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IMPLEMENTATION OF P.L. 110-229 TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (CNMI) AND GUAM; H.R. 1466, TO RESOLVE THE STATUS OF CERTAIN PERSONS LEGALLY RESIDING IN THE CNMI UNDER THE IMMIGRATION LAWS OF THE U.S.; AND H.R. 44, "GUAM WORLD WAR II LOYALTY RECOGNITION ACT."

OVERSIGHT AND LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND INSULAR AFFAIRS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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OVERSIGHT HEARING ON IMPLEMENTATION OF PUBLIC LAW 110-229 TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS AND GUAM; AND LEGISLATIVE HEARING ON H.R. 1466, TO RESOLVE THE STATUS OF CERTAIN PERSONS LEGALLY RESIDING IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS UNDER THE IMMIGRATION LAWS OF THE UNITED STATES; AND H.R. 44, RECOGNIZES THE SUFFERING AND THE LOYALTY OF THE PEOPLE OF GUAM DURING THE JAPANESE OCCUPATION OF GUAM IN WORLD WAR II. "GUAM WORLD WAR II LOYALTY RECOGNITION ACT."

Thursday, July 14, 2011
U.S. House of Representatives
Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:04 a.m. in Room 1324, Longworth House Office Building, The Honorable John Fleming [Chairman of the Subcommittee] presiding.

Present: Representatives Fleming, Young, Duncan, Harris, Landry, Sablan, Faleomavaega, Bordallo, Pierluisi, and Hanabusa.

Mr. FLEMING. The Subcommittee will come to order. The Chairman notes the presence of a quorum. Good morning. Today the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs will conduct, in essence, two hearings. The first panel will be an oversight hearing on Title VII of Public Law 110-229 which requires the application of Federal immigration laws in the Commonwealth of the Northern Mariana Islands and a legislative hearing on H.R. 1466, a bill to resolve the status of certain persons legally residing in the Commonwealth of the Northern Mariana Islands under the immigration laws of the United States.

The second panel will be a legislative hearing at the request of the gentlelady from Guam, Mrs. Bordallo, on H.R. 44, the Guam World War II Loyalty Recognition Act. I will ask that witnesses only testify on the issues specific to each panel.

Under Committee Rule 4(f), opening statements are limited to the Chairman and Ranking Member of the Subcommittee so that we can hear from our witnesses more quickly. However, I ask unanimous consent to include any other Members' opening state-

ments in the hearing record if submitted to the clerk by close of business today. Hearing no objection, so ordered.

STATEMENT OF THE HON. JOHN FLEMING, A REPRESENTATIVE FROM THE STATE OF LOUISIANA

Mr. FLEMING. One of the first items under consideration today is Public Law 110-229, the Consolidated Natural Resources Act which was enacted in 2008. The United States and the Northern Mariana Islands entered into a political union in 1976 with the enactment of the covenant to establish the Commonwealth of the Northern Mariana Islands as a self-governing entity under the sovereignty of the United States.

Under the covenant, the Northern Mariana Islands were exempt from Federal immigration laws which allowed the local government to control immigration. In 2008, Congress amended the covenant to require the application of Federal immigration laws in the Northern Mariana Islands. The law created a five-year transition period to allow for a smooth conversion from local to Federal control over immigration.

As stated in law, it was the intent of Congress for the orderly phasing in of Federal responsibilities over immigration in the Northern Mariana Islands. The law's intent was to minimize, to the greatest extent practicable, potential adverse economic and fiscal effects by encouraging diversification and growth of the economy. It was also intended to assist the Commonwealth in achieving progressively higher standards of living for its citizens and giving it as much flexibility as possible in maintaining existing businesses and other revenue sources while developing new opportunities consistent with Federal law and mandates of Public Law 110-229.

The Subcommittee is interested in hearing from today's witnesses how the implementation of the various provisions required in the law has progressed since the effective date of November 28, 2009.

We will also hear testimony on H.R. 1466, a bill introduced by Ranking Member Sablan to address the status of certain individuals living legally in the Northern Mariana Islands who will be adversely affected by the extension of Federal immigration laws to the Northern Mariana Islands. Approximately 4,000 legal residents of the Northern Mariana Islands will be affected by the full implementation of Federal immigration laws set to occur on November 28, 2011. H.R. 1466 will allow these residents of the Northern Mariana Islands to maintain their current legal status and provide them with the opportunity to adjust their status under the Federal immigration laws.

I look forward to hearing the testimony of our distinguished witnesses.

[The prepared statement of Mr. Fleming follows:]

Statement of The Honorable John Fleming, Chairman, Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs

Good morning, today the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs will conduct in essence two hearings. The first panel will be an oversight hearing on the implementation of title VII of Public Law 110–229, which required the application of federal immigration laws in the Commonwealth of the Northern Mariana Islands, and a legislative hearing on H.R. 1466, a bill to resolve the status

of certain persons legally residing in the Commonwealth of the Northern Mariana Islands under the immigration laws of the United States. The second panel will be a legislative hearing at the request of the gentle lady from Guam, Mrs. Bordallo on H.R. 44, the Guam World War II Loyalty Recognition Act. I will ask that witnesses only testify on the issues specific to each panel.

One of the first items under consideration today is Public Law 110–229, the Consolidated Natural Resources Act, which was enacted in 2008.

The United States and the Northern Mariana Islands entered into a political union in 1976 with the enactment of the Covenant to establish the Commonwealth of the Northern Mariana Islands as a self-governing entity under the sovereignty of the United States. Under the Covenant, the Northern Mariana Islands were exempt from federal immigration laws which allowed the local government to control immigration.

In 2008, Congress amended the Covenant to require the application of federal immigration laws in the Northern Mariana Islands. The law created a 5-year transition period to allow for a smooth conversion from local to federal control over immigration.

As stated in the law, it was the intent of Congress for the 'orderly phasing-in of federal responsibilities over immigration' in the Northern Mariana Islands. The law's intent was to minimize, to the greatest extent practicable, potential adverse economic and fiscal effects by encouraging diversification and growth of the economy. It also is intended to assist the Commonwealth in achieving progressively higher standards of living for its citizens and giving it as much flexibility as possible in maintaining existing businesses and other revenue sources, while developing new economic opportunities, consistent with federal law and the mandates of Public Law 110–229.

The Subcommittee is interested in hearing from today's witnesses how the implementation of the various provisions required in the law has progressed since the effective date of November 28, 2009.

We will also hear testimony on H.R. 1466, a bill introduced by our Ranking Member, Mr. Sablan, to address the status of certain individuals living legally in the Northern Mariana Islands who will be adversely affected by the extension of federal immigration laws to the Northern Mariana Islands.

Approximately 4,000 legal residents of the Northern Mariana Islands will be affected by the full implementation of federal immigration laws set to occur on November 28, 2011. H.R. 1466 will allow these residents of the Northern Mariana Islands to maintain their current legal status and provide them with the opportunity to adjust their status under the federal immigration laws.

I look forward to hearing the testimony of our distinguished witnesses, and now recognize our Ranking Member Mr. Sablan, for any statement he would like to make.

Mr. FLEMING. I now recognize our Ranking Member, Mr. Sablan, for any statement he would like to make.

STATEMENT OF THE HON. GREGORIO SABLAN, A DELEGATE FROM THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. SABLAN. Thank you. Thank you very much, Chairman Fleming, and thank you again for holding this hearing this morning on the progress of Public Law 110-229 on my H.R. 1466 and obviously, of course, H.R. 44.

I don't know if you saw the data on the Gross Domestic Product in the Northern Mariana Islands that was released yesterday, but the economic situation just gets worse and worse. Between 2002 and 2009, GDP was cut in half. In 2008, GDP fell 12 percent. In 2009, it fell 20 percent. Prices are going up and incomes are coming down. This all happened before Public Law 110-229 really took effect so we can't say that Federal immigration created this problem, but Federal management of the transition from local to Federal control has made it more difficult to solve the economic problem.

Public Law 110-229 was supposed to "expand economic development in the Commonwealth", but it has not.

We have had some successes in the form of security in the department most responsible for the law. When I was first elected, Public Law 110-229 was just about to go into effect, DHS was not ready however. So, along with other Commonwealth officials, including our Governor, we convinced Secretary Napolitano to push back implementation by six months. That helped.

When DHS published rules on the visa waiver program created by P.L. 110-229, Russia and China were excluded, but tourism from these countries was growing and the Northern Marianas needed the visitors, so we convinced Secretary Napolitano to use her parole authority to keep Russians and Chinese continuing to come to the Northern Marianas, and that helped.

But the parole system is only a stop gap. It can be revoked at any time. It does not encourage new investment in the Russian and Chinese markets. Today, DHS needs to tell us its plans to normalize the system and fulfill the intent of Public Law 110-229 to, "expand tourism".

There has been other problems, some solved, some still outstanding. The biggest unresolved problem is the lack of regulations covering guest workers. The purpose of Public Law 110-229 is to zero out guest workers and replace them with Americans. We know this transition has to be managed carefully, so businesses still have the skilled labor they need.

In October of 2009, DHS did publish regulations explaining how to hire these workers, but Governor Fitial went to court and enjoined the regulations. Now almost two years later we still don't have the regulations and employers are supposed to use them for hiring starting in November. We often hear that regulations are very bad for business. Well, in this case the lack of regulations is bad for business. We need answers from DHS today about why is it taking so long to get their work done, when we can expect it to be done, and whether they will meet the policy goals of Public Law 110-229.

Chairman Fleming, I also want to thank you for including my bill, H.R. 1466, on the agenda today. You and I talked about the families that will be protected by my bill back in January. I will never forget what you said. These people have been whipsawed, and that is exactly right. One of today's witnesses, Hazel Doctor, is a citizen of the United States who has been whipsawed by this law. She was born in America. She has lived there all her life. Hazel's parents are contract workers from the Philippines. They are legal residents. They have lived in the Northern Marianas for over 20 years, but Public Law 110-229 will require them to leave. Congress did not take into account how this requirement will affect U.S. citizens like Hazel. They will have to choose between staying in the only home they have ever known or leaving with their parents to live in a place they have never known.

Let me say that again because it is important. Public Law 110-229 is asking U.S. citizens to choose between their country and their families, and that is wrong. H.R. 1466 would fix the problem. Keep families together and keep Americans in America.

I was very glad to see in yesterday's paper that Interior Assistant Secretary Anthony Babauta, who is presently in the Marianas, thinks that H.R. 1466 is a good start, and I certainly look forward to working with the Administration to fine-tune the legislation. But I want to emphasize several points because I know H.R. 1466 will be criticized today and because we all know that immigration is a hot-button issue.

First, individuals covered in H.R. 1466 are not immigrants. They did not cross over the U.S. immigration border. Rather, Public Law 110-229 extended the border over them so they are not and should not be part of the national immigration debate.

Second, this bill has nothing to do with amnesty. Amnesty is for illegals. H.R. 1466 covers people who are legally admitted under the law of the Northern Mariana Islands. To qualify under H.R. 1466, an individual must still be in lawful status and in full compliance with the standards of the Immigration and Nationality Act.

Third, H.R. 1466 provides no new social benefits and adds no new societal costs. In fact, by stabilizing the population and the workforce, H.R. 1466 will have a tremendous positive economic impact.

I want to thank the bipartisan professional staff of the Judiciary and other House and Senate committees who assisted over the last year-and-a-half in drafting H.R. 1466, and the 24 Members of Congress from both sides of the aisle who are cosponsors. They understand that H.R. 1466 simply corrects the oversights in Public Law 110-229 and keeps families together, particularly U.S. citizen families.

And finally, let me welcome our panelists. First, I want to welcome my Governor, Governor Benígno Fitial from the Northern Marianas and I want to welcome Governor Eddie Calvo, both of whom have made the physically demanding trip here to Washington to join us today. Thank you, Governors.

I would also like to welcome Ms. Marian Aldan-Pierce, Chairman of the Marianas Visitors Authority. She is President of Duty-Free Shops, one of the most important corporations doing business in the Northern Marianas, Guam, Hawaii, and worldwide. Let me welcome Ms. Hazel Doctor who will be testifying in support of H.R. 1466, and welcome to the Federal witnesses, Dr. David Gootnick, Mr. Nick Pula and Ms. Kelly Ryan from Homeland Security.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Sablan follows:]

Statement of The Honorable Gregorio Sablan, a Delegate in Congress from the Commonwealth of the Northern Mariana Islands

Chairman Fleming, thank you again for agreeing to hold this hearing.

I don't know if you saw the data on Gross Domestic Product in the Northern Mariana Islands that was released yesterday, but the economic situation just gets worse and worse.

Between 2002 and 2009 GDP was cut in half. In 2008 GDP fell 12%. In 2009 it fell 20%.

Prices are going up. Incomes are going down.

This all happened before Public Law 110–229 really took effect. So we can't say that federal immigration created this economic problem.

But federal management of the transition from local to federal control has made it more difficult to solve the economic problem. And 110–229 was supposed to—quote—"expand economic development in the Commonwealth."

We have had some successes with the Department of Homeland Security.

When I was first elected to office, Public Law 110–229 was just about to go into effect.

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So we convinced Secretary Napolitano to use her parole authority to keep Russians and Chinese coming to the Northern Marianas.

That helped.

But it's only a stop-gap. It can be revoked at any time. So this parole system does not encourage new investment in the Russian and Chinese markets.

Today, DHS needs to tell us its plans to normalize the system and fulfill the intent of Public Law 110–229 to—quote—"expand tourism."

There have been other problems as well—some solved, some still outstanding.

The biggest unresolved problem is the lack of regulations covering guest workers.

The purpose of Public Law 110–229 is to zero out guest workers and replace them with Americans.

We all know this transition has to be managed carefully, however, so businesses still have the skilled labor they need.

In October 2009 DHS did publish regulations explaining how to hire these workers. But Governor Fitial went to court and blocked them.

Now, almost two years later, we still don't have the regulations. And employers are supposed to use them for hiring, starting in November.

We often hear that regulations are bad for business.

Well, in this case the lack of regulations is bad for business.

We need answers from DHS today about why it has taken so long to get their work done, when we can expect the regs, and whether those regs will meet the policy goals of 110–229.

Chairman Fleming, I also want to thank you for including my bill, H.R. 1466, on the agenda today.

You and I talked about the families that would be protected by my bill back in January. I will never forget what you said: "These people have been whipsawed."

That's exactly right.

One of today's witnesses, Hazel Doctor, is a citizen of the United States who has been whipsawed by this law. She was born in America. She has lived here all her life.

Hazel's parents are contract workers from the Philippines. They are legal residents. They have lived in the Northern Marianas for over twenty years.

But 110–229 will require them to leave.

And Congress did not take into account how this requirement would affect U.S. citizens like Hazel.

They will have to choose between staying in the only home they have ever known or leaving with their parents to live in a place they have never known.

Let me say that again because it is important: Public Law 110–229 is asking U.S. citizens to choose between their country and their families.

That's wrong.

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Third, H.R. 1466 provides no new social benefits and adds no new societal costs. In fact, by stabilizing the population and the workforce, H.R. 1466 will have a positive economic effect.

I want to thank the bipartisan, professional staff of the Judiciary and other Senate and House Committees, who assisted over the last year and a half in drafting H.R. 1466, and the 23 Members of Congress—from both sides of the aisle—who are co-sponsors.

They understand that H.R. 1466 simply corrects the oversights in Public Law 110–229 and keeps families together—particularly U.S. citizen families.

Finally, let me welcome our panelists.

Governor Benígno Fitial from the Northern Marianas and Governor Eddie Calvo of Guam made the physically demanding trek here to Washington to join us today. Thank you, Governors.

I'd also like to welcome Ms. Marian Aldan-Pierce, Chair of the Marianas Visitors Authority. She is also the Saipan President of Duty Free Shoppers, one of the most important corporations doing business in both the Northern Marianas and Guam.

Let me welcome again Ms. Hazel Doctor, who will be testifying in support of H.R. 1466.

And welcome to our federal witnesses: Mr. David Gootnick from GAO, Mr. Nik Pula from the Interior Department, and Ms. Kelly Ryan from Homeland Security.

The final bill on our agenda today is H.R. 44, the Guam World War II Loyalty Recognition Act that is sponsored by my colleague from Guam Congresswoman Bordallo.

H.R. 44 would implement the recommendations of a federal commission that was authorized by the 107th Congress to look at this specific issue. The commission found that the people of Guam were treated unfairly during the war claims process immediately following the war as compared with claims programs authorized by Congress addressing similarly experienced losses and damages for other Americans. Each of the four Delegates from Guam to have served in the House has worked diligently to resolve this longstanding injustice faced by their constituents, and the text of H.R. 44 has passed the House on five separate occasions.

It is long past time that we resolve this issue and provide relief for the people of Guam for the nearly three years of brutal occupation they suffered because of their steadfast loyalty to our country.

Thank you again Mr. Chairman for allowing me to make this opening statement. I look forward to hearing from our witnesses.

Mr. FLEMING. I thank the gentleman. Thank you and we will now hear from our witnesses. Like all witnesses, your written testimony will appear in full in the hearing record, so I ask that you keep your oral statements to five minutes as outlined in our invitation letter to you and under Committee Rule 4(a). Our microphones are not automatic, so please press the button when you get ready, and I will also add you have to be sort of close. Sometimes we can't hear you if you are too far away from the microphone.

I also want to explain how our timing lights work. Very simple. You have five minutes to give your testimony. The clock will run down under the green light to four minute to actually one minute left, and then you will get the yellow light and then after that minute you get the red light, and at that point we would want you to wrap up, of course.

I would now like to welcome today's witnesses. First, The Honorable Governor Fitial from the Commonwealth of the Northern Mariana Islands. Welcome, sir.

The Honorable Governor Calvo from Guam. We were just chatting before. I was actually stationed at the naval hospital on Guam 1979 and 1980, but even apart from that I did a lot of moonlighting in the emergency room at the island private hospital, or the community hospital there, and was actually director of the drug and alcohol program there as well, so I spent a lot of time with the community. I went to—I believe they are called festivals or fiesta, yes,

with the most interesting type of rice that I have ever had, red rice. Very good. I have never asked what is in it, but it was delicious, and I did live in the community, lived in the Village of Yigo, and Perez Acres, which I understand is still there today. So we welcome you, sir.

Mr. David Gootnick, Director, International Affairs and Trade, U.S. Government Accountability Office; Ms. Kelly Ryan, Acting Deputy Assistant Secretary for Immigration and Border Security, Office of Policy, Department of Homeland Security; Mr. Nik Pula, Director, Office of Insular Affairs, Department of the Interior; Ms. Marian Aldan-Pierce, President, Duty-Free Shops Saipan Limited; and Ms. Hazel Doctor, Northern Mariana Island resident testifying by video conference, and welcome to you. I am sure it is very early in the morning where you are today.

Governor Fitial, you are recognized for five minutes, sir. You can go ahead with your testimony.

STATEMENT OF THE HON. BENÍGNO REPEKI FITIAL, GOVERNOR OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Governor FITIAL. Mr. Chairman, Members of the Subcommittee, good morning. Thank you for the opportunity to appear before you today.

Last year, I appeared before this Subcommittee in May and in September to comment on the Federal immigration law. I made these major points on both occasions.

First, I brought to the Subcommittee's attention the failure of the Department of Homeland Security to provide the joint visa waiver program for the Commonwealth and Guam that was intended by Congress in Public Law 110-229. The Secretary's parole policy is not a satisfactory alternative.

Second, I commented on the fact that the Department's immigration and customs enforcement component does not have an effective program in place to identify and remove illegal aliens from the Commonwealth.

Third, I pointed out that the Department's customs and border protection component does not have an effective exit control method capable of preventing an increase in the number of illegal aliens in the Commonwealth.

Nothing has changed for the better during the past year. Yes, the Commonwealth now does have Federal control of immigration. What we really have for the first time are all of the very serious immigration problems that exist here in the mainland. We have many illegal aliens who are not being deported. Some of these illegal aliens are employed illegally and take jobs away from U.S. citizens. Others are unemployed and survive on government benefits that provide an incentive not to leave the Commonwealth.

Since Federal authority came into effect the Commonwealth has had an increased flow of tourists and others to enter on a temporary basis, but remain illegally hoping for amnesty that will provide a green card. The burden on taxpayers related to illegal and unemployed aliens is heavy.

Congress recognized that the imposition of Federal control would work some hardship on the Commonwealth. It promised benefits

that would outweigh these disadvantages. We have received none of these promised benefits like no effective visa waiver program, no technical assistance, no effective immigration enforcement, no new funding to compensate for the loss of immigration and other fees. Only if this Subcommittee is willing to underwrite a serious systemwide examination of the law and the need for its amendment will the Commonwealth see any hope for progress.

With respect to H.R. 1466, I oppose the bill for these reasons. We estimate that there were approximately 23,000 aliens, including illegals, in the Commonwealth at the end of 2008, almost all of whom are adults. We believe that nearly all are still present in our community and that more than half of them are unemployed. Our current estimate is that the U.S. citizen population of the Commonwealth is about 30,000, including some 16,000 voters.

H.R. 1466 creates four categories of potential new U.S. citizens. I want to focus on the fourth category, which covers alien parents of minor U.S. citizen children. Here is what will happen under H.R. 1466.

1466 is a large-scale amnesty bill. It provides a direct route to U.S. citizenship that would create an estimated 11,000 new U.S. citizens in the CNMI during the next decade, virtually all of whom would be voters. I do not believe that turning this large percentage of alien temporary workers into citizen voters would be tolerated in any county or state in the United States. These aliens would be provided permanent residence in the Commonwealth for all time. They are protected from deportation until their minor child of 21 years of age can petition for a grant of a green card for the parent leading to citizenship. This imposes a long-term burden on the Commonwealth that occurs nowhere else in the United States.

The bill's sweeping terms cover a wide range of parents who, on closer examination, might not deserve the benefits offered by the legislation. It would include non-custodial parents, it would include unemployed and unemployable parents. It would include parents with no means of support. It would include parents with a history of illegal employment. It would include parents who left the CNMI and would return to obtain permanent residents in the Commonwealth provided by the bill. It includes parents who adopt a child up to the age of 21 just for the purpose of securing U.S. citizenship.

H.R. 1466 has other critical defects. It strips away important safeguards of the Federal Administrative Procedures Act, and it refers to a definition of immediate relative from the Commonwealth code that was repealed by our Legislature sometime ago.

Let me be very clear. It is the U.S. citizens in the Commonwealth who gave up their land and their sovereignty to become part of the United States. These U.S. citizens have the right to have their community and culture be so radically changed in this fashion unless they decide to do so through their own democratic institutions.

Mr. Chairman, I have a proposal for an H-5 visa within the regular U.S. immigration system, and the CNMI Senate has a proposal for non-citizenship status somewhat akin to the status of freely associated state residents of the Commonwealth. Both of these proposals are far better alternatives for the people of the Commonwealth than H.R. 1466.

I thank you.

[The prepared statement of Governor Fitial follows:]

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

The Subcommittee has invited me to testify on the federalization law, Title VII of the CNRA (Public Law 110–22) and to comment on H.R. 1466. I appreciate the opportunity to do so.

Twice during 2010 I appeared before this Subcommittee to comment on the federalization law—on May 18, 2010 and September 16, 2010. Nothing has changed for the better since then. To some extent I have been tempted simply to resubmit my earlier testimony regarding the federal government's failure to honor Congressional intent and to implement the detailed provisions of the law in a timely, orderly, and constructive fashion.

These were the major points which I made twice to the Subcommittee in 2010:

- Failure to grant visa waivers: The Department of Homeland Security's Interim Rule regarding the proposed Guam-CNMI joint visa waiver program did not comply with Congressional intent and is preventing the Commonwealth from its potential of significantly increasing visitors from China and Russia.
- Failure to deport illegal aliens: The Department's Immigration and Customs Enforcement unit does not have an effective program in place to identify and remove illegal aliens in the Commonwealth.
- Failure to monitor exits of tourists: The Department's Customs and Border Protection unit does not have an effective exit control method capable of preventing an increase in the number of illegal aliens in the Commonwealth.
- Failure to provide Congress with useful reports: The Government Accountability Office and the Department of the Interior have failed to provide the Congress with the kind of objective, useful reports assessing the implementation of the federalization law in a way that would assist this Subcommittee.

One year later—and more than three years after the law was enacted—the situation continues to deteriorate and the Commonwealth suffers as a result. The uncertainty created by this law has created an unacceptable limbo situation that has severely hampered new investment and has created morale problems throughout our community. Many businesses have already lost their investments and others are expected to close if this situation is not rectified. Very few businesses have begun the process of applying for U.S. employment-based visas for their staffs due to the high cost and uncertainty in the regulations.

This year I have made extensive personal efforts to try to improve this situation. I have met with officials with responsibilities for implementing the law in the three DHS components (USCIS, ICE and CBP), the Interior Department, and the U.S. Labor Department. I can report some progress based on these discussions.

In my meeting with Director Mayorkas of USCIS, we reviewed important aspects of the proposed rules for the issuance of temporary work permits for aliens currently in the Commonwealth. He and his staff have listened carefully to our concerns about a large number of practical aspects of the work permit program. I believe that we in the Commonwealth and USCIS will have both the capability, and a cooperative spirit, to deal with the late roll-out of the worker regulations. The delay in issuing these rules in final form has resulted, in part, from our joint staff consultations about the program, and the USCIS efforts to address our concerns. I am persuaded that the new program will better meet the needs of the CNMI and its U.S. citizens as well as the alien labor force.

I have also broken the impasse with ICE about that agency's desired use of the Commonwealth's correctional facility. On the assumption that a partnership sometimes needs to start with one side giving more than another, I agreed to accept the ICE proposal of a relatively low per-diem rate for use of the facility. A few days before this agreement was to take effect, the Commonwealth learned of a 60% reduction in the level of ICE detainees to be authorized. Not only would this have a significant, negative fiscal impact on the CNMI, it would also mean lowered capacity to review and remove illegals from the Commonwealth. Nonetheless, we went forward to implement the agreement.

However, the overall situation remains extraordinarily harmful to the Commonwealth. It is time for the Subcommittee to consider the overall implementation of PL 110–229 and its impact on the 30,000 United States citizens living in the Commonwealth. Based on what we have experienced over the past three years, this law is being implemented to reshape—and substantially hurt—the Commonwealth's economy and community. In particular, the implementation of this unnecessarily complicated law operates to reduce the political authority of the Commonwealth's local government in ways that would not be tolerated in the counties and States on

the Mainland. By doing so, it harms the indigenous elements in the CNMI population—namely, the Chamorro and Carolinian people—who gave up their land and sovereignty in return for U.S. citizenship and the opportunity to enjoy the political freedoms and economic opportunities available to all U.S. citizens.

We have no objection to federal control of immigration if it is done efficiently and effectively as Congress intended. What has happened instead is that Title VII of PL 110–229 has brought to the Commonwealth all of the very serious immigration problems that exist on the Mainland. We have many illegal aliens who are not being deported—although one of the clearly stated goals of the federalization law was to reduce alien workers who could not obtain a standard federal visa to zero within a few years. Some of these illegal aliens are employed illegally and take jobs away from U.S. citizens. Others are unemployed and survive on government benefits that provide an incentive not to leave the Commonwealth. Particularly since federal authority came into effect, the Commonwealth has had an increased inflow of tourists and others who entered on a temporary basis but remain illegally in the CNMI hoping for access to amnesty that will provide a green card. The burden on CNMI taxpayers related to illegal and unemployed aliens is heavy.

With a population of more than 300 million people, the 50 States of the United States can absorb the economic and social costs of these immigration failures—although there appears to be a growing awareness across our country that serious immigration reform is necessary. But the Commonwealth has only 30,000 U.S. citizens, with about 16,000 of them being registered voters. Our small community is enormously burdened by these failures, which have complicated the Commonwealth's efforts to address its continued economic decline.

When it enacted Title VII, Congress promised the Commonwealth a balance between benefits and burdens in connection with this so-called immigration reform. All of the burdens we warned about have certainly come to pass, in even worse levels than we predicted. However, we have received absolutely none of the benefits that the drafters of the bill promised.

To be specific:

1. No visa waivers: The bill provides for a visa waiver program with respect to Russia and China, two very important markets for us. The visa waiver program has been blocked. We understand that the Department of Homeland Security has twice examined possible national security implications of a visa waiver program for the Commonwealth and Guam and has found none. The Department of Defense and the Department of the Interior have no objection. We understand that the Department of State has refused, on policy grounds, to implement what has been mandated by Congress. Our tourist industry—the principal economic basis for our economy—has been seriously hurt. While we appreciate the efforts of Secretary Napolitano to give us a temporary parole system, such a system simply does not allow for necessary continued investments in growing these markets due to the fact that the program can be halted without notice.
2. No technical assistance: The bill mandates technical assistance from four federal agencies—Labor, DHS, Commerce, and Interior. Three years later, Labor, DHS, and Commerce have given us nothing under PL 110–229 and have denied our very modest requests for grants. Interior has no funding for technical assistance specifically with respect to PL 110–229, but has allocated to the CNMI some of the technical assistance funds which we would otherwise receive under regular insular area programs.
3. No effective immigration enforcement: The bill promises effective immigration enforcement. We are given no official statistics by ICE, but immigration lawyers report that ICE has deported fewer than 100 aliens in three years. At that rate, ICE will not clear the books of illegal aliens in the Commonwealth for many decades. ICE also refuses to fund a very low-cost software-based effort to identify illegal aliens who arrived prior to 1996.
4. Poor performance at the border: The CBP agents who man the border in the CNMI are all temporary assignees. We have constant complaints that they are rude, arrogant, and slow in processing arriving tourists. Tourism is our lifeblood. An unwelcoming atmosphere at the border is unacceptable. In addition, CBP has prevented the Commonwealth from maintaining its exit database that compared entry data to exit data and was very effective in identifying overstaying tourists. CBP has no exit database that can provide current information on overstayers. As a result, it appears that we have an increasing number of aliens in overstayer status and no way to identify them. CBP refuses to acknowledge its responsibility for these problems and has insisted on applying the same ineffective program in the Commonwealth that

it does in the Mainland, although a more effective CNMI program has demonstrated its utility and is available.

5. No funding to substitute for coverover: The bill takes away a major funding source, the coverover to the Commonwealth from immigration and naturalization fees paid to the United States, which is available to other territories. We are given only a very small fee from work permits—about one quarter to one-eighth of our prior funding—in return when the regulations are finally issued. To date, we have received no funding from this source.
6. No consultation: The bill provides that we will be consulted before reports are submitted to Congress. That has not happened. Executive Branch reports are submitted before we have ever had a chance to even see a draft. I should note that the GAO routinely allows us to review a draft, but this is not the case with the Department of the Interior or the Department of State.

I could go on at great length about how the burdens have multiplied and the benefits have never materialized. However, it has been my experience that these oversight hearings with a piecemeal approach are not a forum in which meaningful change can occur. This Committee cannot get ICE to deport more than a relatively few illegal aliens each year or get CBP to stop being rude to visitors who enter the Commonwealth, or get Labor or Commerce to provide the technical assistance we were promised, or get additional funds for Interior. We are working hard on these problems within the Executive Branch, but the Commonwealth is very small and our problems are easy for federal bureaucrats to ignore. Only if this Subcommittee is willing to underwrite a serious, system-wide reform of the implementation of PL 110–229, and amendment of its provisions that do not work, will the Commonwealth see any progress.

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Now I would like to address H.R. 1466. I oppose this bill and urge that it not be acted on by this Subcommittee.

Many of the difficulties encountered in the implementation of Title VII result from the fact that it was drafted by persons without any expertise in immigration law or understanding of the Commonwealth's economy. It is our view that H.R. 1466, and other bills dealing with immigration in the insular areas, should be handled by the appropriate subcommittee of the House Judiciary Committee. I know that other bills are being considered there that may have some potential applicability to the Commonwealth, especially federal laws that endorse the authority of the States to deal with the employment of illegal aliens by employers. For example, I am impressed by the bill introduced by Representative Lamar Smith with respect to a national program to deter the employment of illegal aliens.[1]

I believe that Congressman Sablan proposed this bill without the demographic information necessary to assess its impact on the Commonwealth. That is not his fault. The U.S. Labor Department and the U.S. Department of Commerce do not provide the Commonwealth with the full range of data services routinely available to States and counties in the Mainland. We have recently been told that we will not even have the preliminary results of the 2010 census until 2012.[2]

I did not see a draft of H.R. 1466 before it was introduced, and I understand that experts on alien labor in the Commonwealth also were not consulted. After H.R. 1466 was introduced, I requested a detailed analysis of its likely social and economic impact. We understand that the numbers involved in H.R. 1466 will strike some Members of Congress as very small, compared to the U.S. immigration numbers. Some may assume the effect would also be minor. That is wrong. We have only 30,000 U.S. citizens living in the islands that make up the Commonwealth and about 16,000 registered voters who are predominantly of Carolinian and Chamorro ancestry. We are like a very small county in one of the 50 States.

We now estimate that there were approximately 23,000 aliens (including illegals) residing in the Commonwealth at the end of 2008. Unlike our U.S. citizen popu-

[1] Six States have now passed legislation to deal with some aspects of this problem. Most recently, Louisiana on July 7, 2011, enacted two laws dealing with the usage of the federal E–Verify Program. One law requires all state and local contractors to use E–Verify; and the other requires private businesses to verify the legal status of their new hires by providing employers that use it a safe harbor against sanctions.

[2] Some of the information currently being provided by the U.S. Census Bureau with respect to the CNMI appears to be projections based on unidentified assumptions. For example, its listing for the Northern Mariana Islands contained in its International Programs Division shows a population of 48,000 for mid-year 2010, 46,000 for mid-year 2011, and 45,000 for mid-year 2012. If these figures are correct, then there are fewer U.S. citizens in the CNMI currently than reflected in the text.

lation, most of these aliens are adults. Most of these aliens, but perhaps not all, were present in the CNMI on May 8, 2008, the date of enactment of the federalization law, and therefore would meet one of the requirements of H.R. 1466 to gain the bill's preferred status for parents of U.S. citizen children. Because of CBP's failure to maintain an exit database that can rapidly identify overstayers, we do not know how many of these aliens are still in the Commonwealth. We believe that nearly all are still present. At present, more than half of them are unemployed, due to the serious economic recession that has caused a 45% decrease in the Commonwealth's GDP over the past several years.[3] A recent GAO report estimates that employment in the CNMI has dropped an unprecedented 35% from 2006 to 2009.[4]

The Commonwealth began admitting alien workers in numbers in 1985 as the garment and tourism industries began to grow simultaneously. Many of these workers were from the Philippines and China, most were female, and most were relatively young. Many gave birth in the Commonwealth, and these children were U.S. citizens by virtue of the Commonwealth's status as a territory of the United States. As the federal presence in the Commonwealth grew during the 1990's, some federal officials repeatedly suggested that the alien parents of U.S. citizen children were entitled to special status—although that certainly is not the case under U.S. immigration law. Not surprisingly, the births of children to aliens increased.

When the Commonwealth controlled its own immigration, we admitted alien workers on a temporary basis while they remained employed, and unemployed aliens were repatriated. When the garment manufacturers closed down because of changes in WTO rules, the Commonwealth repatriated over 16,000 alien workers beginning in 2005. After the federalization law was enacted in 2008, some federal officials promised a path to US citizenship for aliens who had U.S. citizen children or who had lived in the Commonwealth for several years. This gave aliens a strong incentive to stay in the CNMI rather than return home.

Beginning in 2006, U.S. citizen children of aliens reached age 21 in increasing numbers and began petitioning for green card status for their alien parents. This occurred under the normal U.S. immigration processes, which are available to all qualified aliens—and which we think should apply to the Commonwealth in the same way as in the States. There is no need for a special citizenship provision applied only to the Commonwealth. When the Judiciary Committee considers immigration reform for the U.S., the Commonwealth will be a part of that reform. We do not want or need an amnesty bill now.

H.R. 1466 creates four categories of new U.S. citizens. I want to focus on the fourth category which covers alien parents of minor U.S. citizen children.[5] This category is, by Commonwealth standards, very large.

Here's what will happen under H.R. 1466:

1. Large scale amnesty for aliens: H.R. 1466 is essentially a large-scale amnesty bill. It provides a direct route to citizenship that would create an estimated 11,000 new U.S. citizens in the Commonwealth within the next 10 years—virtually all of whom are adults and would be voters.[6] This would occur at a time when the current U.S. citizen population of Chamorro and Carolinian ancestry is estimated to decline. Our severe economic recession has caused some ofthese citizens to move to the Mainland just to earn enough to support their families. The social disruption from arbitrarily creating citizens in this large proportion cannot be overstated. I do not believe

[3] Our estimate of the unemployed includes those who may be employed illegally and therefore do not show up in our jobs surveys.

[4] American Samoa and Commonwealth of the Northern Mariana Islands: Employment, Earnings, and Status of Key Industries Since Minimum Wage Increases Began, GAO–11–427, June 2011, Government Accountability Office.

[5] The first category consists of aliens who were born in the Commonwealth between 1974 and 1978 and who did not get U.S. citizenship under a prior court decree covering this group. We estimate there are about 200 persons in this group.

The second category consists of aliens who were granted permanent resident status by the CNMI government prior to 1981. We estimate there are 82 persons in this group.

The third category consists of aliens who are the spouses and children of people in groups 1 and 2. We know of only 102 persons in this group, but there may be a few more.

[6] Our estimates in this regard are based on data with respect to live births and fertility rates, public and private school enrollments, ages and genders of aliens in the Commonwealth, umbrella permits, utilization of nutritional assistance programs, U.S. census estimates and projections, U.S. immigration laws and regulations, and other related data. LIDS data are not relevant for these purposes as those data record work assignments. Because the federal authorities do not collect data in the Commonwealth that is readily available for all states and most counties, we must rely on estimates. We anticipate that these estimates are on the low side.

that turning this large population of alien temporary workers into citizen voters would be tolerated in any county or State in the United States.

