position that an immigration system operated by a U.S. territory such as the CNMI could not, under any circumstances, be satisfactory.

However, we also recognize that a territory faces particular challenges, including the exclusive reservation of the conduct of foreign affairs to the Federal Government, resource limitations, access to information, training, technology and capacity-building, that make operating a “satisfactory” immigration system more difficult than it is for the Federal Government. In addition, “satisfactory” is a questionable term as a benchmark of acceptability for any immigration system, whether operated by the U.S. Government or by any other U.S. jurisdiction. Although points of view may differ about what particular features of any immigration system are most important or desirable in determining its level of satisfactory performance, this Administration shares with the United States Congress and the Government and people of the CNMI and the United States the desire that the immigration system employed in the CNMI be one that serves as effectively as possible the fundamental values, security and economic needs of the people of the CNMI as well as the rest of the United States.

Question 16. Please briefly describe the current and anticipated military presence in the CNMI and Guam.

Answer.

U.S. Navy

According to MC1(SW) Jeffery T. Williams, COMNAVMAR Public Affairs, U.S. Naval Forces Marianas oversees the U.S. Navy’s largest and most strategic island base located in the Western Pacific. U.S. Naval Forces Marianas is 3,300 miles west of Hawaii. It is home to more than 12,000 military members and their families.

On Tinian, the docks and harbor at San Jose are also available to the military. They are part of the military access agreement. Because they are only occasionally used by the military, they are sub-let back to the residents of Tinian for their use.

U.S. Naval Forces Marianas serves as the Defense Representative to Commander, U.S. Pacific Fleet. It coordinates all shore-based naval personnel and shore activities in Guam as well as being the Navy’s representative to the Guam community.

Approximately 4,000 sailors, including 2,000 Navy personnel serving on ships, submarines and aircraft-are stationed in Guam.

Naval Base Guam remains a pivotal point of strength and sea power for the Western Pacific by hosting several key tenant commands, as well as serving as the home of submarine tender USS Frank Cable and 18 other Tenant Commands.

The current naval presence in the CNMI also includes several pre-position supply ships (Compsron 3) which alternate between Saipan and Guam under a Navy Captain (manned by merchant mariners).

U.S. Air Force

Andersen Air Force Base occupies most of the northern portion of Guam. Andersen is an important forward-based logistics-support center for exercise and contingency forces deploying throughout the Southwest Pacific and Indian Ocean area. It is home to the 36th Wing, a rotational Expeditionary Bomb Squadron and several tenant units. The total number of active duty Air Force personnel and dependents on Guam is approximately 8,500.

U.S. Coast Guard

According to LTJG Marcus Hirschberg, Command Center Chief, U.S. Coast Guard Sector Guam, there are currently 227 active duty and reserve Coast Guard personnel stationed on Guam and Saipan.

Coast Guard Sector Guam is located on the COMNAVMAR Navy Base and is comprised of 132 active duty and reserve personnel. The sector is responsible for coordinating search and rescue missions within Guam, most of the CNMI, Palau, and the Federated States of Micronesia. It is also responsible for port security, commercial vessel safety, maritime pollution response, and homeland security missions within Guam and the CNMI. Sector Boat Forces have three 25' Defender class boats that operate in Guam.

The Coast Guard 110' Island Class Patrol Boats, USCGC ASSATEAGUE and USCGC WASHINGTON report to Sector Guam. ASSATEAGUE has a crew of 17 and WASHINGTON a crew of 21. They respond to Search and Rescue and Law Enforcement cases within Sector Guam's area of responsibility.

The Coast Guard Cutter SEQUOIA is a 225' buoy tender that responds when needed for search and rescue, law enforcement, or pollution response.

In addition, there is a three-person Marine Safety Detachment stationed in Saipan that performs commercial vessel inspections and other duties related to commercial vessel safety.

Army Reserves

The island of Saipan is home to the 3rd platoon of Echo Company, 100th battalion, 442nd infantry (90 soldiers) and an element of 302nd quartermaster company (22 soldiers). The reserve center is located on 5.5 acres of leased-back Federal property in the village of Garapan. There are 112 soldiers on Saipan.

Other CNMI Military Presence

The U.S. military have long-term rights to utilize the island of Farallon de Medinilla as a bombing range, which it does with some regularity. Such activity is always advertised, so as to discourage fishing boats from being in the surrounding waters during the time of bombing and strafing exercises over the island.

Two-thirds of Tinian is military retention land, which is used for occasional major military exercise involving one or more of the Guam-based services. More regularly, aircraft use Tinian's North Field for aviation practice. The Mayor's office is usually informed of such an activity in advance to avoid inadvertent domestic interference or tourist inconvenience.

Anticipated Military Buildup

Plans are underway to relocate the Third Marine Expeditionary Unit from Okinawa to Guam. This would result in the relocation of up to approximately 8,000 Marines to Guam, and up to approximately 9,000 dependents. It is estimated that the relocation of the Marines will require an investment of approximately \$10.3 billion for infrastructure and other requirements. It is anticipated that the Navy and Air Force presence on Guam will also increase significantly, requiring an additional investment of approximately \$5 billion. The aforementioned improvements would be built over a period of 10 to 20 years.

Rear Admiral Charles J. Leidig, Commander, Naval Forces Marianas, has said that the Department of Defense is exploring how the CNMI might be included in the anticipated military buildup. For example, there has been some discussion of having some prefabricated construction occur in the CNMI because of labor shortages that are likely to occur on Guam. There has also been discussion of increased use of facilities in the CNMI for training, including live-fire training.

Question 17. Please compare border control polices in the CNMI with those of the rest of the U.S.

Answer. Since the CNMI is an isolated island community, it does not face the challenges that the mainland U.S. faces to combat a large volume of illegal border crossings by land. We will therefore focus the comparison on control of aliens traveling inbound by air (although noting that the CNMI, like other parts of the United States, does face the challenge of illegal migration by sea). Under the Immigration and Nationality Act, before traveling to the continental United States, Alaska, Hawaii, Puerto Rico, Guam, or the 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 is supposed to con-

sult 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 the Consular Lookout and Support System, nor does the CNMI have an equivalent to the Federal immigration officer responsible for determining whether the alien is admissible. 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 sophisticated Labor & Immigration Identification and Documentation System (LIIDS), which is state-of-the-art. As each person enters or exits the Commonwealth, his or her passport is scanned, and an electronic record is made of the person's immigration information and the date and time of his or her entry or exit.

While many of the CNMI's nonresident workers from the Philippines are given some level of prescreening by the Philippine Overseas Employment Authority (POEA), and most Chinese workers are prescreened by the Chinese Economic Development Association (CEDA), these foreign organizations are not concerned with the border security of the CNMI; rather, their mandate is to regulate the numbers of nonresident workers who come to work in the Commonwealth, and to ensure that some minimum standards are met with respect to the qualifications of those workers, and protection of their legal rights. It is difficult for local authorities to verify the authenticity of documents submitted by those workers.

Furthermore, not all workers are subject to the prescreening requirements of the POEA and CEDA; for example, workers taking positions in night clubs or other "entertainment" industries are not prescreened by either organization. While the POEA is mandated to perform its function pursuant to the laws of the Republic of the Philippines, CEDA's obligations spring from a voluntary agreement negotiated between the CNMI and the Chinese Ministry of Commerce. For tourists entering the CNMI from China, there is a procedure described below in the answer to Question 20 for admission through the issuance of authorization for entry letters.

Question 18. We understand that not all commuter flights from the CNMI to Guam are subject to TSA inspection. Is that correct?

Answer. Federal Security Director Michael Conley of the U.S. Department of Homeland Security's Transportation Security Administration (TSA) on Saipan, provided the following answer to this question:

No, that is not correct. Freedom Air, which is a . . . commuter provider in the islands, flies to Guam via Rota. The passengers are deplaned in Rota and those continuing on to Guam are screened prior to reboarding. All passengers landing on Guam from Saipan have been TSA screened.

Question 19. In March, the CNMI's Resident Representative, Pete A. Tenorio, requested \$140 million in add-ons from Congress to the Department's FY08 appropriations for operations and construction projects in the CNMI.

- Given the serious revenue shortfalls currently facing the CNMI and the apparent decline in essential public services, is the Department willing to consider granting requests from the CNMI for increases in either operations, capital or other funding?

Answer. The Office of Insular Affairs does not have sources within its existing budget to fund a bailout in the event that a fiscal or economic crisis occurs in the CNMI.

Question 20a. Over the past year, the Government of the CNMI has reportedly proposed or considered several changes to their labor and immigration policies including:

- deportation of guest workers who are in the CNMI under Temporary Work Authorizations (TWAs);
- granting the authority to issue entry permits to casino operators;
- regulations to permit the entry of foreign elementary and secondary school students to attend private schools; and
- selling CNMI residency to foreign investors for \$200,000 or \$250,000.

Please summarize the validity of these proposals, and their current status. (Please provide copies of the proposals and of any Federal review and recommendations.)

Please describe if there are additional significant labor and immigration policy changes that the CNMI has considered in the past year. If any have been considered please summarize them.

Answer.

Deportation of TWA Holders

The proposal to deport workers who are working under Temporary Work Authorizations ("TWA's") was never seriously considered by the CNMI Department of Labor, even though it was widely reported in the media. A little background on the process will help to illuminate how the miscommunication occurred.

When a nonresident worker files a labor complaint, the Administrative Hearing Office schedules mediation between the employer and the worker. If the parties negotiate in good faith, but fail to reach agreement, the Hearing Office will usually grant the worker a memo to seek temporary employment, so the worker will not become a burden to the Commonwealth in the months or years it takes Labor to investigate the case and schedule adjudication. If the worker finds an employer who wishes to hire him on a temporary basis, the worker and employer will seek a TWA for the worker, which is renewable every 90 days. Approximately 500 TWAs are granted or renewed each month, which means that during any three-month period approximately 1,500 TWAs are outstanding and valid. For the three-month period beginning October 22, 2006, 227 TWAs were approved and 318 are pending. Approximately 90% of the TWA applications are approved.

Some workers have taken advantage of the long delay by repeatedly securing additional memos, without ever finding a job. The memo is a de facto immigration permit, since a worker cannot be deported while his or her case is pending. Some workers will also seek unregistered, illegal employment, which deprives the Commonwealth of the taxes it would derive if the worker were engaged in legitimate employment.

The issue of deporting TWA holders was clarified later in a press conference. The official stated that workers holding memos might be deportable, if they were working. TWA holders, by contrast, are legal workers under CNMI law.