2. Permanent CNMI-only residence: Under H.R. 1466, these aliens are granted permanent residence in the Commonwealth *for all time*. They are protected from deportation until their minor child reaches age 21 and can petition for a grant of a green card for the parent leading to U.S. citizenship. That is a significant distortion of the U.S. immigration system. Allowing these aliens to remain in the Commonwealth—even if they *do not* petition for adjustment of status to be able to enter the Mainland U.S.—is a long-term burden on the Commonwealth that occurs nowhere else in the U.S.
3. Non-custodial parents included: A parent who provided no support whatsoever to the minor U.S. citizen child or never lived in a household with the minor child is qualified to remain in the Commonwealth. H.R. 1466 only requires a parent's name on a birth certificate—not any evidence of a meaningful parental relationship.
4. Unemployed and unemployable parents included: A parent who is unemployed will qualify to remain in the Commonwealth forever. The CNMI will have to foot the bill for supporting them because, under H.R. 1466, they are not allowed to travel to the U.S. The direct and indirect costs to the CNMI government each year for unemployed aliens remaining in the Commonwealth is high and a particular burden on CNMI taxpayers.
5. Parents with no means of support included: A parent who has no means of support whatsoever will qualify. The bill attempts to get rid of the requirement for U.S. green cards of a sponsor willing and able to undertake the responsibility to pay support in the amount of at least $18,000 a year (at present levels) should the alien not be able to support himself or herself.[7] This means that aliens with no visible means of support would qualify to remain in the Commonwealth or to become U.S. citizens. This is not allowed anywhere else in the U.S.
6. Parents with a history of illegal employment included: A parent who works illegally in the underground economy, and harms the Commonwealth in the process, is eligible. This kind of broad amnesty encourages illegal employment as there is no deportation penalty. It also undermines employment opportunities for U.S. citizens. Although H.R. 1466 does not address the issue, it appears that this new status would also be available to persons who entered the CNMI before or after November 28, 2009, and became an illegal overstayer in violation of the INA, notwithstanding the general rule that illegal entrants and immigration violators are not allowed to be admitted into the United States.
7. Parents who have left the Commonwealth included: A parent who left the Commonwealth after November 2009 and has not returned to the Commonwealth will qualify if he or she returns by the date of enactment of H.R. 1466. The promise of U.S. citizenship is likely to attract a substantial number of re-entrants. This will aggravate the Commonwealth's current problem with unemployed aliens.
8. Parents of children raised elsewhere included: A child who was born in the Commonwealth but was sent by his or her parent to live in China or the Philippines—and who remains with relatives in the Philippines or China for his or her entire childhood to age 21—can still protect his or her parents, enabling them to remain in the Commonwealth more or less permanently for the prospect of better employment or welfare benefits.
9. APA protections stripped away: H.R. 1466 strips away the protections of the federal Administrative Procedures Act by permitting the Department of Homeland Security to promulgate implementing regulations without the customary requirement of issuing them in proposed form and providing for a period within which the affected parties may comment. Are we incapable of learning from experience? We had to go to federal court in November 2009 to order to require DHS to comply with the provisions of the APA with respect to its proposed transitional worker permits. I see no reason for including this exception in this law.
10. A definition of "immediate relative" rejected by the Commonwealth legislature determines the eligible class: The bill refers to a definition of "immediate relative" that was in the Commonwealth Code prior to May 2008.[8] That definition was struck from the Commonwealth Code by our Legisla-

[7] See section D(iii)(II).

[8] This is the reference to Title 3, Section 4303, which was deleted from the Commonwealth Code by P.L. 17–1. It no longer exists.

ture. We have found that, under well-accepted drafting rules, cross references to definitions in other legislation may be appropriate in very limited cases.[9] This is not one of those cases. A cross-reference to legislation that was repealed prior to the time of the legislation containing the cross-reference is particularly unacceptable. Among other flaws, it masks the true intent of the bill to those who are not lawyers or skilled legislative researchers.

11. Prior problems of adoption fraud are revived: The old now-repealed definition of "immediate relative" refers to adopted children who are adopted prior to age 21. This led to significant problems with adoption fraud in the Commonwealth—children who were adopted for the purpose of conveying status for immigration purposes. H.R. 1466 allows an alien parent who has more than one U.S. citizen child the leeway to consent to an adoption of one of the children for the purposes of eligibility under H.R. 1466. If this happened to any significant extent, as it has before, this would increase the number of eligible parents.

Let me be clear. It is the U.S. citizens in the Commonwealth who gave up their land and their sovereignty to become a part of the United States. The U.S. citizens in the Commonwealth have a right not to have their community and culture be so radically changed in this fashion—unless they decide to do so through their own democratic institutions.

We treated guest workers well over the years, and we continue to do so. Some critics have cited poor working conditions. We corrected those long ago. Some cited an estimated $6.1 million in back pay owed to guest workers over the 25 years since 1985. That estimate was wrong. The total turned out, after investigation, to be far lower. All claims of back pay have been adjudicated; and only a relative few cases remain in our courts. Other critics have pointed to alleged human trafficking violations. Human trafficking is a federal crime and the only fair measure is convictions in federal cases—not allegations or rumors. Federal convictions over the past 10 years have been very, very few. Our record over the years is the equal to, and we think better than, anywhere aliens are employed in large numbers in the United States. And we understand why aliens in the Commonwealth want to stay. They have freedoms, are treated well, and have employment opportunities and social benefits.

I have a proposal for an H–5 visa within the regular U.S. immigration system, and the CNMI Senate has a proposal for a non-citizenship status somewhat akin to the status of Freely Associated State residents in the Commonwealth. Both of these proposals are in the supplementary materials to be provided to the Committee. Both of these proposals are far better alternatives for the people of the Commonwealth than H.R. 1466.

Response to questions submitted for the record by The Honorable Benígno Repeki Fitial, Governor of the Commonwealth of the Northern Mariana Islands

From The Honorable Madeleine Z. Bordallo

Q: Could you tell the Committee, have there been any significant issues with regard to overstays? The Parole Authority is probationary period to see if this program will work. I am not aware of any overstays or law enforcement concerns. In my opinion this program works. What is your opinion of the parole authority and any enforcement issues?

A: "I have testified previously that the Commonwealth looks forward to the inclusion of China and Russia in the formal visa waiver program envisioned by Public Law 110–229. Such inclusion would provide an increased measure of certainty and stability that would enable the Commonwealth to develop these markets more effectively. We are very appreciative of the Secretary's decision to use her parole authority to permit tourists from China and Russia to enter the Commonwealth and believe that the program has been administered efficiently and smoothly by Customs and Border Protection personnel. Based on figures provided by CBP last month, we are pleased that a very small number of visitors (36) were rejected upon arrival in the Commonwealth compared with the 20,947 visitors who were paroled in as tourists. The Commonwealth has received no reports from CBP or any other Depart-

[9] See, for example, the following: Office of the Legislative Counsel, U.S. Senate, Legislative Drafting Manual (1997); Lawrence E. Filson, The Legislative Drafter's Desk Reference (Congressional Quarterly, Inc., 1992); Donald Hirsch, Drafting Federal Law, 2d Edition (U.S. Government Printing Office, 1989).

ment of Homeland Security component regarding "overstayers" from China and Russia who did not comply with the terms of their permission to enter the CNMI. None of the participants in dealing with these tourists—the Marianas Visitor Authority, the charter carriers, and the hotels—reports any such "overstayer" problem and all emphasize the importance of these markets to the visitor industry and the Commonwealth economy."

Mr. FLEMING. Thank you, Governor, and we have now Governor Calvo. Sir, you have five minutes.

STATEMENT OF THE HON. EDDIE BAZA CALVO, GOVERNOR OF THE ISLAND OF GUAM

Governor CALVO. Thank you very much, Mr. Chairman and Members of the Subcommittee. My name is Eddie Baza Calvo, Governor of Guam. I am here to testify on Public Law 110-229, the Guam/CNMI visa waiver program.

Unlike previous testimonies that you may have heard in the past, I am not here to ask you for subsidies. We are here to ask you for an opportunity. Release some Federal regulations that make no sense for Guam and American, and we can make it on our own. As our economy takes a new life, I do believe that Guam can be a shining example of economic, American economic strength in Asia.

I am a new Governor with a new doctrine on Federal relations. Guam has some major financial problems caused by many Federal mandates, but nevertheless my administration is looking internally and implementing solutions to fix our fiscal problems. I don't want our government to rely so heavily on Federal subsidies, and I am sure that is welcome news to Members of the Congress.

Guam has a government deficit equal to 51 percent of our revenues, and like other states and territories, we are cutting spending and raising revenues to fix this staggering situation. But unlike other U.S. communities, Guam's deficit is a direct result of Federal mandates and the Federal Government's inability to live up to its own obligations and its mandates.

The financial burdens of the compacts that the United States signed with the Freely Associate States of Micronesia is nearly at $1 billion for the people of Guam. The provision of funding for unimpeded immigration rights to Guam have caused a natural population influx, and citizens from these areas are using up to 70 percent of some of our public services. For over 26 years immigrants have been migrating and maxing out our capacity to provide services, and without adequate funding to offset the impact from the Federal Government our services and infrastructure has fallen into disrepair, leading to violations of other Federal mandates. This includes the Federal EITC. We now have to pay for the larger population which does not get reimbursed like the states, and as a result the Federal Government has taken us to court to pay for services we would have been able to afford if we had not breached our capacity.

Now, this is clearly an injustice, but we are dealing with a financial dilemma with local solutions and local economic initiatives underway. Unfortunately, we have hit a regulatory wall. Tourism, our number one industry, is stagnated. Our primary market, Japan, is no longer the largest potential source of outbound tourists.

Distinguished ladies and gentlemen, there is a great irony between the financial malaise that beset the Guam government and the economic development we have not been allowed to pursue. The Federal Government has seemed sometimes cavalier and almost uninterested at the burden that is placed on our resources, and we have come to Congress to plead our case and get the reimbursements that rightly should be paid, but Congress has refused.

Yet the Federal Government has been sitting on a regulation that would have begun solving our financial dilemma and our economic troubles. Congress mandated a unified immigration policy for Guam and the CNMI, but the Department of Homeland Security has been contravening your intent. There is no parole authority for Chinese and Russian tourists to enter Guam despite Congress's determination that such authority would be of significant economic benefit and would not unduly compromise national or homeland security. Even one percent market share of China's $55 million outbound tourists and Russia's 13 million would translate into GDP growth in the billions of dollars for Guam, and for our part would mean thousands of jobs to close the 13.3 percent unemployment gap we currently have, and more revenues to provide services for our residents and local FAS residents. Put simply, if you give us this opportunity we can take care of our problems.

But there is a larger reason the United States should grant this authority for Guam, and it cuts into the heart of the initiative that can help reclaim American economic political strength in the Asia Pacific Rim. Part of the United States national export initiative is to reduce the huge trade deficit with China. Well, Guam could help facilitate that. The millions of Chinese outbound visitors are exporting Chinese capital, yet the easiest markets accepting them are not U.S. markets. Other Chinese cities and Asian destinations are fast depleting the opportunities for the United States.

Allowing the visa waiver program for Guam will bring millions and billions in Chinese currency into the United States, and this program can be a part of the winning strategy of the national export initiative.

The old way of thinking of our island as an isolated military outpost is outdated. We are America in Asia. We are a gateway to the Orient, Asia's bridge to the United States. I came today with a message, a very different one. We have financial problems like other states, but we are dealing with those problems. Even the cost of impact of migration has caused Federal compacts is a cost that we are bearing but my message deals less with financial assistance for Guam, but it deals more about our desire for economic self-sufficiency. We can do a lot for America if you give us that opportunity.

Now, some have said the American century is a bit dim, but I can see a light in that part of the world on my porch that faces the Pacific Ocean where the Star Spangled Banner and the Guam flag fly high at the Government House. But ladies and gentleman, Members of this Committee, we need your assistance, we need your help. We can be that beacon of the American dream in the Western Pacific, and I ask for your assistance in, again, granting this authority to Guam. Thank you and God bless.

[The prepared statement of Governor Calvo follows:]

Statement of The Honorable Eddie Baza Calvo, Governor, Island of Guam, on H.R. 1466, The Consolidated Natural Resources Act

Thank you, Mr. Chairman, for inviting me to testify. For the record, I am Eddie Baza Calvo. I am the Governor of Guam. This is my written testimony on the implementation of Public Law 110–229, regarding the Guam/CNMI Visa Waiver program. I beg your indulgence as I explain the thinking of Guam's new administration below.

As the new governor of Guam, in my first opportunity to testify before Congress, I want to be certain that the Members of the House are aware of the reasons it is critical for the Guam-CNMI Visa Waiver Program be implemented and that Chinese and Russian nationals be allowed to travel to Guam and the CNMI, as originally intended by Congress.

I have a simple and unique message for Congress today. Unlike previous testimonies you may have heard in years past, I am not here to ask for subsidies. Guam is going through a unique transformation that, if done correctly, will result in unprecedented economic self-sufficiency in the long term.

Today we are far from that self-sufficiency. This fiscal year Guam will receive $369 million in federal grants and matching grants. These grants fund several federal and local programs, including our university land grants, the National Guard, public assistance, housing for the less fortunate, education programs, etc. These are the same grants the other States and territories seek and for which they compete. It costs the federal government far less to fund these programs in Guam because of our small population. For many of these programs, Guam does not receive the same relative share that other American communities do.

As a new governor, I hesitate to have the government of Guam rely so heavily on these grants to sustain local operations. We are taking steps to fix our financial house over the long term, but unfortunately, this funding has become critical to services. These grants have become increasingly important to Guam over the past 20 years. The year 1991 is an important year in Guam memory. That was the last time the government of Guam was able to pay tax refunds on time. We currently owe approximately $280 million in tax refunds, going as far back as Calendar Year 2005. There are several reasons why this has occurred, including natural disasters such as super typhoons, which have wrecked havoc on our island, and global events beyond our control, such as SARS, H1N1, and two Gulf wars, which have wrecked havoc on our main economic industry, Asian-based tourism. While our people are resilient and have rebounded and rebuilt, our government finances were not as resilient. In addition, federal court orders in the hundreds of millions have placed a great burden on the backs of our taxpayers. This government had to borrow to finance some of these orders. The annual debt service on the bonds to pay these court orders has significantly eroded our revenue base. The Earned Income Tax Credit, which we are obligated to pay under the mirror IRC tax code system we have, and which the federal government reimburses to the state governments, is not reimbursed to Guam. This is a drain on our General Fund of between $32 to $36 million annually.

Because of declining revenues, the result of Japan's financial downturn, the decline in military spending, and federal court-mandated new programs, imposed fines and application of EITC, the money that should be set aside for tax refunds continues to be used to pay for essential government services. All this, along with the growth of freely associated states of the Micronesia (FAS) migration in ever-increasing numbers, has created a structural imbalance in our General Fund. And while our community has been growing, along with a greater demand for public services, collections have not kept pace with this growth. The cumulative deficit that has grown over the years now is $336 million, according to our FY 2010 audit report.

Distinguished Ladies and Gentlemen, our deficit is 51 percent of our current year's adopted revenues. It is unmanageable. It rides as a burden on the backs of taxpayers awaiting their refunds. I'm not here to ask you to solve our problems for us. We are working to do that on our own. I directed my Cabinet to begin personnel evaluations for performance and I have instituted a 10 percent cut in spending. An island-wide reassessment of property values currently is underway to increase revenues. Revenue agents also are going after non-filers and non-payers. I am not asking for a federal bailout. What I am asking is for the federal government to make good on its own mandates, with the same fervor and sense of urgency as it has imposed upon our government.

The year 1991 is the sixth year following the U.S. government's compact, or treaty, with the freely associated states of Micronesia. In 1985, these new countries entered into an agreement with the U.S. The U.S. government said the people of these former U.S. administered territories could migrate freely into the United States.

Noting the dismal conditions of these countries' economies and education systems, the U.S. promised federal aid to them. Rightly so, our country wanted to leave a legacy of progress in former territories it liberated and held in trust. The U.S. government agreed to absorb and pay for the impact of their migration to the States and territories of the U.S.

It's been 26 years since then. The promise the U.S. made to the citizens of the FAS has resulted in meager improvements to their economies and school systems. As a result, the bulk of the FAS citizens, tens of thousands of them, have migrated to the closest U.S. port of entry: Guam. Our island absorbs well over half the migratory impact of the treaty the U.S. government entered with the FAS. Resultingly, Guam's unemployment rate now is 13.3 percent. The true financial impact of this migration has cost the government of Guam nearly $1 billion since the Compacts were signed. Yet, Guam has only received $xxx since the Compacts. To put this in perspective, our General Fund generates about a half a billion dollars annually. Guam has found itself the casualty of another unfunded federal mandate.

I understand, however, that the U.S. government is itself in a bad economic state and will probably never fully reimburse Guam for the impacts of the Compacts. But I want to put into perspective how this federal mandate has contributed to, and may even be said to have caused, our deficit and the structural imbalance of the General Fund. We have been able to quantify most of what it costs to pay for government services directly used by citizens of the FAS annually. **The figure is $113 million a year, for which we have never been reimbursed more than $14.5 million**. That is about $100 million, or one-fifth of our local budget going to provide unreimbursed social services to FAS migrants. The rate of usage in each service category is alarming. I attached a breakdown, but here are some highlights:

Program	% of Participants Who Are FAS Citizens in Each Program
Medically Indigent Program	**67%**
Alternative School for At-Risk Youth	**42%**
Public Housing Vouchers	**32%**
Youth Detention and Rehabilitation	**36%**
Prisons	**25%**
Public Schools	**19%**
Emergency Shelters	**48%**

Three years worth of this impact outpaces the size of our General Fund deficit. If you consider the direct costs the government of Guam incurs because of this federal mandate, you can see that the appropriations needed to meet the demand for services will always outpace the revenues we collect. This federal mandate, Distinguished Ladies and Gentlemen, is driving up the cost of government services in Guam; costing us approximately $100 million annually.

We are told that we need to understand the federal government's financial situation. We are told we must take into consideration the federal bureaucracy's hardships and ability to pay. That is reasonable. What is most unreasonable is the hardship unfunded federal mandates, such as the FAS Compacts and EITC, place on our island people, forcing us to withhold tax refunds as our government continues to use their monies to subsidize the cost of providing government services to our residents as a result of the Compacts. Adding insult to injury, while the federal government sees no need to reimburse us beyond its ability, some would say its willingness, to pay us, it imposes on us additional mandates, orders, receiverships and fees without any regard for *our* ability to pay and sustain services for our residents. Here is a list of these orders and fines:

Consent Decree and receivership filed by the U.S. EPA	**$202,425,000**
Court order to pay the federally-unfunded EITC	**$72,845,303**
Stipulated Order filed by the U.S. EPA	**$118,825,000**
Permanent Injunction and receivership filed by the U.S. Department of Justice	**$15,950,000**
Consent Decree filed by the U.S. Bureau of Prisons	**$9,636,593**

The government of Guam has repeatedly asked the federal court and the federal agencies pursuing these fines and orders to consider the progress we were making in meeting the demands of the federal mandates. We have repeatedly asked for consideration on the rigid timelines imposed to provide the local cash to fund our compliance initiatives. We were told such considerations were not possible. It is a tragic irony that the federal government can withhold from us just reimbursement for its federal mandates because of its cash situation, despite the overwhelming impact of its failure to meet its own mandates, yet give us no consideration of the effect that its failure to reimburse us has on our ability to pay its other mandates.

On top of this, the U.S. Environmental Protection Agency now wants the government of Guam to install secondary wastewater treatment facilities at the cost of $400 million. The U.S. EPA does not care how this will impact our people; nor has it considered other less expensive and environmentally sensitive technological solutions for wastewater treatment.

How is it right that we are made to pay for more than three-quarters of a billion dollars in federal mandates when the federal government still owes us a billion dollars in reimbursements for its obligation to us?

The federal government is strangling us with mandates it expects our cash-strapped government to meet upon unreasonable timelines and demands. There has been no consideration for our ability to sustain our financial house while meeting these orders and paying for what is supposed to be the federal government's bill. These extraordinary demands not only drain our financial resources, they rob us of the attention and focus we need to pay to our own local programs and initiatives to combat poverty and increase wealth among Guamanians. Make no mistake about it; we are good American citizens who are doing our part to deal with these problems ourselves. We have a full throttle economic and financial agenda. The only thing getting in our way is the federal government's burdensome bureaucracy, mandates, rules and regulations.

Despite these challenges, we are moving forward with viable economic initiatives to improve the quality of life for Guamanians and increase our presence in the Asia Pacific Rim.

My administration is developing a long-term economic strategic plan, which leverages the military buildup investment with our strategic location between Asia and the mainland United States. I am bringing the community together to use available information and academic methodologies and best practices to forecast Guam's economy and its community of the future. We will project our needs, identify budding industries, shore up our workforce goals and create a community model supported by the infrastructure, workforce and regulatory environment fit to meet these projections. We will align curriculum in our schools, colleges and university to meet these goals, creating certainty in our future in much the same way several Asian nations went from lands of scarce natural resources to the economic tigers they are today.

As this planning and implementation process occurs, we have already launched an affordable housing initiative to spark construction and generate interest in mortgages for first-time homeowners. Our goal is to build 3,000 affordable homes over the next five years. We launched the initiative two weeks ago. Already, 188 homes are slated for development in the near future.

The much-anticipated and recently much-debated military buildup is causing increased interest in the island. Our economic development agency, along with our Chamber of Commerce, has been organizing trade missions to Guam from Taiwan, Korea, China, the Philippines and Japan. We want Asian capital to flow into our economy. I will be leading trade missions to these countries later this year to court investors personally.

The University of Guam is aggressively networking to build research and development parks as incubators of new business and new industry. More so than ever before, the University is taking a commanding role in community development. It has become a regional leader in economic initiatives. More importantly, it has begun a long-overdue dialogue on sustainability in the islands. One of the initiatives this is leading to is the creation of the University of Guam School of Engineering. These initiatives will lead to solutions to which both Micronesia and the U.S. government have long aspired.

Stagnation and an increasingly competitive field of nearby emerging destinations have impacted tourism, our number one industry. The Japanese disasters of March 2011 have also had their most recent effect on our Asian-based tourism industry. We are adapting and coping as best we can, but there is only so much we can do.

My message is this: We can make it on our own if the federal government makes good on its own mandates, and releases us from restrictions that do not make sense for our very unique economy and for the United States. We believe this is an espe-

cially appropriate message to send to you as Congress and President Obama try desperately to curb federal spending and reduce the federal deficit. But that's just one narrow way of seeing things.

Guam and the CNMI are geopolitically positioned in a way no other U.S. community is. Our location, tied with our reputation in Asia and the Pacific of being the strongest, closest, most stable and hospitable American community in that part of the world presents the United States with an opportunity to increase American clout militarily, economically and diplomatically with the fastest growing economies in the world. Put simply, we are in a political and geographic position to make our country shine. Not only are we proud to be in this position, we are excited to take a lead role. This is, after all, in the spirit of the bipartisan call from Congress for American communities to exhibit leadership in gaining financial independence and economic development.

I offer to you solutions to make this happen:

Release Travel Visa Restrictions on Chinese and Russian Outbound Visitors to Guam and the CNMI Only

The United States currently does not have a visa waiver program with China and Russia. Two of the main reasons for this are concerns for national security and of Chinese and Russian nationals violating their visa conditions and overstaying in the U.S. These issues are of obvious significant concern for the U.S. I reiterate, though, what Congress already understood when it passed the Consolidated Natural Resources Act of 2008.

Guam is not part of the contiguous United States. We have 212 square miles of land surrounded by the deep blue Pacific. It is not difficult to find people in our island, but it is hard to get past customs and immigration officers at our airport. Even Congress supports this in its own findings. When Congress established the Guam VWP in 1987 as an amendment to the Immigration and Nationality Act (INA), Congress emphasized the inherent protections afforded the United States' welfare, safety and security by Guam's geographical isolation. Congress determined that:

> The unique conditions prevailing on Guam and its isolated location provide sufficient safeguards for the welfare, safety and security of the United States to justify a broad application of the visa waiver system. Guam's isolation as an island in the Pacific Ocean easily allows for the restriction of visa waiver recipients to the Territory thereby preventing them from traveling onward to Hawaii and the mainland. Guam's small area and its relatively small population ensure that any non-immigrants who overstay the visa waiver period...can be quickly located and removed....Given the inherent protections which Guam offers the welfare, safety and security of the United States the visa waiver system should be liberally applied to a broad range of countries....It is intended that the visa waiver program should initially be given wide application. If threats to the welfare, safety or security of the United States develop those threats should be dealt with on a country by country basis.[1]

Although China and Russia are currently excluded from the Guam-CNMI Visa Waiver Program, because of our remote location allowing Chinese and Russian outbound tourists to vacation in Guam and the CNMI should not cause such alarm to our national and homeland security agencies.

Guam has long sought visa waiver programs with China and Russia. It makes sense when you consider what this can do for our island economy and for the investment of Chinese and Russian capital into the U.S. economy. Our local considerations are obvious. Guam has relied upon Japanese outbound tourists since the 1960s to fuel tourism, our number-one industry. It is this strong economic alliance we've built with the Japanese that built the Guam economy. That transformation from the rubbles of World War II bombardments and the devastation of a Category 5 storm is nothing short of miraculous.

Unfortunately, when the Japanese economy tanks, Guam feels it. Over the last decade, we've felt its stagnation. Tourists are not staying as long as they used to. They're not spending as much as they did before. On March 11, 2011, Japan was hit by a major earthquake, followed by a devastating tsunami and damage to a nuclear power plant. Guam is still feeling the economic effects of the Japan triple disaster. Tourism numbers from Japan have declined over 20 percent. We've been fortunate to increase our share of the Korean market and to attract further interest from Taiwan, the Philippines and Australia, but these other countries represent only a small portion of our tourism base. While we have struggled to reinvent our

[1] 132 Cong. Rec. S4844 (Apr. 24, 1986); see also 132 Cong. Rec.H5274 (Aug. 1, 1986).

market and to diversify into markets with existing visa waiver programs, we find ourselves competing with several other Asian destinations that have recently emerged. They are all attracting the 55 million outbound Chinese and the 13 million Russian tourists. Guam is anxious to have its share of these markets and we have the infrastructure to support it. Access to Chinese and Russian visitors has the potential of increasing our gross domestic product by the billions and creating thousands of jobs. But Guam isn't the only body politic that stands to gain from these proposed visa waiver programs.

In fact, the State Department has collaborated with the National Governors Association to bring provincial governors from China to the NGA Annual Meeting in Salt Lake City, Utah, later this month, and is also scheduling a state visit by U.S. governors to China for the Fall of 2011. President Obama in 2008 also issued a National Export Initiative designed at doubling U.S. exports, which recognizes tourism as an export component.

Part of the United States' National Export Initiative is to reduce the huge trade deficit with China. Guam can help facilitate that. The 55 million Chinese outbound visitors are exporting Chinese capital, yet the easiest markets accepting them are not U.S. markets. They are other Chinese cities and Asian destinations that are fast depleting opportunities for the U.S.

Allowing China to participate in the visa waiver program for Guam and the CNMI, will bring billions of dollars in Chinese currency to the U.S. The capital will flow into U.S. banks on Guam, and then be invested into the imports we receive from the U.S. mainland. This program can be part of a winning strategy to meet the objectives of the National Export Initiative and begin reclaiming economic strength in Asia.

We need Congress's help in affirming China and Russia's participation in the Guam-CNMI Visa Waiver Program.

Provide Funding Certainty to the Defense Department for the Military Buildup on Guam

A growing pillar in our economy is Defense-related activity, spurred by Defense spending on Guam. The pending military buildup caused a mini-boom of development when plans were announced a few years ago. Unfortunately, uncertainty and anxiety about the buildup has been increasing because of Defense cuts over the past year by Congress.

To date, little has been said or released about the United States' funding commitment to the Global Realignment of the Armed Forces initiative affecting Guam and Okinawa-based forces. The Japanese government has made similar commitments and has deposited vast sums of money to the U.S. Treasury. The uncertainty is on the part of the U.S. government, which lately has seemed reluctant to honor the bilateral agreements effectuated by the State Department.

We do recognize Congress is in a bind because the cost of the buildup is still unknown. However, even the Senate recognizes there is a buildup happening and there are costs. At this point, reducing those costs without any notice of how the buildup will proceed and what investments will be made each year sends mixed signals and causes confusion. There is a need for federal officials to communicate more effectively with Congress, the Government Accountability Office, and the government of Guam on buildup plans and the outlay of spending over the next decade.

The anxiety on the part of our local government, our private sector and prospective investors has been exacerbated by recent cuts to Defense spending in Guam. The Senate Armed Services Committee recently removed an appropriation for improvements to Andersen Air Force Base, and a $33 million appropriation to help mitigate the impacts of a firing range and other buildup activities. This, while just a fraction of the total cost, is significant to us because it was part of a very much criticized negotiation that finally led to the signing of the Programmatic Agreement over the disposition of historic artifacts and other such finds during the proposed buildup.

These so-called 'signals' from Congress have triggered a standstill on development and business activity related to the buildup. Investors now are taking a 'wait and see' stance with Asian capital that they would have already invested into the U.S. via Guam. It is critical to our development that Congress makes good on the United States' promises and provide assurances that it will fund this buildup.

Inclusion in the Korea Free Trade Agreement and All Current and Future Agreements

The sad part about Guam's enduring relationship with the United States is it seems the U.S. government picks and chooses when to apply mandates and benefits to our territory. Sometimes Guam is included as a U.S. territory, many other times

we are treated as an international community not eligible for the same benefits and protections the rest of the country receives. This is the case with the Korea-U.S. Free Trade Agreement.

The President's Office of the United States Trade Representative says, "If approved, the Agreement would be the United States' most commercially significant free trade agreement in more than 16 years.

"The U.S. International Trade Commission estimates that the reduction of Korean tariffs and tariff-rate quotas on goods alone would add $10 billion to $12 billion to annual U.S. Gross Domestic Product and around $10 billion to annual merchandise exports to Korea." It goes on to state:

"In addition to strengthening our economic partnership, the KORUS FTA would help to solidify the two countries' long-standing geostrategic alliance.

As the first U.S. FTA with a North Asian partner, the KORUS FTA could be a model for trade agreements for the rest of the region, and underscore the U.S. commitment to, and engagement in, the Asia-Pacific region."

Guam is, without a doubt, at the center of U.S. interests in this Asia-Pacific region. Why, then, have we been excluded from the agreement? We ask Congress to push for Guam's inclusion in the agreement.

Guam can play a pivotal role as the United States expands its interests in our region. We are important for American interests in Asia. We are important for Asian interests in America. At the heart of this strategic geopolitical value are many factors all related to our location and our proud heritage as the westernmost frontier of the United States:

1. The major strategic importance of the military bases—present and future—on Guam, the "Tip of the spear"
2. The airline hubs connecting Asia with Micronesia
3. The frontline role we have in the potential for development in Micronesia
4. The international web of fiber optic cables based beneath the island
5. The transnational shipping routes that flow through our oceanic backyard
6. The international conventions and treaties on fisheries and fishing that is a multi-billion dollar industry in our waters
7. The academic research and consortiums of marine science based out of our university.
8. The opportunity to reduce the U.S. trade deficit and bring billions of Asian currency to America through Guam.

There is a clear connection between Asia and America. Guam is that bridge. We are the hosts to American interests in the Western Pacific. We set the stage for Asian entrance to U.S. markets. We can be leaders in an economic alliance between Asia and America. Give us the opportunities to make it on our own and we will help America to shine.

The American Dream is powerful. It is no wonder we are a nation of immigrants. People from across the globe saw from their borders the bright and shining promise that is the American Dream. In America, you can work hard and earn a living. It doesn't matter whether your father is a king or your mother is a pauper, or whether you grew up poor or you didn't think you had the right skin color or faith. You can own a home. You can be your own boss. You can compete against the best, and you can win. This dream is attracting people to our shores in much the same way. While we are a small island, we represent America's heritage of warmth and hospitality to all those looking for freedom and opportunity. If you haven't been to Guam, you may be surprised when you get there. People from all walks of life go about their business trying to make ends meet and build something great for their families. It is a microcosm of these contiguous United States, where freedom is celebrated and people take advantage of opportunity.

We are asking you for those opportunities so the American Dream can become a reality for your fellow Americans in Guam. In doing so, we can do our part in bringing the American Dream to more Americans.

We are pursuing a Guamanian Century of Prosperity at the dawn of an American Millennium of Leadership and Hope. Some have said the great American Century is over. They say that, like Greece and Rome, the Holy Roman Empire and Spain, America's light above the world is destined to dim. I see the light of the world every morning on my porch as warm ocean winds blow upon the Star Spangled Banner and the Guam Flag that fly high above Government House. Freedom has no end, nor can time limit its virtue. No other country was built upon these ideals. It is a blessing from God to see the majesty of His creation illuminated by the dawn of a new day. Distinguished Ladies and Gentlemen, as an American living in a land that wakes to the first sunrise of this vast nation, I can tell you that the light of the world touches America first. Let us be leaders in this country's future.

Mr. FLEMING. Thank you, Governor. Mr. Gootnick you are now recognized for five minutes, sir.

STATEMENT OF DAVID GOOTNICK, DIRECTOR, INTERNATIONAL AFFAIRS AND TRADE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. GOOTNICK. Thank you, Mr. Chairman.

Mr. Chairman and Members of this Subcommittee, thank you for asking GAO to participate in this hearing. The CNMI economy is in a severe recession. The garment factories which once fueled an economic boom are closed. Tourism has seen a nearly 50 percent drop in visitor arrivals. According to figures released yesterday by BEA, real GDP fell by 50 percent between 2003 and 2009, and government revenues have shrunk by nearly 50 percent as well.

In this context regarding P.L. 110-229, I will briefly summarize, first, DHS operations in the Commonwealth; second, the status of implementing regulations; and third, several pending issues.

Regarding DHS operations, the key component units had established operations by the start of the transition period. CPD is screening over 30,000 arrivals monthly and has admitted over 60,000 Russian and Chinese visitors to the Commonwealth. They now have a long-term lease and are renovating space at both international airports. ICE now has access to a detention facility. They have deported about 50 individuals and are prioritizing their resources toward criminal aliens. CIS continues to process applications for citizenship, permanent residency, H visas, parole in place and advance paroles, amongst others.

Regarding the regulations, as has been well stated DHS has issued regulations implementing programs for visitors and investors, and has recently submitted to OMB a draft rule on the transitional work permit program. Regarding workers, the delay in issuance of the regulations according to many observers has had a negative impact on the economy.

Regarding visitors, DHS continues to employ the Secretary's parole authority and has left the door open for China and Russia in the combined visa waiver program. Regarding investors, CIS has thus far had far fewer applications for the transitional investor visa than they had anticipated.

Finally, I will raise three pending issues, first on the worker regulations. During the transition the DHS regulations will provide for the number, terms and conditions associated with the worker permits. Labor will decide on any extensions of the program beyond 2014. Many sources, including GAO and the McFee study, have found that a rapid substantial decline in foreign workers would have a negative impact on the economy and a substantial one.

Moreover, given the calendar there is limited time for employers to petition for workers, for workers and their dependents to complete the required steps, and for CIS to process these applications estimated right now at over 15,000.

Second, on payroll taxes, CNMI workers from the Philippines and Korea, currently 75 percent of foreign workers, have in the past been exempted from payroll taxes. With the elimination of the CNMI immigration categories that form the basis for this exemp-

tion going forward the Social Security status of these workers is unknown.

Third, on status, Mr. Sablan, as you know your bill would create a CNMI-only resident status for four groups of individuals. The largest of these groups are certain immediate relatives of U.S. citizens. I must respectfully disagree with the Governor on his figure of 11,000 individuals. There is not a lot of data on this. I think there are two figures that are worth nothing.

In, 2005, the household income and expenditure survey found that there were about 8,000 children of non-U.S.-headed households, about 8,000 kids; 90 percent of those were U.S. citizens. If you figure two kids per family on average, and 90 percent of that, you get somewhere between three and four thousand individual is eligible under the fourth provision in H.R. 1466.

Also, the April 2010 Department of the Interior study suggested that there were about 3,000 individuals who are immediate relatives of aliens or U.S. citizens, so those are probably the two best da ta sources to anchor an estimate on immediate relatives of U.S. citizens.

Also, in April 2010, in a required report, Interior recommended that Congress consider among several options allowing foreign workers who have resided in the CNMI for at least five years to apply for long-term status. This report has engendered controversy both on its data source and its options for congressional consideration. Nonetheless, the report reflected a compromise in the CNRA itself and reflects difficult choices still to be made in the role of foreign workers in the Commonwealth's future.

In summary, Mr. Chairman, five basic points: The CNMI economy is in a severe prolonged recession; DHS components are operational in the Commonwealth; Chinese and Russian visa waivers are important to tourism in both Guam and the CNMI; the delay in establishing temporary worker program is at present a key source of uncertainty; and finally, proposals to grant long-term status to certain workers and their families are pending before Congress.

Mr. Chairman, this completes my remarks. I am happy to answer your questions.

[The prepared statement of Mr. Gootnick follows:]

Statement of David Gootnick, Director, International Affairs and Trade, U.S. Government Accountability Office

Chairman Fleming, Ranking Member Sablan, and Members of the Subcommittee:

Thank you for the opportunity to discuss our work on the status of efforts, in response to the Consolidated Natural Resources Act of 2008 (CNRA), to establish federal immigration control and implement programs for foreign workers, visitors, and investors in the Commonwealth of the Northern Mariana Islands (CNMI).[1]

Under the terms of its 1976 covenant with the United States,[2] the CNMI government administered its own immigration systems from 1978 to 2009, using its authority to admit substantial numbers of foreign workers[3] through a permit program

[1] Pub. L. No. 110–229, Title VII, 122 Stat. 754, 853 (May 8, 2008). 48 U.S.C.§ 1806 note.

[2] Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. No. 94–241, § 1, 90 Stat. 263 (Mar. 24, 1976), 48 U.S.C. § 1801, note.

[3] In this statement, unless otherwise indicated, "foreign workers" refers to workers in the CNMI who are not U.S. citizens or U.S. lawful permanent residents. (Other sources sometimes call these workers "nonresident workers," "guest workers," "noncitizen workers," "alien work-

Continued

for non-U.S. citizens entering the commonwealth. In 2005, these workers represented a majority of the CNMI labor force and outnumbered U.S. citizens in most industries, including tourism and garment manufacturing. The CNMI also admitted visitors through its own entry permit and entry permit waiver programs and provided various types of admission to foreign investors.

CNRA required that GAO report on the implementation of federal immigration law in the CNMI 2 years after the date of enactment, which was May 8, 2008. In August 2008, we reported that decisions by the Secretary of Homeland Security, in conjunction with other departments, in implementing CNRA's provisions regarding foreign workers, visitors, and investors would largely determine its impact on the CNMI's economy.[4] In May 2010, we reported, and testified before this subcommittee, that several Department of Homeland Security (DHS) components—U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS)[5]—had established border control operations in the CNMI in 2009 but had not concluded negotiations with the CNMI government to resolve certain challenges involving access to CNMI airport space, detention facilities, and databases.[6] We also noted that DHS had not yet finalized regulations needed to fully implement CNRA provisions affecting foreign workers, visitors, and investors.

My statement today will briefly describe CBP, ICE, and USCIS immigration and border control operations in the CNMI, including progress in negotiating solutions to the challenges we identified in May 2010. In addition, I will describe the status of regulations implementing CNRA-required programs for foreign workers, visitors, and investors. Finally, I will discuss some pending issues, several of which may lead to future challenges related to U.S. immigration control in the CNMI.

This statement is based on our prior reports,[7] updated with information provided by DHS and the Department of the Interior (DOI) and obtained in interviews with DHS officials in California, the CNMI, Hawaii, and Washington, D.C. In general, to establish the reliability of the data that DHS uses to document arrivals, aliens, and benefits in the CNMI, we systematically obtained information about the ways that DHS components collect and tabulate data. When possible, we checked for consistency across data sources. Although the available data had some limitations, we determined that the data were adequate and sufficiently reliable for the purposes of our review. We also interviewed private sector representatives in the CNMI regarding implementation. The information contained in this testimony was reviewed for technical accuracy by DHS officials. We conducted our work for this statement from May 2011 to July 2011 in accordance with generally accepted government auditing standards.[8]

Background

The CNMI's economy is in a prolonged recession due to the departure of its garment industry and decline in its tourism industry. Until recently, the garment industry was central to the CNMI economy and employed close to a third of all workers. However, by early 2009, the last garment factory had closed. The tourism indus-

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ers," or "nonimmigrant workers.") "Foreign workers" does not refer to workers from the Freely Associated States—the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau—who are permitted to work in the United States, including the CNMI, under the Compacts of Free Association (48 U.S.C. § 1901 note, 1921 note, and 1931 note). In this statement, foreign workers may include aliens who are immediate relatives of U.S. citizens or U.S. permanent residents.

[4] GAO, *Commonwealth of the Northern Mariana Islands: Managing Potential Economic Impact of Applying U.S. Immigration Law Requires Coordinated Federal Decisions and Additional Data,* GAO–08–791 (Washington, D.C.: Aug. 4, 2008).

[5] CBP is the lead federal agency charged with keeping terrorists, criminals, and inadmissible aliens out of the country while facilitating the flow of legitimate travel and commerce at the nation's borders. ICE is responsible for enforcing immigration laws within the United States, including, but not limited to, identifying, apprehending, detaining, and removing aliens who commit crimes and aliens who are unlawfully present in the United States. USCIS processes applications for immigration benefits—that is, the ability of aliens to live, and in some cases to work, in the United States permanently or temporarily or to apply for citizenship.

[6] GAO, *Commonwealth of the Northern Mariana Islands: DHS Should Conclude Negotiations and Finalize Regulations to Implement Federal Immigration Law,* GAO–10–553 (Washington, D.C.: May 7, 2010); and GAO, *Commonwealth of the Northern Mariana Islands: DHS Needs to Conclude Negotiations and Finalize Regulations to Implement Federal Immigration Law,* GAO–10–671T (Washington, D.C.: May 18, 2010). In our May 2010 report, we recommended that DHS and its components establish strategic approaches and time frames for concluding its negotiations; DHS agreed with our recommendation. For a list of related products, see GAO–10–553, page 82.

[7] GAO–08–791 and GAO–10–553.

[8] Additional information on our scope and methodology is available in prior reports.

try has declined as visitor arrivals to the CNMI decreased by 49 percent, from a peak of about 727,000 in 1997 to roughly 368,000 in 2010. As the economy contracted, the CNMI's real gross domestic product dropped at an estimated average annual rate of 4.2 percent from 2002 to 2007.[9] In addition, revenues available for appropriation by the CNMI government have fallen by 45 percent, from $240 million in fiscal year 2005 to an estimated $132 million for fiscal year 2011. Moreover, since 2007, labor costs have increased following the application of the federal minimum wage in the CNMI.[10]

Certain provisions in CNRA were intended to minimize the potential adverse economic and fiscal effects associated with phasing out a CNMI government permit program for foreign workers and to maximize the CNMI's potential for economic and business growth. These provisions were to apply during a 5-year transition period that began on November 28, 2009, and ends in 2014. In particular:

- *CNMI government–issued permits.* Under CNRA, foreigners who lack U.S. immigration status but were admitted under the CNMI's immigration laws prior to November 2009, may continue to live and work in the commonwealth for 2 years after that date or until their CNMI government–issued permits expire, whichever is earlier. The CNMI issued temporary permits authorizing the holders to remain in the commonwealth after November 28, 2009, for a maximum of 2 years consistent with the terms of the permit. These "umbrella" permits also include provisions for extending, transferring, and seeking employment. CNRA's authorization for individuals with these permits to remain in the CNMI without U.S. immigration status will expire on November 27, 2011.
- *CNMI-only transitional work permits.* CNRA authorizes a federal CNMI-only transitional work permit program and authorizes the Secretary of Homeland Security to determine the number, terms, and conditions of these permits, which must be reduced to zero by the end of the transition period and any extensions of the CNMI-only work permit program by the Secretary of Labor.[11]
- *CNMI nonimmigrant investor status.* CNRA provides for current CNMI foreign investors who meet certain requirements to convert their status from CNMI investor to federal nonimmigrant treaty investor during the transition period. The Secretary of Homeland Security is to determine whom this "grandfathered" status applies to and how long it is valid.

In addition, CNRA amended existing U.S. immigration law to establish a joint visa waiver program for the CNMI and Guam that replaced an existing visa waiver program for Guam visitors.

DHS Has Continued Immigration and Border Control Operations and Concluded Some Negotiations with the CNMI Government

U.S. Customs and Border Protection. As of April 30, 2011, CBP officers at the Saipan and Rota airports had admitted 514,828 arriving travelers—an average of about 30,300 per month—granting 68,764 (13 percent) requests for parole since beginning operations in November 2009.[12] The Marianas Visitors Authority reported

[9] U.S. Department of Commerce's Bureau of Economic Analysis, "The Bureau of Economic Analysis (BEA) releases estimates of the major components of gross domestic product of the Commonwealth of the Northern Mariana Islands," news release, June 6, 2010.

[10] GAO, *American Samoa and Commonwealth of the Northern Mariana Islands: Employment, Earnings, and Status of Key Industries Since Minimum Wage Increases Began,* GAO–11–427 (Washington, D.C.: June 23, 2011).

[11] CNRA authorizes the Secretary of Labor to extend the CNMI-only transitional work permit program indefinitely for up to 5 years at a time. The Secretary may issue the extension as early as desired within the transition period and up to 180 days before the end of the transition period or any extensions of the CNMI-only transitional work permit program. The legislation instructs the Secretary to base this decision on the labor needs of legitimate businesses in the CNMI. To determine these needs, the Secretary may consider (1) workforce studies on the need for foreign workers, (2) the unemployment rate of U.S. citizen workers in the CNMI, and (3) the number of unemployed foreign workers in the CNMI, as well as other information related to foreign worker trends. In addition, the Secretary of Labor is to consult with the secretaries of the departments of Homeland Security, the Interior, and Defense and the Governor of the CNMI in making this determination.

[12] A grant of parole is official permission for an otherwise inadmissible alien to be physically present in the United States temporarily. Parole is determined on a case-by-case basis, and all applicants for admission are subject to inspection and removal if determined to be inadmissible for reasons other than lack of a visa. On October 21, 2009, the Secretary of Homeland Security announced to Congress and the Governors of the CNMI and Guam that she will exercise her discretionary authority to parole into the CNMI visitors for business or pleasure who are nationals of the Russian Federation and the People's Republic of China.

that 77 percent of arriving travelers in fiscal year 2010 came from Japan or South Korea. According to CBP data, of the arriving travelers who were granted parole, 56,376 (82 percent) were from China, 6,751 (10 percent) were from Russia, and the remaining travelers were from other countries. (See table 1.)

Table 1: Traveler Arrivals at Saipan and Rota Airports, November 28, 2009–April 30, 2011

Admitted (total)	514,828
Granted parole[a]	68,746
From China and granted parole	56,376
From Russia and granted parole	6,751

Source: GAO analysis of Customs and Border Protection data.

[a]Arriving travelers were granted the following types of parole: advance (3,162), district authorized (464), humanitarian (3,067), public interest (62,070), and overseas authorized (1). A majority of the other travelers granted parole were Filipino (1,781) or Korean (2,231).

In October 2010, CBP concluded negotiations with the CNMI government and both parties signed a long-term lease agreement that includes permission to renovate airport operating space in Saipan and Rota. In February 2011, CBP began to renovate approximately 14,000 square feet of inspection space at the Saipan International Airport.[13] DHS expects to complete the renovations in both Saipan and Rota by September 2011, at a total cost of $14.2 million.

U.S. Immigration and Customs Enforcement. As of May 31, 2011, ICE officials detailed to Saipan had identified 1,654 individuals in potential violation of U.S. immigration laws, initiating removal proceedings for 236 of these cases. Decisions had been rendered for 133 of the removal cases, 48 of which resulted in removal.[14]

In April 2011, ICE concluded negotiations with the CNMI government for access to detention space in the CNMI correctional facility.[15] Under a 2007 agreement between the U.S. Marshals Service and the CNMI Department of Corrections, the CNMI adult correctional facility in Saipan provided the U.S. government 25 detention beds at a daily rate of $77 per bed. Under the 2011 agreement between ICE and the CNMI government, the CNMI will provide up to 350 detention beds at a daily rate of $89 per bed, including related detention services.[16] ICE began detaining aliens at the Saipan detention facility on June 6, 2011, and expects to use approximately 20 beds until the end of fiscal year 2011.

Although negotiations with the CNMI government have not resulted in DHS components' gaining direct access to CNMI immigration and border control databases, the CNMI government has increased its responsiveness to requests for information, according to ICE officials.[17]

[13]CBP originally occupied approximately 9,390 square feet of airport space at the Saipan International Airport and sought access to approximately 7,200 additional square feet to bring the facility up to DHS standards. The CNMI agreed to provide CBP 5,001 more square feet in the inspection areas for, among other things, renovation of administration offices, access to public restrooms, and construction of three holding cells and two interview rooms.

[14]With the implementation of federal immigration, CNMI courts no longer have the authority to issue deportation orders. ICE's Chief Counsel has an office on the island of Saipan, but the office has no permanent attorney or staff. Instead, attorneys represent DHS in removal hearings from ICE's Honolulu office, either through video teleconferencing or temporary assignments to Saipan.

[15]ICE uses detention space to hold certain aliens while processing them for removal or until their scheduled hearing dates. ICE acquires detention space by negotiating intergovernmental service agreements with state and local detention facilities, using federal facilities, and contracting with private service contracting facilities.

[16]ICE's agreement with the CNMI government includes, in addition to bed space, services that the CNMI detention center will provide when receiving and discharging ICE administrative detainees as well as basic needs, financial liability, transportation, and medical services for detainees and office space for ICE officials at the Saipan detention facility. The agreement was effective April 20, 2011, and will remain in effect for 5 years, with the option to extend.

[17]In May 2010, we reported that DHS was negotiating with the CNMI government for direct access to several databases that the CNMI has used to record the permit status of certain aliens and to track the arrivals and departures of travelers. See GAO–10–553. For more information about these databases—the Labor Information Data System and the Border Management System—see GAO, *Commonwealth of the Northern Mariana Islands: Immigration and Border Control Databases,* GAO–10–345R (Washington, D.C.: Feb. 16, 2010).

U.S. Citizenship and Immigration Services. Since March 2009, USCIS has operated an Application Support Center in Saipan, where two full-time staff provide information, interview residents currently eligible to apply for lawful permanent resident status or citizenship, and process requests requiring biometric services such as fingerprints or photographs. As of June 1, 2011, USCIS had processed 1,033 CNMI applications for permanent residency and 96 CNMI applications for naturalization or citizenship, according to data provided by USCIS officials. In addition, USCIS had received 6,966 requests for advance parole, granting 97 percent of them, and had granted parole-in-place status to 2,625 individuals.[18] Also, from October 2010 to June 2011, USCIS granted nonimmigrant H-visas and other categories of worker status classification for 67 individuals.

DHS Has Not Finalized Regulations Affecting Foreign Workers but Has Implemented Program for Visitors and Investors

DHS Has Not Yet Issued Final Rule for CNMI–Only Work Permit Program

As of July 12, 2011, DHS had not issued a final rule for the CNMI-only work permit program and the permits were not available.[19] DHS previously issued an interim final rule in October 2009 that was to take effect on November 28, 2009;[20] however, prior to the transition date, the federal District Court for the District of Columbia granted the CNMI government's request for an order barring implementation of the interim final rule.[21] DHS reopened the comment period from December 2009 to January 2010 and, after considering comments that it received, submitted draft final regulations for the program to the Office of Management Budget in June 2011.

According to CNMI government officials and private sector representatives, the delayed issuance of DHS's final rule has had a negative impact on the CNMI economy.

- In a May 2010 letter to the Secretary of the Interior, the Governor of the CNMI stated that the lack of final regulations had dramatically slowed foreign investment, travel from other countries, and private sector growth.
- The CNMI Attorney General and the Governor's Special Legal Counsel noted that the lack of a CNMI-only federal worker permit program has contributed to uncertainty among CNMI employers and workers with respect to the status of foreign workers with or without a CNMI umbrella permit and that many CNMI foreign investors have left the community.
- According to Saipan Chamber of Commerce officials, without the final regulations, workers are unable to plan their lives and companies cannot estimate their investments and budgets.
- The former manager of a health clinic for women, infants, and children stated that a large number of unemployed contract workers have remained in the CNMI hoping for some beneficial result of implementation of federal immigration.

DHS officials acknowledged that significant consequences will occur if the CNMI-only foreign worker regulations are not implemented by November 27, 2011, when CNRA's authorization for individuals holding the CNMI-issued umbrella permits to remain in the commonwealth will expire.

DHS Implemented Guam-CNMI Visa Waiver Program and Is Still Considering Inclusion of China and Russia

In January 2009, DHS issued an interim final rule for the Guam-CNMI Visa Waiver Program, which has operated since November 2009. The rule allows visitors

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[18] Advance parole allows aliens in the United States who would otherwise be inadmissible to travel abroad and return. Parole-in-place protects eligible foreign nationals who do not qualify for any other status from being removed or deported from the CNMI. On April 21, 2010, USCIS announced that it will grant parole-in-place to eligible foreign nationals without umbrella permits whose CNMI work permits or CNMI investor permits expire before the CNMI-only transitional worker program and CNMI investor status are available.

[19] Employers of foreign workers residing in the CNMI can also apply for other federal immigration categories such as H–2B temporary or seasonal work status, if eligible.

[20] Commonwealth of the Northern Mariana Islands Transitional Worker Classification, 74 Fed. Reg. 55094 (Oct. 27, 2009). An interim final rule allows an agency to implement federal regulations but retain the flexibility to amend them as necessary in the future. When issuing the interim final rule, DHS announced that it would accept comments in developing the final rule but was not following notice-and-comment rulemaking procedures, asserting that it had good cause not to do so.

[21] Commonwealth of the Northern Mariana Islands v. United States, No. 08–1572 686 F. Supp. 2d 7 (D.D.C. Nov 25, 2009). See GAO–10–553 for more details.

for business or pleasure from 12 countries or geographic areas[22] to apply to enter the CNMI and Guam for stays of up to 45 days without a nonimmigrant visa.

Prior to the issuance of the interim final rule, representatives of the CNMI and Guam governments asked that China and Russia be included in the Guam-CNMI Visa Waiver Program, because visitors from those countries provide significant economic benefits.[23] However, DHS decided not to include China and Russia in the interim final rule, citing political, security, and law enforcement concerns, including high nonimmigrant visa refusal rates. DHS is still considering whether or not to include these two countries in the Guam-CNMI Visa Waiver Program. Meanwhile, CBP continues to parole Chinese and Russian nationals into the CNMI on a case-by-case basis. According to CNMI officials, the exclusion of Chinese and Russian nationals from the Guam-CNMI Visa Waiver Program has increased economic uncertainty in the CNMI, affecting investments in support of the Chinese and Russian tourism markets.

DHS Finalized Rule Providing CNMI Investor Status to Long-Term Foreign Investors

In December 2010, DHS issued a final rule that allows a large proportion of investors holding CNMI long-term foreign investor permits to obtain U.S. CNMI-only nonimmigrant treaty investor status during the transition period. Eligibility criteria for this status—known as E–2 CNMI investor status[24]—during the transition period include, among others, having been physically present in the CNMI for at least half the time since obtaining CNMI investor status and providing evidence of maintaining financial investments in the CNMI. In response to public comments received on the proposed rule, the final rule reduces the minimum investment required to obtain this status from $150,000 to $50,000 for investors holding CNMI long-term business investor permits.[25]

As of June 2011, USCIS had approved 22 applications for E–2 CNMI investor status, far fewer than the 512 applications it had anticipated.[26] However, DHS officials predicted a surge in applications for E–2 CNMI investor status prior to the expiration of CNMI government–issued foreign investor permits on November 27, 2011.

Several Pending Issues Could Lead to Future Challenges

Content and Implementation of Regulations for CNMI–Only Work Permit Program Will Determine Impact on CNMI Economy

The content and implementation of DHS's final rule for the CNMI-only work permit program will largely determine its potential impact on CNMI's economy. The rule will establish, as required by CNRA, a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers. In particular, CNRA requires that the number of permits issued annually during the transition period be reduced to zero by the end of 2014 or any extensions of the permit program. Because foreign workers comprise a large proportion of the CNMI labor market—59 percent in 2009, according to the CNMI Department of Labor—any substantial and rapid reduction in the numbers of CNMI-only permits for foreign workers would have a negative effect on the size of the CNMI labor force and therefore on the CNMI economy. In addition, the interaction of DHS and U.S. Department of Labor decisions about, respectively, the number of permits to allocate

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[22] The interim final rule for the Guam-CNMI Visa Waiver Program lists Australia, Brunei, Hong Kong, Japan, Malaysia, Nauru, New Zealand, Papua New Guinea, Republic of Korea, Singapore, Taiwan, and the United Kingdom as participants in the program. Japan and Korea are the two largest tourism markets for the CNMI and Guam. In March 2011, DHS added individuals from Hong Kong who hold a British National Overseas passport to those eligible for admission under the program.

[23] CNRA states that regulations for the Guam-CNMI Visa Waiver Program shall provide for a listing of any country from which the Commonwealth has received a significant economic benefit from the number of visitors for pleasure within the 1-year period preceding the date of enactment, unless the Secretary of Homeland Security determines that such country's inclusion on such list would represent a threat to the welfare, safety, or security of the United States or its territories. See 8 U.S.C. § 1182(1)(3)(A).

[24] E–2 Nonimmigrant Status for Aliens in the Commonwealth of the Northern Mariana Islands with Long-Term Investor Status. 74 Fed. Reg. 79,264 (Dec. 20, 2010).

[25] CNRA establishes that current CNMI foreign investors who meet certain requirements can convert from CNMI long-term investor status to U.S. CNMI-only nonimmigrant treaty investor status during the transition period.

[26] According to a senior USCIS official, many Japanese and Korean investors apply for regular E–2 status at their local U.S. embassy rather than through USCIS.

annually and whether and when to extend the permit program past 2014 will significantly affect employers' access to foreign workers.[27]

Limited Time Is Available for Submitting and Processing CNMI–Only Work Permit Applications

The time available for submission and processing of applications for CNMI-only work permits will depend on the timing of DHS's issuance of its final rule implementing the program and on the content of that rule.[28] A senior DHS official estimates that approximately 15,000 workers and their dependents will be covered by the program. According to a USCIS official, once DHS issues the final rule, CNMI employers will submit paperwork petitioning for workers to receive the permits; workers will submit biometrics, including fingerprints; and USCIS will process the submitted paperwork and biometrics.[29] CNRA's authorization for individuals with CNMI-issued permits to remain in the CNMI without U.S. immigration status will expire on November 27, 2011.

In 2009, USCIS anticipated needing nine staff for its California Service Center to process the influx of CNMI applications and petitions.[30] Currently, four USCIS staff were are assigned to this task and five more are trained to work on CNMI-related cases. Depending on the number of petitions received and the time required to process them, USCIS anticipates training an additional 10 to 14 officers after the rule is implemented, according to USCIS officials. USCIS officials said that it could take up to 90 days for employers to prepare the petitions, for workers to submit the biometrics, and for USCIS to conduct the relevant background and security checks required of all applicants for U.S. immigration benefits.[31]

Social Security Coverage for Certain Foreign Workers Is Unknown

With the elimination of CNMI immigration categories and the transition to federal immigration law, the future status of certain Filipino and Korean workers and their employers with regard to the Social Security payroll tax is unknown. According to the Social Security Administration (SSA), Filipino and Korean workers who were admitted to the commonwealth under CNMI immigration law are not currently covered by Social Security. Specifically, a 1997 SSA document states that, because the U.S.-CNMI covenant provides for federal laws on Social Security taxes to apply to the CNMI as they apply to Guam,[32] the Internal Revenue Service (IRS) determined that the employment of Filipino and Korean contract workers admitted to the commonwealth under Section 706(K) of the CNMI immigration law was not covered by the U.S. Social Security Act.[33] Our review of SSA data for 2009 found that the

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[27] See GAO–08–791 for our analysis of the potential impacts of DHS and U.S. Department of Labor decisions in implementing the CNMI-only work permit program. On March 25, 2011, DHS, and the departments of the Interior, Justice, Labor, and State finalized a memorandum of agreement that set forth the parameters of the working relationships and responsibilities for implementation of CNRA in the CNMI.

[28] In its enjoined interim final rule, DHS proposed a new CNMI-only transitional worker classification, CW–1 status, which it deemed to be synonymous with the term "permit" referenced in CNRA.

[29] DHS did not provide the content of the draft final rule for our review. However, generally for other nonimmigrant employment based petitions, USCIS and the Department of Labor require that employers submit an attestation regarding wage and labor condition, along with all other required paperwork, to USCIS and pay a fee. Similarly, employees must complete all required paperwork for relatives and dependents; submit the paperwork and biometrics, such as fingerprints and photos, to USCIS; and pay any necessary processing fee.

[30] According to USCIS officials, all applications and petitions from the CNMI that do not require face-to-face interviews are processed at USCIS's California Service Center.

[31] For example, according to USCIS California Service Center staff, in processing applications for immigration benefits USCIS staff must consider all evidence submitted to adjudicate the petition or application, such as by confirming status; conducting background checks (i.e., checking applicants' names and fingerprints against a Federal Bureau of Investigations system and Interagency Border and Inspection systems); and considering other relevant factors. On December 14, 2010, USCIS issued guidance on how certain aliens can be granted nonimmigrant status in the CNMI under federal immigration law (USCIS–PM–602–0012).

[32] Covenant § 606(b).

[33] Social Security Administration, "Social Security Taxes: Filipino and Korean Contract Workers" (Saipan: January 16, 1997). The Social Security Act states that the definition of "employment" does not include work performed on Guam by Filipino workers who are admitted to Guam on nonimmigrant H–2 visas (see 26 U.S.C. § 3121(b)(18)). Article 25 of a treaty between the United States and Korea contains a similar provision for Korean workers admitted on H–2 visas to Guam (United States-Republic of Korea Income Tax Convention, effective Jan. 1, 1980). However, article 29 of the U.S.-Korea treaty does not allow either country to extend any provision of the treaty to one of its territories absent a written agreement that would require implementa-

Continued

data excluded Filipino and Korean workers, and SSA officials told us that Social Security payroll taxes are not withheld from these workers' earnings.[34] Data for 2009 from the CNMI Division of Revenue and Tax show that workers from Korea and the Philippines totaled 12,406 and represented 75 percent of foreign workers, or 44 percent of all workers, in the CNMI.[35]

Given the transition to federal immigration law—in particular, given the availability of H–2 work visas in the CNMI—it is uncertain whether Filipino and Korean workers who obtain CNMI-only work permits will be covered by Social Security.[36] If these workers are deemed to be covered, they and their employers will be subject to Social Security payroll taxes. The IRS and SSA will need to consider CNRA's impact on Filipino and Korean workers with regard to Social Security coverage.

Long-Term Resident Status for Certain CNMI Foreign Workers May Be Considered

Legislation introduced in Congress proposes CNMI resident status for certain long-term residents. Also, DOI has recommended that Congress consider allowing certain foreign workers in the CNMI to apply for long-term resident status.

- A bill introduced in the House of Representatives provides for CNMI-only resident status for certain long-term residents of the CNMI.[37] To be eligible to qualify for this status, an individual must be either (1) born in the CNMI between January 1, 1974, and January 9, 1978; (2) classified by the CNMI government as a permanent resident; (3) a spouse or child of an individual covered by (1) or (2); or (4) an immediate relative of a U.S. citizen on May 8, 2008.
- In April 2010, DOI recommended that Congress consider permitting guest workers who have lawfully resided in the CNMI for a minimum of 5 years—which DOI estimated at 15,816 individuals[38]—to apply for long-term resident status[39] under the Immigration and Nationality Act. DOI recommended that Congress consider allowing these workers to apply for one of the following: (1) U.S. citizenship; (2) permanent resident status leading to U.S. citizenship (per the normal provisions of the INA relating to naturalization), with the 5-year minimum residence spent anywhere in the United States or its territories; or (3) permanent resident status leading to U.S. citizenship, with the

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tion through diplomatic channels. We were unable to verify that the IRS had made this determination with regard to Korean workers.

[34] See GAO, *American Samoa and Commonwealth of the Northern Mariana Islands: Employment, Earnings, and Status of Key Industries since Minimum Wage Increases Began,* GAO–11–427 (Washington, D.C.: June 23, 2011), page 28.

[35] This information is drawn from W–2 forms prepared by employers and submitted to the Division of Tax and Revenue. The division does not verify workers' reported citizenship. In calculating the share of CNMI foreign workers who are citizens of Korea or the Philippines, we did not count citizens of the freely associated states (Micronesia, the Marshall Islands, and Palau) as foreign workers.

[36] As we reported in May 2008, foreign workers in the CNMI can obtain H nonimmigrant worker status upon petition by their employer. H–2A visas are available for foreign workers providing temporary or seasonal agricultural labor both during and after the initial transition period. However, as of December 31, 2007, only 555 foreign workers were engaged in private farming, about 3 percent of total foreign workers with 706K CNMI nonresident worker entry permits. H–2A employers must comply with the federal labor certification process, which determines whether the employment is agricultural in nature, whether it is open to U.S. workers and if qualified U.S. workers are available, whether employment of a qualified alien would have an adverse impact, and whether employment conditions (e.g., housing) meet applicable requirements (8 C.F.R. § 214.2(h)(5)(ii)). The H–2B category applies to residents of foreign countries who are coming to the United States temporarily to perform nonagricultural temporary labor or service if unemployed persons capable of performing such labor or service are unable to be found in the United States (8 U.S.C. § 1101(a)(15)(H)(ii)(B)). See GAO–08–791, appendix V.

[37] H.R. 1466, 112th Cong., (Apr. 8, 2011).

[38] DOI conducted a voluntary registration of aliens residing in the CNMI in 2009. DOI reported that as of January 2010, there were 20,859 aliens in the commonwealth, of whom 16,304 were workers and 15,816 had resided lawfully in the CNMI for at least 5 years. DOI concluded that two groups were underrepresented in the registration: citizens from the freely associated states and illegal aliens. See Secretary of the Interior, *Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands* (Washington, D.C.: Department of the Interior, 2010). DOI evaluated its data as consistent with CNMI data for 2008 that showed 22,000 to 24,000 foreign worker permit holders as well as 19,404 umbrella permits issued by the CNMI Department of Labor. The government of the CNMI has challenged the validity of DOI's data collection and analysis; however, DOI has stood by its report. Litigation regarding DOI's data collection effort is currently ongoing.

[39] CNRA required the Secretary of the Interior to report to Congress on any recommendations he may deem appropriate related to whether or not the Congress should consider permitting lawfully admitted guest workers lawfully residing in the Commonwealth on such enactment date to apply for long-term status under the immigration and nationality laws of the United States. See 48 U.S.C. § 1806(h)(5).

5-year minimum residence spent in the CNMI. Additionally, DOI noted that under U.S. immigration law, special status is provided to individuals who are citizens of the freely associated states. Following this model, DOI suggested that foreign workers could be granted a nonimmigrant status, like that negotiated for citizens of the freely associated states, and allowed to live and work either in the United States and its territories or in the CNMI only.

In conclusion, Mr. Chairman: I testified in May 2010 that DHS components had made some progress in establishing federal border control in the CNMI but that their inability to conclude negotiations with the CNMI government had resulted in continuing operational challenges. I also reported that programs for workers and investors were not yet available to eligible individuals and that DHS had not determined whether or not to include Chinese and Russian nationals in the Guam-CNMI Visa Waiver Program. In the past year, DHS has resolved many of those operational challenges and has finalized investor regulations. However, it has yet to finalize rules for the CNMI-only transitional work permit program, and limited time remains for the submission and processing of approximately 15,000 workers' and their dependents' applications for these permits. These issues, as well as the unknown future status of Filipino and Korean workers' coverage by U.S. Social Security, could impact the CNMI's economy as the November 27 deadline approaches.

Chairman Fleming, Ranking Member Sablan, and Members of the Subcommittee, this completes my prepared statement. I would be happy to respond to any questions you may have at this time.

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July 14, 2011

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

STATUS OF TRANSITION TO FEDERAL IMMIGRATION LAW

Why GAO Did This Study

In May 2008, the United States enacted the Consolidated Natural Resources Act (CNRA), amending the United States' covenant with the Commonwealth of the Northern Mariana Islands (CNMI) to establish federal control of CNMI immigration in 2009, with several CNMI-specific provisions affecting foreign workers and investors during a 5-year transition period that began on November 28, 2009, and ends in 2014. One of these provisions authorizes a transitional CNMI-only work permit program that may be extended for up to 5 years at a time past 2014. In addition, CNRA amends existing U.S. immigration law to establish a joint visa waiver program for the CNMI and Guam. CNRA requires that GAO report on implementation of federal immigration law in the CNMI 2 years after enactment.

In May 2010, GAO reported that the Department of Homeland Security (DHS) had established border control operations in the CNMI in 2009 but had not concluded negotiations with the CNMI government to resolve certain challenges involving access to CNMI airport space, detention facilities, and databases. GAO also noted that DHS had not yet finalized regulations needed to fully implement CNRA provisions affecting foreign workers, visitors, and investors.

This statement updates GAO's May 2010 findings regarding the transition to federal immigration law and discusses several pending issues. GAO based its statement on prior reports, information provided by DHS and the Department of the Interior (DOI), and interviews with CNMI private sector officials.

What GAO Found

DHS component units Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS) have continued immigration and border control operations in the CNMI. As of April 2011, CBP had processed approximately 515,000 arriving travelers in Saipan and Rota. As of May 2011, ICE had identified approximately 1,700 individuals in potential violation of U.S. immigration laws, processing about 240 for removal. As of June 2011, USCIS had processed approximately 1,000 CNMI applications for permanent residency and 100 CNMI applications for naturalization or citizenship. CBP has concluded negotiations with the CNMI for operational space at the Saipan and Rota airports, and ICE completed negotiations for access to the Saipan detention facility in April 2011.

DHS has not finalized regulations for a federal CNMI-only transitional permit program for foreign workers, required by CNRA, but has completed regulations implementing other required programs for visitors and investors. In June 2011, DHS submitted a draft final rule for the CNMI-only permit program to the Office of Management and Budget (OMB); currently, the permits remain unavailable. In 2009, DHS issued an interim final rule for a Guam-CNMI visa waiver program and the program became operational. However, DHS is still considering whether to include China and Russia in the program, according to CBP officials. In 2010, DHS issued a final rule allowing a large proportion of investors holding CNMI long-term foreign investor permits to obtain U.S. CNMI-only nonimmigrant treaty investor status during the 5-year transition period that began in 2009. DHS has approved about 20 applications for this status.

Several pending issues could affect the CNMI's labor market and economy. First, the content and implementation of DHS's final rule for the federal CNMI-only work permit program will affect CNRA's potential impact on the CNMI economy. CNRA requires DHS to determine the number, terms, and conditions of the permits, reducing them to zero by the end of the transition period in November 2014 or any extension of the program past that date. Because of foreign workers' prominence in key CNMI industries, any substantial, rapid decline in the permits would negatively af-

fect the CNMI economy. Second, CNMI government–issued permits to remain in the commonwealth will expire on November 27, 2011. Thus, limited time is available for employers to submit petitions for workers to receive the federal work permits, for workers and dependents to submit biometrics such as fingerprints, and for USCIS to process these submissions. Third, with the transition to federal immigration law, it is uncertain whether Filipino and Korean workers previously admitted under a specific CNMI immigration category—about 75 percent of foreign workers in the CNMI in 2009—who obtain CNMI-only work permits will be covered by Social Security. In addition to these issues, legislation introduced in Congress proposes CNMI resident status for certain long-term residents, and DOI has recommended that Congress consider allowing certain foreign workers in the CNMI to apply for long-term resident status.

Mr. FLEMING. Thank you, Mr. Gootnick, and next is Ms. Ryan, you are recognized for five minutes.

STATEMENT OF KELLY RYAN, ACTING DEPUTY ASSISTANT SECRETARY FOR IMMIGRATION AND BORDER SECURITY, OFFICE OF POLICY, DEPARTMENT OF HOMELAND SECURITY

Ms. RYAN. Thank you. Chairman Fleming, Ranking Member Sablan, and other Distinguished Members of the Subcommittee, thank you for the opportunity to testify today on the Department of Homeland Security's efforts to implement Title VII of the Consolidated Natural Resources Act of 2008.

DHS and our interagency partners have been working hard to ensure that we implement the CNRA in a manner that will minimize any adverse effects on the CNMI. Since DHS has last testified in May 2009, important steps have been taken to implement Federal immigration law in the CNMI and in the transition program which began on November 28, 2009.

An issue of great importance to both the CNMI and Guam is the CNMI visa waiver program. The CNRA replaced the existing Guam visa waiver program with a combined Guam, CNMI VWP that allows nationals from participating countries to be admitted to Guam, the CNMI, or both for a period of up to 45 days. DHS has issued an in interim rule on January 16, 2009, and is developing a final rule for the program.

In recognition of the CNMI's reliance on visitors from China and Russia, Secretary Napolitano announced on October 21, 2009, her decision to exercise her discretionary authority to parole into the CNMI only on a case-by-case basis eligible visitors for business or pleasure or nationals of the People's Republic of China and the Russian Federation.

Certain provisions of the CNRA affect the CNMI only. DHS has worked diligently with its Federal and local partners and stakeholders during the transition in implementing Federal immigration law in the CNMI. DHS has identified groups of individuals who may not necessarily fall within the INA classifications and for whom the CNMI classifications authorized by the CNRA may not be appropriate.

To address these challenges, in November 2009 USCIS implemented a policy under which USCIS favorably considers members of certain designated groups for parole. Currently DHS is actively considering additional policy options that it is hoped would further reduce the uncertainty associated with the ongoing transition to Federal immigration law.

As part of our implementation efforts, DHS has promulgated a number of regulations to set for the processes and procedures for seeking Federal immigration status in the CNMI. The CNMI E-2 non-immigration investor final rule became effective on January 19 in 2011, and it establishes a transition period of non-immigrant status for certain foreign investors in the CNMI who had been previously granted long-term investor status by the CNMI. USCIS has conducted outreach on the E-2 rule in Saipan and is currently accepting applications for the program.

In the fall of 2009, DHS and the Department of Justice published an interim final rule to update the current immigration regulations to ensure they reflect the changes in immigration law made by the CNRA. This interim final rule conformed DHS and DOJ regs. to the CNRA, including in the areas of employment, verification and asylum. DHS and DOJ currently are working toward the issuance of a final rule.

In October 2009, DHS published a transitional worker classification interim final rule. As a result of the pending litigation already alluded to those regulations were enjoined. DHS is working toward publication of a final rule and we are well aware of the concern among CNMI stakeholders about its issuance in light of the upcoming statutory expiration of large numbers of grandfathered CNMI umbrella permits.

DHS has designated experienced personnel within its relevant components to serve as points of contact and to lead teams in the implementation of this transition. As of April 2011 relevant Federal agencies have completed and signed a memorandum agreement required under the CNRA. In addition, DHS has submitted to Congress the required resource report on implementing Title VII.

DHS officials have engaged frequently with representatives of the CNMI government and private sector stakeholders. Meetings have focused on implementation of the Guam-CNMI-VWP interim final rule and of the CNRA generally as well as obtaining detention space for ICE. DHS has established a full-time USCIS, ICE, and CVP presence on the ground in the CNMI. Beginning in March 2009 USCIS opened an application support center on Saipan. On November 28, 2009, CVP began processing flights into the CNMI under U.S. immigration law as well as inspection of passengers and performing departure control screenings on flights traveling to other U.S. destinations. On that same day ICE opened offices on the Island of Saipan.

Regarding H.R. 1466, DHS shares with its sponsors the general view that the unique circumstances of the CNMI deserves special consideration. We will carefully examine the bill with the sponsors of the legislation to explore particular solutions for the groups in the CNMI. DHS recognizes the historic nature of the transition and the special circumstances that exist in CNMI, especially the economic challenges faced by CNMI in restoring its economy, implementing minimum wage increases and increasing tourism and other investments. DHS will continue to engage in extensive outreach efforts with all the stakeholders throughout the transition period.

Thank you for the opportunity to appear here before the Distinguished Members of the Subcommittee, and I would be happy to answer any questions.

[The prepared statement of Ms. Ryan follows:]

Statement of Kelly Ryan, Acting Deputy Assistant Secretary for Policy, Office of Immigration and Border Security, U.S. Department of Homeland Security

Chairman Fleming, Ranking Member Sablan, and other distinguished Members of the Subcommittee. Thank you for the opportunity to testify today on the efforts that the Department of Homeland Security (DHS) has undertaken to implement Title VII of the Consolidated Natural Resources Act of 2008 (CNRA) (Pub. L. No. 110–229). DHS recognizes the importance of the implementation of Title VII of the CNRA to the United States and to the people of the Commonwealth of the Northern Mariana Islands (CNMI) and Guam. Since the enactment of this historic legislation, DHS and its components have been working hard together and with our interagency partners to ensure that we implement the CNRA in a manner that will minimize any adverse effects on the CNMI. Further, since DHS last testified in May 2009, important steps have been taken toward implementation of federal immigration law in the CNMI and the transition program, which began on November 28, 2009 (the "transition program effective date").

Because the CNRA has provisions that affect Guam and the CNMI to differing extents, I would like to first address those provisions that affect both territories, and then will discuss those provisions that are unique to the CNMI.

The Guam-CNMI Visa Waiver Program

An issue of great significance to both the CNMI and Guam is the Guam-CNMI Visa Waiver Program (VWP). The CNRA replaced the preexisting Guam VWP with a combined Guam-CNMI VWP that allows admission to Guam, the CNMI, or both for a period up to 45 days. As was the case with the former Guam VWP, the program does not provide for onward travel to the rest of the United States. The Guam-CNMI VWP is a separate program under Section 212 of the Immigration and Nationality Act (INA), and is distinct from the Visa Waiver Program authorized for the entire United States (including Guam and the CNMI) by Section 217 of the INA. Some countries are participants in both programs. A visitor from one of those countries arriving in Guam or the CNMI may choose to travel under either of the programs, but must comply with all the conditions of whichever program is chosen. DHS issued an interim final rule, Implementation of the Guam-CNMI Visa Waiver Program, on January 16, 2009 and is developing a final rule for the program.

In recognition of the CNMI's reliance on visitors from China and Russia, Secretary Napolitano announced on October 21, 2009 her decision to exercise her discretionary authority to parole into the CNMI-only, on a case-by-case basis, eligible visitors for business or pleasure who are nationals of the People's Republic of China (PRC) and Russian Federation (Russia).

Provisions Affecting the CNMI Only

Certain provisions of the CNRA affect the CNMI only. DHS has worked diligently with its federal and local partners and stakeholders in developing our approach to implementing the CNRA in the CNMI.

Through working with the community and both private and public parties, DHS has identified groups of individuals who may not necessarily fall within the INA classifications and for whom the CNMI classifications authorized by the CNRA may not be appropriate. To address these challenges, in November 2009, USCIS implemented a policy under which USCIS favorably considers members of four designated groups for a grant of parole under INA section 212(d)(5), subject to case by case review: CNMI permanent residents, immediate relatives of CNMI permanent residents, spouses and children of deceased CNMI permanent residents, and immediate relatives of citizens of the Freely Associated States. Currently, DHS is actively considering additional policy options that, it is hoped, will further help to reduce the uncertainty associated with the ongoing transition to federal immigration law. In so doing, DHS is fully aware of the challenges facing the CNMI economy and considers it a priority and goal to support existing businesses when developing policies and regulations to implement the legislation.