Role of Private Entities

The CNMI Attorney General's office provided the following statement:

At all times the authority to grant entry permits remains with the Division of Immigration. Most entry permits are reviewed, and are issued or denied, by direct application to the Division. There is a process in place where three travel agencies have been granted authority to gather information regarding prospective visitors to the Commonwealth, fill out applications, and submit the completed applications to the Division for review and further action. At all times the Division retains the ultimate authority to approve or deny any application submitted. Each of the approved travel agencies, one of whom is affiliated with the Tinian Dynasty Hotel and Casino, 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.

There are currently two such active travel agencies: Saipan Travel and Century Travel. Both charter flights from China. There was one formerly authorized agency which did not start operation two years ago, and another agency has been authorized in its place to begin operation when a second expected casino opens on Tinian.

Foreign Student Permits

The CNMI issues alien student attendance permits for alien children to attend private schools in the CNMI. In order to obtain a student permit, a student has to be under 14 years of age, and have a parent legally residing in the Commonwealth. In addition, the family has to prove it had sufficient financial resources to permit the child to attend a private school. Parents of the student also have to post a \$25,000 cash bond with the Commonwealth, or provide a letter of credit in the same amount.

CNMI Residency for Investors

According to a story in the Saipan Tribune that appeared on October 1, 2006, the CNMI government was considering the possibility of establishing a new program through which alien entrepreneurs meeting certain requirements would be eligible for residency in the CNMI.

According to the story, the program would be similar to one under U.S. law, the U.S. alien entrepreneur program, which requires a minimum of \$500,000 for targeted employment areas, or \$1 million elsewhere, and a required level of U.S. job creation, in exchange for permanent resident alien status.

Attorney General Matthew T. Gregory said the program would be established through legislation. No legislation has yet been proposed for this program, which

would presumably revamp the existing investor classification for residency under CNMI immigration law. The current classification requires an investment of at least \$150,000.³

Question 20b. Please summarize the validity of these proposals, and their current status. (Please provide copies of the proposals and of any Federal review and recommendations).

Answer. The only proposal mentioned above is that for a revamped alien entrepreneur classification for admission for CNMI residence. We have only seen a press report that this concept was being considered and are not aware of a specific proposal on which we could comment. Since these are matters of CNMI law, the Administration typically would not take a position on CNMI proposals unless an important Federal interest were implicated.

Question 20c. Please describe if there are additional significant labor and immigration policy changes that the CNMI has considered in the past year. If any have been considered please summarize them.

Answer. The most significant policy changes that have occurred in the past year have come about as a result of the initiative of Rep. Jacinta Kaipat of the CNMI House of Representatives, who chairs the House Judiciary & Government Operations Committee. Kaipat, a lawyer and former Administrative Hearing Officer with the CNMI Department of Labor, is well-versed in the CNMI's Nonresident Worker Act, Minimum Wage & Hour Act and Alien Labor Rules & Regulations.

Chairwoman Kaipat formed a task force representing knowledgeable individuals from the private and public sectors, and announced her intent to produce legislation that would strengthen due process protections for nonresident workers without creating entitlements, and provide sound policy guidance to the Commonwealth for the next 20 years.

Among the provisions that sprang from the Task Force's efforts are: the Winding-Up Act of 2006, which (1) mandates notice and substantive protections for workers when a factory is closing or downsizing; (2) a new requirement that (within one week of arrival in the CNMI) each new worker and his employer attend an orientation explaining his or her rights and the complaint process; (3) restoration of the Division of Immigration and CNMI Department of Labor's right to enter workplaces and conduct regulatory inspections (six years after the U.S. District Court found several provisions of the Alien Entry & Deportation Act unconstitutional); (4) provision for group hearings and streamlined procedures for the CNMI Department of Labor's Administrative Hearing Office; and (5) elimination of consensual and expiration transfers for workers, but retention of administrative hearing transfers for workers who prove a violation of the Nonresident Workers Act, Minimum Wage & Hour Act, Alien Labor Rules & Regulations, the Fair Labor Standards Act, Title VII of the federal the Civil Rights Act, or a breach of the worker's contract.

Question 21. In May, the Department of the Interior's Ombudsman wrote, "We have long suspected that a portion of the fees charged by recruiters in China were being kicked-back to the factories here in Saipan."

- Has any Federal or CNMI agency investigated such kick-backs, and if so, what are their findings and recommendations?
- Please provide information on the number of CNMI labor investigators and hearings officers over the past ten years.

Answer. On July 26, 2006, the Federal Labor Ombudsman wrote to the CNMI's Secretary of Labor, Gil M. San Nicholas, formally requesting that the CNMI Department of Labor commence an investigation to determine whether the garment factories were requiring the payment of fees to those China-based recruiters in exchange for renewal of their jobs in Saipan. The letter raises the question why Saipan garment factories would continue to recruit and hire scores of additional workers to come to Saipan after a decision had been made to cease their business activities. Given the cost and potential liabilities inherent in bringing a nonresident worker to Saipan, the Ombudsman speculated that employers who continued to do so after the garment industry began its inevitable decline might be deriving some financial benefit from recruiting workers from China, as opposed to hiring from among the hundreds or perhaps thousands of experienced workers who were already present in Saipan and actively seeking employment.

The letter went on to note that a number of garment workers had complained they had been told their employment contracts would not be renewed unless they paid to renew their relationship with their Chinese-based recruiting agency. Those

³The \$50,000 minimum fee referred to in question 3 above was the original requirement for obtaining a business license in the CNMI. Subsequent revisions to the investment rules raised the business license fee to \$150,000.

who refused to do so were reportedly not renewed. When the complaining employees' cases were heard by the CNMI Department of Labor's Administrative Hearing Office, the employer's representative denied the company had any relationship with the recruiter, disclaimed any knowledge of the practice of requiring workers to pay recruiters before their contracts were renewed, and claimed the worker had not been renewed for reasons unrelated to the relationship between the worker and recruiter. However, the Ombudsman in his letter noted that Chinese law requires a written contract be executed between the recruiter and the garment factory, and produced a copy of such an agreement between a garment manufacturing company and one of its recruiters, undercutting the company representative's denials. The Ombudsman questioned the legality of such side agreements, given the possibility they could affect the terms and conditions of the employment agreement (between the worker and the factory) approved by the CNMI Department of Labor, result in workers being paid less than the minimum wage after the recruiting fees were deducted from their compensation, or violate the Nonresident Workers Act's prohibition against charging the worker any fee for obtaining a job.

A meeting was held later, attended by the CNMI's Deputy Secretary of Labor, the company representative and legal counsel, legal counsel for the CNMI's Department of Labor and the Federal Ombudsman. The Deputy Secretary ultimately concluded that the previously undisclosed recruiter-worker and recruiter-employer agreements should be submitted to the CNMI's Department of Labor for its review and approval, and the company agreed to post written notices in its facilities in Saipan, in the workers' language, informing them that they were not required to pay any fee to their recruiter or any other person in order to have their contract renewed, and requesting that they immediately inform the company's human resources department if anyone informed them otherwise. The CNMI Department of Labor provided the following table:

AVERAGE NUMBER OF CNMI DOL HEARING OFFICERS AND LABOR INVESTIGATORS FOR EACH OF THE LAST TEN YEARS

Year	Average Number of Hearing Officers	Average Number of Investigators
1996	2	11
1997	2	11
1998	2	10
1999	2	10
2000	3	12
2001	3	15
2002	3	17
2003	3	16
2004	3	11
2005	3	11
2006	3	11

Question 22. It was recently reported that despite a steady decline in business activity in the CNMI, in the most recent quarter, July-September 2006, there has been a substantial 29% increase in the number of work permits over the previous quarter.

- Please provide an overview of the validity of this report, and the reason for the increase.

Answer. According to the CNMI Department of Labor, a quarterly report issued by Labor and Immigration Identification and Documentation Systems (LIIDS) did show a 29% increase in permits issued from the second to third quarter of 2006 (from 6,059 to 7,832). However, the term "permit" includes amendments to existing contracts, extensions for Authorizations for Entry, issuance of duplicate permits, and the grant of short extensions to permits. For the quarter in question, LIIDS figures show that more than 900 of the "permits" issued in the third quarter of 2006 were amended contracts. The majority of these amendments simply reflect reorganizations and name changes for one or more garment factories, which would require each employee contract and permit to be amended to reflect the new employer of record.

Excluding the amendments and extensions in both quarters (so that the number reflects only the issuance of new, renewal or expiration transfer or administrative order permits), the increase in permits issued was 13% (from 5,877 to 6,806), an in-

crease the CMNI Department of Labor does not find significant, as quarterly figures often fluctuate by that amount, due to the normal ebb and flow of business and hiring. What did not increase to any significant degree were new permits from off-island. 1,195 were issued in the second quarter and 1,287 were issued in the third.

Labor points to a comparison of the number of permits issued in 2005 and 2006 as evidence that the government actually issued 21% fewer permits in 2006 than in 2005 (27,437 in 2006 as opposed to 33,294 in 2005), reflecting the downward trend in garment industry employment.

Question 23. Are there any non-governmental persons or organizations which the CNMI government has authorized to issue visitor entry permits, and if so, please provide a list of those organizations.

Answer. The CNMI Attorney General's office provided the following statement:

At all times the authority to grant entry permits remains with the Division of Immigration. Most entry permits are reviewed, and are issued or denied, by direct application to the Division. There is a process in place where three travel agencies have been granted authority to gather information regarding prospective visitors to the Commonwealth, fill out applications, and submit the completed applications to the Division for review and further action. At all times the Division retains the ultimate authority to approve or deny any application submitted. Each of the approved travel agencies, one of whom is affiliated with the Tinian Dynasty Hotel and Casino, 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.

There are currently two such active travel agencies: Saipan Travel and Century Travel. Both charter flights from China. There was one formerly authorized agency which did not start operation two years ago, and another agency has been authorized in its place to begin operation when a second expected casino opens on Tinian.

Question 24. Please summarize the rates of participation in major federal and local welfare programs along with historical data that would show any trends. Is there any correlation between the high rate of welfare participation and the CNMI's labor and immigration policies?

Answer. The following are the various Federal welfare (Title IV-D of the Social Security Act) programs that exist in the CNMI. They are block grants, with limited funding availability that does not increase in response to economic changes resulting in higher costs of living or increases in unemployment.

- Nutritional Assistance Program (NAP) a.k.a. Food Stamps. This is a program wherein eligible persons (under guidelines set by the CNMI) are provided with coupons that may be used only to purchase food. While the CNMI is not provided funding out of the large "pie" as the other states and territories, limited funding is allocated under a separate section of the Social Security Act.
- Low Income Housing Energy Assistance Program (LIHEAP). This is a program funded both locally and federally wherein eligible persons are provided with a voucher that may only be applied toward payment of an electric bill. Eligibility for this program is determined under guidelines set by the CNMI. Limited funding for the CNMI is provided under a separate section of the Act.
- MIHA & Section 8 housing. This is a program which provides funding for eligible persons to rent a home or apartment. Limited funding for the CNMI is provided under a separate section of the Act.
- Medicaid. This is a program which provides medical coverage for eligible persons. Limited funding for the CNMI is provided under a separate section of the Act.
- Medicare. This is a program which provides older eligible persons with medical care. Limited funding for the CNMI is provided under a separate section of the Act.