As part of our implementation efforts, DHS has promulgated a number of regulations to set forth the processes and procedures for seeking federal immigration status in the CNMI. The CNMI E–2 Nonimmigrant Investor Notice of Proposed Rulemaking was published in September 2009. USCIS received and reviewed public com-

ments and published a Final Rule on December 20, 2010. This rule, which took effect on January 19, 2011, fully implements the CNRA provision that provides during the transition period a nonimmigrant status under U.S. immigration law for certain foreign investors in the CNMI who had been previously granted long-term investor status by the CNMI government. In January of this year, USCIS conducted outreach on the regulation in Saipan and is currently accepting applications for this program from eligible investors and their spouses and children.

In the fall of 2009, DHS and the Department of Justice and its Executive Office for Immigration Review published an interim final rule to update the current immigration regulations to ensure they reflect the changes in immigration law made by the CNRA. Typically referred to as the "conforming rule," this interim final rule amended DHS and DOJ regulations to conform them to the CNRA, including in the areas of employment verification and asylum. DHS and DOJ currently are working toward issuance of a final rule. In October 2009, DHS published the Transitional Worker Classification Interim Final Rule. As a result of pending litigation, those regulations were enjoined. DHS is working toward publication of the Final Rule, which was submitted to the Office of Management and Budget (OMB) for official review on June 15, 2011; We are well aware of the interest and concern among CNMI stakeholders about the issuance of this rule, particularly in light of the upcoming statutory expiration on November 27, 2011 of large numbers of "grandfathered" CNMI work authorization permits.

Implementation of the CNRA

DHS has designated experienced personnel within its relevant components to serve as points of contact and to lead teams composed of Headquarters and Field Office staff to implement the transition to federal immigration law in the CNMI. DHS and its interagency partners, including the Departments of the Interior, Justice, Labor and State, periodically meet to coordinate efforts and identify issues for resolution in the CNMI. As of April 2011, all five departments (Departments of the Interior, Homeland Security, Justice, Labor and State) had completed and signed the Memorandum of Agreement required under Section 702 (a) of the CNRA. U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS) representatives have participated in meetings in Washington and in the CNMI with representatives of the Government of the CNMI and the CNMI private sector. DHS has submitted to Congress the required resource report on implementing Title VII and in support of the military build-up in Guam and, in doing so, identified some of the challenges that remain in implementing the legislation. In addition, DHS has met with the Delegates from Guam and the CNMI, the Governors of both territories and their staffs, as well as other elected officials and interested parties. Below is a sample of the most significant dates and meetings that have taken place with regard to implementation of the CNRA:

- January 2009—A delegation from DHS Headquarters, Richard Vigna, CBP Director of Field Operations for San Francisco District, and Bruce Murley and Rocky Miner, the Port Directors for Honolulu and Guam, who oversee the Port in the CNMI, traveled to Guam and the CNMI to conduct public outreach and meet with the territorial governments in support of the publication of the Guam-CNMI VWP Interim Final Rule.
- October 2009—A CBP delegation that included Assistant Commissioners Thomas Winkowski and Charles Armstrong visited Guam and the CNMI in preparation for the November 28, 2009 transition program effective date. During this visit, the CBP delegation met with both the Governor of Guam and the Governor of the CNMI regarding implementation of the CNRA.
- February 23, 2011—Meeting between USCIS Director Alejandro Mayorkas and CNMI Governor Benígno Fitial, CNMI Attorney General Edward Buckingham, and other CNMI government representatives. The meeting focused on issues related to immigration status and grants of parole in the CNMI.
- February 24, 2011—Meeting between CBP Deputy Commissioner David Aguilar, DHS Assistant Secretary for Intergovernmental Affairs Betsy Markey and CNMI Governor Fitial.
- February 24, 2011—Meeting between ICE Executive Associate Director for Enforcement and Removal Operations (EAD), Gary Mead, CNMI Governor Fitial, CNMI Attorney General Buckingham, and other CNMI government representatives. At this meeting, Governor Fitial and EAD Mead reached an agreement in principle for an Intergovernmental Service Agreement (IGSA) to obtain ICE detention space in the CNMI Department of Corrections facility at a bed day rate of $89.

- April 2011—Meeting between Acting Deputy Assistant Secretary for Policy Kelly Ryan and Governor of Guam Eddie Calvo. The purpose of the meeting was to discuss DHS's implementation of the Guam-CNMI VWP.

DHS implementation efforts have involved establishing a full-time presence on the ground in the CNMI. Beginning in March 2009, USCIS opened an Application Support Center (ASC) on Saipan to provide information to the public and conduct interviews on the island, including for adjustment of status and naturalization.

On November 28, 2009, CBP began processing flights in the CNMI under U.S. immigration laws. CBP has officers in Saipan and Rota to conduct the inspection of passengers on flights arriving from foreign countries and to perform a departure control screening on flights traveling to other U.S. destinations.

On November 28, 2009, ICE Enforcement and Removal Operations (ERO), ICE Office of the Chief Counsel (OCC) and Homeland Security Investigations (HSI) opened offices on the island of Saipan. Both ERO and HSI are responsible for enforcing U.S. immigration laws in the CNMI. ERO is responsible for detention and removal of aliens unlawfully present in the CNMI, while HSI conducts investigations in such programmatic areas as narcotics, money laundering, immigration benefit and document fraud, wire fraud, and human smuggling and trafficking.

As a result of the February 24, 2011 meeting between ICE ERO Executive Associate Director Mead and CNMI Governor Fitial, the CNMI and ICE agreed to sign an Intergovernmental Service Agreement (IGSA) to provide ICE detention space in the CNMI Department of Corrections facility at a bed day rate of $89. The IGSA was signed in April 2011 between ICE and the CNMI Department of Corrections. ERO began housing detainees at the Department of Corrections facility on June 6, 2011. ERO has funding for 20 beds at the facility through the end of fiscal year 2011.

H.R. 1466

H.R. 1466, introduced on April 8, 2011, would provide CNMI-only status for four designated groups of aliens in the CNMI: (1) individuals born in the Northern Mariana Islands between January 1, 1974 and January 9, 1978; (2) individuals who, as of May 8, 2008, held permanent resident status under a provision of CNMI law; (3) spouses and children of these two groups; and (4) individuals who, as of May 8, 2008, were immediate relatives of U.S. citizens (regardless of age; i.e., including parents of U.S. citizen children who cannot petition for their parents under U.S. immigration law until the children are 21 years of age). To be eligible, individuals must be otherwise admissible to the United States and have resided in the CNMI both on the transition program effective date and on the date of enactment of H.R. 1466. The bill provides status as a permanent resident of the CNMI only during the transition period (with no resulting travel privileges to any other part of the United States), followed by an opportunity for the first three of the four designated groups to apply for adjustment to U.S. lawful permanent resident status during calendar year 2015.

Mr. FLEMING. Thank you, Ms. Ryan. Mr. Pula, you are recognized for five minutes.

STATEMENT OF NIKOLAO PULA, DIRECTOR, OFFICE OF INSULAR AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. PULA. Thank you. Chairman Fleming and Members of the Subcommittee, thank you for the opportunity to discuss Title VII of Public Law 110-229, and H.R. 1466, both dealing with immigration in the CNMI.

During the past five years the CNMI has experienced ever increasing economic distress. Many businesses are ceasing operations. Many U.S. citizens, permanent residents, freely associates state citizens, as well as other aliens have department the CNMI. We must be mindful of these economic factors and challenges facing the CNMI.21Public Law 110-229 set in motion a plan for Federal administration and enforcement of immigration in the CNMI with the Department of Homeland Security having the lion's share of responsibility. On June 15 of this year DHS submitted a final rule creating a CNMI transitional worker classification to the Of-

fice of OMB. We are hopeful that the issuance of this final rule will obviate many of the concerns of the CNMI community relating to employment for foreign workers during the next three years.

Title VII calls on the Secretary of the Interior to provide technical assistance to help grow and diversify the CNMI economy and assist in recruiting, training and hiring in consultation with the Department of Labor and the Secretary of Commerce as well as the Governor of CNMI.

On November 9 of last year, 2010, Assistant Secretary Babauta held a day-long Forum on Economic and Labor Development, also known as FELD, F-E-L-D, in pursuit of these goals. In the absence of dedicated resources, the Office of Insular Affairs committed up to $1 million in financial assistance to fulfill requirements of the law.

After the FELD, a report was issued this past May outlining the steps for Federal CNMI and local private sector stakeholders to forge a plan for growing and diversifying the CNMI economy.

Another crucial area of the CNMI economy is the labor market. Based on FELD discussions, the following areas would benefit from technical assistance: tourism, labor, renewable energy, agriculture and aquaculture, prevailing wage rate, and the visa waiver program. In fact, Assistant Secretary Babauta is currently in the CNMI, hopefully signing grants with the acting Governor there, that will give the CNMI about $700,000 for on-the-job training and about $300,000 for economic revitalization.

The Department of the Interior looks forward to working with DHS on a number of visa waiver issues, including examining whether to extend the exercise of parole authority to Guam and whether to add additional countries or geographic areas to the Guam and CNMI waiver program.

Turning to H.R. 1466, the Congress delegates, the Secretary of the Interior, and the CNMI Senate have all expressed concern with regard to alien residents in the CNMI. H.R. 1466 will provide a forum of the CNMI only resident status to four categories of aliens who resided in the CNMI on November 28, 2009, and the date of enactment of H.R. 1466. The four categories are:

One, aliens born between 1974 and 1978 in Northern Marianas; two, aliens who were permanent residents under CNMI law; three, spouses and children of aliens in categories just noted; and four, immediate relatives of United States citizens.

Four months ago the CNMI Senate issues its recommendation on approved immigration status which describes as a compromise position, the aliens would have a free associated type status whereby they could work and live in the CNMI or elsewhere in the United States as non-immigrants without United States citizenship and without voting rights.

In April 2010, the Secretary of the Interior issued the report on the CNMI alien worker population. Included was a recommendation to grant long-term status to alien workers who have resided in the CNMI for a minimum of five years. The Department suggested five options that the Congress could consider for long-term status. H.R. 1466 would provide the long-term status and therefore H.R. 1466 is not inconsistent with Interior's report.

Mr. Chairman, we appreciate your interest in these important issues affecting the Commonwealth of Northern Marianas and thank you for this opportunity.

[The prepared statement of Mr. Pula follows:]

Statement of Nikolao I. Pula, Jr., Director, Office of Insular Affairs, U.S. Department of the Interior, on Implementation in the Northern Mariana Islands of the Immigration Provisions of Title Vii of P.L. 110–229, and H.R. 1466, To Resolve the Status of Certain Persons Legally Residing in the Cnmi under the Immigration Laws of the United States

Mr. Chairman and Members of the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs, thank you for the opportunity to discuss title VII of Public Law 110–229, and H.R. 1466, both dealing with immigration in the Commonwealth of the Northern Mariana Islands (CNMI).

During the past five years, the CNMI has experienced ever-increasing economic distress. Many businesses have ceased or are in the process of ceasing operations. Austerity measures undertaken by the CNMI government due to the ever-growing fiscal crisis (including 16-hours cut per 80-hour pay period, 13 unpaid holidays, 332 FTE reductions from the 2,100 government workforce) exacerbate the anxiety and uncertainty within the community. Many United States citizens, permanent residents, freely associated state citizens, as well as other aliens, have departed the CNMI in search of improved economic opportunity. It is expected that the population numbers to be reported by United States Bureau of Census in the coming weeks will show a significant reduction in the population of the CNMI, both United States citizens and aliens alike. Mindful of these economic factors and challenges, the Administration has made further strides in its implementation of Public Law 110–229.

IMPLEMENTATION OF TITLE VII IMMIGRATION PROVISIONS IN THE CNMI

Beginning in January 1978, the Commonwealth of the Northern Mariana Islands controlled immigration within its geographic area under agreement with the Federal government contained in the *Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America* (Covenant). On May 8, 2008, title VII of Public Law 110–229 was signed into law, which set in motion a plan for Federal administration and enforcement of immigration in the CNMI with the Department of Homeland Security (DHS) having the lion's share of responsibility, and the Departments of Interior, Labor, State, Commerce and Justice sharing that responsibility.

DHS established operations in the CNMI in advance of the November 28, 2009 start of the transition period, establishing ports of entry and a USCIS Application Support Center and, as of that date has been on the ground in the CNMI administering Federal immigration laws there, including title VII of Public Law 110–229. As discussed in its testimony for this hearing, DHS has issued and has in effect three sets of regulations necessary for the administration of immigration under title VII (E–2 CNMI investors, Guam-CNMI Visa Waiver Program and conforming regulations). On June 15, 2011, DHS submitted a final rule creating a CNMI Transitional Worker Classification to the Office of Management and Budget for review.

Implementation of the Transitional Worker interim final rule was enjoined as a result of litigation. While the issuance of the final rule has been of concern for the CNMI's business community and foreign workers alike who need to plan for their employment needs for the three plus years after November 27, 2011, proper formulation of the regulation is necessary. We are hopeful that the issuance of this final rule will obviate many of the concerns of the CNMI community relating to employment of foreign workers during the next three years.

INTERIOR TECHNICAL ASSISTANCE

Title VII of Public Law 110–229 calls on the Secretary of the Interior to provide technical assistance to the CNMI to help grow and diversify the CNMI economy and assist in recruiting, training and hiring U.S. citizens and nationals, lawful permanent residents and admissible citizens of the freely associated states.

On November 9, 2010, Assistant Secretary Babauta held a day-long Forum on Economic and Labor Development (FELD) in the CNMI pursuant to Public Law 110–229's mandate that the Secretary of the Interior, in consultation with the Governor of the Commonwealth, the Secretary of Labor, and the Secretary of Commerce provide—

- technical assistance and other support to the Commonwealth to identify opportunities for, and encourage diversification and growth of, the economy of the Commonwealth;
- technical assistance, including assistance in recruiting, training, and hiring of workers, to assist employers in the Commonwealth in securing employees first from among United States citizens and nationals resident in the Commonwealth and if an adequate number of such workers are not available, from among legal permanent residents, including lawfully admissible citizens of the freely associated states; and
- technical assistance, including assistance to identify types of jobs needed, identify skills needed to fulfill such jobs, and assistance to Commonwealth educational entities to develop curricula for such job skills to include training teachers and students for such skills.

The FELD provided an opportunity for Interior and interested stakeholders to begin a robust discussion on the types of technical assistance that would be appropriate and possibly available to the CNMI for its economy and workforce. Public Law 110–229 did not provide funds for this technical assistance. In the absence of dedicated resources, the Assistant Secretary Babauta has committed up to $1 million in financial assistance to fulfill requirements of the law. These funds of the Office of Insular Affairs (OIA) will be devoted to two main programs: assisting the CNMI with developing an economic revitalization program as suggested by the Governor of the CNMI, and enabling the CNMI government to work with local agencies and non-profit organizations to provide on-the-job training for eligible United States workers.

As a result of the FELD, a report was issued this past May outlining the steps for the Federal, CNMI and local private sector stakeholders to forge a plan for growing and diversifying the CNMI economy. In selecting areas or sectors of the economy that would produce the greatest benefit, OIA reviewed recent statements of the CNMI government with regard to economic sectors it considers critical for its economic future. The Governor in his 2010 report to the legislature stated that "tourism remains the CNMI's most important industry." Future growth in tourism would come, in part, from improving economic and financial conditions in industrial East Asia, which has traditionally been the CNMI's major tourist market. However, some immediate assistance to improve the sector's performance could prove helpful as I will explain later in my statement.

Another critical area of the CNMI economy is the labor market. Title VII extends federal immigration laws and regulations, including entry visas for visitors and temporary alien workers. Since the law directly affects the CNMI's labor market, it is critical to understand how stable and predictable it would be in the near-term as well as the longer-term. CNMI businesses should be able to anticipate their labor needs for both United States citizens and temporary alien workers and the CNMI government needs to be able to project its revenue stream based on labor market and work force protections. Areas of the labor market identified by the FELD as critical factors include the absence of an unemployment insurance program, the lack of placement agencies, and the lack of adequate training programs, especially for vocational and specialized skills.

Based on FELD discussions, the following areas would benefit from technical assistance:

Tourism: The tourism industry would benefit from hospitality staff that is better trained. Lessons can be learned from Hawaii's hospitality industry. The CNMI can learn from the experiences of other destinations that attract repeat tourists and create new markets.

Labor: The CNMI's labor market is unique in that it is still heavily dependent on foreign labor. Title VII recognizes the CNMI's special case and includes explicit provisions for determining the Commonwealth's labor needs through consultations among Federal agencies, the CNMI government and business community. For Interior's technical assistance program, the labor component must emphasize training and vocational skills.

Renewable Energy: The CNMI will benefit greatly from an expanded use of renewable energy. Expansion of renewable energy sources and resources will reduce dependence on fossil fuels and create jobs. Separately, OIA has entered into a technical assistance agreement with the Department of Energy's National Renewable Energy Laboratory (NREL) to assess renewable energy potentials and uses in the territories. OIA is working closely with NREL and the territories to carry the project forward. FELD participants also believe that it will be important to improve not only the current water and power systems but also provide assistance to create and use infrastructure for alternative energies such as solar, wind, biomass, nuclear, geothermal and possibly others.

Agriculture and aquaculture: Agriculture would produce fruits and vegetables for local markets and household use; aquaculture would produce valuable seafood. Using a technical assistance grant, the CNMI can examine agriculture and aquaculture practices elsewhere and replicate them or enhance existing programs. There would need to be an increase in technically trained personnel to operate farms and aquaculture projects: animal husbandry, entomology, plant cultivation and aquaculture technicians. This can be accomplished at all educational levels, starting in the public schools all the way up to the Northern Marianas College, according to the FELD. Curriculum and training facilities would also need to be developed and established.

Prevailing Wage Rate. Another vital project identified by stakeholders at the FELD was the need for establishing a CNMI prevailing wage rate. A prevailing wage rate is required as part of the procedure for obtaining a foreign labor certification from United States Department of Labor prior to applying for an H nonimmigrant or employment-based permanent immigration status for an alien employee. At present, due to the lack of such a prevailing wage rate in the CNMI, the Department of Labor requires employers to compensate alien employees at the nearest market rate in which the occupational category is utilized. In the CNMI's case, this is usually the Guam prevailing wage rate which is much higher than the wage rate currently paid by most CNMI employers for any worker, alien or otherwise.

Assistant Secretary Babauta has held several discussions with the CNMI Governor regarding how to best address the need for such a prevailing wage survey. The Assistant Secretary and the Governor agree that the survey is vital for the CNMI economy's recovery and growth. Both also agree that delay in completing the survey is detrimental to the business community as well as to the efficient implementation of Federal administration of immigration in the CNMI. Governor Fitial has submitted a request for funding such a project to the United States Department of Labor and is awaiting its determination. In the meantime, preparations are underway both in the government sector and in the private sector to undertake the survey with a targeted completion date of September of this year.

Visa Waiver Program. The CNRA emphasizes the need to protect the CNMI economy and promote economic development. The CNMI has beautiful beaches and five-star hotel accommodations that are more than half empty. Given that tourism is now the mainstay of the CNMI economy, wherever possible both Federal and local officials must seek not only to avoid actions that may harm various sectors of the tourism market, but also to consider actions that promote increased tourism. Indeed, the CNRA mandates that economic considerations regarding visitors to the CNMI be considered in the development of the regulations for the Guam-CNMI visa waiver program. Chinese and Russian tourists accounted for 22 percent of CNMI tourists in 2008. For fiscal year 2009, Chinese and Russian tourists accounted for 9.2 percent of all arrivals. Since October 2009, the percentage of Chinese and Russian tourists have accounted for 12.4 percent of tourist arrivals. While this number may seem small, their contribution to the economy is significant; contributing approximately 20 percent of the total economic contribution from tourism.

United States visa requirements now apply to foreign tourists to the CNMI. Title VII created a new Guam-CNMI Visa Waiver Program. For this new Guam-CNMI Visa Waiver Program, DHS issued an interim final rule that waives the visa requirements for eligible visitors from 12 countries and geographic areas. At this time, China and Russia are not among the countries and geographic areas participating in the Guam-CNMI Visa Waiver Program.

As DHS notes in its statement for this hearing, on October 21, 2009, Secretary Napolitano announced her decision to exercise her discretionary authority to parole into the CNMI-only, on a case-by-case basis, otherwise admissible (except for the lack of a visa) Chinese and Russian nationals seeking to visit the CNMI. DHS announced this discretionary exercise of parole authority in recognition of the contribution of visitors from China and Russia to the CNMI economy. The Department of the Interior looks forward to working with DHS on these issues, including examining whether to extend the exercise of parole authority to Guam and whether to add additional countries or geographic areas to the Guam-CNMI Visa Waiver Program.

While immigration transition in the CNMI has encountered a number of issues that require resolution, this has not deterred the Federal government from continuing to seek a smooth transition. We realize that change is difficult, but strongly believe that the Federal administration of immigration in the CNMI will bring about higher security for the Marianas archipelago as well as an improved environment for business and provide economic opportunities to the people of the CNMI.

H.R. 1466—PATH TO CITIZENSHIP FOR CERTAIN ALIENS IN THE CNMI

For fifty years, the Department of the Interior has been intimately involved with the Northern Mariana Islands, both as a district of the Trust Territory of the Pacific Islands and as a commonwealth of the United States. The Department, therefore, has a historical perspective that may help inform the Congress of effects that H.R. 1466 and other proposals may have on the Northern Mariana Islands and its residents.

LONG–TERM STATUS FOR ALIENS IN THE CNMI

The Congress, Delegate Gregorio Sablan, the Secretary of the Interior, and the Senate of the Seventeenth Northern Marianas Commonwealth Legislature have all expressed concern with regard to long-term alien residents in the CNMI, and the effect of their presence on the CNMI.

H.R. 1466, the subject of this hearing, is one of the proposals. It would provide a form of CNMI-only resident status to four categories of aliens who resided in the CNMI on November 28, 2009 and the date of enactment of H.R. 1466. The four categories of aliens are:

- aliens born between January 1, 1974 and January 9, 1978 in the Northern Mariana Islands District of the Trust Territory of the Pacific Islands (which later became the CNMI),
- aliens who were, on May 9, 2008, permanent residents of the CNMI under CNMI law,
- spouses and children of aliens in categories just noted, and
- immediate relatives (children, spouses and parents) of United States citizens.

For the first five years, the resident status would be in the CNMI-only. Thereafter, if otherwise eligible, those individuals in the first three categories could apply to receive an immigrant visa or to adjust status to that of an alien lawfully admitted for permanent residence, which would allow for travel anywhere in the United States and its territories, and, if eligible, would place qualified individuals on a path to United States citizenship.

As reported in the Saipan Tribune, CNMI Governor Benígno Fitial estimates that potentially 5,000 aliens in the CNMI may be classified as immediate relatives of United States citizens and could avail themselves of the opportunities provided in H.R. 1466, to become permanent residents and later citizens of the United States. Additional aliens would be added by the other categories of eligible aliens in H.R. 1466, and together these persons would represent approximately one-third of the aliens in the CNMI.

CNMI Senate 2011 Recommendation Regarding Long-term CNMI Aliens

In March 2011, the Senate of the Seventeenth Northern Marianas Commonwealth Legislature issued its *Recommendation on Improved Immigration Status of Nonimmigrant Workers in the Commonwealth of the Northern Mariana Islands.* The CNMI Senate includes what it describes "as a compromise (recommendation) between the interests of nonimmigrant workers and indigenous residents of the Commonwealth":

> All aliens residing legally in the Commonwealth of the Northern Mariana Islands for ten years on the date U.S. Public Law 110–229 became law, shall receive similar immigration status as that held by citizens of the freely associated states (FAS).

The CNMI Senate is specific in its recommendation, calling for an FAS type status, whereby aliens who have been resident in the CNMI since May 8, 1998 would work and live in the CNMI or elsewhere in the United States as nonimmigrants, without United States citizenship and without voting rights.

2010 Interior Recommendation Regarding Long-term CNMI Aliens

In April 2010, the Secretary of the Interior issued the *Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands.* Included was a recommendation to grant long-term status to alien workers who have resided in the CNMI for a minimum of five years:

> Consistent with the goals of comprehensive immigration reform, we recommend that the Congress consider permitting alien workers who have lawfully resided in the CNMI for a minimum period of five years to apply for long-term status under the immigration and nationality laws of the United States.

The Department through the report suggested five options, among others, that could be considered for long-term status, including:

(1) alien workers could be conferred United States citizenship by Act of Congress;

(2) alien workers could be conferred permanent resident status leading to U.S. citizenship (per the normal provisions of the INA relating to naturalization), with the five-year minimum residence spent anywhere in the United States or its territories; or

(3) alien workers could be conferred permanent resident status leading to U.S. citizenship, with the five-year minimum residence spent in the CNMI.

Additionally, under U.S. immigration law, special status is provided to aliens who are citizens of the freely associated states. Following this model,

(4) alien workers could be granted a nonimmigrant status like that negotiated for citizens of the freely associated states, whereby such persons may live and work in the United States and its territories; or

(5) alien workers could be granted a nonimmigrant status similar to that negotiated for citizens of the freely associated states, whereby such persons may live and work in the CNMI only.

Department of the Interior Position

The 2010 report of the Secretary of the Interior recommended a long-term status for foreign workers who lawfully resided in the CNMI for a minimum period of five years. At the time of the report, the Department's best estimate was that 20,654 legal aliens resided in the CNMI. H.R. 1466 is consistent with the Secretary's report in that it would give long-term status to more than 5,000 of these persons.

Mr. Chairman, we appreciate your interest is these important immigration issues affecting the Commonwealth of the Northern Mariana Islands.

Mr. FLEMING. Thank you, Mr. Pula. I would now like to recognize the Ranking Member—I am sorry. Oh, OK, I am sorry. I would now like to introduce Ms. Aldan-Pierce and Ms. Doctor before they testify. Ms. Aldan-Pierce, you are now recognized for five minutes.

STATEMENT OF MARIAN ALDAN-PIERCE, CHAIRPERSON, BOARD OF DIRECTORS, MARIANAS VISITORS AUTHORITY

Ms. ALDAN-PIERCE. Thank you, Chairman Fleming, Ranking Member Sablan. It is an honor to appear before this Committee today. I was asked to provide our views on Public Law 110-229, specifically on the Guam/CNMI waiver program.

My name is Marian Aldan-Pierce, a lifetime resident of the CNMI, and I have worked in the tourism industry for over 35 years. During my tenure in the industry, I have seen tourism in the CNMI grow from very humble beginnings to the peak in 1997, when we welcomed nearly 700,000 visitors to our islands. Our tourism program focused on Japan and the Japanese visitor. We marketed the CNMI in major Japanese cities. It is a cost-effective, closer alternative to other Pacific beach destinations. As a result, over three-fourths of our visitors were from Japan in the mid-90s. However, with the decline of the Japanese economy and other disasters, tourism in the CNMI have been on the downward spiral for many years, and we are now seeing what we hope to be the bottom of the tourism market.

Last year, the CNMI had approximately 380,000 tourists, a little more than half the tourists that were welcomed at the peak of the market. We expect a further decline in arrivals with the recent action by air carriers, further reducing seat capacity from Japan and Korea to the CNMI during non-peak months.

Mr. Chairman, Ranking Member Sablan, our remote islands in the Pacific with very few natural resources are now almost completely dependent on the tourism industry. Our government was forced to shut down last year for many days for financial reasons. Given these constraints as well as budgetary constrains here in

Washington, it is clear that in order for the CNMI to survive into the future, for the government to sustain its payroll, for the people to have continued access to basic necessities of life, power, water and education, we cannot come to Washington with our hands out. We have to help ourselves. We must invigorate our tourism industry, our sole economic driver.

I am here to request that DHS issue final rules for the Guam visa waiver program, for the Guam/CNMI visa waiver program that would allow continued access, visa-free from Chinese and Russian tourists in the CNMI and extend such access to Guam. These tourists are vital to the CNMI's economy and China and Russia represent tourism's future in the Marianas region.

We are living in a very depressed economy. Buildings stand vacant and deteriorated in our major business district. Homes sit empty and abandoned in our villages. Private sector employees have suffered layoffs and reduced hours. Government employees have had their work hours reduced by 20 percent due to lack of funding, and the line for nutrition assistance from the Federal Government is long and only getting longer. The CNMI cannot continue to depend and hope for Federal dollars and expanding Federal assistance programs given the current budgetary climate in Washington.

Reinvigorating our tourism industry in the CNMI would take new ideas and a new approach. The CNMI needs to work closely with our partners in Guam and market the Marianas region as a package destination to tourists. Even though our islands are located only 150 miles apart, we have two different sets of rules with respect to tourism. Unlike Guam, Russian and Chinese visitors are allowed entry into the CNMI under parole authority. Parole in the CNMI has operated flawlessly for nearly two years as DHS security protocols have successfully prevent the entry of objectionable visitors.

Tourism, like any other business, needs regulatory certainty to attract investment. Since the enactment of the CNRA in 2008, DHS published an interim final rule and later extended parole authority for Russia and China to The CNMI. Unfortunately, despite the success of the parole program in the CNMI, DHS has not yet extended the same opportunity to Guam with respect to these two source countries.

Mr. Chairman, Ranking Member Sablan and Members, we do not understand, and hope that we might learn more today why Congress and this Committee enacted legislation three years ago that combine visitor entry programs for our islands, the Guam/CNMI visa waiver program, and yet two unequal systems still exist today.

To accomplish the objective of marketing in the region and expanding the tourism economy, the CNRA extended the time allowed for visitors under the Guam/CNMI visa waiver program to stay on the island from 15 to 45 days. Congress envisioned by doing so visitors will travel to multiple islands for a longer period to thereby maximize the economic impact and revenue in the region. We need regulatory certainty to attract investment to the region. We urge this Committee to impress upon DHS that the interim final rule needs to be finalized consistent with congressional intent of expanding tourism by ensuring that source markets such

as China and Russia are included on the list as those markets are vital to the CNMI and the Marianas region for future tourism growth.

Mr. Chairman, Ranking Member Sablan, and Members, while the CNMI's economy is in a precarious position today, we believe that with proper regulatory environment and cooperating with our neighbors on Guam we can revitalize our tourism economy and create much needed jobs and investment in the region, thereby reducing our reliance on Federal assistance.

Thank you very much for giving me the opportunity to appear before you today. It has been a real honor and privilege.

[The prepared statement of Ms. Aldan-Pierce follows:]

Statement of Marian Aldan-Pierce, Chairperson of the Board of Directors, Marianas Visitors Authority

I. Overview

Beginning in the 1980s, the economy of the Commonwealth of the Northern Mariana Islands (CNMI) was driven by two industries—apparel manufacturing and tourism. At the peak of tourism in 1997, when nearly 730,000 visitors arrived, total government revenue was $248-million. The economy was vibrant.

However, beginning in 2005 with the enactment of the World Trade Organization (WTO) agreement, the apparel industry began to relocate from the CNMI to locations where the cost of doing business was lower. Due to WTO impact and additional costs added through increases in minimum wage, by 2009, all 34 of the apparel manufacturing factories in the CNMI had closed, leaving the CNMI with only one industry leg left to stand on– tourism (APPENDIX A).

The Consolidated Natural Resources Act (CNRA) of 2008, signed by President G.W. Bush on May 8, 2008, required that the CNMI federalize its immigration system beginning in November 2009. The CNRA provides for a Guam-CNMI Visa Waiver Program (VWP), whereby visitors from listed countries may make non-visa entry into the CNMI and Guam as tourists. In line with the CNRA's expressed mandate to expand tourism and economic development in the CNMI wherever possible, the CNMI strongly recommends that the Final Rules of the VWP be promulgated as soon as possible and that they contain a provision for continued visa waiver entry for citizens of the People's Republic of China (China) and the Russian Federation (Russia) either into the CNMI only or into the CNMI and Guam.

This recommendation is based on the following four points:

- The CNMI economy is now completely dependent on tourism, and the CNRA requires that countries from which the CNMI has derived "significant economic benefit" by visitors be included in the list of VWP participating countries
- Including China and Russia under the VWP listed countries, versus including them under the sole parole authority of the Secretary of Homeland Security, will create stability and allow the CNMI to attract long term investment for these growing markets
- Since the parole process began, and prior to the CNRA under CNMI immigration measures, visitors from China and Russia have returned to their respective countries, an excellent performance record proving invalid DHS concerns of "high nonimmigrant visa refusal rates"
- If allowable, a uniform VWP between the CNMI and Guam would allow development of multiple destination packages between the two island entities for visitors arriving by both air and sea

As described further in this testimony, the economy of the CNMI is now solely reliant on tourism, a delicate industry easily buffeted by international and domestic challenges. These include visa access, the health of the economies in neighboring Asian countries, the convenience and price competitiveness of air service, and the ability to compete with nearby beach destinations. In recent years, the economy has taken a nosedive due to these challenges. The permanent inclusion of Russia and China in the VWP—or lack thereof—will largely determine if the CNMI economy can begin to climb its way to recovery, or whether it will be pushed over the edge.

II. Sustaining a Diversified Tourism Economy

A. A Brief History

According to the U.S. Dept. of Commerce, Bureau of Economic Analysis BEA 10–24, real GDP of the CNMI decreased at an average annual rate of 4.2 percent from 2002 to 2007. The decrease in real GDP was primarily due to a decrease in the exports of garments, reflecting a contraction in the garment manufacturing industry and a decline in tourism. Since 2002, a number of economic shocks have contributed to a decline in tourism, including 9–11, the SARS epidemic and the 2005 pullout of flagship carrier Japan Airlines, a loss of 35% (182,000) of annual air seats to the CNMI at the time and subsequent closure of an affiliate hotel—the second largest in the CNMI—and the CNMI's largest shopping mall. From 2002 to 2007, the population of the CNMI also decreased rapidly as foreign workers left the territory, and as a consequence, real GDP per capita increased at an average annual rate of 0.5 percent.

To help stabilize the industry and reduce reliance on any one source country, the CNMI has worked to diversify its source markets. Historically, visitors from Japan had comprised as high as 83% of all visitor arrivals. However, due to the CNMI's diversification efforts and concurrent increase in outbound travellers from those targeted countries, by FY 2010 only 50% were from Japan; 29% were from South Korea (Korea), 11% were from China, and 1% were from Russia. For FY 2011 to date—through May 2011—the market share has diversified even further, with Japan comprising only 45%, Korea 32%, China 12% and Russia 2%.

In more recent tourism trends, in FY 2010 visitors arrivals to the CNMI totaled only 386,186, only a little more than half of total visitor arrivals during the industry's peak in 1996 (APPENDIX B).

From FY 2006–2010, hotel revenues each year dropped at an average of $2.9-million and the CNMI lost approximately $10.5-million annually in direct on-island expenditure. With a multiplier of 1.5, the CNMI business community lost $33.4 million in economic activity and $2-million in taxes annually. Additionally, it is estimated that 171 public and 191 private sector jobs were displaced annually.

Compared to FY 2006, direct impact during FY 2010 was down 16% ($274.4-million), while indirect impact also fell 16% ($726.2-million) (APPENDIX C).

In addition to the overall growth of China and Russia arrivals, the economic impact of each visitor from these two destinations is significant. Russian visitors each spend 4.5 times as much as an average Asian visitor, while Chinese expenditures are comparable to Japanese and more than Korean visitors. Based on outbound growth projections of these countries and other factors, China and Russia are projected to increase in total arrivals and economic impact for the CNMI.

B. Primary Source Market of Japan

The CNMI has traditionally relied on Japanese tourists and its hotel industry was built largely with Japanese investment. This relationship sprung from both the proximity of Japan to this beach resort destination and from the historic political ties prior to World War II. Beginning in the late 1980s, the Commonwealth's visitor industry experienced a decade of phenomenal growth. Grand openings of new hotels, fueled by Japanese investment, were a regular occurrence during the decade. However, expectations of continued expansion proved unrealistic. The beginning of CNMI difficulties was the bursting of the Japanese "bubble" economy, followed by the Asian financial crisis beginning around 1997.

Compared to the peak of tourism in FY1997 when Japan comprised 62% (450,190 visitors) of total visitor arrivals, so far in FY 2011 through May 2011, Japanese visitors comprise only 45% (102,578 visitors) of all visitors. The outbound Japanese travel market has suffered decline in the wake of the March 2011 earthquake and tsunami and continuing nuclear crisis, down 34 percent in May 2011 compared to May 2010 (APPENDIX D).

The biggest challenge the CNMI travel industry continues to face for Japan—and all markets—is air seat availability to the islands. Since the 2005 pullout of Japan Airlines and the loss of 35% of total air seats, the CNMI has yet to recover the same level of air seat availability. In December 2010 Delta Air Lines reduced one of its three daily direct flights from Tokyo/Narita to only three times weekly. Tokyo/Narita is the CNMI's largest source city. The loss of this service caused travel capability to slide from 66,430 seats annually from Toyko/Narita to only 37,856 seats. In April 2011, the suspended flight was formally terminated altogether. This further demonstrates the uncertainty of the tourism industry.

In addition, since 2009 air service has been only seasonal from Osaka and Nagoya, the CNMI's largest markets outside Tokyo/Narita. Delta Air Lines suspended daily direct flights from Nagoya and only operates during peak periods dur-

ing the year. This peak period traditionally runs from mid-December through March and from mid-July through September. Likewise, Asiana Airlines provides only seasonal daily flights during peak periods from Osaka. This low peak period represents 210 days per year during which the CNMI has lost the opportunity to benefit from 432 seats per day from these two source cities. This translates into lost visitor opportunities from Osaka and Nagoya of an estimated 90,720 visitors annually.

From an income standpoint, with an estimated $851 in direct and $2,253 in indirect economic impact per Japanese visitor, the CNMI is losing $77.2-million and $204.4-million annually in direct and indirect economic opportunity, respectively, from its primary source market due to these lost air seats. With regards to impact on public and private employment, this results in an annual loss of an estimated 955 public and 1,067 private sector jobs, based on each public sector job being supported by 95 visitors and each private sector job being supported by 85 visitors (APPENDIX E).

The long-term forecast for outbound growth from this market is expected to grow 19.3% over the next five years, from 15.6-million in 2011 to 18.6-million in 2016 (APPENDIX F).

C. Primary Source Market of South Korea

The Korean market to the CNMI had first started to grow in 1988 when the Korean government lifted international travel restrictions on Korean nationals. This market was showing phenomenal growth until the Asian economic crisis hit in the mid-1990s, Korea was the hardest hit of the CNMI's source markets. Recognizing the CNMI's extreme vulnerability to the Japanese economy, the islands saw a unique opportunity and value in diversification of its tourism base. Korea was the first country to become the focus of more marketing and promotions by the Marianas Visitors Authority (MVA) as part of its diversification efforts.

Since that time, the market share of Korea has grown considerably. During the peak of tourism in 1997, Korea comprised 23% of total visitor arrivals. In the 18 months before federalization of CNMI immigration in November 2009, Korea accounted for 26% of visitor arrivals. In the period since December 2010, Korea now comprises 31% of visitor arrivals (APPENDIX G). The outbound Korean travel market was also strongly affected by the March 2011 earthquake and tsunami and continuing nuclear crisis in Japan, with arrivals to the CNMI down 24 percent in May 2011 compared to May 2010.

Flight service from Korea has also fluctuated in recent years. Flights from Busan were cancelled in June 7, 2011. Asiana Airlines also recently decreased the number of daytime flights from Incheon/Seoul to the CNMI from four to two flights weekly, marking a loss of 18% of available air seats on a weekly basis. This decrease is expected to be reversed in mid-July, but it underscores the instability of air service from the CNMI's primary source countries.

According to the Korea Tourism Organization, the long-term forecast for growth from this market is considerable, growing 33.3% from an estimated 13-million outbound travelers in 2011 to nearly 18-million travelers on 2016 (APPENDIX F).

D. Secondary Source Market of China

The CNMI first began receiving Chinese tourists in 1998. This initially began with private sector investments by several hotels and was later expanded to include investment by the Marianas Visitors Authority, regional tourism businesses and others. At the end of 2004, the CNMI also attained Approved Destination Status (ADS), which allowed it to actively market CNMI tourism in China.

The China market has shown and continues to show significant growth in terms of market share. In the 18 months prior to the implementation of the US immigration provisions in November 2009, China accounted for 7% of total arrivals. In the 18 months since federalization, market share from China increased to 11% of total arrivals and continues to grow.

In terms of air service, today the CNMI has up to 4 direct charter flights weekly from two of the most affluent cities in China-Shanghai, and Guangzhou. In additional, regional air carrier Fly Guam currently flies direct air service from China's Special Administrative Region of Hong Kong to the CNMI and Guam three times a week, with plans to expand flights into China and other Asian ports.

The two full years from the achievement of ADS status until the signing of the CNRA saw increasing growth from China. However, due to the enactment of the CNRA and the delay in the Final Rules, the CNMI has not been able to capitalize on the full potential of this market with regular scheduled flights and long-term investment.

Allowing Chinese nationals into the CNMI as Visa Waivered tourists is doubly vital to our vulnerable economy because of changes in travel demand from other

source countries into the CNMI. The Chinese tourists comprise an even greater proportion of the total number of visitor entries and make the CNMI's reliance in them even greater than reported in the MVA's previous Official Comments to the Interim Final Rules submitted to DHS on in February 2009. In our previous report based on 1997 data, visitor arrivals from China totaled 2,478, less than 1% of total arrivals to the CNMI. Based on FY 2010 data, Chinese arrivals comprise 11 percent, and for FY 2011 through May 2011, they comprise 12% (APPENDIX D).

The China market also represents a comparable level of economic impact per visitor as the average visitor from the primary market of Japan and a higher economic impact than the average visitor from Korea (APPENDIX E). In FY 2010, Chinese visitors accounted for 14% of total CNMI tourism revenue, contributing $39.4-million in direct economic impact and $104-million in indirect economic impact to our economy (APPENDIX C).

What is most promising about the China market is the potential for future growth, as the country remains Asia's largest source of outbound markets. According to the China National Travel Administration, this year's outbound travel projections stand at 65-million. However, by 2016 the number of outbound tourists is expected to grow 72% to an estimated 112-million. As Chinese outbound travel is projected to greatly outpace outbound travel from Japan, Korea, and Russia, the market share of China in the CNMI tourism industry is expected to grow from 11% in FY 2011, to date, to 17% of total market share by 2016 (APPENDIX H).

Even the federal government has undertaken immigration modifications to capitalize on this opportunity and diversify further into the China market. In 2008, the United States entered into a Memorandum of Understanding with China to streamline visa processing. As noted at the December 2010 U.S.-China Joint Commission on Commerce and Trade, since the initiation of travel under the MOU in 2008, total passenger travel from China to the United States has increased by 23 percent, a total export value of $5.5 billion (as of July 2010). China is the country's fastest growing market and by 2015 it is projected to become the 6th largest arrival market for the United States (up from 16th before the MOU in 2008). As further reported in the commission fact sheet, "China and the United States agreed to implement Phase 3 of the Memorandum of Understanding (MOU) opening the market for the sale of packaged leisure travel from China to the United States to three additional provinces in China. (The United States will continue to press China to broaden the scope of access to include additional provinces.) China and the United States successfully established online systems to ensure the timely exchange of lists of Chinese travel agencies and U.S. tour operators authorized to conduct business under the MOU." The continued expansion of this MOU is an acknowledgement of the federal government that modified and streamlined visitor entry requirements for Chinese tourists are both feasible and desirable, an approach the CNMI has long practiced with success and now proposes to continue under the Guam-CNMI Visa Waiver Program.

E. Secondary Source Market of Russia

The CNMI first began marketing to Russian tourists in 1996. Following the enactment of the CNRA, the Russian market stumbled for several months due to several obstacles. The first was the exclusion of China and Russia in the Guam-CNMI VWP. Subsequently, when the Secretary of Homeland Security was empowered to provide parole to visitors from these countries, there was a short delay in the issuance of a diplomatic note to China and Russia. In addition, the CNMI lacked sufficient marketing funds to inform potential visitors in Russia of the parole option. Nonetheless, the country has finally rebounded and is recovering in raw numbers.

In the 18 months prior to the implementation of the US immigration provisions in November 2009, Russia accounted for 1.8% of total arrivals. In the 18 months since federalization, market share from Russia has equaled 1.3% of total arrivals (APPENDIX G).

Income derived from Russian tourists has become a far larger part of the total tourism income than in previous years. For example, a Russian visitor has an economic impact 4.5 greater than an average Asian visitor (APPENDIX E). From December 2009 through May 2011, visitor arrivals from Russia accounted for 7% of the total tourism revenue. In FY 2010, visitors from Russia contributed $18.7-million in direct economic impact and $49.4-million in indirect economic impact to the CNMI economy (APPENDIX C).

Again, the foremost challenge of the market of Russian and other countries in the region is the availability of air service. Currently, there is no scheduled (regular) direct service available, and only a handful of charter flights have been flown since the markets opened. Most travelers through these countries must route through Seoul, Korea. In many cases, potential travelers are also not able track firm seats

until immediately before departure when seats held by travel agents are released; this is not feasible for travel planning. However, negotiations are now underway for a connecting flight through Hong Kong via Fly Guam and a Russian airline partner. Considerations are being made to provide a two-destination package, Hong Kong and the CNMI, a move which would open up western Russia to the CNMI with much more convenience. One attractive component of the suggested package is that, at this time, visas are waived in both Hong Kong and the CNMI for Russians.

III. A CNMI Economy without China and Russia

The CNRA expressly states that its implementation shall develop tourism and economic development for the CNMI. In its Interim Final Rules analysis of January 2009, DHS grossly understated the negative travel demand into the CNMI if visitors from China and Russia were required to obtain a U.S. visa prior to entry. DHS had estimated the CNMI would lose only 5,017 and 194 visitors annually from China and Russia, respectively. Contrary to this, as the MVA gathered in discussion with travel partners serving those countries, requiring a U.S. visa for visitors from China and Russia would have a 95% negative impact on travel demand.

With an economy already depressed by the pullout of apparel manufacturing and international obstacles to the recovery of the tourism industry, the CNMI is on the verge of economic collapse. Business buildings stand vacant and are deteriorating along our main thoroughfares. Homes sit abandoned in our villages. The list of friends, associates, and family members who have moved off-island to find jobs and a better life continues to grow. Private sectors employees have felt the sting of shortened hours and layoffs for years. Public sector employees funded locally have suffered a 20% reduction in work hours, and when payday does come, it is usually late.

Without continued access to the China and Russian tourism markets, the economic future of the CNMI is bleak, if not dead. Using actual FY 2011 arrivals-to-date as a basis, let us examine a CNMI economy without visitors from China and Russia.

The total direct and indirect impact of tourism revenue for FY 2011 through May 2011 is $450.8-million. Without visitors from China and Russia, that revenue would have dropped by 25% or $110.8-million (APPENDIX I).

The total number of government jobs supported by tourism revenue this year is 2,180. Without visitors from China and Russia, 15.2% or 331 of those jobs would have been lost.

The total number of private sector jobs supported by tourism revenue this year is 2,437. Without visitors from China and Russia, 15.2% or 370 of those jobs would have been lost.

Clearly, to enact a Guam-CNMI Visa Waiver Program without allowing the CNMI access to visitors from China and Russia would have a detrimental and long-standing effect on the economy and livelihood of the people and would be contrary to the intent of the CNRA.

V. Conclusion

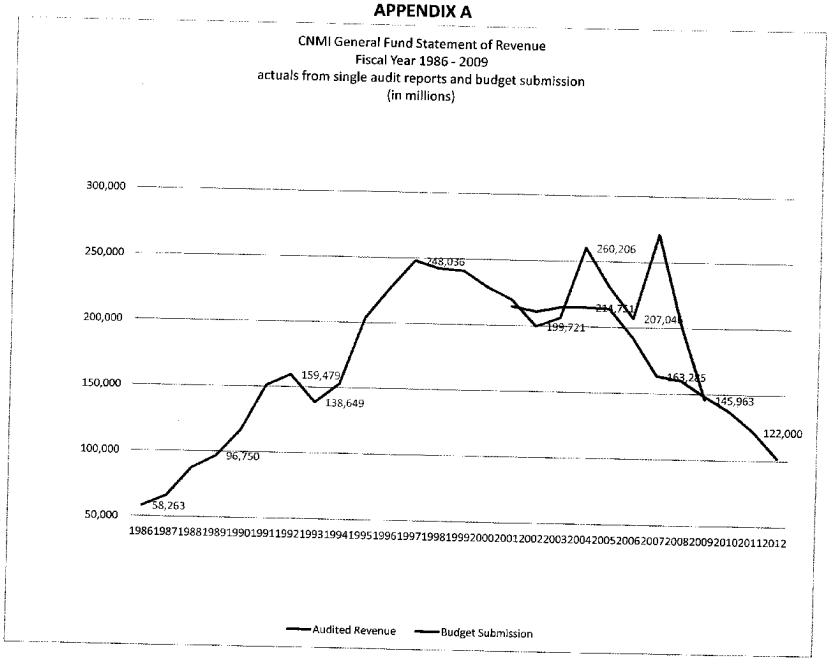
The CNMI economy direly needs continued access to visitors from China and Russia. As noted the Government Accountability Office report of June 23, 2011, "American Samoa and Commonwealth of the Northern Mariana Islands: Employment, Earnings, and Status of Key Industries since Minimum Wage Increases Began," CNMI employment fell 13 percent from 2008 to 2009 and 35 percent from 2006 to 2009. The report also noted that in discussion groups, some tourism employers expressed concern that the primary difficulty was the CNMI tourism industry's decline.

It is clear that the visitors from China and Russia are critical for reviving and sustaining the CNMI economy. The uncertainty about the Final Rules of the Guam-CNMI Visa Waiver Program has caused investors and tourism partners both local and international to hold off on current spending and on plans for future growth, as well. The sooner the Final Rules can be published, and the sooner they contain the certainty of continuity for our Russia and Chinese visitors, the sooner the intent of the CNRA to expand tourism and economic development can be accomplished.

This intent may be accomplished by adding China and Russia to the list of allowable countries included under the VWP, or may it be accomplished by a separate ruling allowing their entry into only the CNMI, based on the CNMI's record to date of having visitors from China and Russia return to their respective countries and due to the limited amount of military assets and activity in the CNMI.

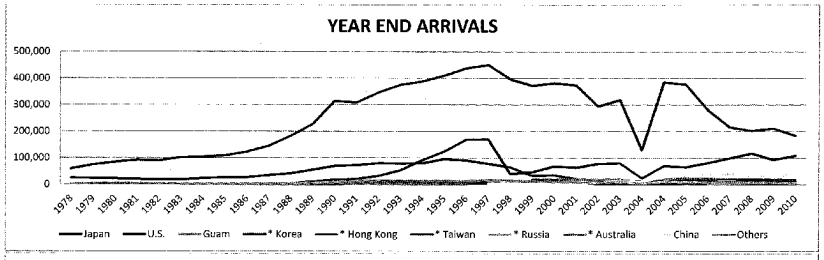
The CNMI strongly recommends that the Final Rules be promulgated as soon as possible and that they contain a provision for continued visa waiver entry for Chinese and Russian citizens either into the CNMI only or into the CNMI and Guam.

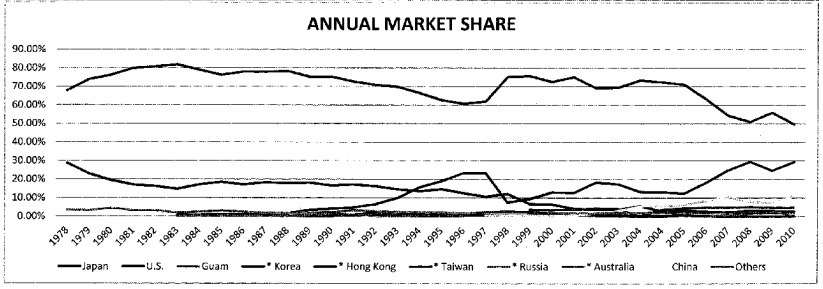
APPENDIX A



APPENDIX B

FISCAL YEAR 1978 to FY 2010
BY SOURCE COUNTRY





APPENDIX C

FISCAL YEAR 2006

TOTAL ARRIVALS	443812		DIRECT ECOMIC IMPACT				INDIRECT ECONOMIC IMPACT					HOTEL IMPACT		EMPLOYMENT IMPACT		AVERAGE PAX ON ISLAND PER DAY	NEW PAX PER DAY
	CNMI ACTUAL ARRIVALS	MARKET SHARE	Hotel Revenue	On Island Expenditure	Total	Taxes	Multiplier	BGRT	Hotel Occupancy Tax	Total	Taxes	Daily Rooms	Annual Rooms	Public	Private		
JAPAN	280,292	63.16%	$ 51,898,306	$ 186,674,472	$ 238,572,778	$ 17,118,470	$ 596,431,945	$ 29,821,597	$ 5,189,831	$ 631,443,373	$ 35,011,628	1,321	482,102	2,950	3,398	2,642	768
KOREA	80,764	18.20%	$ 13,337,432	$ 31,982,544	$ 45,319,976	$ 3,599,742	$ 113,299,939	$ 5,664,997	$ 1,333,743	$ 120,298,679	$ 6,998,740	389	142,145	850	950	779	221
CHINA	38,385	8.65%	$ 5,245,022	$ 31,888,339	$ 37,133,361	$ 2,381,170	$ 92,833,402	$ 4,641,670	$ 524,502	$ 97,999,575	$ 5,166,172	237	86,366	404	452	473	105
RUSSIA	1,571	0.35%	$ 973,313	$ 5,818,513	$ 6,791,826	$ 436,923	$ 16,979,564	$ 848,978	$ 97,331	$ 17,925,874	$ 946,310	22	7,855	17	18	58	4
TOTAL	401,012	90.36%	$ 71,454,073	$ 256,363,867	$ 327,817,941	$ 23,536,304	$ 819,544,851	$ 40,977,243	$ 7,145,407	$ 867,667,501	$ 48,122,650	1,968	718,468	4,221	4,718	3,952	1,099

FISCAL YEAR 2007

TOTAL ARRIVALS	395,360		DIRECT ECOMIC IMPACT				INDIRECT ECONOMIC IMPACT					HOTEL IMPACT		EMPLOYMENT IMPACT		AVERAGE PAX ON ISLAND PER DAY	NEW PAX PER DAY
	CNMI ACTUAL ARRIVALS	MARKET SHARE	Hotel Revenue	On Island Expenditure	Total	Taxes	Multiplier	BGRT	Hotel Occupancy Tax	Total	Taxes	Daily Rooms	Annual Rooms	Public	Private		
JAPAN	215,196	48.49%	$ 39,845,261	$ 143,320,536	$ 183,165,797	$ 13,142,816	$ 457,914,492	$ 22,895,725	$ 3,984,526	$ 484,794,743	$ 25,880,231	1,014	370,137	2,265	2,532	2,028	590
KOREA	98,403	22.17%	$ 16,250,350	$ 38,967,588	$ 55,217,938	$ 4,385,932	$ 138,044,845	$ 6,902,242	$ 1,625,035	$ 146,572,123	$ 8,527,277	474	173,189	1,036	1,158	949	270
CHINA	41,024	9.24%	$ 5,605,622	$ 34,080,688	$ 39,686,310	$ 2,544,878	$ 99,215,775	$ 4,960,789	$ 560,562	$ 104,737,126	$ 5,521,351	253	92,304	432	483	506	112
RUSSIA	3,063	0.69%	$ 1,885,291	$ 11,270,359	$ 13,155,650	$ 846,312	$ 32,889,124	$ 1,644,456	$ 188,529	$ 34,722,110	$ 1,837,985	42	15,215	32	36	113	8
TOTAL	357,666	80.59%	$ 63,586,524	$ 227,639,171	$ 291,225,695	$ 20,919,937	$ 728,064,237	$ 36,403,212	$ 6,358,652	$ 770,826,101	$ 42,761,864	1,783	650,845	3,765	4,208	3,595	980
TOTAL DIFFERENCE			$ (7,867,549)	$ (28,724,696)	$ (36,592,246)	$ (2,616,367)	$ (91,480,614)	$ (4,574,031)	$ (786,755)	$ (96,841,400)	$ (5,360,786)	(185)	(67,623)	(456)	(510)	(356)	(119)

FISCAL YEAR 2008

TOTAL ARRIVALS	396,497		DIRECT ECOMIC IMPACT				INDIRECT ECONOMIC IMPACT					HOTEL IMPACT		EMPLOYMENT IMPACT		AVERAGE PAX ON ISLAND PER DAY	NEW PAX PER DAY
	CNMI ACTUAL ARRIVALS	MARKET SHARE	Hotel Revenue	On Island Expenditure	Total	Taxes	Multiplier	BGRT	Hotel Occupancy Tax	Total	Taxes	Daily Rooms	Annual Rooms	Public	Private		
JAPAN	202,041	45.52%	$ 37,409,507	$ 134,559,306	$ 171,968,813	$ 12,339,391	$ 429,922,034	$ 21,496,102	$ 3,740,951	$ 455,159,086	$ 25,237,052	952	347,511	2,127	2,377	1,904	354
KOREA	116,710	26.30%	$ 19,273,583	$ 46,217,160	$ 65,490,743	$ 5,201,895	$ 163,726,857	$ 8,186,343	$ 1,927,358	$ 173,840,558	$ 10,113,701	563	205,410	1,229	1,393	1,126	320
CHINA	31,095	7.01%	$ 4,248,899	$ 25,832,171	$ 30,081,070	$ 1,928,943	$ 75,202,674	$ 3,760,134	$ 424,890	$ 79,387,698	$ 4,185,024	192	69,964	327	365	383	85
RUSSIA	6,178	1.39%	$ 3,827,580	$ 22,881,459	$ 26,709,039	$ 1,718,210	$ 66,772,096	$ 3,338,630	$ 382,758	$ 70,493,884	$ 3,721,188	83	30,890	65	73	229	17
TOTAL	356,024	80.52%	$ 64,759,569	$ 229,490,096	$ 294,249,665	$ 21,188,440	$ 735,624,161	$ 36,781,208	$ 6,475,957	$ 778,881,326	$ 43,257,165	1,791	653,774	3,748	4,189	3,642	975
TOTAL DIFFERENCE			$ 1,173,045	$ 1,850,925	$ 3,023,970	$ 268,503	$ 7,559,924	$ 377,996	$ 117,305	$ 8,055,225	$ 495,301	8	2,928	(17)	(19)	46	(4)

FISCAL YEAR 2009

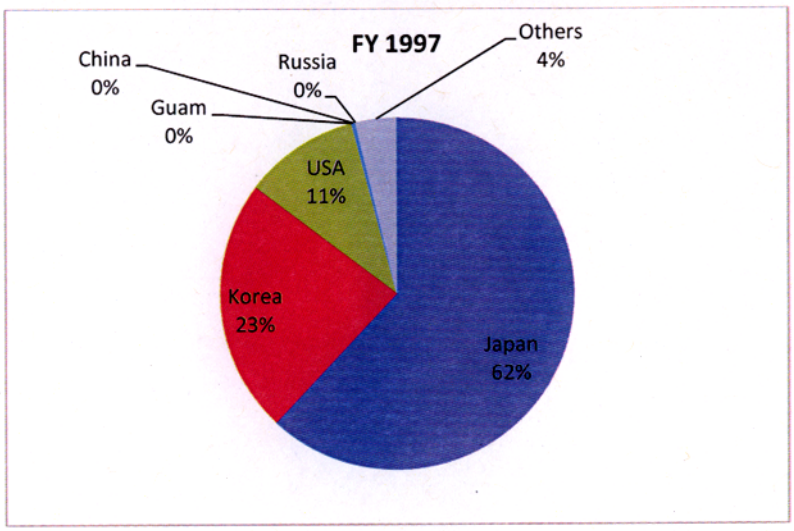
TOTAL ARRIVALS	375,808		DIRECT ECOMIC IMPACT				INDIRECT ECONOMIC IMPACT					HOTEL IMPACT		EMPLOYMENT IMPACT		AVERAGE PAX ON ISLAND PER DAY	NEW PAX PER DAY
	CNMI ACTUAL ARRIVALS	MARKET SHARE	Hotel Revenue	On Island Expenditure	Total	Taxes	Multiplier	BGRT	Hotel Occupancy Tax	Total	Taxes	Daily Rooms	Annual Rooms	Public	Private		
JAPAN	210,567	47.45%	$ 38,988,165	$ 140,237,622	$ 179,225,787	$ 12,860,106	$ 448,064,466	$ 22,403,223	$ 3,898,816	$ 474,366,506	$ 26,302,040	992	362,175	2,216	2,477	1,985	577
KOREA	92,965	20.95%	$ 15,357,269	$ 36,826,020	$ 52,183,289	$ 4,144,891	$ 130,458,222	$ 6,522,911	$ 1,535,727	$ 138,516,860	$ 8,058,638	448	163,671	979	1,094	897	255
CHINA	27,859	6.28%	$ 3,806,723	$ 23,143,864	$ 26,950,588	$ 1,728,202	$ 67,376,469	$ 3,368,823	$ 380,672	$ 71,125,965	$ 3,749,496	172	62,683	293	328	343	76
RUSSIA	6,801	1.53%	$ 4,213,560	$ 25,188,864	$ 29,402,423	$ 1,891,477	$ 73,506,058	$ 3,675,303	$ 421,356	$ 77,602,717	$ 4,096,659	93	34,005	72	80	252	- 19
TOTAL	338,222	76.21%	$ 62,365,716	$ 225,396,370	$ 287,762,086	$ 20,624,676	$ 719,405,215	$ 35,970,261	$ 6,236,572	$ 761,612,048	$ 42,206,832	1,706	622,534	3,560	3,979	3,476	927
TOTAL DIFFERENCE			$ (2,395,852)	$ (4,093,726)	$ (6,487,578)	$ (563,764)	$ (16,218,946)	$ (810,947)	$ (239,385)	$ (17,269,278)	$ (1,050,333)	(86)	(31,240)	(187)	(209)	(155)	(49)

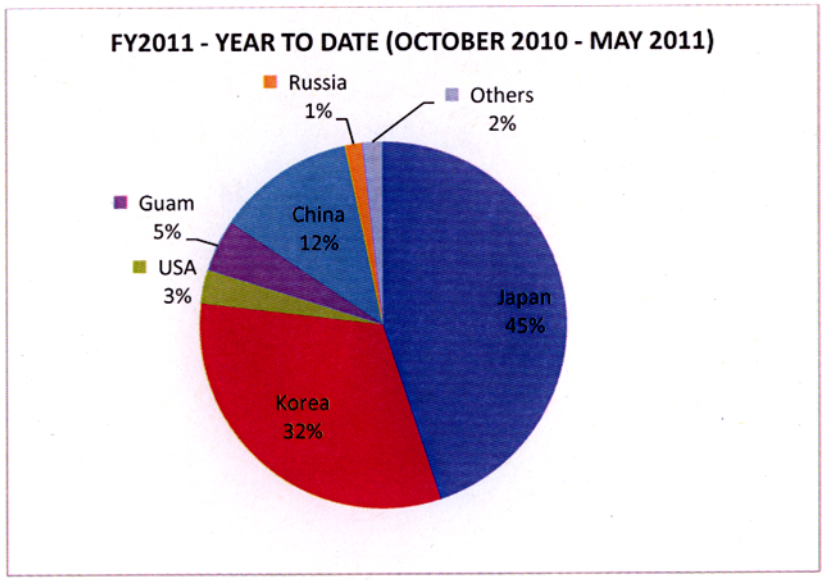
FISCAL YEAR 2010

TOTAL ARRIVALS	368,186		DIRECT ECOMIC IMPACT				INDIRECT ECONOMIC IMPACT					HOTEL IMPACT		EMPLOYMENT IMPACT		AVERAGE PAX ON ISLAND PER DAY	NEW PAX PER DAY
	CNMI ACTUAL ARRIVALS	MARKET SHARE	Hotel Revenue	On Island Expenditure	Total	Taxes	Multiplier	BGRT	Hotel Occupancy Tax	Total	Taxes	Daily Rooms	Annual Rooms	Public	Private		
JAPAN	182,820	49.65%	$ 33,850,586	$ 121,758,120	$ 155,608,706	$ 11,165,494	$ 389,021,764	$ 19,451,088	$ 3,385,059	$ 411,857,911	$ 22,836,147	862	314,450	1,924	2,151	1,723	501
KOREA	108,079	29.35%	$ 17,848,253	$ 42,799,284	$ 60,647,537	$ 4,817,207	$ 151,618,841	$ 7,580,942	$ 1,784,825	$ 160,984,609	$ 9,365,767	521	190,219	1,138	1,272	1,042	296
CHINA	40,712	11.06%	$ 5,562,989	$ 33,821,494	$ 39,384,483	$ 2,525,523	$ 98,461,209	$ 4,923,060	$ 536,299	$ 103,940,568	$ 5,479,359	251	91,602	429	479	502	112
RUSSIA	4,329	1.18%	$ 2,682,032	$ 16,033,317	$ 18,715,349	$ 1,203,971	$ 46,788,323	$ 2,339,419	$ 268,203	$ 49,395,995	$ 2,607,622	59	21,645	46	51	160	12
TOTAL	335,940	91.24%	$ 59,943,859	$ 214,412,215	$ 274,356,075	$ 19,712,190	$ 685,890,187	$ 34,294,509	$ 5,994,386	$ 726,179,082	$ 40,288,895	1,693	617,916	3,536	3,952	3,427	920
TOTAL DIFFERENCE			$ (2,421,857)	$ (10,984,155)	$ (13,406,011)	$ (912,486)	$ (33,515,028)	$ (1,675,751)	$ (242,186)	$ (35,432,966)	$ (1,917,937)	(13)	(4,618)	(24)	(27)	(49)	(6)
FY 2007 vs FY 2010			$ (2,642,664)	$ (13,226,956)	$ (16,869,620)	$ (1,207,747)	$ (42,174,050)	$ (2,108,702)	$ (364,266)	$ (44,647,019)	$ (2,472,969)	(90)	(32,929)	(229)	(256)	(168)	(60)
			$ (2,877,553)	$ (10,487,913)	$ (13,365,466)	$ (956,029)	$ (33,413,666)	$ (1,670,683)	$ (287,753)	$ (35,372,105)	$ (1,958,439)	(69)	(25,138)	(171)	(191)	(131)	(45)

APPENDIX D

MARKET SHARE - FY 1997 VS. FY 2011



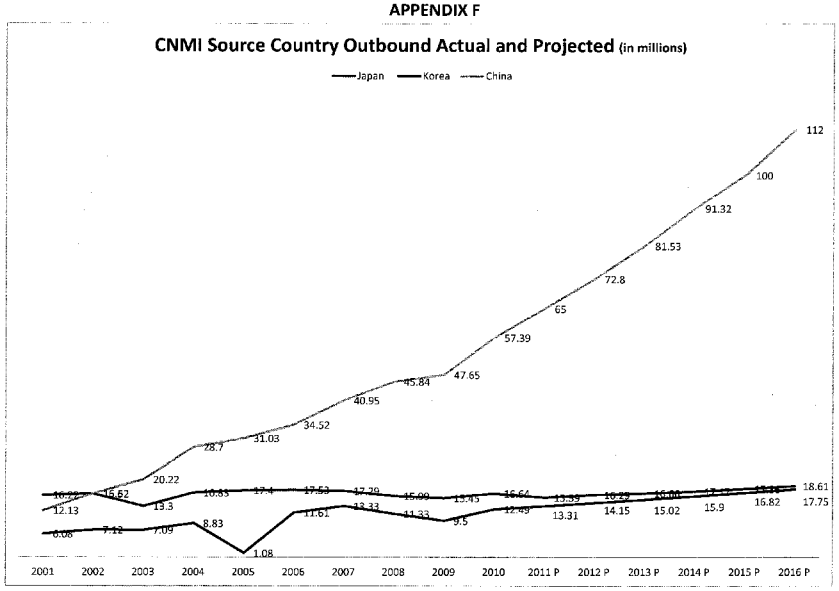


APPENDIX E

FY 2007 VARIABLES	Variables JAPAN	KOREA	CHINA	RUSSIA
Average Room Rate	$ 107.65	$ 93.83	$ 60.73	$ 123.91
Pax Per Room	2.00	2.00	2.00	2.70
Average Length of Stay	3.44	3.52	4.50	13.50
Average on Island Expenditure	$ 666.00	$ 396.00	$ 830.75	$ 3,703.70
Average Direct Impact	$ 851.16	$ 561.14	$ 967.39	$ 4,323.25
Average Indirect Impact	$ 2,252.81	$ 1,489.51	$ 1,213.30	$ 11,410.49

Hotel Occupancy Tax	10%
Multiplier Effect	1.5
Business Gross Revenue Tax (BGRT)	5%
Daily Rooms on Saipan, Tinian and Rota	3,511
Annual Rooms for Sale	1,281,515
1 public sector job	95
1 private sector job	85

APPENDIX F



APPENDIX G

FISCAL IMPACT OF VISITORS TO THE CNMI

JUNE 2008 - NOVEMBER 2009 (PRE-US IMMIGRATION TAKEOVER)

	TOTAL ARRIVALS	342,941	DIRECT ECONOMIC IMPACT				INDIRECT ECONOMIC IMPACT				
	CNMI SHARE ARRIVALS	SHARE ARRIVALS	Hotel Revenue	On Island Expenditure	Total	IMPACT PER VISITOR	Multiplier	BGRT	Hotel Occupancy Tax	Total	IMPACT PER VISITOR
JAPAN	290,9[illegible]	[illegible]	$54,632,154	$196,380,294.00	$251,141,828.11	$863.18	$[illegible]	$12,[illegible]	$5,463,215.43	$[illegible]	$ 2,253
KOREA	14,[illegible]	[illegible]	$23,435,206	$59,396,394.00	$82,831,600.00	$961.14	$[illegible]	$[illegible]	$2,343,520.61	$251,377,366.25	$ 1,480
CHINA	10,[illegible]	[illegible]	$5,530,400	$35,626,972.50	$41,157,372.50	$667.29	$[illegible]	$[illegible]	$553,040.43	$103,035,073.25	$ 2,501
R. ROTA	10,[illegible]	[illegible]	$2,757,800	$37,529,500.00	$40,287,300.25	$1,335.25	$[illegible]	$[illegible]	$275,780.02	$60,622,430.43	$ 114.39
TOTAL	325,[illegible]	[illegible]	$86,356,559	$328,934,160.50	$415,417,101.06		$1,043,[illegible]	$[illegible]	$8,636,556.59	$[illegible]	

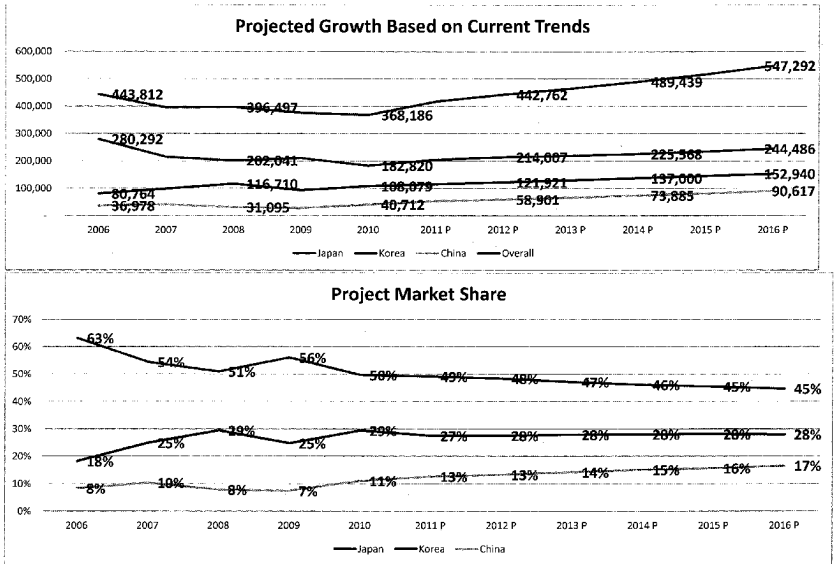
DECEMBER 2009 - MAY 2011 (POST - US IMMIGRATION TAKEOVER)

	TOTAL ARRIVALS	363,[illegible]	DIRECT ECONOMIC IMPACT				INDIRECT ECONOMIC IMPACT				
	CNMI SHARE ARRIVALS	SHARE ARRIVALS	Hotel Revenue	On Island Expenditure	Total	IMPACT PER VISITOR	Multiplier	BGRT	Hotel Occupancy Tax	Total	IMPACT PER VISITOR
JAPAN	286,[illegible]	[illegible]	$[illegible]	$[illegible]	$[illegible]	$ [illegible]	$[illegible]	$[illegible]	$[illegible]	$[illegible]	$2,[illegible]
KOREA	15,[illegible]	[illegible]	$[illegible]	$[illegible]	$[illegible]	$ [illegible]	$[illegible]	$[illegible]	$2,[illegible]	$[illegible]	$1,[illegible]
CHINA	12,[illegible]	[illegible]	$[illegible]	$[illegible]	$[illegible]	$ [illegible]	$[illegible]	$[illegible]	$[illegible]	$[illegible]	$2,[illegible]
RUSSIA	7,[illegible]	[illegible]	$4,[illegible]	$26,014,799	$30,366,504	$ 4,323.25	$[illegible]	$3,790,434	$422,[illegible]	$40,147,[illegible]	$11,410
TOTAL	5,[illegible]	[illegible]	$91,[illegible]	$324,[illegible]	$415,[illegible]		$1,040,[illegible]	$[illegible]	$9,[illegible]	$[illegible]	

DIFFERENCE - PRE VS. POST - US IMMIGRATION TAKEOVER

			DIRECT ECONOMIC IMPACT				INDIRECT ECONOMIC IMPACT			
	CNMI SHARE ARRIVALS	SHARE ARRIVALS	Hotel Revenue	On Island Expenditure	Total		Multiplier	BGRT	Hotel Occupancy Tax	Total
JAPAN	[illegible]	[illegible]	$ (5,[illegible])	$(19,[illegible])	$(24,[illegible])		$(44,[illegible])	$(2,[illegible])	$(500,531.[illegible])	$(44,[illegible])
KOREA	[illegible]	[illegible]	$ 8,[illegible]	$23,[illegible]	$[illegible]		$[illegible]	$2,[illegible]	$[illegible]	$[illegible]
CHINA	[illegible]	[illegible]	$ 2,[illegible]	$17,[illegible]	$20,[illegible]		$[illegible]	$[illegible]	$247,[illegible]	$[illegible]
RUSSIA	[illegible]	[illegible]	$ (1,[illegible])	$(7,[illegible])	$(8,[illegible])		$(7,[illegible])	$(2,[illegible])	$(9[illegible])	$(8,[illegible])
	[illegible]	[illegible]								

APPENDIX H



APPENDIX I

Fiscal Year 2011 Impact Study - October 2010 to May 2011

	TOTAL ARRIVALS	2,29,388	DIRECT ECOMIC IMPACT				INDIRECT RECONOMIC IMPACT					HOTTEL IMPACT		EMPLOYMENT IMPACT		AVERAGE PAX ON ISLAND PER DAY	NEW PAX PER DAY
	CNMI ACTUAL ARRIVALS	MARKET SHARE	Hotel Revenue	On-Island Expenditure	Total	Taxes	Multiplier	BGRT	Hotel Occupancy Tax	Total	Taxes	Daily Rooms	Annual Rooms	Public	Private		
JAPAN	102,578	44.91%	$ 18,099,157	$ 68,336,948	$ 87,310,085	$ 6,264,518	$ 218,275,213	$ 10,913,761	$ 1,809,334	$ 231,098,285	$ 12,113,074	488	176,436	1,080	1,207	867	281
KOREA	73,136	32.02%	$ 12,977,218	$ 38,961,856	$ 51,939,594	$ 3,259,260	$ 102,358,594	$ 5,129,249	$ 1,257,774	$ 108,936,707	$ 6,337,723	353	128,719	779	860	705	201
CHINA	27,983	12.25%	$ 5,823,687	$ 22,245,877	$ 27,070,544	$ 1,739,994	$ 57,436,361	$ 3,063,438	$ 343,367	$ 61,842,546	$ 5,366,185	172	62,962	295	529	345	77
RUSSIA	3,845	1.51%	$ 2,134,069	$ 12,762,950	$ 14,897,020	$ 958,397	$ 37,244,799	$ 1,862,240	$ 213,497	$ 39,320,536	$ 2,075,777	47	17,230	36	41	127	9
TOTAL	207,143	90.70%	$ 37,033,131	$ 133,308,631	$ 170,316,243	$ 12,218,858	$ 425,795,357	$ 21,269,788	$ 3,623,971	$ 450,738,076	$ 24,903,719	1,056	385,345	2,189	2,477	2,145	568

Mr. FLEMING. Thank you, Ms. Aldan-Pierce. Finally, we have Ms. Doctor. You are recognized for five minutes, ma'am.

STATEMENT OF HAZEL DOCTOR, A RESIDENT OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Ms. DOCTOR. Thank you and good morning. Chairman Fleming and Members of the Subcommittee, my name is Hazel Marie Doctor. I am a 19-year-old college sophomore, and I thank you for giving me the opportunity to testify today as a U.S. citizen, United States citizen who faces a terrible choice as a result of Public Law 110-229.

As the law goes into effect, I am going to have to choose between my country, America, and my family, and that is a choice no one should have to face. It is my hope that you will hear my testimony and consider amending the law Congress passed three years ago without being fully aware of the impact it would have on U.S. citizens like myself.

Let me first tell you a little bit about myself and my family. I was born in Saipan on January 21, 1992, and I have lived on this island my whole life. I have a younger sister named Jackie who is 11 years old and was born and raised on Saipan as well. As persons born in the Northern Marianas my sisters and I are citizens of the United States. Like you, we are Americans, and throughout our lives we have looked on America as our home.