The benefits provided in the CNMI by the various federally funded IV-D programs are so limited that they do not form an incentive not to work for the CNMI minimum wage. Food Stamp benefits are approximately \$82 per month per person. The LIHEAP benefits average \$33.88 per family per month. Section 8 (42 USC § 14370 and MIHA public housing are not factors because there is a long waiting list to receive this benefit, and most local people already have housing on their own family land. In other words, there is no "homeless" problem in the CNMI. The NAP does not provide money to pay normal everyday living expenses other than food. Thus, clothing, toiletries, cleaning supplies, and transportation costs are not covered. The LIHEAP almost never covers an entire monthly electric bill, and cannot be applied

towards a monthly water bill. The \$528.66 per month that one would get working a minimum wage job in the CNMI can buy much more than what is provided by the various federal aid programs offered in the CNMI.

APPENDIX II

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

STATEMENT OF JOSEPH M. MENDIOLA, SENATE PRESIDENT, COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS

CONDITIONS IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. Chairman . . . Members of the Committee . . . On behalf of my colleagues in the CNMI Senate and the people of the Commonwealth, I thank you for allowing me the opportunity to present testimony regarding the proposal to extend federal immigration policies and law to our Commonwealth.

The subject matter before us today is not new. CNMI government officials have stood before this Committee in the past over the same issue. I will not claim that our immigration system has always been problem free. No immigration system is without problems. However, I strenuously maintain that we have made great strides, tremendous strides in improving Commonwealth immigration procedures since the last CNMI delegation came before this Committee.

It has been mentioned that part of the Commonwealth's problem was that it had attempted to "change perception rather than change reality." The realities of our immigration laws and enforcement in the Commonwealth are vastly improved over those of a decade ago. This testimony highlights the changes and improvements so your Committee has the benefit of up-to-date information while considering the legislation before it.

Our local government has demonstrated that it has the ability and resolve to effectively manage and further improve, when necessary, our immigration system. Herein I briefly highlight some of the many changes that have been made to ensure our borders are adequately protected. I present to you the current realities our people face, and draw attention to the negative impacts federalization of our immigration system would have on our community.

The two major industries, tourism and apparel, that have sustained our economy and utilized the majority of our guest workers, have been in serious decline during the past decade. The apparel industry is on its way out, most likely never to return. As the industry leaves, so too will the thousands of workers the industry employs, thereby greatly reducing the imbalance of nonresident to resident workers that has been such a concern to many past and present members of this Committee. We have witnessed and will continue to witness the orderly repatriation of these guest workers.

The other industry is tourism. It has been in a severe decline for multiple reasons, not the least of which were the tragic events of September 11, 2001 and the SARS epidemic. We are working hard to rebuild this sector of our economy. However this will be practically impossible in both the short and long terms without control of our immigration policy. This is the current reality. The in-roads we have made in enhancing our tourism industry will be lost.

Our recent bilateral negotiations with the Chinese government resulted in the granting of "Approved Destination Status" in 2004 which we project may result in a quarter million Chinese tourists per year by 2010. It should be noted that the U.S. government was well aware of our plans; the Department of Interior was kept apprised at every step. This effort would be wasted and we would lose access to this rapidly growing market with federalized immigration. Our emerging Russian market would likewise be lost along with any realistic hope of revitalizing our only mature and sustainable industry.

The CNMI frankly will find it difficult, if not impossible, to compete for tourists with Hawaii, the mainland U.S., and even Guam. All have budgets far greater than does the CNMI. We do not have Disneyland. We do not have the beautiful Volcanoes National Park. We do not have income from a large military presence as does Guam. We have only a small fraction of the infrastructure of these other American

destinations. We have our people, our tropical weather and our beautiful environment. We presently have control over our immigration policy and our Visitor Entry Permit is our competitive advantage. Without it we will not be able to compete.

The Commonwealth faces its most severe economic crisis since its inception. Our local businesses are already bracing for an increase in the minimum wage, which must be passed on to consumers. This, coupled with increased costs of transportation to our islands can only lead to inflation at a time when our people can least afford it. The cumulative effect of an imposition of federal minimum wage standards and immigration law concurrently cannot fully be known but the outlook is certainly not hopeful. These are all unpleasant realities. Allowing the CNMI to maintain control of its own immigration will go a long way to help our economic recovery.

There are some unfortunate perceptions, with which I must respectfully disagree. The first is that the CNMI lacks the institutional capacity to control its borders or to properly manage immigration and guest worker programs. This is outdated information. Many of the geographical traits of the Commonwealth that work to its economic disadvantage, for example our small size and our remote location in the Pacific Ocean, work to our advantage when protecting our borders. We simply do not have thousands of miles of unguarded border with other countries; the only way into and out of the CNMI is by air or sea, thereby making the job of securing our borders easier.

While our Immigration and other law enforcement officials do not have an easy job, our people have the professional skills and experience to enforce our immigration laws. They do an extraordinary job, promptly implementing new immigration legislation enacted as we continually fine tune policies to reflect present and future realities. The improvements we have made are many.

With the assistance of the U.S. government, we now maintain sophisticated computer systems and electronic passport readers. The implementation of the Labor and Immigration Identification System and the Border Management System ensure that everyone who enters the CNMI is accounted for. And, as has been evidenced on numerous occasions, local authorities have successfully worked with federal authorities in jointly enforcing CNMI and Federal law. Federal takeover is not the answer, but the continued sharing of information such as watch lists is.

Our ports are effectively and professionally guarded. Anecdotally, what follows is a quote from the magazine *Latitude 38*, a sailing magazine published in Northern California.¹ "In contrast to the hovering officials of Saipan, who couldn't even wait for us to finish tying the docklines before beginning the paperwork, the Hong Kong officials gave us 24 hours to check in at their offices." I believe our present system compares favorably to the system on the mainland, which admittedly has a far greater number of ports to monitor. In the context of securing the Commonwealth's borders, our "hovering" officials are doing their job. I am proud of them.

Furthermore, it should be noted that there are safeguards and redundancies in place to ensure that the CNMI is not used as a transit point for entry to the U.S. mainland. For example, all travelers leaving the Commonwealth for the States are required to clear U.S. Immigration and Customs upon arrival into Hawaii or the mainland.

I am extremely proud of our enforcement agents and officials. As always, I welcome the continuing assistance of, and interaction with, the U.S. government in regards to border security. For example, an increased Coast Guard presence would be welcome.

It has also been said that the CNMI has been lax on matters of national security and law enforcement. I would respectfully disagree. The CNMI government has worked diligently with the United States Federal Government in the aftermath of the tragic events of September 11th, 2001, to ensure that relevant CNMI agencies have taken action towards protecting citizens of the United States of America.

The CNMI recognizes that terrorism is a serious and deadly problem that threatens our safety both at home and around the globe. Our people serve our country in Iraq. On January 29th of this year we lost our fourth native son to the War on Terror. We share the burden. And although our efforts in no way compare to the efforts of our armed forces, we certainly attempt to do what we can at home.

In 2005, we passed Public Law 14-59, the Commonwealth Anti-Terrorism Act, which established rigorous criminal penalties for those who commit or encourage acts of terrorism. This measure complements federal laws in the fight against terrorism and better protects our citizens against those who would commit such acts.

We have created an Office of Homeland Security within the Office of the Governor. The Office of Homeland Security is tasked with enhancing our government's ability to protect the property and lives of our residents, and visitors, in the event

¹ <http://www.infoasis.com/?latitude38/changes/Changes08-06.html#anchor445554>.

of a threat or act of terrorism. Responsibilities and duties of the Office include developing and implementing appropriate training for local, regional and state responders who may be involved in the event of a terrorist incident that involves conventional, biological, chemical or nuclear weapons.

We are Americans. We are well aware of the need for security, and we have taken appropriate and necessary steps to protect our Commonwealth from attack. I am concerned that, by taking over our immigration enforcement responsibilities, the Federal government will necessarily dilute resources and energy that could better be utilized elsewhere in our United States.

In the past, concerns were raised that CNMI law had no mechanism for addressing political refugees. We have addressed these concerns. Public Law 13-61 implemented the United Nations Convention Relating to the Status of Refugees and the United Nations Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment. To this end our Attorney General's Office has promulgated regulations that take into account refugee rights and protections in the Commonwealth.

The enactment of this law not only ensures compliance with the aforementioned treaty as required by Section 102 of the Covenant, it also takes into account the economic and sociological realities that are unique to the Commonwealth, and the fact that the Commonwealth retains exclusive jurisdiction over matters related to immigration pursuant to Section 503(a) of the Covenant. The necessary procedures are in place and our system works. The CNMI has changed its reality and it is now time for others to change their perceptions.

Another perception is that the CNMI's labor and immigration policies contribute to an unsustainable economy. It is true our population has grown over the past several decades but so has our economy. Government revenues grew from \$10,000,000 in 1980 to \$248,000,000 in 1997. That said we certainly have our problems. Our local utility is in a dire state but the problems do not stem from our guest worker program. The high cost of fuel for our generators and replacement parts which are difficult to source seem to account for most of the difficulty. Also, our residents contend with unreliable water on a daily basis. Some areas of Saipan must contend with non-potable water distribution. We may be the only jurisdiction in the American Political Family that does not have potable water. This is not the fault of a failed immigration policy but instead reflects the geographical reality of life in small tropical islands that depend on rain which falls primarily from August through December.

We are taking steps to improve our position, but this may only be accomplished with the strengthening of our economy. Retaining control over immigration is a critical mechanism needed to revitalize our economy. Rebuilding our tax base will fund the renovation of our aging infrastructure. We ask that you consider this before crafting any proposal.

The final misconception is that Federal legislative action is needed to protect guest workers from abuse. The CNMI has made great strides in protecting the rights and safety of our guest workers. I will not brush aside the past acts of unscrupulous employers, but I will say that our government has taken great pains to ensure that the abuses of the past are not repeated. I will not deny the fact that isolated instances still occur, but I will point to our aggressive enforcement of the law and the successful prosecution against those who would violate it. Our close cooperation with federal law enforcement authorities shall continue.