But my story really begins with my wonderful parents. My father Alex and my mother Tina are two of the most hard-working people I know. They have resided and worked in the Marianas for over 20 years after leaving the Philippines in search of a better life. They, too, call America their home, but unlike my sister and me our parents are not U.S. citizens. They are not even permanent residents. Instead, they are considered temporary workers even after all these years. They remain nationals of the Philippines because local Mariana's immigration and labor laws did not afford them the opportunity to become full members of this U.S. democratic society.

My parents, along with thousands of other temporary workers, have contributed enormously to the economic development of the Commonwealth as nurses, business managers, construction workers, and in countless other jobs. Over time my parents, like so many other people, put their lives here. They put down roots and raised their children. They volunteered in the community and formed life-long friendships. In short, they became part of the fabric of Marianas society.

At this point it isn't clear what will become of us, our parents, our relatives, our families. It is the intention of Public Law 110-229 to send all foreign workers home. That includes my parents. So our family will be faced with some difficult decisions. Should my sister and I go with our parents to the Philippines to keep our family together or stay behind in America, the only home we have ever known?

But why should we have to choose between our family and our country? We do not want to be separated from our families and the one home we know and love. We want our family and all the families of the Northern Marianas to stay together. We also want to continue living here in the Northern Marianas to pursue our own goals and dreams. For me, my wish is to come back after college as a licensed psychiatrist and still see my parents and my sister living in their home in Saipan. It is also my wish to see other citizens who are the children of long-term guest workers return to the Commonwealth as physicians, accountants, and more to serve the community and the economy.

We believe separating our families would be immoral. It would be a grave injustice and a critical democratic error, so we ask you to please protect our families. We ask you to support H.R. 1466 which would allow our families to remain in the Northern Marianas with the same rights they have under Mariana's immigration law, and we ask you to act now for the sake of our families and for our future.

Thank you again for giving me the opportunity to speak before all of you.

[The prepared statement of Ms. Doctor follows:]

Statement of Hazel Marie Doctor on P.L. 110–229 and H.R. 1466

My name is Hazel Marie Doctor. I am a nineteen-year-old college sophomore.

Thank you for giving me the opportunity to testify today as a United States citizen who faces a terrible choice as the result of Public Law 110–229.

As this law goes into effect, I am going to have to choose between my country—America, and my family.

That is a choice no one should have to face.

It is my hope that you will hear my testimony and consider amending the law Congress passed three years ago without being fully aware of the impact it would have on U.S. citizens like myself.

Let me tell you a little bit about myself and my family. I was born on Saipan on January 21, 1992 and have lived on this island my whole life. I have a younger sister named Jackie who is eleven years old and was born and raised on Saipan as well. As persons born in the Northern Marianas, my sister and I are citizens of the United States. Like you, we are Americans. And throughout our lives, we have looked on America as our home.

But my story really begins with my wonderful parents. My father, Alex, and my mother, Tina, are two of the most hard-working people I know. They have resided and worked in the Marianas for over twenty years after leaving the Philippines in search of a better life. They too call America their home. But unlike my sister and me, our parents are not U.S. citizens. They are not even permanent residents. Instead, they are considered "temporary" workers, even after all these years. They remain nationals of the Philippines because local Marianas immigration and labor laws did not afford them the opportunity to become full members of this U.S. democratic society.

My parents, along with thousands of other "temporary" workers, have contributed enormously to the economic development of the Commonwealth as nurses, business managers, construction workers, and in countless other jobs. Over time my parents, like so many other people, built their lives here. They put down roots and raised their children. They volunteered in the community and formed lifelong friendships. In short, they became part of the fabric of Marianas society.

At this point, however, it is unclear what will become of us, our parents, our relatives, our families. It is the intention of Public Law 110–229 to send all foreign workers home. That includes my parents. So, our family will be faced with some difficult decisions. Should my sister and I go with our parents to the Philippines to keep the family together, or stay behind in the America, the only home we have ever known?

But why should we have to choose between our family and our country? We do not want to be separated from our families and the one home we know and love. We want our family—and all families who call the Marianas home—to be able to stay together. We also want to continue living here in the Northern Marianas to pursue our own goals and dreams. For me, my wish is to come back after college to serve as a psychiatrist and still see my parents and my sister living in their home on Saipan. It is also my wish to see other U.S. citizens who are the children of long-term guest workers return to the Commonwealth as physicians, accountants, and more to serve the community.

We believe separating our families would be immoral; it would be a grave injustice and a critical democratic error, so we ask you to protect our families. We ask you to support H.R. 1466, which will allow our families to remain in the Northern Marianas with the same rights they had under Marianas immigration law. And we ask that you act now for the sake of our families and our future.

Thank you again for giving me the opportunity to speak before you.

Mr. FLEMING. Thank you, Ms. Doctor, for your testimony and thanks to all the witnesses for your very fruitful testimony this morning.

At this point, we will begin Members' questions of the witnesses. To allow all Members to participate and to ensure we can hear from all the witnesses today, Member are limited to five minutes for their questions. However, if Members have additional questions we can have more than one round of questioning. I now recognize myself for five minutes.

It is interesting a lot of comments that are made this morning relative to immigration are issues we are struggling with here in the continental United States. Maybe we can find some of our solutions through our discussions today.

First of all, I would like to ask Ms. Ryan, the Committee is under the impression that certain security measures, electronic travel authorization, biometric entry/exit requirements are needed in Guam

in order for China and Russia to be added to the Guam/CNMI waiver program. Is this still the case?

Ms. RYAN. Thank you, Mr. Chairman.

In implementing the CNRA, the immigration piece related to the inspections at the ports of entry in CNMI and also in Guam there is a presence of CBP officers, and they have access to the electronic data they need, and in fact there is preflight inspection that occurs, so we are able to inspect people and know about their history before they arrive, and they get a full screening both on CNMI and in Guam prior to their arriving and when they arrive, so we have access to the data that we need to do security screenings for inspections.

Mr. FLEMING. OK. So just to be sure, I want to be sure I am clear on this, so there are no further barriers with respect to electronic travel authorization. All of that is now fully in place and resolved?

Ms. RYAN. Yes, sir.

Mr. FLEMING. Just as a matter of interest, you say that is done prior, I guess, to a flight into Guam and CNMI and then upon arrival. Where does that occur on the first leg?

Ms. RYAN. When somebody seeks admission to the United States as a visitor, we actually get records from the airline industry before their arrival, and we run them for security screening measures. Then when somebody presents themselves for admission at a port of entry, we have to determine whether they are admissible to the U.S., and there are about 60 grounds of inadmissibility that an inspector is looking at to determine eligibility for arrival, so there is security screening both before and upon arrival for each applicant for admission.

Mr. FLEMING. Does this happen under the visa waiver program?

Ms. RYAN. Yes, sir. Under visa waiver we still get information about applicants for admission prior to arrival. The electronic data is still submitted to CBP, and then it is also—under visa waiver you are still—we still examine you for whether you are admissible to the U.S. and so we use that process both in Guam and CNMI.

In terms of whether it is ESTA, the computer system you referred to, that is an expensive system and we are not using that because of appropriations, but we have the layered security screening that is required in both CNMI and in Guam, both prior to arrival and then at the port itself.

Mr. FLEMING. So are there other security concerns for prohibiting the inclusion of Russians and Chinese?

Ms. RYAN. The Secretary hasn't yet made a determination regarding the proposal about whether to extend visa waiver to Russians and Chinese nationals. Security issues are always at the top of her list of considerations, obviously, as well as other factors that she can consider which would include the economic conditions. So we have evaluated the—we are in the process and have asked for intelligence about any security threat that would be posed by Russian and Chinese nationals.

Mr. FLEMING. All right. So as I understand it, this is a two-step process. The first step is documentation only. That is prior to their leaving wherever their original site and then when they arrive to Guam or CNMI where they land, they are then screened both for documentation and biometrically at that point. But you are saying

that still there are some unresolved issues with respect to the Chinese and the Russians, and that is a hang up because you have heard today—I know when I was on Guam the Japanese travel industry was a big part of the economy. That was the big honeymoon place back in those days, and I know that has flattened out, and there is a very big potential with Chinese in particular because of the sheer size of the nation.

So what is our barrier there? What are we running into?

Ms. RYAN. First of all, with respect to CNMI, as you know, there have been parole Russian and Chinese nationals, and so I would agree that has been a very good program that is run fairly well, both with respect to Chinese and Russian nationals. There are questions about who in that population might choose to travel and so an evaluation has to be carefully done about whether there would be any national security issues or public safety issues in permitting visa waiver for both Guam and CNMI, and the Secretary, when the first rule was promulgated, took into consideration the economic factors in granting parole, but she will make a decision, I hope soon, with all the facts available to her about whether to extend the visa waiver program to Chinese and Russian nationals into Guam and CNMI, and I know that is a great issue to both CNMI and Guam, and she is very aware of that, and she has been looking at the totality of the circumstances, the factors to consider.

Mr. FLEMING. My time is running out but just so I can be clear, the issue on the Chinese and the Russians is really the only thing left, the only piece left is Secretary of Homeland Security herself?

Ms. RYAN. The authority is with the Secretary of the Homeland Security under the Immigration Nationality Act to make a determination on whether to permit visa waiver or travel extended to other countries as she did with the 12 that are in place right now.

Mr. FLEMING. And we are waiting for her decision at this point?

Ms. RYAN. Yes, DHS is in the final stages of putting that rule together.

Mr. FLEMING. Right. OK, thank you. My time is up and I now yield to the Ranking Member Mr. Sablan.

Mr. SABLAN. Thank you very much, Mr. Chairman.

Ms. Ryan, it looks like you are going to have a busy morning here. Let me start here.

The one thing P.L. 110-229 requires is an interagency agreement describing Federal agency rules and responsibilities. I understand that in March of this year a memorandum of agreement was finalized between Federal agencies, and understanding the limitations of the time here, could you describe each agency's role and responsibility here?

Ms. RYAN. Yes, sir. Very briefly, DHS has, of course, responsibility for the administration and enforcement of the immigration laws. Department of State has responsibility for issuing visas. Department of Justice has responsibility for the immigration courts. Department of the Interior administers the authorities relating to the technical assistance to the CNMI, and then the Department of Labor adjudicates the labor certificates and applications, and would make prevailing wage determinations.

Mr. SABLAN. And you have a way of coordinating all these efforts?

Ms. RYAN. Yes, sir, we do.

Mr. SABLAN. The Federal Government way?

Ms. RYAN. Yes, we are trying very hard to do that in a coordinated fashion.

Mr. SABLAN. That is the way. Could we get a copy of that agreement? Could the Subcommittee get a copy of that?

Ms. RYAN. Yes, sir. We would be pleased to provide it.

Mr. SABLAN. Thank you. The CNMI only transitional worker regulations are currently under review by OMB. Why does it take so long to get the regs. to OMB?

Ms. RYAN. The regulation process is a long one. I apologize to you for that, but it did take a long time because we were carefully considering all the various aspects of it. I am hopeful that it will be promulgated soon, and that will be another reg. that we will have out in the final status. But it was coordination within the government and trying to answer all the questions that were raised in the implementation phase to anticipate that.

Mr. SABLAN. Could we expect—I mean, we have seen the first one that was issued, you know, sometime back. Is the Department responsive to the extensive comments provided by our government, by the Guam government, by the CNMI workers? Could we say that you guys took a serious look at these things and reacted to it, responded to it, did something about it because you had to?

Ms. RYAN. Ranking Member Sablan, I can't really talk about the final rule until it is actually promulgated, but yes, we absolutely took the comments of our stakeholders quite seriously in developing the final rule.

Mr. SABLAN. And we expect the regs. out within the 90-days?

Ms. RYAN. Yes, sir.

Mr. SABLAN. We don't really think it is going to back to the Department, is it, to OMB?

Ms. RYAN. I hope we can get it out as quickly as possible, but I cannot make any representations on the speed at which it will come from OMB, but it is at OMB which is a very good sign.

Mr. SABLAN. By the time everything went really well, hunky-dory, maybe at the latest it would be September, no?

Ms. RYAN. Hopeful, that is absolutely the case.

Mr. SABLAN. And your Department is ready to address, to prepare for the volume of applications that will have to be processed before November 27?

Ms. RYAN. Yes, sir. We have actually been anticipating that there would be a large volume, and we have been coming up with plans in order to address that.

Mr. SABLAN. Yes, your Hawaii, Guam and CNMI offices are prepared for this?

Ms. RYAN. Yes, and our California Service Center.

Mr. SABLAN. All right. And do you have any plans to do outreach in the Commonwealth?

Ms. RYAN. Absolutely, we will do outreach. We will have information on the website as well as in face-to-face meetings and we will try to make sure that everybody is aware of the way that the rule will operate.

Mr. SABLAN. But because this is the Federal Government we never know what can happen, so in case it doesn't—the regulations

don't come out by November 27, is the Secretary prepared to use her parole authority to allow CNMI umbrella permit holders to remain lawfully in the Commonwealth until the regulations are issued and the applications are adjudicated?

Ms. RYAN. I appreciate how important this is and your desire to have reassurance on contingency plans, and yes, we have contingency plans. We hope not to have to employ them. We hope to have the rule out and employers and petitioners well aware of how to take advantage of the new program.

Mr. SABLAN. I will be back with you.

Good morning, Hazel. Hazel, good morning.

Ms. DOCTOR. Good morning.

Mr. SABLAN. You are not going to fall asleep there on us, are you?

Ms. DOCTOR. Oh, no, I am fine here.

Mr. SABLAN. Isn't this wonderful having you 8,000 miles away and testifying before Congress? Thank you, Chairman Fleming. Chairman Fleming allowed the use of the video and we really appreciate it.

But Hazel, you are not a boastful person. I have known you practically all of your life. You used to chill out at my house because you were classmates with my daughter, and you graduated valedictorian of Mount Carmel High School. I know you have been offered a $60,000 scholarship to come to the university in the States. You said you plan to become a psychiatrist, return to the Northern Marianas to use your skill. We need smart, young people with professional training to build our economy, to make the Commonwealth a prosperous and a beautiful community to live in.

Let me ask, what if your parents are forced to leave? Are we going to lose you?

Ms. DOCTOR. Most definitely. It would definitely be heartbreaking for me to come back to the islands knowing that my foundation, the people that I have grown up with are gone. It would be very sad to see the same people that I grew up with whose parents are also non-resident workers, to, you know, probably come back with that same feeling or maybe not at all, and these are the types of people who do have the intention of coming back as engineers, as accountants, as business managers and other great and very necessary jobs that are critical and important for the economy, economic development.

Mr. SABLAN. I know my time is up. Just one thing. We have heard testimony described as families being held by H.R. 1466 are unemployed, unemployable, and without means of support. Hazel, 20 years, your parents have been there for 20 years. Can you tell us about your parents? What do they do for a living? How long have they worked in the Northern Marianas? How did they get to private school?

Ms. DOCTOR. Well, they are both accountants and they have been working here for almost two decades, and they managed to get me through a private school, both my sister and I, through a lot of savings and some great financial aid. They have been working very hard and I can see that parents with children just like me are doing the same thing. They, too, have a low income threshold and try to make a great living with whatever they can to send their

children to a better way of life here on the islands, and I really hope it continues that way.

Mr. SABLAN. Thank you, Mr. Chairman. My time is up.

Mr. FLEMING. I thank the gentleman, the Ranking Member. Now, Mr. Young, sir, you have five minutes.

Mr. YOUNG. Thank you, Mr. Chairman. I don't have questions now but I will submit questions to Ms. Ryan, and my interest in this is very clear. The delegate came to me and said this is a problem in my district, and the lady from Guam mentioned the same thing, and I want to believe that if it is their problem I will help them solve it. I believe this very strongly. I always have and always will.

I just have one question for the sponsor. We are talking about 4,000 people, correct?

Mr. SABLAN. Yes, sir. GAO just said that an Interior's report said that.

Mr. YOUNG. And there is no chance of that increasing if we pass this law?

Mr. SABLAN. No, sir, because on May 28th you have to have been a resident on May 28, 2008, and on the day of the enactment of this, so there are two ends of law. No, sir, it doesn't have any chance of increasing.

Mr. YOUNG. Now, is there any restriction of these people if they don't meet the income threshold? I understand they have to be making a certain amount of money but they are under minimum wage, I believe, some of them, so that is a problem. Can this law that you are proposing overcome that?

Mr. SABLAN. Presently, sir, Chairman Young, the reason I am—personally many of these people, the Marianas' citizens, have for many purposes of law met the Immigration Nationality Act requirements. Some of them are walking around with one more additional requirement they need to fill and it is they need to fill a financial sponsor requirement, and that is holding back some of these people, holding back from converting the status.

Now, if 1466 does not help these people, those people who have for purposes of the law met all the other requirements will on November 28th be deportable.

Mr. YOUNG. Will be deportable, but can one of the departments, the Homelands or Interior, stop that deportation?

Mr. SABLAN. I think they do. They may disagree with me but I think the Secretary of Homeland Security has the authority to issue a parole in place for these people except the parole in places are discretionary and they are only for two years at a time, or annual, they are annual. They are for one year at a time. That is free. That has no income threshold requirement, but it is the same thing that they go through every year now, it is one year at a time, and two years from now we could have a different Secretary of Homeland Security and they would just change their mind about the whole thing and then we will be in the same place we are at today.

Mr. YOUNG. That is why it is important to pass this legislation.

Mr. SABLAN. And urgent. Promptly yes.

Mr. YOUNG. Urgently. Last may I ask you, the opposition to this would be based upon what?

Mr. SABLAN. I have absolutely no idea.

Mr. YOUNG. OK, the reason I ask that, and by the way, young lady, you do a great job. You are going to go a long way in this life of yours. You speak very well. You are well educated, a classic example, a classic example of parents putting their money into the future, and it would be wrong to have you separated from your parents.

So what we have to do is look at the solution and get it passed. Unfortunately, we have to remember I think we would have luck here. You have a sink hole on the other side, like it is on I-95 right now, or 495. I don't know whether you heard the news today, the highway sunk.

Mr. SABLAN. Oh, yes.

Mr. YOUNG. Well, that is the Senate side.

[Laughter.]

Mr. YOUNG. So we have to fight that battle but let us see if we can do it. I want to congratulate the delegates for their work, and the Members that are here, and let us go ahead and get this legislation.

Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. FLEMING. Thank you. The gentleman from Alaska yields back.

Next, Mrs. Bordallo, the gentlelady from Guam.

Mrs. BORDALLO. Thank you very much, Mr. Chairman, and I want to thank Congressman Young for his kind words, and I know he will help us as well as yourself.

Before I begin my questioning I would like to recognize a few people in the audience. We have our Speaker, the Guam Legislature who is here. We have Joann Camacho, the former first lady of Guam and general Manager of the Guam Business Bureau, and I would also like to note the presence of Senator Tina Muna Barnes who is with the 31st Guam Legislature and she chairs the Committee on Municipal Affairs, Tourism, Housing, and Recreation. They are tireless advocates for Guam's tourism industry, and I do appreciate it, and I want to say a warm "Hafa Adai" to everyone in the audience today, my friends from CNMI and Guam.

If first want to ask Governor Calvo, thank you for your testimony, Governor. Can you give the Committee a sense of the economic importance of extending the Guam CNMI visa waiver program to China and Russia? And how important is this to Guam's future economic prosperity?

And further, some have suggested you can't have a military build up and an expansion of a visa waiver. Now, I believe that is a false choice for the people of Guam, and as such, can you comment on where local commanders on Guam, in particular, Admiral Buchan, may be on the issue of extending waiver to Russia and China in Guam? And if there were to be security concerns, then I would expect those concerns to be raised by the local commanders first. Can you comment on that?

Governor CALVO. Sure, on two points. On the economic importance to Guam, again we have a 13.6 percent unemployment rate here. 2009, we were at 9 percent. Within that two-year period we have created 1,000 new jobs. The big question, of course, how the heck did that happen? How did you get more jobs created but your unemployment growing? And that is why it was so important to

bring up the FAS question, because we have had 87 percent growth in five years of FAS immigrants from 2002 to 2007, so we have a fast growing population. Right now because of our military industry and our tourism service industry, those are the two pillars.

The military side right now, we are not too sure, again things are happening in the Senate with the Marine buildup, which I am advocate for, but when we had 900,000 tourists coming from Japan, our biggest market, out of a total of 15 million outbound market out of Japan, when that tsunami hit we experienced a 30 percent drop off on the Japanese market, and again it has had a significant impact and has thrown us back into a recession.

We look at China, and I go back to Japan, 15 million outbound tourists, China, 55 million, Russia, 13 million. The average American tourist spends around 100 to 150 dollars a day. The Japanese tourist spends about 300 some dollars a day. The Chinese tourists spends $600 a day and the Russians spend $900 a day. That is just how they spend.

The importance to Guam for that access and how it can help both Guam and Northern Marianas in terms of our economic well being has a positive effect to the United States. You know, one of the things I am concerned about, I have been talking with the State Department, I am going from here to Utah for the Governors Conference, and they have a whole bunch of Chinese Governors there meeting with American Governors to try to get—how we can get this bilateral trade to get a bunch of Uwan back to the United States, so we are trying to build this—even this deficit, but again, the most easiest way to do it is to get Chinese tourists who are just four hours a way to Guam.

Security issue, I for the life of me can't understand it. The largest group of college students in the United States today coming in from a foreign country, they come from Mainland China. They are coming to our universities. I have talked to our military commanders back there in Guam. They are not concerned about it. I have talked to Undersecretary Work. They don't have an issue with it. I am not too sure. As far as I am concerned when I am going to Washington, D.C. we have been trying to find out where the potential areas of the concern. I am not seeing it from the Defense Department so I assume it is coming from Homeland Security.

Mrs. BORDALLO. Thank you. Thank you very much, Governor. You did answer the question, and I am taking up a little of what the Chairman had mentioned to Secretary Ryan. You specifically said security is not an issue. Did I hear that right?

Ms. RYAN. I said, Congresswoman, that we take into account, or the Secretary, through the interagency consultation with the Department of the Interior, Department of Defense, and Department of State would factor in whether there was a security risk in extending VWP for Chinese and Russian nationals, and she has not made her final decision yet, but that would be a factor as well as the economic opportunity that such travel might bring.

Mrs. BORDALLO. Maybe I can understand. I thought I understood that the decision now is solely up to the Secretary. You have done your work.

Ms. RYAN. The Secretary of Homeland Security has the authority under the INA. She is going to make a decision after we had consulted with those departments that I have talked to you about.

Mrs. BORDALLO. I did meet the Secretary just recently during a caucus meeting, and she told me she was going to get back to me, and I spoke to her about the urgency of this, and I want to ask a couple of pointed questions here if you would.

The Department of Homeland Security, how much longer do you have to study what needs to be done to issue the final rule? We have been on hold for too long, and I just want an idea of when you think the decision from the Secretary will take place. Can you give us any time frame?

Ms. RYAN. As someone who has worked as an Executive Branch lawyer, I hate to give a deadline that I can't promise and I don't control when she is going to take decisions, so I would say I fully appreciate how important this is to Guam and to CNMI, and I will make sure I do everything possible to urge a decision, but I can't give you a deadline, but I will take back exactly what you have said to her, and make sure that her counselors are aware of how important this issue is to you and to the Committee.

Mrs. BORDALLO. We are simply asking for parole authority. That is what we are asking for. Just as the Northern Marianas gets at this point, and I just don't understand. I thought the decision was going to be made before the end of last year, and we are still holding onto this, and it is very frustrating to say the least, and I was promised that a decision would be made very soon.

So, you don't have an answer to any of these questions. In other words, security is not entirely out?

Ms. RYAN. I would have to say representing the Department of Homeland Security that looking at the national security issues with respect to immigration is always—it is fundamental to our job, so that is part of the calculation she would make in deciding whether to extend parole to Guam or to extend VWP to Chinese and Russian nationals in Guam and CNMI. It is always going to be a factor in any calculation she makes as well as the economic issues and other factors that are available to her.

Mrs. BORDALLO. And for the record, Secretary, Admiral Buchan, who spoke on behalf of DOD, he is our local admiral, he stated very clearly no concerns on their part, so I don't understand how that security just keeps coming up over and over.

Ms. RYAN. Thank you very much for that information. I wasn't aware of his view but I will let her know that as well. We have been talking to DOD here in Washington, but I am very pleased to take that information back to her.

Mrs. BORDALLO. Thank you very much and I yield back, Mr. Chair.

Mr. FLEMING. I thank the gentlelady. Next the Chair recognizes the gentlelady from Hawaii, Ms. Hanabusa.

Ms. HANABUSA. Thank you very much, Mr. Chair.

Secretary Ryan, have you had the opportunity to read the testimony of the Governor of CNMI?

Ms. RYAN. Are you talking about today's testimony?

Ms. HANABUSA. Right.

Ms. RYAN. No, I have not read it in full. I have only been able to listen to his oral testimony today, but I will do that when I get back to my office.

Ms. HANABUSA. Well, let us just go through what you heard in terms of his testimony. He has raised an opposition to this particular measure, about 11 different concerns. Do you know if the rule that you are proposing to implement, I think, by mid-September was your estimate, would be addressing his concerns that you heard him testify to?

Ms. RYAN. I understood the Governor to be talking about the people that aren't currently covered in the transition rule, and stating an opposition to that, and then I heard my colleague from GAO suggest the number that he had raised might be somewhat inflated.

My understanding with the investor rule is that we will (a) be ready for it in advance of the November 28th deadline; and that we are fully engaged in having it be operationalized. I don't think it would cover the people covered in Mr. Sablan's bill as I understand it. They are a different category of people.

So, I think what we have committed to is looking at parole authority for certain groups that were not covered in the CNRA, and also working with the Committee on the legislation itself as it moves forward.

Ms. HANABUSA. OK, that is an important point because I want it to be clear in my mind that you are not talking about the same group that Mr. Sablan is speaking to. He is talking about 4,000 very specific individuals. So the rule that you have testified to that will take effect in mid-September will not cover those 4,000, so Ms. Doctor's, for example, her parents would fall through the cracks.

Ms. RYAN. The rule that will come out relating to the worker, the worker rule, will permit petitioners to file for persons there, but as I understand it the categories of people that Mr. Sablan's bill is designed to address would not necessarily be covered by that. There may be some crossover in some cases. I don't want to mislead the Committee, but my understanding is he is trying to help four specific groups of people, that maybe three to four thousand persons in size that would not automatically be covered by our rule that will come out before November 28th, hopefully.

Ms. HANABUSA. So assuming that Ms. Doctor's parents fall into the category that is not covered, what then will happen to them come November?

Ms. RYAN. Well, as I understand from Ms. Doctor, and I don't have access to her family's records, but as I understand her parents right now don't have the ability post-November 28th to remain lawfully in CNMI absent either parole or some other legislative action. But again, I don't have specific access, but that is how I understand the situation to be in Ms. Doctor's case.

Ms. HANABUSA. So in that situation the only way that we would be able to ensure that Ms. Doctor will continue her education in the United States and return to CNMI as a psychiatrist would be if her parents are somehow covered under 1466?

Ms. RYAN. As I understand it, there is, I think, three options. If the bill passes, that presumably her parents would be covered, there would be parole, the potential for parole, and the third option

would be if her parents' employers petitioned for her and got her employment status based on their working relationship with her, so I think there are three avenues that I think are available, depending on the actual circumstances.

Ms. HANABUSA. And Ms. Ryan, given the fact that, and this is no insult but it has taken so long and we are talking about November of this year, is it that the bill is probably the most fail/safe way to address this specific group of 4,000?

Ms. RYAN. On the investor rule, I would say that while it has taken a long time part of the reason that that is the case was that we were enjoined from implementing it by Federal litigation, so that has been a part of the delays that I should say.

I think, given the timing here, we are very aware that we need to get our rule out so that employers have opportunities to make those filings. I am not sure about the calendar of the Congress and which one will happen first. I suspect our rule will get out before there would be an opportunity——

Ms. HANABUSA. We already know that your rule will not address this group of people.

Ms. RYAN. It would address it potentially, as I said, some of them.

Ms. HANABUSA. Right.

Ms. RYAN. Because if they had an employer who could file a petition on their behalf, but as I understand it from the description of the Ranking Member, it would not cover all of them.

Ms. HANABUSA. Thank you very much. Thank you, Mr. Chair.

Mr. FLEMING. I thank the gentlelady. Next recognized is Mr. Faleomavaega. Thank you, sir. He is passing on questions. Thank you, sir.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman, and I do want to commend you for your leadership and initiative in bringing these two pieces of legislation for consideration, and I also thank your Ranking Member for his services and leadership in working in this Subcommittee.

I do want to offer my personal welcomes to our distinguished guests on the panel here as witnesses: my good friend Governor Fitial and also Governor Calvo. Dr. Gootnick, always good to see you. Secretary Ryan and Mr. Nik Pula with the Office of Insular Affairs, and Ms. Pierce, we welcome you for your testimony that has been born here.

I have so many questions I don't know where to begin with, but am I correct, Mr. Chairman, that we ought to focus primarily on Mr. Sablan's bill, H.R. 1466?

Mr. FLEMING. That is correct, but we are going to have a second round of questions.

Mr. FALEOMAVAEGA. I understand that. So I do want to thank Governor Fitial for his testimony, and very substantive I might say, and Governor Calvo, I am going to reserve my questions for you in the next panel dealing with our situation in Guam.

I thought your comments, Governor Fitial, were quite substantive in the fact that you have twice made testimonies before this Subcommittee on the same issues—failure to grant visa waivers, failure to depart illegal aliens, failure to monitor exits of tourists, failure to provide Congress with useful reports.

I understand there is some little disagreement with you and my good friend Mr. Sablan and H.R. 1466. Do you think there may be a possibility that we can work out some basis of agreement in terms of the substance of the proposed bill, and with what Mr. Sablan has provided in H.R. 1466?

Governor FITIAL. Absolutely. Let me just make it very clear that we are talking about four classifications of, you know, U.S. citizens, and I have no qualms over the first three. I am only concerned about the fourth category which would grant, you know, citizenship to parents of U.S. citizen children.

Mr. FALEOMAVAEGA. So, Governor, your concerns have been well taken, so we can work with Mr. Sablan in a way that we can cure some of the concerns that you are raising.

Governor FITIAL. Right, and the concern of, you know, the young lady here, her parents—as long as they have permits, working permits, they have no problem. I want to make that very clear. They will not be deported as long as they have valid working permits.

Mr. FALEOMAVAEGA. Well, you know we have a similar situation here in our country where we have parents who were not here legally but children were born here as U.S. citizens, and questions of deportation come into play and a very, very serious problem that we are faced with here in our country, and I realized the sensitivities involved here, and I sincerely hope that the concerns that you have raised here, Governor, will be such that we can work with my good friend Mr. Sablan and——

Mr. SABLAN. Would the gentleman——

Mr. FALEOMAVAEGA. I would gladly yield but I have real——

Mr. SABLAN. Just one comment.

Mr. FALEOMAVAEGA. Please

Mr. SABLAN. Because I don't think it in the Commonwealth's place to now say that the parents of individuals like Hazel Doctor will not be deported because it is Ms. Ryan's department that controls immigration, no longer Governor Fitial, and that is the law. So we can't continue to be delusional that they will be fine when the Commonwealth no longer controls the borders. That is all.

Mr. FALEOMAVAEGA. I thank the gentleman, and I am going to ask Secretary Ryan——

Governor FITIAL. If I may.

Mr. FALEOMAVAEGA. Please, Governor.

Governor FITIAL. That is why I am proposing, you know, an H-5 visa that would accommodate workers instead of just families, OK. So if we can accommodate the parents of that young lady, you know, to continue working, then that is my proposal. They will never be deported.

Mr. FALEOMAVAEGA. OK, Governor, I realize that my time is short but I will definitely raise that issue with my good friend Sablan.

Secretary Ryan, it is my understanding the Department of Defense is with the visa waiver program, the Department of the Interior, but the State Department raises objections, and at this point in time Homeland Security has not issued. Is it because of the State Department's objections or what seems to be the problem?

We keep talking about security issues. We have 680,000 foreign students attending American colleges and universities and the Chi-

nese are number one, about 100,000 of those students are from China. And so where are the security concerns that Homeland Security might have on the visa waiver program for the Russians and the Chinese to come?

Ms. RYAN. Well, respectfully, sir, I would say that the students that come here from all over the world are screened and actually obtain a visa, and so they are interviewed to make sure that they don't pose a threat to public safety or national security. So, again, it is the totality of the circumstances that the Secretary looks at. I would be recalcitrant in my job if I didn't identify national security or public safety as a critical factor in any determination on making categorical parole decisions or visa waiver.

But I am not here to say which agencies are coming out which way, but I can assure you that we are working in consultation with those agencies to get a decision from the Secretary.—

Mr. FALEOMAVAEGA. Well, we have been saying that for the past three years, Ms. Ryan, and we still haven't solved some of these problems.

I am sorry. I yield back. My time is up.

Ms. RYAN. May I make one more point about Ms. Doctor's family which I think is important to the discussion?

If the bill were to pass, then her family would have, of course, access to lawful permanent residence first and then citizenship. The other opportunity would be if her parents were able to have their employer petition for them. That, of course, would be just a transitional or it would be a temporary situation because it is a transitional worker, and that non-immigrant status would sense that, so they would not have any permanent ability to remain in CNMI, and I guess I wanted to make that clear to the Committee and to understand the differences in the options that I offered.

Mr. FLEMING. Well, we have completed a round of questioning and I do thank the witnesses for your testimony and your willingness to answer questions very straightforwardly. I think that the panel here would like to have another round of questions if you are up to the task, so therefore I am going to go ahead and recognize myself for five minutes.

I want to pick up kind of where I left off, and this question is for Governor Calvo. We really drilled down, I did and others on the panel, on the issue of security risk, particularly on Guam because that is an area that seems to be confusing that we don't have parole authority on Guam for the same visitors that we have on Saipan, for instance. So, I want to ask you, sir, are you satisfied that the security issues have been explained to you and that you are knowledgeable about everything that we may be up against on that?

Governor CALVO. Again, Mr. Chairman, this is my second time to Washington, D.C. meeting with folks at the State Department, at the Defense Department, at Homeland Security, and, of course, again with Members of Congress in the House, I don't see, at least from the point of the Defense Department, the levels that I have talked to them, whether it was Under Secretary Work or Secretary Forrestal, or the Admiral or the General, these concerns on security.

You go to an island like Guam, anyone who has been there understanding the access to the military bases, both Anderson and Big Navy, which is the base in the harbor area there, those facilities are fenced in and they are secure. So even for local residents it is—and in order to get into these facilities you need to have the proper credentials.

The irony I see in all of this, Mr. Chairman, is the concerns that they are bringing up with China and Russia, and again the good Congressman from Samoa mentioned that, you know. We have 100,000 students that come in from China to go to school here, and once they get into the contiguous 48 states, it is hard to track them. Guam is 212 square miles. The security issues, I don't see. It would be more easy for an enemy of the United States to go through FAS, the Freely Associated States, because there has been a problem, and I have seen it, and I have heard about it from our officials in Guam where you have an FAS passport. Some folks come in here, then, of course, they have been deported, but they just change their names and a year or so later they come back in, and when they hit the U.S. officials at the airport, they come right in. Hey, there is this treaty.

So the issues on security to me are ironic because I don't see it coming from China or from Russia. If there was even an issue of security is if there would be an infiltration coming from maybe someone from an FAS state.

Mr. FLEMING. OK. Thank you, sir.

Then, Ms. Ryan, you know, Members of Congress have security clearance, and I don't want your answer to, of course, breach security limits in any way, shape or form, but my question is if we were to have a closed door hearing with officials from DHS and State Department, would we be able to get a better understanding of what some of these obstacles may be?

Ms. RYAN. We would be pleased to provide all the information in a secure setting, and again, I just want to reiterate for all here that there seems to be a lot of focus on security as if this was the only issue. Obviously, the Secretary looks at the totality of the circumstances and that would include, you know, the overstay rates of people who would come in, it would include also cooperation on return of their nationals in the deportation context for people that we have to remove, but we would be glad to provide you the information that she is privy to that we have gathered through the interagency.

Mr. FLEMING. OK. Well, then I would certainly suggest to the panel that we pursue that. That may help give us a better insight and understanding, and maybe even timeline because I know that is a big issue here today is it is in the Secretary's hands, but nobody can tell us when she is going to make a decision.

Well, if we know something that she is looking at maybe we can get a better understanding as to what that timeline may be, so I will suggest that.

Well, with that I am going to yield back, and let's see, the gentleman—the Ranking Member Mr. Sablan is recognized for five minutes.

Mr. SABLAN. Thank you again, Mr. Chairman. Ms. Ryan, please bear with me.

The expiration of asylum Public Law 110-229 provides that the asylum provision of INA shall not apply during the transition period to persons physically present or arriving in the Northern Mariana Islands regardless of how or where entry occurs. There are two conflicting references to the date on the prohibition. 1702-AC states that asylum shall not apply during the transition period which expires December 31, 2014. Section 207-J5 states that no one is permitted to apply for asylum under INS Section 28 prior to January 1, 2014.

Now, what is the Department's position on the expiration date of that bar?

Ms. RYAN. Ranking Member Sablan, our position is that it is the—under the DHS and Department of Justice rule that we published in October of 2009 we believe that the January 1, 2014, date was a clerical error in the CNRA and therefore as a matter of law the asylum bar expires on December 31, 2014.

Mr. SABLAN. Wait, wait, wait. So you have no problem with those two conflicting dates?

Ms. RYAN. Well, our regulations and the DOJ regulations construe the statute to make it December 31, 2014, but we would welcome statutory clarification to resolve the discrepancy.

Mr. SABLAN. Oh, all right. OK. The Commonwealth government, our Governor, my Governor and I agree that the bar on asylum should be extended. I have introduced H.R. 2395 to provide for such an extension to coincide with extensions to the transition period. The bill is not the subject of today's hearing but what concerns, if any, does the Department have about the bill or extending the asylum bar?

Ms. RYAN. One of the chief goals of the CNRA was to harmonize U.S. immigration law in the CNMI with our Federal immigration law, so we think it is especially important in areas of humanitarian protection. So we would like persons who need to seek asylum to be able to enjoy that ability in the CNMI, so the harmonization issue is one that presents itself.

Mr. SABLAN. Right. No, I am a Democrat. I agree with all those human rights thing, but until we clean out some of the issues that we have there I think it would be appropriate that we just make it to the transition date up here.

Now let me say another impact of P.L. 110-229—I am running out of time here—was recently brought to my attention. A surface freight provider that travels between ports, Saipan and Guam. They are having difficulty obtaining work visas for the crew as a result of the transition. The BART operates routinely between the ports and the islands, it provides bi-weekly service, and bringing non-perishable and frozen foods, different things between the others. For Tina and Unready, it is personally doing surface, freight provider servicing the islands. The CNMI was considered a foreign port prior to 110-229. The visas previously held by the crew were allowed to—them to travel between Guam because it is part of the U.S.

Recognizing the need for—DHS has cooperated for a one-year period. I mean, thank you very much and I appreciate the help of your Hawaii office, very important here, but what can the Depart-

ment do to assist the company in a situation, particularly now during this transition period?