Our government has worked with the Attorney General and the Department of Justice in enacting Public Law 14-88, the Anti-Trafficking Act of 2005. This CNMI law provides a comprehensive mechanism to combat the crime of human trafficking by prohibiting the act of recruiting, transporting or receiving persons for forced labor; and the act of recruiting, transporting or receiving persons knowing that they will be used in the commercial sex trade. This measure also mandates severe penalties for those convicted of these crimes to deter traffickers from engaging in these reprehensible acts.

Attorney General Alberto R. Gonzales, on behalf of President Bush, sent a letter to the Senate and asked that we enact an Anti-Trafficking Act to better aid the Federal Government in its enforcement efforts against this problem that, sadly, is a global problem. The letter was dated April 25th, 2005 and received shortly thereafter. We took prompt action and after full consideration, the Act was signed into law and became effective less than five months later. I am very proud of our fast response time. This is concrete proof of the Commonwealth's willingness and ability to ensure the rights and safety of all in the CNMI. Your Committee clearly has knowledge of negative allegations regarding the Northern Marianas. This testimony and the accompanying exhibits document positive factual information about the present day situation in the Commonwealth.

We have enacted, and continue to research and reform laws protecting our guest workers and everyone who considers the Commonwealth home. I know Lt. Governor Villagomez and Speaker Babauta have referenced many of these efforts. Our commitment to protect every person in the Commonwealth is real. Our ability to do so is also real.

My preceding remarks have dealt with past and present realities. Now I will briefly discuss the future. If the CNMI can retain control of its immigration, we certainly can maximize our tourism industry, but I also see an opportunity to turn the Commonwealth into an educational hub. Again, it is our Visitor Entry Permit that gives us our competitive advantage and our only tool by which we may advance our goal.

I envision a place where students from all over the Asia-Pacific region may come to study in American institutions of higher learning. I envision this as an industry with few, if any, externalities. Knowledge may be contagious but it will not spoil our wonderful environment. Our marine ecosystem that includes coral reefs and proximity to the Mariana Trench leads me to believe that we could be a premiere location for oceanographic study. Likewise, volcanic activity, plants and animals found nowhere else and archaeological attractions all are found in the CNMI and are worth of study.

The students' tuition and associated spending will bolster our economy. This is a stable and sustainable industry if properly nurtured. Our residents would benefit from the additional educational opportunities. The positive impact of exposing these students to the best of America: free speech, free assembly, freedom of conscience and religion, academic freedom and the workings of a democratic government and society is a value difficult to quantify, but worthy of your consideration.

Many foreign students seeking American educations do not qualify or have the means or inclination to travel to the mainland, yet they could study in the CNMI and take home the American ideals and values they experience first-hand in the Commonwealth. The Commonwealth's ability to control our own immigration could thus be one of the most important, and beneficial, aspects of United States foreign policy in this important region for years to come. This is an opportunity we all should embrace. I would ask you to consider the value of making this a reality.

In closing, I admit that in the past, when the media disseminated serious allegations about the CNMI, our government focused on changing the perceptions rather than the reality. But those times have long since passed. We have implemented true change in our immigration system. Unfortunately, it is often sensationalized accounts that prevail as the public perception of the CNMI and not the reality of the great strides we have made.

We simply ask to be judged as we are now. Consider and analyze the reforms we have enacted. If this Committee determines the CNMI is omitting a necessary step or policy, we will be happy to implement your suggestions. Should this Committee find that more federal involvement is necessary, we would welcome any additional assistance implementing our immigration laws.

We welcome your visit to our islands, but ask that any preconceived notions of the CNMI be put aside. We invite you to see firsthand the reforms we have implemented over the years and the challenges we currently face. We ask to be judged on our current reality, and not the past. I ask the members of this Committee to carefully analyze the information we are presenting and make their decisions based on the current reality. Federalization of our immigration system is not necessary. The CNMI is actively engaged in effective management of our own immigration. Thank you very much.

STATEMENT OF SIMON HABEGGER, INSTRUCTOR, NORTHERN MARIANAS COLLEGE,
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

LABOR ISSUES IN THE NORTHERN MARIANA ISLANDS

To whom it may concern, I am an instructor at the Northern Marianas College, in the Commonwealth of the Northern Mariana Islands. I understand that the Committee on Energy and Natural Resources is holding a hearing to examine issues related to immigration, labor, and related problems here in the Commonwealth, and that members of the community are invited to submit written testimony. I would like to do so.

I speak fluent Thai and have many friends in the Northern Mariana Islands who are guest workers from Thailand. I believe that their experiences are important when assessing the current state of contract workers on Saipan, and would like to submit the following testimony.

Several Thai workers that I know are currently employed by a construction firm, Sablan Construction, that does not pay them regularly. They receive occasional checks from petty cash (an illegal practice) and are owed several thousand dollars each. Their homes are rented from Sablan Constructin and are crowded, unsafe and unsanitary, far below the level of a slum. Many have been working in these conditions for years, and cannot go home since they have no savings.

I have asked them why they put up with this treatment, and they say that they are close to qualifying for limited Social Security benefits (10 years of work). I drove two of them down to the Social Security Office to check on their status. One man, who has worked full-time on Saipan from 1988—2006, had been credited with 29 quarters (7.25 years out of 18 years). The other man, who has worked full-time on Saipan from 1996—present, had been credited with 31 quarters (7.75 years out of 10 years). Both of them were shocked to find that in addition to working for no pay, they were not being credited with taxes paid towards retirement.

I took the first of these men who has worked since 1988 down to the Office of Revenue and Taxation (a branch of the Commonwealth government) to find his tax records, in order to support a claim for augmenting his Social Security credits. The Office of Revenue and Taxation does not keep records available that are older than 10 years, and was not receptive to searching for them. For the years 1996 and 1997 they had records of this man's W-2 forms, but refused to release them to him. The reason given was that Sablan Construction had filed his taxes for him in that year, and the records could only be released to Sablan Construction.

Thai workers at Onwel Manufacturing Saipan Ltd. (a garment factory) report that new workers are even now being brought in from Thailand; these new workers have to sign a form that says they will not sue Onwel Manufacturing Saipan Ltd. if their jobs are abruptly terminated.

Thai workers at Michigan, Inc. (a garment factory) have been told that the company is closing down and does not have money to pay them any more. They are unaware of any legal recourse that they might have to receive recompense, and any legal process is likely to drag on long after they have been repatriated. After repatriation there will be no urgency for the local government or the legal system to make up their lost wages.

The Thai workers in the Northern Mariana Islands are extremely vulnerable. They speak no English, they are unfamiliar with any rights that they might have, and the corruption and inefficiency of the local government stymie any sort of appeals that they resort to. They assume that any complaint or legal effort they make will be retaliated against, and they will be sent home with nothing. The men working for Sablan Construction are the barest step above indentured servitude; they can go home whenever they want, with nothing—they are continuing to work for nothing in the hope of receiving part of their back pay, and retirement benefits, in the future. At least one of them is quite desperate. It is disgusting that they have endured this for years.

Many of the factory workers pay large fees to come here, borrowed against houses and land at high interest, and which require years of work to pay back. It is absolutely unconscionable that they are still being recruited at a time when the industry is acknowledged to be on its last legs and they will be lucky to work for six months. In December of 2006 the factory workers of the largest garment factory, Concorde Garment Manufacturing Coporation, protested for several days when the factory announced its closing—many had been recruited, and spent thousands of dollars, just a month or two before.

Compelling people to pay for their jobs opens the door to many abuses. Why is the government here still granting work permits to new garment workers? The industry is closing down and there is a large pool of unemployed workers on Saipan. Why are the garment factories recruiting new laborers abroad? What provisions are being made to protect garment workers whose factories close suddenly, without paying them for several weeks or months beforehand, and do not provide for their ticket home?

Every foreign worker has a bond, purchased with their own money, that is supposed to provide for these eventualities. The bonding companies have been unregulated, they are vastly undercapitalized, and they will not provide the services for which they have been paid.

The government of the Commonwealth of the Northern Mariana Islands is, in my estimation, uninterested in protecting the human rights and fiduciary rights of the foreign workers that it admits.

What has been done to control Sablan Construction's exploitation of its workers? What provisions have been made to protect the workers at Michigan Inc.? Why are new workers still being recruited by Onwel Manufacturing Saipan Ltd. and receiving work permits? Why is the bonding industry in disarray?

Everything I have written here was told to me directly by Thai garment workers, without intermediaries or interpreters. These are their experiences, and how the workers themselves report they are treated by their employers. Thank you very much for your time and attention. If you would like to get in touch with me further, I would be happy to expand upon what I have written here.

STATEMENT OF BRIAN J. ROSS

Mr. Chairman and Honorable Senators. Thank you for this opportunity to offer testimony to this esteemed committee on matters pertaining to my home, the beautiful "Commonwealth of the Northern Mariana Islands".

Let me start by telling you a little about myself so you have framework to consider my testimony. I am a Proud U.S. Citizen, and a disabled, retired, Veteran. I have resided in the NMI for over a decade. I am married to a wonderful lady who is an elementary school teacher in our public school system. One could consider us on the lower end of "middle class" on an economic scale.

A lot will be said to this committee, both from the local politicians who will testify today, and from the Office of Insular Affairs about our need for representation, or a Delegate to the Congress before any decisions or action taken.

Most CNMI Veterans STRONGLY disagree!

Let me remind this honorable Committee that previously we had an opportunity for a Delegate, but the bill was stopped by the efforts of Representative Tom Delay, and lobbyist Jack Abramoff, at the request of then Speaker and now Governor Ben Fitial, who still calls them both "Good Friends".

The Committee should also remember that in 1969, an election was held to consider the reunification of Guam and the CNMI. CNMI Voters in that instance "OVERWHELMINGLY" approved the measure, indicating then our preference for U.S. "Federalization" as our annexation would have provided. Unfortunately the voters of Guam disapproved the measure, so it did not go forward.

Our Politicians who testify to you do NOT represent the views of the "Silent Majority" of CNMI residents. They represent the Chamber of Commerce, the SEDC, (Saipan Economic Development Counsel), a project of the Governor, and other business fat cats, who benefit by having NOTHING done. In fact 54% of our local population are guest-workers and therefore can not vote or even obtain a visitor visa to travel to Washington and offer testimony.

Don't be swayed by arguments about the Covenant. Remember that when the Covenant was negotiated and VERY liberal rights for Immigration Control, and land ownership rights, and self determination on minimum wage allowed we lived in a very different world.

I contend that when the awful events of 9/11 touched our shores, all deals were off, and everything open to change. Which the Covenant permits.

From the perspective of a Disabled Veteran from the mainland, my U.S. Constitutional rights are violated every single day by this agreement.

I am NOT permitted to own land outright, or use my VA Home Loan Guarantee Benefit, but my Chamorro and Carolinian Veteran brothers can.