Ms. RYAN. Yes. I just became aware of this issue yesterday and I am sorry I don't have a more complete answer, but we can explore ways to—creative ways to try to make sure that the employees on the ship are covered. I don't have an answer today, but I will get you one.

Mr. SABLAN. Thank you. One more thing before I let you go. I promise this is the last one for you.

If DHS does not issue regs. out by November, you know, if Secretary could use parole authority to allow workers to remain in the CNMI, right?

Ms. RYAN. Yes, sir.

Mr. SABLAN. But would these workers still also be allowed to work?

Ms. RYAN. With parole authority we can grant employment authorization.

Mr. SABLAN. Parole allows you to stay, right?

Ms. RYAN. Parole permits you to stay lawfully in the United States.

Mr. SABLAN. But you need separate authorization to work?

Ms. RYAN. Yes.

Mr. SABLAN. And the Secretary can do that?

Ms. RYAN. Yes, sir.

Mr. SABLAN. OK, thank you.

Ms. Pierce, thank you for being here, taking the long trek also. And I don't need your—you know better than I do the importance of Russian and Chinese visitors to the Commonwealth. It has strengthened the economy. In your view, how would extending parole to Russian and Chinese tourists to enter Guam and eventually including Russia and China in the Guam/CNMI visa waiver program have on tourism in the Northern Marianas?

Ms. ALDAN-PIERCE. Thank you for your question.

Actually we see this as a positive opportunity. We see it as Guam complementing, you know, what we have to offer. We are different destinations, so basically what it will do is offer travelers coming to the Marianas one more menu of things to do which would work very nicely with the extending of the time that is allowed, that gives travelers, you know, to stay, being extended from 15 days to 45 days. That was the intent is to give the traveler the opportunity to go and visit, hopefully visit multiple islands.

You know, we are all very different. There are four inhabited islands in the Marianas—Guam, Saipan, Tinian and Rota—and each island offers different—you know, different experience. So we see that as an opportunity, plus it is no secret, Guam is a lot bigger than we are. They have resources that we don't have, Governor Calvo, and I think it will be—it will help the CNMI, especially in trying times such as these. We do not have a budget they do.

Mr. SABLAN. Thank you. I am running out of time. Just one more, may I?

Ms. ALDAN-PIERCE. I can say more.

Mr. SABLAN. Making the case for my H.R. 1466, because I say it will stabilize the workforce in the Marianas and have a positive impact. Out of curiosity, your company, your business DFS, do they

employ people who are families within the four groups? Because I—no question in my mind that your company is one of the best companies in the Northern Mariana Islands, and I am so proud of what you guys do in the entire Pacific region.

But do you employ any of these individuals in one of the four groups?

Ms. ALDAN-PIERCE. We actually—DFS, we have a little bit over 200 employees. Out of those we have 25 who are immediate relatives. Out of those immediate relatives, there are five who are married to FAS, so there will be those five impacted. Plus we have three who are CNMI permanent residents.

In terms of how many are contract workers with U.S. citizen children, I actually posed the question just last night and we were not able to get that information, but I certainly can submit at a later date.

Mr. SABLAN. May I say that if 1466 passes, it will provide stability to your employees and then thus your company and thus the prosperity of the Northern Mariana Islands.

Ms. ALDAN-PIERCE. We have we call the Coffee Hour whereby members of the management committee sit down and talk to, you know, various groups within our company, and one of the things that always comes up, especially for, you know, those classes of people who are not covered, the ones who are falling through the cracks so to speak, every time we sit down with them they always talk about, you know, what is going to happen to them and their families.

So, you know, it is a lot of—they get very emotional, and all we can say is not to worry because hopefully things will happen in Washington, D.C.

Mr. SABLAN. Thank you very much. My time is up.

Mr. LANDRY. [Presiding.] The Chair now recognizes Mrs. Bordallo for five minutes.

Mrs. BORDALLO. Thank you, Mr. Chairman.

I would ask a special request, that I would like for you to recognize my friend from Puerto Rico first. He has another committee meeting to go to, and then I will be happy to take up my questions later.

Mr. LANDRY. Sure.

Mrs. BORDALLO. Mr. Pierluisi from Puerto Rico.

Mr. LANDRY. Sure. The Chair now recognizes Mr. Pierluisi for five minutes.

Mr. PIERLUISI. Thank you, Mr. Chairman.

Let me first say to the witnesses here present that you have seen me coming in and getting out of here. The reason is I am a member of the Judiciary Committee and there is a Full Committee markup requiring my presence for votes. Otherwise I would be here for the whole time. But before I excuse myself once again let me first say that I sit here in full solidarity with aspirations and needs of my fellow citizens and residents in the two territories that are so well represented here today by Governor Calvo and Governor Fitial. So count on my support. I represent Puerto Rico, by the way, a sister territory.

Now for the record I would like to show my strong support for both legislative measures before us. H.R. 1466 and H.R. 44, and to

associate myself with the positions of my colleagues, Ranking Member Sablan, and our former Chairwoman Madeleine Bordallo.

Mr. Chairman, I urge your support for both of these bills and hope that with your and Chairman Hastings' leadership these measures will be embraced by the Full House without delay. As our witnesses remind us, passage of both bills is time sensitive. Separation of families in the Northern Mariana Islands is not something that should occur on this Committee's watch, and as November 28 looms, this Committee should take prompt action to report out H.R. 1466.

As a member of the Immigration Subcommittee and the Judiciary Committee, I am keenly interested in resolving this matter. I note that a Full Committee—as I said, there is an ongoing matter before the Judiciary Committee and that is why I am not going to continue being here. But let me also take this opportunity to implore the Subcommittee to embrace H.R. 44.

The record is complete on this subject, and I was honored to speak on the House Floor in support of this legislation in my first few weeks as a Member of Congress in 2009. It is disappointing this issue remains unresolved for fellow Americans from Guam. There simply is no justification for the continued denial of justice, and this Congress has before it a thorough and sound report from the Federal commission that was appointed by the previous Administration to examine this issue. The findings and recommendations are as compelling today as they were when delivered in this very room on July 21, 2004.

So, I also thank the witnesses for their testimony, and Mr. Chairman, I yield the balance of my time.

Mr. LANDRY. Thank you. The Chair will now recognize Mrs. Bordallo for five minutes.

Mrs. BORDALLO. Thank you very much, and I do want to thank my colleague for his kind words and words of support for these bills.

After the interim final rule on Public Law 110-229 was released by the Bush Administration, I worked closely with DHS to ensure that parole authority was extended to CNMI concurrently with congressional intent and because of the immediate economic impact loss of Chinese and Russian tourists would have on the CNMI market. Unfortunately, the reason GDP economic data indicates that parole authority in the CNMI isn't working.

So my question is for both Governor Fitial and Ms. Pierce, can you discuss the potential economic benefit to our region if parole authority was extended to Guam and the final rule includes China and Russia? Governor.

Governor FITIAL. Thank you, Madam Bordallo.

I have testified previously on that very issue that you raised and I am consistently supporting the visa waiver for both CNMI and Guam. I strongly believe that, and I stated in my testimony that the parole policy, you know, by DHS is not an alternative. We need the visa waiver, you know, to secure the economic benefit that comes about as a result of the visa waiver for both CNMI and Guam. So that is my request.

Mrs. BORDALLO. Thank you, Governor.

Would you agree with this comment: that the current parole authority is a cumbersome and complicated process for visitors?

Governor FITIAL. That is true.

Mrs. BORDALLO. All right. And Ms. Pierce, would you have any comments to make? If you could make it brief because our time is always running out.

Ms. ALDAN-PIERCE. In terms of—I am not sure about the economic activity. What I know is that there are over—the number for China is not 55 million. The projection for 2011 is 65 million outbound market. So in terms of, you know, sheer numbers to Guam, I don't know what you—Guam is lucky because you guys have more access to air service, you know. Right now one of the reasons why it is very hard for the CNMI to grow our China market and Russia market is because of the instability of air service.

Our China, our PRC visitors come to the CNMI by charters, and you know, we can plan and then all of a sudden they stopped because, you know, the cost of fuel, the cost of charter would go up, so there is no stability, especially because the parole authority really—it is an administrative authority, you know, like Ranking Member Sablan mentioned. It is something that may change when a new Administration comes in. We don't know. So that is why we would like to have under the final rule, you know, it becomes legislative, we can better plan, businesses can plan, the CNMI can go out and, you know, get airlines to commit to us.

Mrs. BORDALLO. Ms. Pierce, would you say that the visitors' industry in the Northern Marianas has any objection to Guam joining in this—with the parole authority even?

Ms. ALDAN-PIERCE. No. I think the majority——

Mrs. BORDALLO. And I think we can work together, right?

Ms. ALDAN-PIERCE. Yes, and we actually look forward to doing that.

Mrs. BORDALLO. I think this is one thing we have to do, Governor Calvo, Governor Fitial, is to see that our two communities work closely together, especially in the area of tourism, because, you know, in the old days we used to make the round robin trips through the islands, and I think if the two visitors' bureau industries work together closely that we can really make this a truly Pacific destination that people look forward to.

There are things in the Marianas, there are items of interest in Guam that tourists would certainly like to see and if we work together closely, I don't think this has been happening in the past, so let us—we have the two industry managers, directors here with us. I have talked to Joann Camacho on this, and she is very receptive to working closely with the CNMI. So let us let that happen because that will make our communities grow.

Thank you. I yield back, Mr. Chairman.

Governor FITIAL. Congresswoman——

Mrs. BORDALLO. Yes, go ahead, Governor.

Governor FITIAL. I just wanted to inform you that Governor Calvo and I have pledged to work together, you know, to re-unify the Marianas.

Mrs. BORDALLO. Good.

Governor FITIAL. So I just want you to know that I need your support also.

Mrs. BORDALLO. You always have my support, Governor.

Governor FITIAL. Yes, I need your support to allow the CNMI also to participate in some economic activities that are presently, you know, prohibited in CNMI.

Mrs. BORDALLO. Like some of the military building?

Governor FITIAL. Yes.

Mrs. BORDALLO. All right, Governor. We will work on that. Thank you. I yield back, Mr. Chair.

Mr. LANDRY. The Chair now recognizes Mr. Faleomavaega——

Mr. FALEOMAVAEGA. John Wayne, Mr. Chairman.

[Laughter.]

Mr. LANDRY. I know how it feels. I am from south Louisiana.

Mr. FALEOMAVAEGA. Well, let us have some Cajun breakfast here, then we will take care of that.

Thank you, Mr. Chairman. I wanted to just follow up on my good friend Mrs. Bordallo's line of question, Governor Fitial.

I understand there was some kind of a poll or survey or whatever that was taken in CNMI recently in terms of those who want to have unification with Guam, and maybe my good friend Mr. Sablan can assist. For the record, is there a movement in CNMI to see about the possibility of reunification of the Chamorro people between Guam and CNMI?

Governor FITIAL. The Marianas, including Guam and CNMI, have always been together until, you know, after the Spanish-American War. So right now as I stated earlier, Governor Calvo and I, right after his inauguration, we pledged together to work toward unifying the Marianas.

CNMI did vote in a referendum to associate or to reunify with Guam in the late fifties, 1959, to be exact. However, our brothers and sisters in Guam, you know, were not prepared at that time, so now it seems——

Mr. FALEOMAVAEGA. Were they not prepared or just simply objected to the idea of reunification?

Governor FITIAL. I didn't want to use a stronger word, but I just want to say they were not prepared to accept their brothers and sisters from the north, you know, to be together, but as time goes on it seems, you know, important and apparent that this is the right direction to take, and that is the reason why Guam and CNMI along with our brothers and sisters in the Micronesia region are now collaborating together.

Mr. FALEOMAVAEGA. I raise this question with interest, Governor, because we seem to have a similar situation in the Samoan Islands because 40 miles away from American Samoa is the independent state of Samoan composed of the two largest islands, and the misinformation that goes around that we were ever a united people, we were never a united people as far as——

Governor FITIAL. For your information, you know, American Samoa, although it is part of Polynesia, has become an official member of the Micronesian Executives.

Mr. FALEOMAVAEGA. Well, it is my understanding, you know, the people who built those lata stones, if you understand, were Samoans that were there that built the lata stones.

[Laughter.]

Mr. FALEOMAVAEGA. Just wanted to remind the Governor of that little bit of history there.

Dr. Gootnick, I note with interest your testimony that there seems to be some strong disagreements of the survey that was conducted by the Department of the Interior, and with that of CNMI. Could you comment on this in terms of the number of illegal aliens or number of aliens that are in CNMI, and certainly welcome Mr. Pula's response to that.

Mr. GOOTNICK. Well, it is an interesting question, Mr. Faleomavaega. There were a number of objections raised to the Department of the Interior's study. The first being the Governor was concerned that he was not properly consulted as required under the CNRA. The second being the way in which data was collected that formed the basis of the policy options and some of the quantitative information that was presented there.

I would say that remains an open question. There has been an exchange of letters that are in the public record between the Governor and the Assistant Secretary of the Interior, and the Assistant Secretary stands by the data that forms the basis of the report.

There is, in addition, some outstanding FOIA request and litigation in process. I am not an expert on what is taking place in the judicial system with respect to this.

Mr. FALEOMAVAEGA. My time is running out so I would like to ask Mr. Pula for his comment about this disagreement on data.

Mr. PULA. Thank you, Congressman. I think in the issue of consultation when both the Governor and Assistant Secretary Babauta last year testified in this room, they had a difference of opinion. I think, now I hope the Governor is assured that we are now consulting with each other in terms of Interior and the Governor.

As far as the report that was submitted by OIA in April 2010, there is that discrepancy of numbers, and the way perhaps it was done. Because there was no—at the time—valid information that the Department of the Interior could depend on, and it was a requirement under CNRA for the Department to do a report of how many aliens there, our ombudsman's office in CNMI then basically made announcements out to the community——

Mr. FALEOMAVAEGA. Without consulting with the Governor.

Mr. PULA. Well, we did to the extent that they know that we were going to do a report on the requirement. I think perhaps maybe the issue of not consulting with the Governor, at this point perhaps it is a difference of definition of consulting. From the Assistant Secretary's point of view he did consult with the Governor in a meeting.

Mr. FALEOMAVAEGA. I am sorry, Mr. Chairman. I know my time is up. I will thank you.

Mr. LANDRY. No problem. At this time I would like to thank all of our witnesses for their valuable testimony and contributions. Members of the Subcommittee may have additional questions for the witnesses, and we ask that you respond to these in writing. The hearing record will be open for 10 days to receive these responses.

We will now prepare for the second panel.

[Pause.]

H.R. 44

Mr. LANDRY. If we can get everyone to take their proper seats.

All right, we will now move on to the second panel to hear testimony on H.R. 44, the Guam World War II Loyalty Recognition Act introduced by our colleague from Guam, Congresswoman Bordallo.

STATEMENT OF THE HON. JEFF LANDRY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. LANDRY. A week from today, July 21, 2011, is the sixty-seventh anniversary of American troops liberating Guam. It is my understanding that this morning Congresswoman Bordallo with Ranking Member Sablan and Governor Calvo honored the lives lost during the liberation of Guam by the Third Marine Division and 77th Infantry Division in 1944 at a wreath-laying ceremony at the Tomb of the Unknowns at Arlington National Cemetery.

Arlington Cemetery is a reminder to all of us of the ultimate sacrifice brave American military personnel, both men and women, have paid for the price of freedom in this country. Unspeakable actions occurred during the war. I don't think anyone would disagree that the residents of Guam was subjected to many horrors during the 32 months of Japanese occupation. Horrible acts were occurring in every occupied area during World War II.

The 79th U.S. Congress responded quickly to the plight of Guam's residents and in 1945 pass the Guam Meritorious Claims Act to provide immediate relief to the residents of Guam. The Act paid 4,356 individuals over $8 million. Congress also passed the Guam Land Transfer Act and Guam Rehabilitation Act.

The Guam Meritorious Claims Act is said to have been the primary means of settling war claims for the people of Guam. The Guam Land Transfer Act enabled land exchanges for resettlement purposes and the Guam Rehabilitation Act appropriated $6 million for construction, and was the means for economic rehabilitation.

While I understand that H.R. 44 has been considered in previous Congresses, this is my first opportunity to review this measure as it may be for other members of the Subcommittee. I understand from my preparation for this hearing that many people here today believe the Guam Meritorious Claim Act was a start in the process, but was incomplete and did not adequately compensate the residents of Guam in comparison to other war claims statutes.

It is also my understanding from the documents in the Guam Review Commission Report that the intent of the Guam Meritorious Claim Act was not to make Guam residents whole; instead it was, at least with regard to property, to provide people relief.

I am concerned that if we go forward with this legislative proposal we could be opening Congress up to additional war claims. Documents in the Commission report make note of some 400,000 Americans who suffered injury in World War II, who never received compensation for their injuries. The President of the Heritage Foundation notes that the U.S. bears no blame here, and no responsibility. We fought to prevent the island from being taken by the Japanese, and fought to free it again.

Some 3,000 American were killed and more than 7,000 wounded in the 1944 battle for the island. That is a price paid in blood that can never be made up in mere dollars. Even the Guam War Claims

Review Commission stated that the U.S. Government is not obligated as a matter of law to pay such compensation.

During this hearing I hope to find out why there is a need for additional compensation, who will be compensated under H.R. 44, why the Japanese Government did not pay the initial compensation in 1945, and how the Federal Government is going to pay more than $100 million when we are nearly $15 trillion in debt.

As I indicated at the beginning of this statement, I am deeply sympathetic to those living in Guam during the occupation of the Japanese Imperial Army. They were treated in a particularly oppressive, cruel and barbaric way. Sadly, paying this compensation will not bring back the dead, nor will it undue the 32 months of hell which they endured.

I look forward to hearing the testimony of our distinguished witnesses.

[The prepared statement of Mr. Landry follows:]

Statement of The Honorable Jeff Landry, a Representative in Congress from the State of Louisiana, on H.R. 44, The Guam World War II Loyalty Recognition Act

We will now move on to the second panel to hear testimony on H.R. 44, the Guam World War II Loyalty and Recognition Act, introduced by our colleague from Guam, Congresswoman Bordallo.

A week from today, July 21, 2011, is the 67th Anniversary of American troops liberating Guam. It is my understanding that this morning, Congresswoman Bordallo, with Ranking Member Sablan and Governor Calvo, honored the lives lost during the liberation of Guam by the 3rd Marine Division and 77th Infantry Division in 1944 at a wreath laying ceremony at the Tomb of the Unknowns at Arlington National Cemetery. Arlington Cemetery is a reminder to us all of the ultimate sacrifice brave American military personnel—men and women—have paid for the price of freedom in this country.

Unspeakable actions occur during war. I don't think anyone will disagree that residents of Guam were subjected to many horrors during the 32 months of Japanese occupation. Horrible acts were occurring in every occupied area during World War II.

The 79th U.S. Congress responded quickly to the plight of Guam residents and, in 1945, passed the Guam Meritorious Claims Act to provide "immediate relief" to the residents of Guam. The Act paid 4,356 individuals over $8 million dollars. Congress also passed the Guam Land Transfer Act and the Guam Rehabilitation Act.

The Guam Meritorious Claims Act is said to have been the primary means of settling war claims for the people of Guam. The Guam Land Transfer Act enabled land exchanges for resettlement purposes and the Guam Rehabilitation Act appropriated $6 million for construction and was the means for economic rehabilitation.

While I understand H.R. 44 has been considered in previous Congresses, this if my first opportunity to review this measure, as it may be for other Members of the Subcommittee. I understand from my preparation for this hearing that many people here today believe the Guam Meritorious Claims Act was a start in the process, but was incomplete and did not adequately compensate residents of Guam in comparison to other war claim statutes.

It is also my understanding from documents in the Guam Review Commission report that the intent of the Guam Meritorious Claims Act was to not make Guam residents "whole", instead it was, at least with regard to property, to provide people relief. I am concerned that if we go forward with this legislative proposal we could be opening Congress up to additional war claims. Documents in the Commission report make note of some 400,000 Americans who suffered injury in World War II who never received compensation for their injuries.

The President of the Heritage Foundation notes that: "The U.S. bears no blame here, and no responsibility. We fought to prevent the Island from being taken by the Japanese, and fought to free it again. Some 3,000 Americans were killed and more than 7,000 wounded in the 1944 battle for the Island. That's a price paid in blood that can never be made up with mere dollars." Even the Guam War Claims Review Commission stated that: "The U.S. government is not obligated as a matter of law to pay such compensation."

During this hearing I hope to find out: why there is a need for additional compensation; who will be compensated under H.R. 44; why the Japanese government did not pay the initial compensation in 1945; and how the federal government is going to pay more than $100 million when we are nearly $15 trillion in debt.

As I indicated at the beginning of this statement, I am deeply sympathetic to those living in Guam during the occupation by the Japanese Imperial Army. They were treated in a particularly oppressive, cruel and barbaric way. Sadly, paying this compensation will not bring back the dead nor will it undue the 32 months of hell which they endured.

I look forward to hearing the testimony of our distinguished witnesses, and now recognize our Ranking Member Mr. Sablan, for any statement he would like to make.

Mr. LANDRY. I now recognize the Ranking Member, Mr. Sablan, for any statement he would like to make.

STATEMENT OF THE HON. GREGORIO SABLAN, A DELEGATE IN CONGRESS FROM THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. SABLAN. Thank you very much, Mr. Chairman.

H.R. 44, the Guam World War II Loyalty Recognition Act, which is sponsored by my colleague and friend, Congresswoman Madeleine Bordallo, would implement the recommendations of a Federal commission that was authorized by the 107th Congress to look at this specific issue. The Commission found that the people of Guam were treated unfairly during the war claims process immediately following World War II as compared with other claims programs authorized by Congress addressing similarly experienced losses and damages for other Americans.

Each of the four delegates from Guam to have served in the House have worked diligently to resolve this longstanding injustice faced by their constituents, and the text of H.R. 44 has passed on five separate occasions.

It is long past time that we resolve this issue and provide relief for the people of Guam for the nearly three years of brutal occupation they suffered because of their steadfast loyalty to our country and nation.

Thank you, Mr. Chairman, for allowing me to make this opening statement. I want to welcome all of our witnesses, especially former Congressman Ben Blaz, again Governor Calvo, Mr. Pula and Mr. Tamargo, and look forward to hearing your testimony. Thank you.

Mr. LANDRY. Thank you, and I will recognize Mrs. Bordallo for any statement she would like to make on her bill.

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

Mrs. BORDALLO. I thank you very much, Chairman Landry, and Ranking Member Sablan, and I would like to thank both of you for holding today's hearings on H.R. 44, the Guam World War II Loyalty Recognition Act, which I introduced on the first day of the 112th Congress, and I want to thank Chairman Hastings and Ranking Member Markey for their agreeing to allow a hearing on H.R. 44 as well.

I also want to acknowledge Speaker Won Pat of the 31st Guam Legislature. She has traveled here to Washington and has sub-

mitted written testimony for the Committee, and I would like to turn this over to the Chairman now.

Mr. LANDRY. Without objection, so ordered.

[The prepared statement of Speaker Won Pat follows:]

Statement of The Honorable Judith T. Won Pat, Ed.D., Speaker, Thirty-First Guam Legislature, on the Implementation of P.l. 110–229 in Guam (Specific Reference to the Guam-CNMI Visa Waiver Program)

Buenas yan Hafa Adai (Greetings) from the territory island of Guam. Esteemed Chairman John Fleming, M.D., and members of the Committee; Congressman Don Young, Congressman Robert Wittman, Congressman Jeff Duncan, Congressman Steve Southerland, Congressman Bill Flores, Congressman Andy Harris, Congressman Jeff Landry, Congressman Jon Runyan, Congressman Doc Hastings, Congressman Eni Faleomavaega, Congressman Frank Pallone, Jr., Congresswoman and my friend from Guam, Madeleine Bordallo, Congressman Pedro Pierlusi, Congresswoman Colleen Hanabusa, Congressman Edward Markey. Thank you for the opportunity to present testimony for the oversight hearing on the implementation of P.L. 110–229, the Consolidated Natural Resources Act, specifically in the matter of the Guam-CNMI Visa Waiver program.

As Speaker of the Guam Legislature this testimony is submitted in support of the full implementation of the Guam-CNMI Visa Waiver program.

The United States and the Marianas, a member of the American family, are both facing extreme financial challenges that are rippling through the public and private sectors forcing threats of lay-offs, reduced work hours, or a reduction in services.

Commerce Secretary Garry Locke acknowledges that the United States within the past two years has seen itself in the midst of the toughest recession in decades (June, 2011).

Similar to the financial woes plaguing the United States, Guam is also experiencing severe economic challenges. As a whole, Guam has experienced a downward economy for the past three years, from revenues of $514.8M in FY 2007 to $491M in FY 2010. Guam's general fund revenues are below budget with projected sustained declines as a result of a depressed tourism market under the current conditions. The unemployment rate on Guam in the past three years has increased steadily from 8.3% in September 2007 to 13.3% in March of 2011 (see Table 1).

Table 1: United States and Guam Unemployment Rates

Guam (Source: Guam Department of Labor)		
September 2007	September 2009	March 2011
8.3%	9.3%	13.3%
United States (Source: Bureau of Labor Statistics)		
September 2007	September 2009	March 2011
4.7%	9.8%	8.8%

The writing on the wall is clear. The United States government and the government of Guam must look towards developing opportunities that may serve to maintain budget levels in the public sector and jobs in the private sector. Anything less would result in a continued economic downward spiral.

Guam's economy is greatly influenced by its geographic location. Being that Guam is a geographically disparate society when compared to the rest of the contiguous United States, the island's economy is driven by a few key markets. One of the most important of these is tourism. For instance, Guam's designation as an up-scale tropical Pacific vacation destination in addition to its nearness to Japan is a competitive advantage. The island's status as a U.S. territory with a stable government and security adds to this advantage.

The Guam-CNMI Visa Waiver program is an excellent opportunity to "test market" the Russia and China markets for future consideration under the broader Visa Waiver program. The vast market potential inherent in an expanded Guam-CNMI Visa Waiver program that is inclusive of Russia and China is consistent with the U.S. Travel Association Report "Ready for Take-Off: A plan to create 1.3 million U.S. jobs by welcoming international travellers."

The Guam-CNMI Visa Waiver program represents an opportunity to insulate Guam and the CNMI from the woes associated with national and international economic downturn.

Our other major economy is the U.S. military—and with the increasing uncertainty regarding the military realignment from Okinawa, we must look to maturing other markets such as China and Russia in order to offset any deficits in revenues tied to delayed activity associated with the realignment.

The outlook for international tourist arrivals remains promising. According to the World Tourism Organization, in 2010 international tourism receipts are estimated to have reached US$919 billion worldwide. More to the point, given the optimistic outlook for tourism in general and sustained growth in the Chinese and Russian travel markets, both the Marianas and the United States stand to gain by making such destinations accessible.

I applaud the Committee for recognizing the potential that tourism activities represent in being able to stabilize-if not outright lift-our respective national and insular area economies. The U.S. Travel Association anticipates that 1.3 million U.S. jobs and a $859 billion infusion into the U.S. economy by 2020 will be realized by as a result of reforming antiquated visa processes. As you are aware, Congress may continue to serve as a critical partner in realizing such economic potential by creating policy that serves to empower regulatory agencies as well as the free market to implement programs and procedures that would reduce the barriers to entry into the U.S. and the Marianas without sacrificing safeguards that are already in place.

China is the world's fastest growing economy with average GDP growth rates averaged at 10% over the past 30 years. Over the past three years China arrivals into the United States and Guam increased steadily with projected double digit growth within this year alone. According to the U.S. Travel Association the U.S. received $5.0 billion from Chinese visitors with an average expenditure per person of $6,423.

According to a forecast from the World Tourism Organization, China will have 100 million outbound travellers and become the fourth largest source of outbound travel in the world by 2020 making China an explosive growth market for tourism.

Russian foreign travel remains largely untapped. Only 15% of Russia's 142 million people have ever travelled abroad. According to the World Tourism Organization, Russia ranked within the tenth largest outbound travel market in the world in terms of expenditures. Other sources cite Russian outbound trips at 12 million with travel expenditures abroad at $27 billion for 2011 alone.

Combined, it is estimated that China and Russia non-immigrant visitors may generate $212.2 million in combined payroll, hotel lodging, and gross receipts taxes by 2018. Without these two markets being added vis-à-vis the Guam-CNMI Visa Waiver program, Guam may experience a 32% reduction in tourism related revenues over the next five years.

I must underscore that tourism is a significant driver of Guam's economy. According to one report, tourism ranks as the second largest private industry in the island accounting for as much as 35% of the total jobs on Guam. Simply, 1 out of every 4 workers on Guam is directly employed by the tourism sector.

An average aggregate visitation rate of approximately 1 million visitors to Guam annually generates $1.2 billion in total tourism expenditures. The total impact in taxes paid are significant as well, totaling approximately $148.9 M in 2005.

Although tourism figures worldwide remain optimistic, travel from Japan and Korea to Guam have significantly declined this past decade as a direct result of regional crises such as SARS, September 11, natural disasters on Guam and, most recently, in Japan-with its triple earthquake, tsunami, and nuclear power plant crisis-as well. These depressed levels, in addition to a negative strategic outlook for these two markets as a result of their low birth rates and increasing competition, require our island's leaders to act in seeing the full implementation of the Guam-CNMI Visa Waiver program.

It is essential that the Department of Homeland Security implement the Guam-CNMI Visa Waiver program to mitigate the losses in tourism related revenues as a result of attrition in the declining mature markets of Japan and Korea. Anything less of this may burden hotels and other tourism related employers to reduce work hours, lay off employees, or close-up shop. Similarly, without an expanded tourist market, the government of Guam may not be able to meet its existing liabilities thereby forcing lawmakers to declare financial exigency and request for increased federal aid.

The bright side is this: with an expanded Guam-CNMI Waiver program that is inclusive of China and Russia and implemented on Guam, the island's economy will be preserved with projected growth of $1.5 billion from these two new markets in five years.

As most experts agree, the economies of the United States and Guam are in a recession. To reinvigorate our economies both the Congress and the administration must continue in its path to create and implement a 21st century regulatory framework that will allow us to pursue a bold opportunity for the American and Chamorro people. PL 110–229, specifically the Guam-CNMI Visa Waiver program, is an example of how government policy may work to continue to foster and support entrepreneurship and innovation.

As we jointly face our financial crises, I am resolved that the Guam-CNMI Visa Waiver program will add towards our collective efforts to stabilize and grow our national and state-level economies. Based on market research and data available to the government of Guam, even the most conservative of figures associated with an expanded tourism base that includes China and Russia will considerably affect Guam and the CNMI in a positive way.

In the wake of extreme financial uncertainty, I humbly submit that the Guam-CNMI Visa Waiver program would serve as a significant economic stimulus for the Marianas Islands.

In closing, on behalf of the Thirty-first Guam Legislature and the People of Guam I commend the Honorable Doc Hastings, Chairman of the Committee on Natural Resources and Members of the Committee, in addition to the Honorable John Fleming, M.D., Chairman of the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs, and Members of the Subcommittee for allowing me to provide testimony on the implementation of P.L. 110–229, the Consolidated Natural Resources Act, specifically the Guam-CNMI Visa Waiver program.

Mrs. BORDALLO. The one Guam approach in resolving this issue is something that is very, very important, and I always appreciate the participation and the input of our legislative leaders, and pleasure to include her testimony in the record.

Finally, I would like to thank and recognize each of our witnesses here today. Governor Calvo, we appreciate your traveling to D.C. to provide testimony in both of today's panels. We will appreciate your input on the importance of passing H.R. 44.

General Ben Blaz, a very distinguished gentleman who has served in this Congress from 1985 to 1992. He is also a retired Marine and is a survivor, which is why he is here today, of the Japanese occupation of Guam. General Blaz's testimony today speaks to the atrocities and the hardships endured by our people during the brutal enemy occupation, and further, General Blaz's experience as a general in the U.S. Marine Corps can speak to the importance of building good relationships with the civilian community and the significance of the passage that Guam war claims would have to building this type of relationship in Guam.

Another witness today, Mr. Chairman, I would like to thank Mr. Mauricio Tamargo. He is the former Chairman of the Guam War Claims Review Commission for his testimony, and in all of these years he has stood by us to help us get this bill through. Mr. Tamargo understands the issue of the Guam war claims, and I appreciate his expert testimony. He has also held public hearings on this issue as well as a public hearing in Guam.

And finally, I also want to thank the testimony of Mr. Nik Pula. I appreciate the Administration's continued support of H.R. 44.

Today's hearing builds on the lengthy and substantive legislative record that has already been developed on H.R. 44. The issue of Guam war claims is a sensitive issue for my constituents and it is an issue that can only be resolved through legislation by Congress.

Further, it is a matter that has maintained strong support in the House. As Ranking Member Sablan said, it has passed this House five times, even across party lines. Further, the bipartisan nature

of our witnesses speaks to H.R. 44's broad base of support. The need for this Congress to take action and resolve the matter or Guam war claims heightens by the day. Continued popular support for the military build up on Guam is tied to a great extent to finally solving this longstanding issue on Guam.

My constituents wonder how we can spend over $10 billion in military construction but their suffering and patriotism during the Imperial Japanese occupation of Guam is yet to be fully recognized and redressed.

In part, it is for this reason that I attach H.R. 44 as an amendment to the National Defense Authorization Act in Fiscal Years 2010 and 2011. Unfortunately, the Senate failed to act on the stand alone measure on the 110th and 111th Congresses.

Further, last year we did reach a compromise position on Guam war claims, and it was incorporated into conference version of the Fiscal Year 2011 NDAA. However, due to the unique legislative procedure that was required for passage, a few senators blocked its inclusion in the final legislation. This, unfortunately, is a circumstance that many bills face in the Senate, so it is important that we build off the agreed upon compromise, and I believe today's hearing will clearly highlight the importance of this legislation.

As such, on the first day of this Congress I re-introduced H.R. 44, and the text of this bill is identical to the compromise reached with Chairman Levin and Ranking Member McCain. The bill removes the most controversial claimant category of payments to the descendants of survivors of the Japanese occupation. I did so reluctantly, but in a recognition that including that category would not pass in the Senate. So, I am hopeful that this hearing will further illuminate the facts and circumstances surrounding the occupation endured by the people, and the injustice that they hope will finally be redressed by this Congress.

This is an injustice rooted in their having been treated differently from their fellow Americans by the Federal Government in redressing their war claims. The hearing today presents another opportunity to review this history, however painful it may be to recount and repeat. We further this discussion today in the name and the pursuit of justice, and with faith in our government and her cherished principle of equal protection under the law.

We must also remain focused and determined because of the very findings and the recommendations of now two Federal commissions that have independently and thoroughly examined this matter against all its political and legal sensitivities.

The last hearing on Guam war claims was held on December 2, 2009, before the House Armed Services Committee, and at that time our survivor witness was Mr. Tom Barcinas. Mr. Barcinas told the Committee of his first-hand experience during World War II, and of the atrocities suffered by him and his family at the hands of the enemy, and I am going to quote something he said.

"Through the grace of God I survived World War II, but like so many others who lived through those days, lived through the war who have since died, I am quickly getting old as you can see. So many who lived through the war are advancing in age and so many have passed on without closure to the issues arising because of the war . . . Mr. Chairman, no one must underestimate the importance

of resolving the issue of parity, fairness, and justice related to the administration of the war claims. Resolving these issues will provide beyond any reasonable doubt that America does live up to its promises and its responsibilities."

Just this past April, only three months ago, Mr. Chairman, Mr. Barcinas passed away after waiting nearly 70 years for closure and for recognition that he never ever received.

So, it is important that Congress act now to implement the Review Commission's recommendations and finally resolve this longstanding injustice for the survivors of the occupation of Guam, and I thank you very much, Mr. Chairman.

[The prepared statement of Mrs. Bordallo follows:]

Statement of The Honorable Madeleine Z. Bordallo, Ranking Member, Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs

Chairman Fleming and Ranking Member Sablan, I would like to thank you both for holding today's hearing on H.R. 44, the Guam World War II Loyalty Recognition Act, which I introduced on the first day of the 112th Congress. I want to thank Chairman Hastings and Ranking Member Markey for their agreeing to allow a hearing on H.R. 44, as well.

I also want to acknowledge Speaker Judith Won Pat of the 31st Guam Legislature. She has submitted written testimony for the Committee and is in the audience today. Her presence and support today are a tribute to our "One Guam" approach in resolving this issue. I always appreciate the participation and input of our legislative leaders and pleasure to include her testimony in the record.

Finally, I would like to thank and recognize each of our witnesses here today. Governor Calvo, we appreciate your travelling to DC to provide testimony in both of today's panels. We will appreciate your input on the importance of passing H.R. 44 to the people of Guam. General Ben Blaz is the former Congressman from Guam serving in the House from 1985 to 1992. General Blaz is also a retired Brigadier General in the U.S. Marine Corps and is a survivor of the Japanese occupation of Guam. General Blaz's testimony today speaks to the atrocities and hardships endured by the people of Guam during the brutal enemy occupation. Further, his experiences as a General in the U.S. Marine Corps can speak to the importance of building good relationships with the civilian community and the significance the passage of Guam war claims would have to building this type of relationship on Guam. I would also like to thank Mr. Mauricio Tamargo, former Chairman of the Guam War Claims Review Commission for his testimony today. Mr. Tamargo understands the issue of Guam War Claims well and I appreciate his expert testimony. Finally, I also thank the testimony of Mr. Nik Pula. I appreciate the Administration's continued support for H.R. 44.

Today's hearing builds on the lengthy and substantive legislative record that has already been developed on H.R. 44. The issue of Guam War Claims is a sensitive issue for my constituents and it is an issue that can only be resolved through legislation by Congress. Further, it is a matter that has maintained strong support in the House, even across party lines. Further, the bi-partisan nature of our witnesses speaks to H.R. 44's broad base of support. The need for this Congress to take action and resolve the matter of Guam war claims heightens by the day. Continued, popular support for the military build-up on Guam is tied, to a great extent, to finally solving this longstanding issue for many on Guam. My constituents wonder how we can spend over $10 billion in military construction but their suffering and patriotism during the Imperial Japanese occupation of Guam has yet to be fully recognized and redressed.

In part, it is for this reason that I attached H.R. 44 as an amendment to the National Defense Authorization Act in Fiscal Years 2010 and 2011. Unfortunately, the Senate failed to act on the stand-alone measure in the 110th and 111th Congresses. Further, last year we did reach a compromise position on Guam war claims and it was incorporated into conference version of the FY11 NDAA. However, due to the unique legislative procedure that was required for passage, a few Senators blocked its inclusion in the final legislation. This, unfortunately, is a circumstance that many bills face in the Senate. So it is important that we build off the agreed upon compromise and I believe today's hearing will clearly highlight the importance of this legislation.

As such, on the first day of this Congress I reintroduced H.R. 44 and the text of this bill is identical to the compromise reached with Chairman Levin and Ranking Member McCain. The bill removes the most controversial claimant category of payments to the descendants of survivors of the Japanese occupation who suffered personal injury. I did so reluctantly but in a recognition that including that category would not pass in the Senate.