I am NOT allowed to vote in certain elections, within my community, because of my ethnicity. In short I am treated as a second class citizen in my own country, under the U.S. Flag.

I could go on and on with many other examples of blatant discrimination.

When the thousands of Men and Women who served to liberate our islands in 1944-45, fought, became disabled or died, did so to support the U.S. Constitution and traditional American Values. When I took the oath, I did too, as I know you did.

I did not ever think that I would live in a jurisdiction under the U.S. Flag where traditional American Values are violated every single day. That was NOT the deal then, and it should NOT be today!

Recently one of the negotiators of the Covenant for the CNMI, Mr. Guerrero, offered public comment in local media, stating that he NOW would support a U.S. Federal assumption of Immigration Control responsibilities. He further stated that the CNMI has failed to manage these responsibilities effectively.

At your hearing on these very issues in 1999, you asked the question of the Federal Government officials, if in their view "the CNMI could operate a Immigration System that would be acceptable", there answer was NO!

I maintain the answer is still NO! Particularly in the light of security challenges we have faced in the United States since 9/11/01.

Myself and other Veterans within our community would respectfully request that the Congress take the following steps:

- Enact a bill similar to the Murkowski Bill S-1052 that was introduced in May 1999 in the 106th Congress and approved unanimously by this Committee and the Senate. Or the amended version S-507 introduced in the 107th Congress in March of 2001. Both Acts mandate Federal Control over, Immigration and Homeland Security, within the CNMI. With provisions for a guest-worker program to be administered by the Department of Homeland Security, and a Visa Waiver Program similar to Guam's, so our visitor industry will NOT be impacted.
- Institute a Federal Minimum Wage in the CNMI, with no opportunity for excuses by the local government. We have the highest utility rates under the U.S. Flag, the price of gasoline is \$3.06 a gallon, and a minimum wage that has been at \$3.05 for nearly ten years. This impacts both local and guest-workers.
- When both the above measures are enacted, consideration of a Delegate for the U.S. House of Representatives.

Our local government has failed us repeatedly over the years. We urge the Congress to pass federal legislation that will enforce Federal Immigration laws, insure Homeland Security in the wake of 9/11.

Provide a Federal Minimum wage that is livable to citizens and guest-workers alike. Let us be treated like our fellow citizens in other territories and the mainland.

Please provide us the same measure of Homeland Security and Border Control our fellow islanders do on Guam, Puerto Rico, and the U.S. Virgin islands.

Please help us!

Thank you for your consideration of my testimony. May God Bless America, and the CNMI.

Saipan, MP, January 31, 2007.

Hon. SENATOR JEFF BINGAMAN,
The United States Senate, Committee on Energy and Natural Resources, Washington, DC.

DEAR SENATOR BINGAMAN: The United States Congress is taking up legislation that will have profound effect on the Commonwealth of the Northern Mariana Islands.

Labor conditions have evolved and improved significantly over the last decade. Local officials and the community at large are keenly aware of their obligations to employees, and the law is vigorously applied, as both local and federal officials have jurisdiction in these matters.

The Covenant, as appended in P.L. 94-241, recognized that our geographic location, and relative inexperience with more sophisticated businesses practices abroad, would require assistance to develop an economy that could sustain a growing population. This is difficult under ordinary circumstance, even for a country like the United States, but our relative isolation and inexperience put us at an added disadvantage, that the Covenant attempted to mitigate.

Some would argue that the CNMI has been given adequate time to make the necessary accommodations that a more sophisticated system requires. I argue that these kinds of changes occur over several generations, and that ignoring this reality would heap economic hardship on the CNMI for simply punitive reasons.

A new focus has emerged in the CNMI, however, one that recognizes the importance of building up our own local capacity, and substituting nonresidents with U.S. Citizens, but these changes add costs that neither the business community or government can absorb if they are made too quickly and without due consideration to our present economic condition. The CNMI has historically received the lowest level of federal subsidies of all the states and territories, a situation that we worked hard to achieve, believing that self-sufficiency is a laudable goal. As our economy has declined, government officials have applied for increasing federal subsidies, a trend that we find worrisome, and judging by history, will be difficult to reverse.

What some congressional staff now propose for the CNMI does not adequately recognize the global changes in worker migration patterns, or radical changes occurring in global economic conditions that necessitate the movement of residents from one country to another to provide services not served by local populations. This is an extremely complex matter that we have not satisfactorily resolved for our community, but the debate and review is ongoing, and with continued assistance from the United States government, we feel that we can address in a manner that promotes U.S. Employment opportunities here while permitting continued nonresident employment options open.

The Congress, in its wisdom has seen fit to exempt American Samoa from federal wage increases for the very same reasons the CNMI puts forth. Except in the case of the CNMI it is not asking for an outright exemption, but asking for a public hearing, an independent report, perhaps generated by the GAO, to ascertain at what rate the minimum wage should be increased.

Other territories receive substantively higher sums of federal assistance, direct and indirect grants, subsidies, and infusions of capital arising from military activities. This is not the case with the Northern Marianas. We are not seeking additional federal funding; we are seeking support for the means to generate our own revenue, to maintain an economy that promotes self-sufficiency and less reliance on federal coffers, not more.

This is what was envisioned in the Covenant.

There is no doubt that the minimum wage increase will result in significant job losses on the private sector side, business closures will also result, and government collections will decline further, fueling a further downturn of the economy.

The basis for these actions it seems is largely punitive, driven by examples of labor abuses dating back some 10 years. There are labor violations to be sure, as there are in the normal course of businesses in any community anywhere in the world, but a system is in place to register and process ordinary labor complaints. The more egregious labor abuses, with rare exception, are a thing of the past, and when they occur, they are handled with the full force of law, both local and federal. These are not tolerated or taken lightly by the local community.

As a long-time member of the business community, I am writing to inform the committee that the measure as it is currently drafted will have significant, negative affect on our community that will not be aided even with significant federal aid. I ask that the Congress study the matter of wage increases as it applies to the CNMI before acting on the measure now before it.

There is no doubt that the CNMI could have and should have handled many of these matters more responsibly. As a community, I believe that positive changes will occur in labor and wage considerations, and we ask that the Congress take the time to conduct an independent review before enacting radical wage increases that do not adequately consider economic conditions on the ground.

I ask that my letter be made a part of the hearing record, and thank you for the opportunity to submit comments on these important bills.

Sincerely,

JUAN S. TENORIO.

Saipan, MP, February 6, 2007.

Senator BINGAMAN,
*Chairman, U.S. Senate Committee on Energy and Natural Resources, U.S. Senate,
Washington, DC.*

DEAR CHAIRMAN AND HONORABLE MEMBERS OF THE COMMITTEE: I am a U.S. Citizen who moved from the mainland to the CNMI 16 years ago. I, along with 14 other stateside Americans, invested over \$6 million in the booming economies of the Pacific Region and the miracle growth-taking place in the CNMI.

As a way of comparing how small the small population is in the CNMI, or American Samoa, the number of spectators sitting in the stands watching Super Bowl XLI was 15% greater than the TOTAL population of the Northern Mariana Islands. The total land area of Saipan is 29% smaller than the District of Columbia. Hawaii's land area is 35 times BIGGER than all the Northern Mariana Island combined. America's smallest state Rhode Island is 22 times bigger than Saipan. If this population were in any other areas of the U.S., issues would merely be solved in the neighborhood through councilmen or the Mayor's office. However, in the case of these small Western Pacific Islands, they stand before the U.S. Senate and Congress.

On my second visit to the CNMI in 1991, the then Governor Guerrero asked me, "Why is it taking Americans so long to come out here?" With all the advantages of doing business here, why are they not coming?

The Interior Department has only recently created Investment Forums aimed at educating and informing American companies on the opportunities to invest in insular territories. Juxtapose to the Forum's objectives is Congressional actions making it virtually impossible to continue investing capital in the CNMI economy and other insular territories.

If American businesses or nearly Asian investors can reinvest in the CNMI or American Samoa, who is expected to shoulder capital requirements for economic expansion? In the cast of Guam, it is the U.S. Government and its expected military

expansion, but what happens to other regional insular areas if capital funding sources evaporate? The region becomes economically unstable which is not in the best long-term interest of America.

The economies of the Western Pacific territories are primarily affected and rely on Asian countries. As a way of comparison, Tokyo is 3 hours from the Northern Mariana Islands. Seoul is 4 hours away. Hong Kong is 4 and half hours but Hawaii is a distant 7 hours and Los Angeles is a staggering 11 hours. The beaches on the east side of Saipan face the Pacific Ocean, but on the west side, they face the Philippine Sea. Policies best suited for mainland U.S. may not be appropriate for these small fragile economies possessing limited natural resources and lying in the front yard of Asia.

Without money coming into their respective economies from tourism, fishing, garments and construction, the only remaining funding source is the American taxpayer. Money must flow into an economy in order for it to purchase the goods and services it needs. Last year, CNMI purchased over \$900 million in goods and services from U.S. suppliers. Less than 7,000 American tourists (primarily from Guam) came to the islands last year but slightly less than 480,000 came from Asia.

The U.S. sells more to CNMI than it buys. With its economy poised to collapse with pending legislation, how can the people of the CNMI continue to purchase from mainland suppliers? Where will the money come from to buy essential goods and services? Is this Committee prepared to recommend policy knowing that it will make the peoples of the Western Pacific insular territories wards of the Federal Government?

Every time you take away economic sovereignty, you create a system of dependency. It appears political policy is headed in the direction of creating a dependent culture. It is far easier to pacify island people by simply paying them to sit home than actually work. Being self-sufficient permits mistakes to occur and reduces control by Washington administrators.

The Interior Department has already stated that the insular areas should not expect money from Washington. If this is so, is the potential cure worst than the disease. Are the indigenous people expected to drink water and eat air? Or simply, trust me, the check is in the mail.

The only Natural Resource of the Western Pacific Insular Territories is location. These islands, like other pristine environments and Indigenous cultures, should remain economic sanctuaries based on their local economic limitation and conditions. Their economies are fragile and exist without the vast natural resources of the U.S. mainland. Words from old song, "Different strokes for different folks."

The peoples of the Western Pacific have developed their culture, traditions and lifestyles over thousands of years. Recent archeological discoveries in the Northern Marianas date the earliest inhabitants at 9,000 years. Americans only arrived on these islands in 1945 to end the War in the Pacific from the island of Tinian. Over 100,000 American soldiers fought from these islands, yet today, the island of Tinian has a population of less than 2,500.

As reported in our local newspapers, witnesses brought before the Committee will voice problems with their employment experience in the CNMI. What about the over 50,000 formerly employed workers who had no problems with the system? Workers, who came, worked and returned to their home countries with large savings and success stories? Workers, who went back home and started businesses, bought homes and became financially independent. As environmentalist would say, "Who speaks for the trees?"

It is unfair and unjust to look at one side of the equation. The Committee's objective should be to learn the balanced truth. Who speaks for thousands of success stories? Who speaks for the local inhabitants? The Committee can not be convinced that all is bad, otherwise, why do workers want to stay and continue working or that applications to work exceeds the number of jobs.

In conclusion, I have made the CNMI my residence for the past 16 years. Even though I lost my ability to vote in Federal elections, even though I have no representation in Congress, even though I do not have 24 hours water, even though my electrical power is the most expensive in the WORLD—I chose to live here. The air is clean, you can hear birds fly, there are only 14 traffic lights on the island and the average temperature is average 81 degrees throughout the year.

With respect and hope for fairness in discussing solutions,

PAUL ZAK,
Resident.

STATEMENT OF OSCAR M. BABAUTA, SPEAKER OF THE HOUSE, FIFTEENTH NORTHERN
 MARIANAS COMMONWEALTH LEGISLATURE, COMMONWEALTH OF THE NORTHERN
 MARIANA ISLANDS

Hafa Adai and Good Morning Chairman Bingaman, Ranking Member Domenici, and Members of the Committee. My name is Oscar M. Babauta and I am the Speaker of the House of Representatives of the Fifteenth Northern Marianas Commonwealth Legislature. I am grateful for the opportunity to submit written testimony to the Senate Committee on Energy and Natural Resources regarding a matter of critical interest to the People of the Northern Mariana Islands.

Under the Covenant to Establish a Commonwealth of the Northern Mariana Islands (CNMI) in Political Union with the United States of America (48 U.S.C. §1801), the CNMI is vested with plenary immigration authority, subject to United States citizenship and nationality requirements. See generally COVENANT §§503-506. I would like to take this opportunity to discuss the CNMI's immigration authority, a more detailed explanation of which is provided below, that has enabled our islands to develop a manufacturing and tourist economy that benefits both locals and non-residents and allows us to contribute to the American political frailly. I also would like to provide some background for the Committee on our continuing legislative efforts in the area of immigration and labor reform.

A BACKGROUND OF THE CNMI'S IMMIGRATION AUTHORITY

As many members of this Committee are aware from past hearings on the matter, the CNMI has historically been reliant on non-resident labor to meet the demands of our local economy. At the time we joined the United States as a Commonwealth, there was a great need for a non-resident labor force. Over time, this need has remained, although we are making every effort to train and employ local residents and decrease our dependence on foreign labor. To this end, we continue to develop programs for the training and placement of the local population through courses of study at the Northern Marianas College (our local land-grant secondary education institution), and cooperative agreements such as that with the University of Hawaii extension program, Framingham State College in Massachusetts, and other training programs.

Pursuant to our immigration authority granted in the Covenant, the CNMI has enacted both the Commonwealth Entry and Deportation Act (CEDA, 3 CMC §4301 et seq.) and the Non-Resident Workers Act (NRWA, 3 CMC §4411 et seq.). Together, these two provisions of law form the bulk of our immigration statutory law, a large part of which addresses non-resident labor. In 2006, the CNMI issued 27,903 non-resident worker permits during the fiscal year and had 443,812 tourist arrivals for the year.¹ These numbers are both lower than in many previous years and are indicative of two divergent trends. As the apparel industry winds down and local workforce training continues, I expect the number of non-resident worker entry permits to decline. Conversely, as investment in our tourism industry increases, we hope to see an increase in visitor arrivals (see below, Part II).

Since the passage of the CEDA and NRWA, local government departments and agencies have developed a regulatory infrastructure as well as immigration and border tracking databases to ensure the effective identification of persons entering and exiting the Commonwealth. The Division of Immigration, in cooperation with the Department of Labor, has promulgated regulations for the processing and entry of non-resident workers and their families. The Division of Immigration has also promulgated regulations governing the issuance of short and long term business and investor visas, short and extended term tourist visas, entry permits for U.S. citizen's non-citizen family members, and entry permits under numerous other entry categories. The Attorney General's Office is tasked with maintaining a list of visa-exempt, visa-waiver, and visa-required countries patterned after the U.S. model. The Attorney General also maintains a list of countries from which identification or other travel and entry documents are unreliable. The Division and the Legislature continue to review and adjust visa categories for aliens seeking entry to the CNMI.

The Labor and Immigration Identification and Documentation System (LIIDS) tracks all non-resident labor contracts, job category authorizations, and permit status of non-resident workers in the Commonwealth. This allows immigration and labor investigators to quickly determine the permit status of all non-resident workers involved in labor complaints and administrative hearings, as well as compiling

¹Sources: Non-resident entry permit information obtained from the CNMI Department of Labor. This number is based on three quarters of actual data and an extrapolation for the fourth quarter of Fiscal Year 2006. Tourist arrival information obtained from the Marianas Visitors Authority.

data on overstaying aliens. The Border Management System (BMS) generates a record of all entries to and exits from the Commonwealth, regardless of citizenship. Investigators can similarly have instant access to arrival information and can confirm the departure of non-residents with expired contracts and those ordered deported from the Commonwealth for violating local law.

As our immigration and labor laws have become more fully fleshed out over time, so too has the expertise of our local judiciary. We are fortunate to have informed, active judges who encourage a robust immigration practice that protects both due process principles and the best interests of the Commonwealth and the United States. These judges have helped to define a body of case law that will guide future government officials, attorneys, and judges in interpreting and applying the provisions of our immigration laws. Examples of important strides the judiciary has made in the area of immigration are the clarification of various provisions of the CEDA, the safeguarding of constitutional due process rights for non-resident workers, and support for an effective enforcement regime.

In total, our statutes, regulations, border management systems, and jurisprudence provide a comprehensive legal infrastructure for immigration. The ability to efficiently track entries and exits of all persons and the labor status of non-resident workers promotes fair and thorough enforcement and enhances local and national security. The ability to process tourist visas under local, as opposed to federal, immigration authority offers us a beneficial competitive advantage vis-à-vis other major Asian tourist destinations such as Bali, the Philippines, and peninsular Thailand and Malaysia.

WHY CONTROL OF IMMIGRATION IS IMPORTANT TO OUR ECONOMIC RECOVERY

I certainly do not appear before you today to suggest that the reports of corruption and abuse in our labor and immigration system are categorically false. Past incidents involving non-resident workers, as well as efforts to rectify certain problems in our immigration system that I discuss later in my testimony, are well documented. I do ask, however, for your dispassionate consideration of my request that the CNMI retain its plenary immigration authority. For twenty-five years the Covenant has enabled our Commonwealth to develop solid private sector industries. Although our tourism industry has declined from its pre-SARS and pre-9/11 peak, it remains an extremely important source of income, employment, and government revenue for our islands. As an elected leader of the CNMI, I feel strongly that retaining local immigration authority over both our non-resident labor force and our tourism industry is essential to our Commonwealth's economic recovery.

Many Committee members may be aware that our Commonwealth is experiencing a severe economic downturn. We are in the process of losing most if not all of our largest single industry, apparel manufacturing, which is in turn having a ripple effect throughout the public and private sectors. For example, Concorde Manufacturing, the largest single apparel manufacturer in the CNMI, recently closed down due to economic and market pressures. This resulted in the layoff of approximately 1,400 employees and will mean a significant loss of revenue for the CNMI government. To illustrate this overall revenue decline, the approximate revenue level for Fiscal Year 1997 was \$248,000,000. By Fiscal Year 2003 revenue shrank to \$217,000,000. The projection for Fiscal Year 2007, initially set at \$193,000,000, has now been amended down to \$178,000,000.² It is not clear whether this situation will improve in the near term. The pending legislation in Congress to raise the minimum wage in our Commonwealth will add an additional challenge to our economic recovery. While we will rise to that challenge if and when the wage bill is enacted, I feel that control over immigration remains a sensitive local matter, influenced by local conditions, relationships with our nearest Asian and Pacific neighbors, and our long term plans for economic growth. In many ways our ability to remain a relevant player in the global economy depends on our ability to respond to political and labor market changes through our immigration laws.

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.³ As an example, we are placed at a disadvantage with regard to other American states and territories (with the possible exception of Guam, which

²Source: Public Law 13-24, Public Law 15-21, and the CNMI Office of Management and Budget.

³As explained on Pages 1-2, we continue to develop training programs for resident workers both here in the CNMI and through cooperative arrangements.

benefits from a large military presence) when it comes to recruiting physicians, attorneys, engineers, and other skilled professionals. While an American state can depend on an exponentially larger population or proximity to major urban centers to recruit these professionals, we must compete as a tiny, remote location, nearly 6,000 miles from coastal California and largely unknown to the American public. To ask an American professional to uproot a career, family, and lifestyle to make such a move can prove to be a daunting task. As of yet 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. It is this reality we are faced with when trying to recruit resident professionals. As a result, non-resident professionals, and our ability to process them locally, have become an important component of our continued development. The same is true of unskilled non-resident laborers. For twenty-five years non-resident laborers have contributed in a vital way to our islands, operating businesses, building schools, and improving public works. They have helped to transform the CNMI into a dynamic, multicultural society teeming with potential.

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.

An additional tourist market that has experienced recent and rapid growth is the Russian tourist market. Visitors from eastern Russian cities began arriving in the CNMI in sizeable numbers in Fiscal Year 2005. Initially the flights came through Seoul, Korea, but more recently direct charter flights have been scheduled. Russian arrivals in August 2006 increased 136% from August 2005. September 2006 arrivals increased 112% from the same month in the previous year. In Fiscal Year 2007, Russian arrivals increased another 89% and 57% respectively for October and November 2006.⁴ Although the actual numbers are still relatively small, the Russian market is a bright spot in otherwise difficult Asian terrain. The market is characterized by longer than average visits resulting in increased revenues, a high percentage of return visitors, and little to no legal complications. To date, I am not aware of any Russian tourist that has been issued an order of deportation for overstaying an entry permit or violating any other provision of law. 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.

We view these early successes with the Chinese and Russian tourist markets as a sign of a brighter future for the CNMI's tourist economy. We continue to promote the Japanese and South Korean markets, as well as other Asian and Pacific markets. The Covenant's immigration provisions are invaluable to this effort. Our ability to compete with other parts of the region and world for tourist business is greatly augmented by a responsive local immigration authority.

IMMIGRATION AND LABOR REFORM EFFORTS

I would like to assure this Committee that the CNMI has taken substantial steps to reform and strengthen our immigration laws and regulations in order to improve our enforcement system. In 2004, the Commonwealth Legislature passed Public Law 13-61, an Act that established our Refugee Protection Program.⁵ Following passage of this important legislation, comprehensive regulations were adopted in cooperation with the Department of the Interior and the United States Citizenship and Immigration Services (U.S.C.I.S.) to effectively honor and implement the United Nations Convention on the Status of Refugees and the United Nations Convention and Protocol Against Torture. Special Administrative Protection Judges were trained at the

⁴Data Provided by the Marianas Visitors Authority. The CNMI Fiscal Year begins October 1 of the previous calendar year.

⁵I have appended copies a all CNMI legislation discussed in this section for the Committee's reference.

Department of Homeland Security's FLETC program in Glynco, Georgia, to hear cases brought by deported aliens who expressed a fear of persecution or torture upon returning to their home country. The program brings the CNMI in line with the treaty commitments of the United States in the area of refugee protection.

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 (D.N.M.I. 2000).

As I write to you today the Legislature is debating a comprehensive overhaul of the CNMI's Non-Resident Worker Act to improve efficiency and accountability in our alien labor system. In conducting this reform effort, we are seeking input from CNMI government agencies, business leaders, educational leaders, the U.S. Federal Ombudsman, and members of the public. The goal of this labor reform is to provide both employers and non-resident employees with a dependable legal structure that promotes the consistent application of laws, protects the rights of interested parties, and provides labor stability for the economy of the CNMI. In addition to this reform, the House of Representatives has this session passed House Bill 15-131, an act to ensure the fair and efficient winding-up of large-scale businesses in the CNMI. In light of our recent economic downturn, the House has acted to provide resident and non-resident employees with fair notice of business closures and prevent the abandonment of contract employees and fraudulent removal of company assets. The notice requirements are intended to supplement worker protections provided under the federal Worker Adjustment and Retraining Notification (WARN) Act of 1988. (See 29 U.S.C. §2101 et seq.)

The Legislature also continues to support efforts of local and federal law enforcement to combat illegal employment practices. Labor and immigration investigators work regularly with both the CNMI Attorney General and federal authorities to prosecute employers who hire illegal aliens or participate in recruitment "scams" to defraud non-resident contract workers. In January of this year these efforts resulted in the criminal convictions of two employers accused of immigration fraud and unlawful employment in the hiring of two non-resident workers from the Philippines. See *CNAll v. Cabrera & Luo*, Crim. Case No. 05-0311(B).

The Commonwealth Legislature is committed to reviewing and improving our immigration and labor laws whenever necessary. We take very seriously our duty to develop the most effective immigration system possible. 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 remain optimistic about our future as a productive and innovative Commonwealth in the American political family. I believe that preserving local immigration control will enable us to climb out of our current economic downturn and develop a strong and diversified economy that will become increasingly less dependent on foreign labor. Mr. Chairman, Ranking Member Domenici, I want to thank you and the Committee for your consideration of my testimony as a legislative leader representing our beautiful island Commonwealth.

Thank you and Si Yu'us Ma'asi.

STATEMENT OF SINGH MANGAL

Dear Sir/Madam, thank you very much once again to give a moment of your valuable time to read the following comments about Northern Mariana Island's labor and immigration. I have special request with you that this is my last e-mail. Highly appreciated if you could help us by changing the way NMI are handling the labor and immigration is horrible and so lax that they may call anyone to NMI to work simply by issuing a entry permit. I am not gonna give any example. You will sense by yourself when you talk to non resident workers. 100% alien workers will go for Federalization. As per Mr. David Cohen said that non resident workers who have

been working for the past five, ten, fifteen and more are the one who built Saipan by working hard but their life never ever improved.

We read all the testimonies, submitted by panel 1 and panel 2. Everyone's main concerned is "Federalization".

We have really no idea why some of our local government officials requesting for great flexibility if Congress to extend the immigration and naturalization laws for CNMI is a fishy knowing that over 5,000 labor cases were compiled already in Federal Labor Ombudsman since 2000. They know that they can not handle anymore except creating a lot of problems. "Three decades" CNMI's labor and immigration is under their disposal still they want so that their tarnished names will be published in worldwide. CNMI became known about sex slavery and forced abortion internationally since 2000. Federal-Yes with no great flexibility otherwise they might abuse again by using their power as usual.

Major problems—There is no price control on this island not like Guam. Different store has a different prices of daily essential commodities. Government offices don't pay their utilities on time i.e., three to four months resulted in non-payment to Mobil on time. They increased gradually by making ordinary people to pay as published several times in local newspaper since last year.

I have been working for the past 10 years legally as a Supervisor in five stars hotel. One good example-I have mentioned clearly to my colleagues that if you guys work honestly and efficiently. Non residents are not required any more to work on this island. The problem is (1) they are not punctual on duty, (2) frequent absent and tardiness with excuses. These are the factors that 90% businessmen hire non resident workers in order to run their business. This really shows that total dependency on non resident workers.

Local peoples are being brain washed by their local leaders that "NO FEDERAL" because they are very strict. About 30% of CNMI population are working in Guam and other U.S. parts knowing that the government is corrupted totally. Now, some of local peoples are coming to work knowing that the minimum wage is gonna go high pretty soon.

Alien workers leave their family back in their country and whatever their hard earned money, they remit to their family. Now the question arises, million dollars are remitted from NMI as per the President, Chamber of Commerce. Millions times, alien workers requested local governor to consider them as a resident workers especially for those who have been working more than five years so that they may bring their family to NMI. Whatever they earn, all the earning will be spent on this island but our appeals for help fell on a deaf ears.

They talk and boast about their progress and improvement. If you take a vote, I think 70% will go in favour of "Federalization". Please help us to get rid of their control so that everyone may work equally under the flag of U.S. and treat alien workers as a human being.

OUR COMMONWEALTH,
Saipan, MP, January 26, 2007.

United States Senate, United States House of Representatives, Washington, DC.

Dear Senators and Representatives: We are the people of the Commonwealth of the Northern Mariana Islands. We come from diverse ethnic, socio-economic, and religious backgrounds. Some of us are government employees, some of us are private-sector employees, some of us are business owners, and some of us are unemployed. Some of us are old; some young. We represent many different points of view on political, economic, and social issues. We may disagree among ourselves about the causes of our current malaise; and we may disagree about the solutions. Despite all our differences, however, we share a common belief: we deserve consideration by and consultation with those who enact laws that impact our unique culture and economy.

We are not similar to California or New York or Washington, D.C. or even Hawaii or Guam, and it would be unfair to attempt a comparison. Our geographic isolation, our size, our limited natural resources, the limited availability and prohibitive cost of travel, the underpinnings of our economy, and the inherent influences of Asian cultures and economies, make us singular among the states and insular areas of America. Our way of life is necessarily and vastly different than that in the 50 states. Think about this before making changes at a pace that will destroy what viable economy remains.

While we would prefer to solve our own problems internally, if the United States Congress feels this inadvisable, then we do believe that in order for you to change our lives so dramatically, we first deserve serious study, real consideration, and a

meaningful opportunity to be heard in respect thereof. It would be wrong to do otherwise.

Understand the successes and failures of our past as well as the challenges of our future. If you believe we have failed ourselves in the past, we ask that you do not fail us in the present. Please do not attempt to fix what you may perceive as our failures without a real understanding, a careful study, and a meaningful dialogue with us, the people of the Commonwealth.

Very truly yours,

(SIGNATURES RETAINED IN COMMITTEE FILES).

STATEMENT OF THE HOTEL ASSOCIATION OF THE NORTHERN MARIANA ISLANDS

Dear Chairman Bingaman and Honorable Committee Members, the Hotel Association of the Northern Mariana Islands (HANMI) offers this testimony for the United States Senate, Committee on Energy and Resources in support of continued local control over immigration as provided for under the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. This position has been developed by the members of our non-profit association following a survey of the 14 leading hotels on Saipan and approximately 18 allied members that do business with the hotel industry of the Northern Mariana Islands.

Commencing in 1992 with testimony before the former House Subcommittee on Insular Affairs, and continuing thereafter through numerous hearings, including September 1999, when we testified before this House Committee on Energy and Resources, HANMI has detailed our position in favor of retaining local control of immigration under the government of the CNMI.

There are three primary reasons for our position: First, our island economy is currently experiencing tremendous challenges, which will take years to overcome under the best of circumstances. 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 provider for our islands needs going into the future. We need stable and supportive business conditions in order to make this happen.

It is difficult to imagine that these small islands could receive sufficient understanding, resources, and flexibility to meet our unique needs if immigration is handled by federal authorities headquartered half a world away.

Secondly, the Northern Mariana Islands have always been challenged to grow our economy and become self-sustaining with a small, indigenous population. This situation has not changed over the years. Our citizen population is still too small to run essential government services across three main islands and then still have enough people available to provide an adequate work force for the private sector.

We also do not have enough human resources to provide all of the specialized skills and language capabilities necessary to operate existing businesses without the addition of skilled foreign labor.

Our local government is able to continue to evaluate our immigration system and set the parameters for accepting foreign labor according to the unique and changing needs of our islands.

Of equal importance to our future is the recognition that we need to diversify our tourist markets to include two nearby countries, namely China and Russia. We are currently welcoming a significant number of visitors from these emerging and promising tourist markets, something that we fear would not be permissible under the current restrictions of U.S. Immigration.

BACKGROUND ON OUR TOURISM INDUSTRY AND CHANGING ECONOMIC CONDITIONS

Approximately 21 years ago, the 16% economic growth rate of the Northern Mariana Islands was one of the highest of any American state or possession. Resorts and smaller hotels were built, 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.

Because we have been so dependent upon Japanese tourists, 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 origi-

nal 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 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 more than 50% over the past two years. The industry sounded the alarm regarding losses they expected with the opening of world trade agreements in 2005. Unfortunately, sincere efforts by local officials, the private sector, and the U.S. Department of Interior's Office of Insular Affairs to quickly diversify this remote island economy have not proven to be tremendously successful.

In 2005, after nearly eight years of decline, the CNMI's tourism industry finally seemed to be recovering. New hotel investments had already begun, when suddenly due to unhealthy financial conditions in the airline industry, vital service from Japan Airlines was cancelled with just a few months' warning.

The pullout of JAL has been one of the most difficult challenges our industry has ever had to overcome. Anticipating massive losses, HANMI joined forces with other businesses under the Governor's Strategic Economic Development Council (SEDC) to fund a study on the multiplier effects of this pull out. (Please see Appendix I: "Tourism, Japan Air Lines and the Commonwealth of the Northern Mariana Islands, An Economic Impact Analysis, June 2005.")

In the same year, the Northern Marianas also lost Continental Airlines service from Hong Kong and Taiwan, two competitive markets where the islands had only limited marketing dollars. Northwest Airlines picked up some of the lost routes from Japan, but this did not completely make up the gap in lost air seats. Northwest Airlines has since provided service into the CNMI from Japan, while service from Korea has also been served by only one carrier, Asiana Airlines. Local inter-island air service, starved by the loss of Japanese tourists, also declined substantially.

The air service crisis and concern over dependency on just a few carriers 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, we learned that we are a "low yield" destination. Absent a government subsidy of essential air service, this business model is something we must work hard to change before a real recovery can be seen. (Please see Appendix II: Marianas Visitors Authority presentation "4 Cornerstones to Tourism's Recovery.")

ABOUT THE INDUSTRY TODAY

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. As evidence of our economic challenges, an additional 84 rooms are currently closed for 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.

Saipan had 429,267 visitors in calendar year 2006. With this level of visitors, hotel occupancy averaged 63.57%, down 9% from 2005. For reference, the average break even point for most hotels is estimated to be in the 70-percentile range.

Tinian's tourism industry has survived thus far due to privately chartered flights from China, which provides the majority of visitors to one resort hotel and several locally-owned small hotels. Tinian received 64,083 tourists in 2006.

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. The Marianas Visitors Authority reported that as of December 2006, total visitors have dropped by 52%.

In 2006, average hotel room rates for HANMI members actually increased slightly to \$91.29, reflecting the nearly \$60 M in renovations and improvements that have been made in recent years on Saipan. For comparison purposes, Guam's average room rate in 2006 was over \$100, while Hawaii surpassed the \$160 mark. Local hotel performance is down considerably from the peak of the industry, when the hotels averaged over 85.57% in 1996 and reached an average rate of \$136.06 in 1997.

(Please see Appendix III for HANMI Average Rates and Occupancies from 1992 to 2006.)

To put the costs of doing business and profitability in perspective, it must be understood that the Northern Marianas as a tourist destination competes 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. With sufficient indigenous populations to provide skilled labor, it is difficult for us to compete unless we provide the same high level of service.

Our islands also compete with Guam and Hawaii, which are hubs of air service and shipping for the Pacific region. These destinations have elaborate transportation systems and lower costs due to larger economies of scale. They also offer abundant shopping, dining and more developed tourism attractions than the Northern Marianas. It is worth noting that both Guam and Hawaii have benefited from billions of dollars of investment by the U.S. military into their local infrastructure.

Due to inadequate infrastructure in the Northern Marianas, hotels have had to invest millions of dollars in their own power and water-making systems. These investments which are invisible to our guests are a necessary cost of doing business, requiring capital outlays that could otherwise be spent on marketing, business enhancements, and paying higher wages.

EMPLOYMENT CHALLENGES IN SAIPAN'S HOTEL INDUSTRY

Especially given weakened business conditions, if the CNMI's immigration authority is taken away, we are deeply concerned about the hardships that could be caused by reduced access—or even a phase out—of our valued employees from overseas. Members of the Hotel Association feel it is unrealistic at best to expect the tourism industry to completely phase out its foreign workers, even over a long period of time.

In total, members of the Hotel Association employed 2,022 as of December 31, 2006, of which 520 or 31% were local residents. Of those categorized as local, 113 came from the freely associated states of Micronesia.

It must be stated that our hotels care about hiring local residents and we are working to raise the number of resident hires in our industry gradually over time. HANMI members have voluntarily and gradually increased wages and benefits over the years. Increased employment of local residents has largely been made possible through the migration of skilled personnel out of the local government, while for entry level jobs, HANMI members have provided on-the-job training.

While the minimum wage is set by local law at \$3.05 per hour, members of the Hotel Association have reported an average minimum wage of \$3.50 per hour. The hotels provide such benefits as medical insurance, housing, duty meals, and a wide range of activities including employee sporting events, service awards, employee assistance programs, and training and development to create a sense of community and build morale among our multi-cultural staffs.

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 such positions as housekeeping, maintenance, and most food and beverage positions. For culinary arts, no formal training is available and many of our chefs are recruited from Asian countries to provide international cuisines that meet the tastes of our guests. In this area, the ability to recruit highly skilled chefs from foreign countries is seen as one of the few competitive advantages for our destination.

To follow international trends and expectations, numerous resort hotels have invested in the development of luxury spas, with more on the way for the island of Saipan. However, we have seen that indigenous residents will generally not apply for jobs as spa therapists—even if training is provided—due to a general shyness in serving guests. Most of the personnel working in luxury spas today are recruited from Bali, which is renowned throughout the world as a leading spa destination.

Some feel that low entry level wages in the CNMI's business community are preventing more local employment, and this may at least be partially true. There is always room for improvement, but with current economic conditions, and much higher costs of doing business in our remote location, we cannot afford the same level of wages that are currently offered in such booming U.S. destinations as Hawaii, which is actually experiencing a labor shortage. Our nearby island of Guam also has a much larger population base with many military family members that are available to work in the tourism industry.

Thus said, we are proud of the progress that our industry has made. Successful career paths have been established and proven in the ever-increasing number of local residents that have joined hotel management teams. Some of our best success

stories have occurred in the field of human resources. Currently all of the resort hotels throughout Saipan, Tinian and Rota now have local citizens in human resources management. With networks in the community, these professionals are much better equipped today than at any time in our industry's history to hire and mentor other residents.

In all of the resorts on Saipan, and in most of the smaller hotels throughout our islands, there are residents in entry level, supervisory, management, and even top executive positions. As a tourist destination serving sophisticated international customers, we also consider ourselves fortunate to be allowed by the local government to employ people from such countries as the Philippines, Japan, Korea, Taiwan, China, Australia, Thailand, India, and Europe.

Without the flexibility to hire a certain number of our employees from overseas, members of HANMI believe that our industry could not survive. We would clearly not be able to provide the service level that our guests expect. Therefore, it stands to reason that if we lose our competitiveness as a tourist destination, eventually some businesses would close and even some of the best and brightest local workers might lose their jobs.

We would also like to address concerns of the past about a reputation of labor complaints in Saipan. First, we feel that this has been over-sensationalized in the international media, at times for political reasons. Unfair media coverage has damaged the image of our islands and hurt tourism. It has also hurt the spirit of our community.

There are few labor disputes currently occurring in our hotel industry, a result of ongoing training in federal and local laws, as well as established employee care programs and benefits that are provided by employers.

In the mid-1990's, HANMI 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). Several of our members' human resources managers have held the position of president of this organization over the years, helping to promote employee care practices in not only tourism, but in other island businesses that have joined 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.

Our Association members and other tourism industry personnel have also generously volunteered countless hours of their time and donated many thousands of dollars to the Northern Marianas College and other local schools over the years. We support many community organizations, including the Marianas Tourism Education Council for the youth which is designed to stimulate interest in the industry.

These efforts, while good for the community, have not ensured a necessary level of tourism education. Our islands simply do not have the size of population, nor the means, nor experienced tourism instructors to develop specialized education necessary to grow local employment in tourism to a level that could allow us to completely phase out our foreign work force.

As an example, although the Korean market is the second largest tourism market for the CNMI today, there are no Korean language classes available. Therefore, hotels and other tourism-related businesses have no other choice but to hire Korean citizens to communicate with tourists.

THE NEED FOR DIVERSIFICATION OF OUR TOURIST MARKETS

Another 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 nearly 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 and the Marianas Visitors Authority identified the need to invest in the most promising new markets in our region. Diversification is critically important in light of past history, where we have seen that world events beyond our control can create immediate and negative impacts on our small economy.

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. The Pacific Islands Club, an American-owned hotel chain, was the first to hire a Russian market manager and begin direct marketing in Russia in 1998. As of February 2007, at least eight resort hotels 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 the CNMI's 5-Year Strategic Plan for Tourism, we have identified a modest target of 10,000 Russian arrivals by year 2010.

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. In fact, the first-ever Russian charter flight came direct to the island on January 4, 2007, bringing 130 tourists. These were families with children who came for 14 nights to spend the Russian Christmas and New Year holiday on the island of Saipan. This trip was so successful that there is talk of a second charter.

CHINA TOURISM MARKET

In addition to Russia, one of the brightest spots on the horizon for the recovery of the CNMI's tourism industry is the China market. Retaining the CNMI's privilege of local control of immigration is an essential element to keeping and 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 5 hour nonstop flight away.

Since 2002 when a locally-based hotel on Tinian first began chartering flights from Guangzhou, the Northern Marianas have begun to grow this market slowly and carefully with selective visitor entry permit processing designed to control numbers and qualify visitors prior to allowing entry into the islands. This visitor entry permit process is controlled by the local government.

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. As of this writing, 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 local control over immigration and short distance from China, which is only a 4 to 5 hour flight away.

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 tour-

ists 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 a tourism and trade office.

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 now targets to build arrivals from China to 250,000 tourists per year according to the islands' 5-Year Strategic Plan for Tourism. The CNMI currently benefits from six direct, nonstop chartered flights from Beijing, Shanghai and Guangzhou. It is our hope that we can continue this growth through a gradual build up of flights from only the most modern and affluent cities in China.

To summarize our position, the Northern Mariana Islands today are in a pivotal moment in our economic history. Public and private sector leaders are moving together, determined to do more of what it takes to revive the islands' economy. We have a roadmap to guide our industry, which is the CNMI's 5-Year Plan for Tourism.

We recognize that we are a small destination with limited air service and few competitive advantages other than our beautiful climate and scenery. We have a small indigenous population that by sheer numbers alone cannot fulfill all of our employment needs for the foreseeable future, if ever.

History has shown us that dependence on just one or two tourist markets has put the community's livelihood and our industry in jeopardy. Therefore, the best way to grow and stabilize our industry for the betterment of our islands is to diversify to new markets that currently require local control over immigration.

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 recognize that tourism may be the only major provider for our islands in the near future.

Today with many less garment and tourist dollars circulating in the economy, our industry is faced with challenges that require extraordinary and collaborative efforts to diversify our tourism markets, improve our businesses, and hire more local residents. At the same time, continued investments can only be made within a stable and supportive business climate.

The members of the Hotel Association will be pleased to join in further discussion with local and federal officials regarding this position. We thank you for your kind consideration of our views.

APPENDIX *

I. "Tourism, Japan Airlines and the Commonwealth of the Northern Mariana Islands, An Economic Impact Analysis," prepared by Economists.com for the CNMI Strategic Economic Development Council, June 2005.

II. "4 Cornerstones to Tourism's Recovery," a presentation by the Marianas Visitors Authority, presented to MVA members, the Saipan Chamber of Commerce, and a joint session of the CNMI Legislature on October 4, 2006.

III. Hotel room Occupancy and Rate Statistics, as prepared by the Hotel Association of the Northern Mariana Islands for Saipan's hotels, 1992 to 2006.

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. Statistical reports of the Marianas Visitors Authority.

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*Documents have been retained in committee files.