I am hopeful that this hearing will further illuminate the facts and circumstances surrounding the occupation endured by the people of Guam and the injustice that they hope will finally be redressed by this Congress. This is an injustice rooted in their having been treated differently from their fellow Americans by the federal government in redressing their war claims. The hearing today presents another opportunity to review this history, however painful it may be to recount and repeat. We further this discussion today in the name and pursuit of justice and with faith in our government and her cherished principle of equal protection under law. We also remain focused and determined because of the very findings and recommendations of now two federal commissions that have independently and thoroughly examined this matter against all its political and legal sensitivities.

The last hearing on Guam war claims was held on December 2, 2009 before the House Armed Services Committee. At that time our survivor witness was Mr. Tom Barcinas. Mr. Barcinas told the Committee of his firsthand experiences during World War II and of the atrocities suffered by him and his family at the hands of enemy occupation:

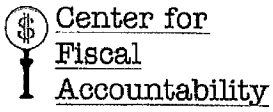
> *"Through the grace of God, I survived World War II. But like so many others who lived through those days, lived through the war, who have since died, I am quickly getting old, as you can see. So many who lived through the war are advancing in age, and so many have passed on without closure to the issues arising because of the war. . .Mr. Chairman, no one must underestimate the importance of resolving the issues of parity, fairness and justice related to the administration of the war claims. Resolving these issues will prove beyond any reasonable doubt that America does live up to its promises and responsibilities."*

Just this past April, only 3 months ago, Mr. Barcinas passed away after waiting nearly 70 years for closure and recognition that he never received. It is important that Congress act now to implement the Review Commission's recommendations and finally resolve this longstanding injustice for the survivors of the occupation of Guam.

Mr. LANDRY. Thank you, Mrs. Bordallo. At this time I would like to enter into the record two different letters, one from the Heritage Foundation and another one from American Tax Reform into the record. Without objection, so ordered.

[The letters follow:]

AMERICANS for TAX REFORM



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July 13, 2011

The Honorable John Fleming
Subcommittee on Fisheries, Wildlife, Oceans & Insular Affairs
Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building

Dear Chairman Fleming,

I appreciate the opportunity to provide commentary on H.R. 44, the Guam World War II Loyalty Recognition Act. Much has changed since the 2004 publication of the Guam War Claims Review Commission's findings on the Guam Meritorious Claims Act of 1945. The explosion in government spending has created a fiscal situation which the Congressional Budget Office describes as "unsustainable."

As such, every federal obligation must be carefully evaluated. Using hard-earned tax dollars to renew a half-century old spending program misidentifies the real maladies suffered by the people of Guam; in short, a stagnated United States economy does far more to harm the global community than the funneling of scarce U.S. tax dollars could ever hope to rectify.

The Commission's report indicates that a lack of parity existed between reparations made under the Guam Meritorious Claims Act and those awarded under programs for other, similarly affected nations. However, the real issue at stake is whether out-of-control federal spending will be allowed to continue unchecked or if Congress will get serious about permanently fixing the government spending addiction that threatens the prosperity of the country and its territories.

Authorizing additional reparations sixty years after the conflict in question is hardly the best way to appreciate and respect the patriotism of the people of Guam. Indeed, the citizens of the entire global community would be much better served by a Congress that focused instead on improving the United States economy—the largest in the world—by reducing its onerous regulatory regime, decreasing its punitive tax burden and eliminating excessive federal spending.

Reining in the government's spending spree at home requires scrutiny of our spending abroad. It makes little sense to ship scarce taxpayer dollars overseas as long as the United States government continues to ignore its own insolvency.

Putting our fiscal house in order requires that lawmakers identify and eliminate waste, and we encourage the committee to continue to be diligent in support of fiscal responsibility and restraint.

Sincerely,

Mattie C. Corrao

Mattie Corrao
Executive Director
Center for Fiscal Accountability

Search Heritage for

Wrong way on reparations

Published on *May 22, 2007* by Edwin Feulner, Ph.D.

The United States motto is written on most of our money: E Pluribus Unum, "out of many, one." But if Congress has its way, plenty of our dollars will be spent to separate Americans into ethnic groups instead of bringing us together as one people.

The House of Representatives overwhelmingly passed the "Guam World War II Loyalty Recognition Act" May 8 and didn't seem to consider it controversial. The bill breezed through by a wide, 288-133, margin and didn't even undergo the usual debate; lawmakers voted to suspend the rules so it could pass swiftly.

But this bill should not have been noncontroversial. This is no mere measure to rename a Post Office or federal building. If this act becomes law, it would require the Treasury secretary to pay reparations to "Guam residents who were killed, raped, injured, interned, or subjected to forced labor or marches," as well as to "survivors of compensable residents who died in war or survivors of compensable injured residents." The bill could cost taxpayers $126 million.

There are several things wrong with this picture. First, it wasn't the United States that abused the people of Guam. Imperial Japanese troops occupied the island in 1941 (immediately after they attacked Pearl Harbor) and held it for more than three years. As elsewhere, the Japanese invaders treated the population cruelly.

Guam's congressional delegate, Madeleine Bordallo, ignored that history as she tried to explain why the bill was necessary. "There is a moral obligation on the part of our national government to pay compensation for war damages in order to insure to the extent possible that no single individual or group of individuals bears more than a just part of the overall burden of war," she told the House.

But the U.S. bears no blame here, and no responsibility. We fought to prevent the island from being taken by the Japanese, and fought to free it again. Some 3,000 Americans were killed and more than 7,000 wounded in the 1944 battle for the island. That's a price paid in blood that can never be made up with mere dollars.

Besides, World War II ended 62 years ago. And that brings up another critical point: If the U.S. is supposed to make restitution to people harmed decades ago by one of our (then) enemies, where do we stop?

Residents of the Philippines could demand handouts, since that country was also under U.S. protection before being captured by the Japanese. Korea and China could also make a case, since they also all suffered from Japanese domination.

And that's just Asia. Nazi Germany was equally cruel to residents of the countries it occupied. We certainly can't afford to make restitution to everyone in Eastern Europe. Yet we would likely have to, since it would be difficult to find a religious or ethnic group that didn't suffer during World War II.

But things wouldn't stop there. Once you're on a slippery slope, it's difficult to stop. We might find ourselves making payments to the survivors of Bosnian Muslims killed by Serbs during the 1990s, the descendants of Armenians killed by Greeks during World War I, and certainly the descendants of African-Americans brought to this country as slaves.

The Guam bill is little more than a reparations foot in the door. If it succeeds, we can expect a flood of similar complaints from all corners of the globe. The United States, a country that has fought so hard to spread freedom around the world -- and is still fighting to protect newly won freedom in Iraq and Afghanistan -- would be forced to pay reparations as if we were a human-rights abusing rogue nation.

Our country is unique because it opens its arms to immigrants from everywhere and gives them the chance to become citizens. If we start allowing ethnic groups to make claims on the Treasury because of where they were born, we'll quickly lose the unity that makes our nation work.

We simply can't afford the "Guam World War II Loyalty Recognition Act."

Mr. LANDRY. For those witnesses who were not here for the first panel I will repeat what Congressman Fleming, Chairman Fleming said earlier; that your written testimony will appear in full in the hearing records so I ask that you keep your oral statements to five minutes as outlined in our letter of invitation to you and under Committee Rule 4(a).

Our microphones are not automatic, so please press the button when you are ready to begin. I will also explain how our timing lights work. When you begin to speak our clerk will start the time and a green light will appear. After four minutes a yellow light will appear, and at that time you should begin to conclude your statement. After five minutes the red light will come on and you may complete your sentence, but at that time I would ask that you stop.

I would now like to welcome today's witness The Honorable Eddie Baza Calvo, Governor of Guam. Governor.

STATEMENT OF THE HON. EDDIE BAZA CALVO, GOVERNOR OF THE ISLAND OF GUAM

Governor CALVO. Yes, thank you very much, Mr. Chair and Members of the Subcommittee.

Again, my name is Eddie Calvo, Governor of Guam. On behalf of the people of Guam, especially those who found themselves slaves during World War II, I would like to express my support for H.R. 44, also know as the Guam World War II Loyalty Recognition Act.

Distinguished Members of the House of Representatives, war claims for the people of Guam are long overdue. On December 8, 1941, our island was changed forever. For all you know, that was the day Japan attacked my home. For nearly three years, those in Guam were forced out of their homes, were subjected to slavery and suffered rapes and beatings. Tragically, many died in the hands of the Japanese Imperial Army.

On July 21, 1944, or what is now known as Liberation Day, American Marines and soldiers stormed Guam and began a successful campaign to reclaim the island. Every year the entire island commemorates the bravery of these men, remembers their loved ones who survived our darkest time in history, and prayed for those whose lives were stolen by war.

Members of Congress, while our survivors are indeed liberated, they are not free from the scars of those atrocities. Everyone who has spent time in Guam has heard a personal account of what our people suffered. In fact, many of our survivors remember this day in 1944. They can still hear and feel the bombs exploding as American forces prepared to storm our beaches, and while dodging bombs which already seemed inhumane, it pales in comparison to the stories all Guamanians have heard.

Guam suffered like no other place in America. Chamorros were raped, they were beaten, they were made slaves. They were forced to denounce the country they loved and swear allegiance to a country that was literally killing them, all the while our people remained loyal to the United States. They never lost hope that one day and soon America would return and spare them from the suffering and pain.

These acts were done out of a deep and committed loyalty to the United States, and all throughout the occupation this loyalty is what gave our people hope. People were certain that the loyalty went both ways, and sometimes this hope is what kept our people alive; knowing that these horrible circumstances were only temporary.

In fact, there was a famous song our war survivors sang, and when it was safe late at night at the end of every verse it was, and I quote, "My dear Uncle Sam, won't you please come back to Guam."

The Japanese tried everything to break our resolve. They marched Chamorros to concentration camps, they became increasingly violent, and they murdered Chamorros at a more frequent rate with more mass casualties at a time. But despite their best efforts, many Chamorros survived until they were liberated, and sadly, although they survived the atrocities of war, most of them have been called by God to rest.

That is why it is more urgent than ever to grant these claims. The time is now while there are still survivors left. Our people who lived are still loyal to the company despite 67 years without any recognition for their suffering.

Ladies and Gentlemen, Honorable Congressional Representatives, United States has an obligation to do this. Make no mistake about it. The Federal Government took upon this liability after it signed the Treaty of Peace with Japan in 1951. Our people are not asking for something extraordinary. We are expecting the country we fought for, the country we suffered for, the country we died for to honor its responsibilities to our elderly, and this not just a statutory obligation, it is a moral obligation.

Passing this legislation into law is a chance to demonstrate the importance of Guam. It is an opportunity to show we truly belong to this country. It is a definitive way to prove the mutual respect that we have for one another. During the war Chamorros loyalty to America was unwavering even in the face of death. All I am asking for is America to recognize this loyalty.

Thank you for this opportunity, and I express my support for H.R. 44.

[The prepared statement of Mr. Calvo follows:]

Statement of The Honorable Eddie Baza Calvo, Governor, Island of Guam, on H.R. 44, The Guam World War II Loyalty Recognition Act

Thank you, Chairman Fleming for inviting me to testify today. For the record, my name is Eddie Baza Calvo and I am the Governor of Guam. On behalf of our people, especially those who found themselves slaves during World War II, I would like to express my support for H.R. 44, also known as the Guam World War II Loyalty Recognition Act.

Distinguished members of the House of Representatives, war claims for the people of Guam are long overdue. On December 8, 1941 our island was changed forever. As all of you know, that was the day Japan attacked my home. For nearly three years, those on Guam were forced out of their homes, were subjected to slavery, and suffered rapes and beatings. Tragically, many died at the hands of the Japanese Imperial Army.

On July 21, 1944, what is now known as Liberation Day, American Marines and soldiers stormed Guam, and began a successful campaign to reclaim the island. It began as their tribute to the Chamorros and Americans who fought and died for our freedom. It was a celebration of our liberation from slavery and oppression. Over the years it's become a commemoration of the Greatest Generation. It is not simply a remembrance of war, but a celebration of what our community has become be-

cause of the freedom Chamorro and American warriors fought to give us. But, the Liberation of Guam should not become a dying memory just because that generation is nearly gone. Upon us is the great responsibility to celebrate our identity and traditions with pride.

Every year, the entire island commemorates the bravery of these men, remembers their loved ones who survived our darkest time in history, and prays for those whose lives were stolen by war. Members of Congress while our survivors are indeed liberated, they are not free from the scars of these atrocities.

Everyone who has spent time on Guam has heard a personal account of what our people suffered. In fact, many of our survivors remember this day in 1944. They can still hear the and feel the bombs exploding as American forces prepared to storm our beaches. And while dodging bombs already seems inhumane, it pales in comparison to the stories all Guamanians have heard. We have first-hand accounts from a generation who endured war and occupation, then rebuilt this island from the ground up. Sadly, there aren't many of them left to tell these stories to our children and grandchildren. There are new generations growing up without the special moments Guam's greatest generation shared with us.I firmly believe sharing some of them with you today will help you truly understand and appreciate my position. For your reference, there are more attached to this testimony, as compiled by Guam Senator Frank Blas, Jr.

Father Jesus Baza Duenas

Father Jesus Baza Duenas was born in 1911 and was the second Chamorro to be ordained a Catholic priest. He was one of only two Catholic priests that were allowed to remain on Guam during the Japanese occupation. Father Duenas was an outspoken voice of morality during that time, often expressing his opposition to the treatment of Chamorros to Japanese authorities.

The Japanese occupiers believed Father Duenas knew the whereabouts of an American radioman who remained hidden on Guam: George Tweed. This paranoia turned out to be deadly for Father Duenas. On July 8, 1944, he was arrested. He was tortured for information on Tweed. Days later, the Japanese beheaded Father Duenas for his truthful silence.

Dolores Jones

The harsh reality of war also forced many children to suffer unimaginably. Dolores Jones was orphaned at 11-years old. She was forced to march to a concentration camp, like 18,000 others. That's a terrible situation for any child to deal with alone, but Dolores was also forced to act as a mother to her siblings.

There was no shelter, latrines, food, or medicine at the concentration camp. It soon became apparent this was a death camp, and the Japanese soldiers were planning a massacre. According to one account, forty men were tied up and beheaded. Sadly, no records exist that detail how many people died at these concentration camps.

Guam suffered like no other place in America. Chamorros were raped. They were beaten. They were made slaves. They were forced to denounce the country they loved and swear allegiance to a country that was literally killing them. All the while, our people remained loyal to the United States. They never lost hope that one day, and soon, America would return and spare them from the suffering and pain. As I've stated before, many died protecting American lives. These acts were done out of a deep and committed loyalty to the United States. All throughout the occupation, this loyalty is what gave our people hope. People were certain the loyalty went both ways. Sometimes, this hope is what kept people alive, knowing these horrible circumstances were only temporary. In fact, there's a famous song our war survivors sang, when it was safe, to help raise their spirits. And the end of every verse was:

My dear Uncle Sam, won't you please come back to Guam?

The Japanese tried everything to break this resolve. They marched Chamorros to concentration camps; they became increasingly violent; they murdered Chamorros at a more frequent rate, with more mass casualties at a time. It was what our country stood for that Chamorros so bravely defended in their defiance of the occupiers. As the rumors, arrests and the preparations for marches began on Guam on July 8, 1944, people were fighting for the very ideals we yearned for.

But despite their best efforts, many Chamorros survived until they were liberated. Sadly, although they survived the atrocities of war, most of them have been called by God to rest.

I'm sure many of you are aware of the strategic importance Guam and the Marianas played in defeating the Japanese Imperial Forces. The U.S. Department of De-

fense needed our tiny little islands, and arguably would not have recaptured the Pacific Theater without them.

In this special relationship we've had with America for over a century, it has not always been the actions of the federal government that have pleased us. But it has always been the ideals of this country, and what it means to people yearning for freedom around the world, that we have always loved. It has always been the American serviceman and woman, who was willing to die for us, whom we have honored and respected for the freedom we have. It is this way because only 67 years ago we were those people yearning for freedom, given to us by those Marines and soldiers who came back for us, bled for us and died for us.

It is more urgent than ever before to grant these claims. The time is now, while they're are still survivors left. Our people have lived, still loyal to this country, despite sixty-seven years without any recognition for their suffering.

Ladies and gentlemen, honorable Congressional Representatives, the United States has an obligation to this—make no mistake about it. The federal government took on this liability after it signed the Treaty of Peace with Japan in 1951. Our people are not asking for something extraordinary. We are expecting the country we fought for, the country we suffered for, the country we died for, to honor its responsibilities to our elderly.

This is not just a statutory obligation, it is a moral obligation. Passing this legislation into law is a chance to demonstrate the importance of Guam. It is an opportunity to show we truly belong to this country. It is a definitive way to prove the mutual respect we have for each other.

During the war, Chamorros' loyalty to America was unwavering, even in the face of death. All I am asking is for America to recognize this loyalty.

Thank you for the opportunity to express my support for H.R. 44.

Edward L.G. Aguon passed away on September 28, 2007

"The most agonizing memories come to mind when I think of the occupation of being forced to watch people brutalized, tortured and killed, to see the look on their face when the final stab of the bayonet pierced their flesh, to hear the cries as their last breath leave their bodies. And even then, the attackers continued to thrust the bayonet into their lifeless bodies."

(On the March to Manenggon)

> "Tens of miles in hot and rainy days, we were gathered like cattle being led to the slaughter. We could not help anyone who fell behind or fell down. Even if that person was your grandmother, a sick relative or a dying friend, you had to move on and leave them there."

Joseph Crisostomo Aguon 80 years old, Survivor

"I was forced to work at the airport... My job was to dig and sometimes carry water for the Japanese Soldiers. At the end of the day, we were getting a handful of rice as our payment... I was assigned to work in Canada, Barrigada as a mess boy... I was transferred to work in Ordot digging tunnels. If the Japanese were not satisfied, we were told to line up face-to-face and slap one another. When my turn came, I refused to slap the old man facing me. I was hit by the Japanese guard holding a stick. The man whispered, go ahead and slap me. I will understand."

Magdalena San Nicolas Bayani 94 years old, Survivor

"We were obligated to work. We worked in Ta'i and every morning we'd go through the swamp all the way up to Ta'i morning and night. We'd leave at 5 in the morning and return at 8 at night. All day, we'd plant, dig, gather rocks, and pull weeds. We'd rarely eat during the day. One day, we were told to stop work, stand in line and we stood there without knowing what was going to happen. We were warned that whomever whines, cries, or call out, we'd all be killed... There were three men who were standing there while some people were digging a hole in front of them. When the hole was dug, three Japanese with raised bayonets approached and told the men to kneel down with their hands tied behind their backs. They were told to bow their heads with their necks fully exposed. The three Japanese counted to three and the three were then beheaded right in front of us. The heads rolled down into the hole.

"One day, we were all standing facing the East. I didn't even know what we were doing. But, we were supposed to bow to the East, to the Emperor, the god of Japan, and the world, supposedly. I didn't bow quickly enough. I'll never forget. Nakase Sensei kicked me, slapped me first and then kicked me. Kicked my feet and I fell down.

"We would clean, pull grass, pull weeds, whatever. Bare hands. We had to feed ourselves with whatever we could bring from home... Later on, of course, I recall that they had a night shift. I don't recall what the night shift was for. But, we were

all asked to bring our dogs to Tai. Later on, I found out that the Japanese were cooking dogs for the night shift.

"We were told to watch, or if we didn't watch, we would be next to suffer the fate of these three men...One of them was allowed to speak...He started to say the "Our Father, who art in heaven..." in Chamorro. Then they were pushed down to kneel. Three Japanese men, officers, with Samurai swords, each had water poured on the sword. Pushed the men down. Then he cut their heads off... I heard later that one of the Japanese officers took one of the heads and was giving it to the neighbors to cook it."

Teresa Reyes Borja 80 years old, Survivor

"They tied me to the coconut tree like a carabao or a cow. That's a very sad. And right now, like only a couple of months back when they tie me there for almost one day, they tie me to the coconut tree and they almost killed us. I hope to God people from Merizo so they can know what I'm saying and it's true. And it's very painful for me when I think about that. Only I know that the carabao and the cow are tied not the human being, but that time I was tied up for almost one day when I'm 12 years old."

"It's a long story, and I think the people that came here today, what they say, it's true. And I don't want to say. It's a long story to say everything what the Japanese did to us, to me and all my family."

Rosa Roberto Carter passed away on April 11, 2010

"Most of us suffered wounds from being forced into the jungle, where we contacted scarring napalm from the United States bombing of the Japanese. When the bombing stopped, we were forced to go back to clearing bushes, which were dripping with this napalm. And in a proper setting, I could show you some scars, which have irritated me for 60 years. One of my brothers lost parts of two fingers, as well, from the live ammunition scattered over so much of Guam after the fighting in 1944. And at one time, I found myself clinging to a large breadfruit tree while American planes attacked.

Human limbs, arms and legs, flew through the air on their own. People screamed in the grip of hysteria. I saw people going berserk."

"In regard to the constant terror of being an occupied people, earlier in Mangilao, many of us were forced to line up in orderly rows to witness the beating of a family for the crime of trying to hide some of its food from the Japanese occupiers. If we showed any emotion, we would have been beaten too. "

Francisco Leon Guerrero Castro 79 years old, Survivor

"We then had the order for a forced march to concentration camp in Manenggon. Because of my father's fear of what the Japanese might have intended...One person that testified here, I also recollected that during the Japanese occupation, a Japanese national who was living in Guam, way before the war and during the war, had circulated the rumor when they started seeing Uncle Sam come back to Guam, she started circulating the rumor that when the Americans gets back to Guam, they won't find nothing but flies. That statement was very true."

Rosa Tenorio Castro 77 years old, Survivor

"If I did not march, they will kill me. Also, they will make me work in hot sun with no food and water and even though it's raining or not raining. It's a forced labor for a child. You don't have any democracy. There's no say so, "I beg your pardon." "Do it or else the end it be of you." In other words, they were very cruel to us Chamorros."

"We went to Manenggon. Then, the marching on Manenggon, I thought, being a child, my understanding is only a child's understanding. But, now it's not. It's the opposite way around. What I heard as a child, that we were going to go to Manenggon, where there's a camp to be preserved from the American bombing. But, that is not true. They put us there so that the Japanese collect the Chamorro and give a big bomb. One bomb is enough for many people. That's what they intended to do."

Jose Quinene Cruz 63 years old, Survivor

"My only recollection from my grandmother and my father and my mother was one morning, when I was playing out in the rain, it was raining real hard and I told my mother, "I wish God would stop this rain." She told me, "Son, if the rain didn't stop, you would not be born." That's the only time when she spoke about the war. With further query, I said, "Mom, why, what happened?" She said, "I was in a firing squad with Nana," my grandmother, "and your father and two other siblings. We were there because when the taicho came," because my grandmother was

the one who was massaging the taicho. Well, the taicho came and Nana was not there, they burned their house because they were out in the ranch. They burned their house. When they came back, they found out that their house was burned. Then, they were actually corralled to go to the river right next to where the Malesso' Church is. They were lined up to be killed. It rained and it rained and it rained. Because of the meticulousness of the Japanese, they actually did not kill them. My mom said we just slowly slipped out because they were enjoying themselves probably thinking that they'll kill them."

"I come here because I think the deprivation that I feel is really the deprivation of some of our loved ones. My uncle would've probably gotten me really, really advancing with a confidence that he actually had to the family. He was killed because of his stature. He was killed because he was a tall man, he was a big man. I'm a big person and my father's smaller than I am. I always told him, "Gee, if I only known Uncle Kin, I probably would actually measure up to him."

"The atrocity that I bring is really the atrocity of being deprived of the memories of all of our heroes, all of my people, all of my elderly and all of the people who have merited. I close really with a nightmare that my mother-in-law and father-in-law actually had. That one, I vividly experience. When Pop is about 80, 79 years old, he was starting to have Alzheimer's. When he leaves the house, there was one time when it was really a heavy rain. I think it's part of the recollection of the war, Pop, we found him hiding under one of the bushes. We asked him, "Pop, what are you doing?" He said, "The Japanese are coming."... Those are memories of the living. But, the memories of the dead I carry. I carry the deprivation of the memories."

Rita Santos Cruz 72 years old, Survivor

"I was one person and I believe that there is no amount of money will ever equal the horror and pain of such an experience. We have not come to ask for money there is no value to suffering, hunger and cruel punishment and that no million will suffice to satisfy that indignity. We have not been acknowledged as a nation of people and also that we have suffered under the hands of the Japanese. Many have been raped, force to labor and I was forced to pick papaya and coconut for the Japanese. We marched to an area As Lucas in Talofofo. When we got there we saw a long and huge hole that was dug up but we had no idea what it was until my mother asked for a hug because the Japanese were suppose to kill us."

Barbara Castro Dela Cruz 76 years old, Survivor

"I witnessed the beheading of three Chamorro men, who the Japanese accused of spying for assisting the American George Tweed. During the execution, I was placed at the front row, a few feet away from the men who were to be killed. It was a painful experience because the Japanese threatened that anyone who looked away or showed any emotion during the execution would be next, saying we were witnessing our mirror that could be done to us as well."

Vicente Diaz Gumataotao 82 years old, Survivor

"Every day that I see Japanese, they'll beat me up. Either they wring my ear or they knock my head. But, they took us to be slave, forced labor, more likely, in a rice field, cornfield and potato, and sweet potato field; they worked 12 hours a day. Out of 36 of us, I really feel sorry for those 35 because I'm the only survivor." "There was a lot of atrocities and I witnessed a lot of things that were happening in Guam, like the Late Frank Won Pat, when he was beheaded at Pigo', I was there, it was the first person that was beheaded by digging his own grave and they won't waste a bullet for him to be killed. He had to be beheaded by a sword." "At Orote Point, the food that we eat over there is 50% worm and 50% rice. It's all rotted rice. We have to eat because we're starving." "I asked for my machete back, they beat me up until I was unconscious. When I got up, I don't even know where I'm at. That's the worse experience I ever had. It's a horrible experience that I have been through. But I'm not the worst. There are a lot of people here that are worse than I am."

Concepcion Judicpa 66 years old, Survivor

"Although I did not put in my testimony, I would like to, and maybe I will revise that later, but, in my testimony, my sister, up to this point, my sister's only about 80 pounds. It's because she lived during those days. She had, like all the other testimonies, there was malnutrition and so on. I, when I got married, I was only 85 pounds. Thank God I had five kids and was able to gain some weight. But, I believe that was as a result of the times when there was hardly any food to go around."

Pilar Diaz Cruz Luján 79 years old, Survivor

"I was 11 years, 2 months old on December 8th, 1941. The mass of the Immaculate Conception was just celebrated in the Santa Cruz Church in Agana. As we were

coming out of the Church, we heard and saw planes overhead. Instantly, we waved and cheered as if we were watching an aerial show. Little did we know that those same planes had bombed Sumay... That was the end of the peaceful island paradise of Guam. A few days later, the people of Guam were captured by the Japanese and that was the beginning of the reign of terror that was forced upon the inhabitants of Guam."

"As far as I'm concerned, the trauma and the lasting negative psychological impact of the people cannot be measured... The point is, the physical scars can never measure up to the fear that I carry today, even as old as I am now. The subject of war experience is not a subject that is easily passed on from one generation to the next. It is painful and horrifying experience that many people want to discuss, but most are unable to express without outward signs of emotional release."

Maria Santos Martinez 83 years old, Survivor

"I was 14 years old when the Japanese came on Dec. 8, 1941. When the Japanese came, they made us run into the jungle right near St. Johns. Our family hid there and it was so dark and we couldn't find each other because we were near a cave by St. John's. In the morning, my father left us to cut his tuba and when he climbed down from the coconut tree, he saw a battalion of Japanese coming from the direction of Gun Beach. They stopped at the house of my aunt and found a young woman by the name of Maria Camacho whom they dragged out and raped. They held onto her father and while a bayonet was pointed at him, the battalion took turns on the young woman. My father ran back to us in the jungle and told us about what he saw."

"Every morning, the Japanese would send us off to work. When I didn't work, would then be told to make sure to clean my neck because I would be cut off at the neck if I didn't' work. I would always cry out of fear. I would tell my mother that I didn't feel like working because I was always so hungry and sick but a Japanese would always remind me that if I refused, I would be killed by being beheaded."

"When the American planes came they would shoot at us from the air because they thought we were the Japanese. We would all run into the jungle where we'd pray the Lord's Prayer. We even tried sticking our heads into holes in the ground out of our fear of being hit. When my companions become thirsty and they ask to drink, the Japanese would then take their guns and hit them with it."

Lucia McDonald 83 years old, Survivor

"Once the Japanese soldiers found out through the interpreter that our father was an American Navy man, they tortured us on a daily basis. We would get punched, kicked and poked by bayonets and a head choke. On one occasion, my three brothers were in prison and beaten badly. One brother was beaten so badly on his leg that when they release him months later, he could not walk anymore."

"We had to hide our food so we wouldn't get beaten. On one of our work days, we were forced to circle around and witness the execution of three men. One was beheaded and the others shot. We were told not to cry or yell or else we also would be killed."

"I was afraid to report to the fields because of the plane dogfights that morning. The next day, along with three other girls, we were escorted and questioned about our accidents at the field that day. I was slapped repeatedly and a sword was placed on my shoulder. The interpreter told me that I was going to be killed if I lied about my absence. I begged for my life. Later, he asked if I wanted to be drowned in the big drum of a container of water. Two girls were told to clean the wounds of the Japanese soldiers. One girl was taken into the sleeping quarters of the Japanese official and I was told to grind coconut for the soldiers. Three of us were released that night. One girl, who was taken into the sleeping quarters was kept there for a couple of days before they returned her home. But, then her father hung himself because he could not bear to see his daughter suffering and what she went through."

Dolores Cruz Meno 78 Years Old, Survivor

"There's two of us girls, because I was so fragile, I was so skinny. My parents are very poor, I am the youngest one in the family. So, there's two of us girls to carry that with the bamboo. We put the bamboo on the basket, we slid it into the farthest part of the basket and we carry it on our back out to the Manganese to deliver it to the Japanese people for their supplies. We do not have anything for us. They all get it for themselves."

Manuel Mafnas Merfalen 82 years old, Survivor

"One morning, we were visited by a few Japanese and an interpreter and the Commissioner of Dededo... They introduced themselves to be the representative of the police, and the reason for their being there was because of my sister being married to an American Navy man... So the question went on repeatedly to my sister, and my sister was only giving them negative answer. Each time they're not satisfied with the answer, it was followed with a blow in the face, not with the palm open, but with the fist closed, to my sister's face every time she gave a negative answer. This went on for almost an hour, and they finally decided to leave, leaving my sister with a puffy face, bleeding through the mouth and nose...And then the following day, the same people came, informing my mother that we have to deliver my sister down to the Agana police station for more investigation...They were tying up her hands in front of her, and there was a chair just before her and she was told to get on the chair. So they strung up my sister to the beam of that building and I watched her dangling on that rope... Every time she gave an answer, it was followed with a whip, about a yard long whip, instead of a beating with the hand. I can see through the window flashes of blood. Her dress is soaked with blood. She wasn't crying, but I can see tears dripping through her face... When I was watching through the window, they poured this container of liquid over her head, then she started screaming. And what it was, it's not water, but it's gas. I can smell the fume of that gas coming out through that window from a distance of maybe 15 feet. So I started moving away from the building. I was crying. As far as I can go from 100 feet away, I can still hear my sister yelling."

"We were on an ammunition and supply detail for some command in Mangilao for the military and, at the time, there was a plane flying over us. We were told to disperse with what we have on our shoulder into the jungle. My brother, being a heavy smoker, he took out his cigarette and light it, and momentarily when the supervisor of that crew saw the light, he yelled at one end of the group of people where we were and, in no time, he was there already yelling at my brother. I couldn't help watching him, what he was going through, and he was brutally kicked, hit with a stick, knocked down unconsciously... And at that time, they tied my brother's arm and dragged him behind a horse, and that was the last time I see of him."

Lourdes Laguana Perez 80 years old, Survivor

"I watched my aunties, my father's sisters whipped when their three kamas were lost when they were going out. So, the Japanese rounded up all the old people first. They started whipping them. The Japanese were taking turns whipping the old people first. They were very strong because they started first. Then, when they went to the younger people, they were kind of weak. But, I watched my aunties cry but they have to hold their breath because if they cry more, or if we cry because I watch them, you'll get beaten more and you'll get whipping more."

Jose Afaisen Pinaula 79 years old, Survivor

"I have suffered painful burn to both of my hands that lasted at least three days, then I was assigned to keep the diesel oil torchlight burning all night. I became nervous wreck. My morale was at its lowest breaking point. I was frightened and scared for my life, that I did anything the Japanese soldier just to survive and be alive. Forced to work, even if I was extremely ill, there was absolutely no excuse not to work, unless you on the verge of dying. I reach a breaking point in my life when I did not care what happened to me. "

Roman Leon Guerrero Quinata, Sr. 80 years old, Survivor

"Up to now, I do not understand why the animosity and suffering imposed on us by Japanese. Imagine, I was only 12 years old, with no knowledge and experience of hard labor. I was made to do all these things. I was forced to work in the rice field, after several month of schooling. But, of course, the Japanese ambition is not to educate us, but to force us to do hard work, hard labor for their interest in combating this war. No matter what it takes, no matter what it costs, as long as their interest is served sometimes I ask myself, "What have we done to make them hit us so much?" The Chamorros are a loving and generous people. They don't even respect the elderly. My mother recently had a baby, was forced to work in the rice field. Incidentally, the baby that was born just before the war, died during the war, after contracting pneumonia. Nothing matters to them."

"I will summarize this ordeal as one that I will never forget. The pain, the suffering, the hunger and the beating is beyond my expectation. I am praying that it will not happen again, and none of my kids or grandkids will ever experience what I have gone through."

Cristobal Reyes 68 years old, Survivor

"While at Fenna, he worked for the Japanese in the field crops. It was shortly after my father had to move to Fenna when he was made aware that the Americans were on their way to Guam. This alerted the Japanese and started ridding the islands of as much Chamorros as they can, so that it will help weaken the attack against them whenever it was to take place. This is what led to the massacre of Fenna. On one particular morning, all the people were gathered to go into several of the caves that were existed there. My father was in one of them. He was later called out by the Japanese to collect firewood and barks of trees to place in front of the cave. Up to this time, there was no mention or notice of machine gun position to fire directly in front of the cave. He witnessed the first cave was being set on fire at the entrance, and then was followed by shootings."

Regina Reyes 95 years old, survivor

"In 1941, when we heard that the Japanese is in Hawaii, we're to get away in the house. We stay there all day until four o'clock. I go to my other house. Since I just got in my house, they got in with gun and shiny bayonet. He asked me—I don't know what to say about this, pointed the gun, and I said, no, I don't have. And then he just pushed me on the wall and do what he want. He raped me."

Elvina Reyes Rios 81 years old, Survivor

"I was made to work by the Japanese. I was only 13 years old at the time. I was living in Agat with my parents. I was made to work in the rice field. I was made to work in Piti planting rice. I worked in the village of Agat to be in the garden. I was made to work in Jalaguag. The damage on my back is still there because when I was busy clearing land and I would stretch my body, the Japanese would throw rocks at me. It is still there on my back... I'd get to Fena at 6 in the morning and if I was late at least one minute, I would get one slap on my mouth. For three minutes, it was three slaps on my mouth. When I am done in Fena, I would grate 125 coconuts. I would get off at 6 pm and by the time I got home to the ranch at 9 at night."

Francisco Perez Sablan 69 years old, Survivor

"My father was beaten up and was punished, brutal. They hit him with sticks and they break almost every bone in his body. My mother, they grabbed me from my mother, they threw me in the fire. They slapped my mother. They kicked my mother. Now, I got about maybe 15% or 30% of my back body burned. So, I'm just here today to tell you that it's a hard life, to grow up with no parents, no father, no mother. I didn't even finish my education because I have nobody to support me in my education. I grew up eating bananas, breadfruit, taros, lucky if I eat spam or corned beef in a month or week. It's a hard life."

Jesus Perez Sablan passed away on May 21, 2010

"We arrived in Manenggon without water, food or shelter. We hurriedly installed a lean-to temporary shelter using vegetation branches for our bedding. Believe me, war is hell. How I managed to journey, to complete the journey, with my partially crippled dragging my leg with eventual healing was a mystery. Could only attribute it to faith, the will to survive, and, more importantly, the will of God. And I swear, that the above remarks were the whole truth and nothing but the truth, so help me God."

Vicente Taitingfong Taisipic 73 years old, Survivor

"They gave me a bucket to patrol the whole area of Yona and collect manure, irregardless what kind of manure. And they gave me a quota that, if I don't fill up six buckets during the field, that I would be beaten up. Practically, I was a walking maggot because, the fact of the matter is, that after the field work, I had to walk all the way from the school compound down to Asinan Valley. That's where our ranch is located at. And my parents normally told me to go directly to the river, stay there with the other carabao or water buffalo. And at that time, soap is a luxury for us. We used lemon leaf for soap so I could get rid of the flies that had been following me from the field that I would be beaten up."

"The Japanese sergeant told me and a few others to round up all the dogs. At that time, I was under the impression they're supposed to eat it, but they behead it. And the one time, I came so close to at being cut by a Japanese sword. And then the dog, more or less, trying to reach and I reached over to grab it, hold it back, and then the Japanese soldier, cut him in half. Then he started laughing at me, and then, at the same time, I was bloody all over, then he started getting mad at me that I wasn't doing my job holding the dog down."

Arthur B. Toves 81 years old, Survivor

"One afternoon, he ordered me and said to me, "Get one shovel and go to the cemetery and dig this hole for two." I did that because it's very soft, sandy part. I finished what they told me to do. I hid under the banana tree and wait for them. Sooner or later the truck came with the two local prisoners and the mother. They followed behind the car with the two Japanese, armed with swords and .45 pistol. When they got into the cemetery, they tied the hands of the prisoners. They ordered them to kneel down, face one another. "Look down at the hole and bend your neck." Ladies and gentlemen, sooner or later, that sword was flying, whacking the neck. One was next to the lady, the other was not, because they used the .45 to kill the guy. But, what makes me feel so bad that day, is that the mother was standing right next to the grave, watching all the things that being done to her son. I feel so bad, but I cannot do anything, or else, I'll be in the hole also."

"My father [was] still in prison. They came to the ranch, armed with bayonets, looking for anything to prove that we are spy. They didn't find anything. They brought us to Agana, my two oldest brothers, my two oldest cousins and myself. They bring up the recent account. My father was on top of that. Nine o'clock in the morning, I noticed the executioner in the window... When he came out, he let us stand, all of us five, attention. He touches my brother's neck, the oldest one. He said, "This is no good because this is kind of hard." Going down the line, they came to me. He touches my neck and exactly, this is what he said, "This is very good." One time, meaning to say the sword would just go through all the way because I was the youngest one."

Juan Martinez Unpingco passed away on August 10, 2010

"We seldom go to the other village and to Agana because we were afraid that we might meet Japanese soldier who were so mean and brutal. I have seen them slap our people with them and even stab people to death with their bayonet. They were ruthless and they have no regards to the value of human life. Then one day the Japanese soldiers came to our ranch destroying things and terrorizing us. We were so scared, especially when the same soldier rape my auntie Margaret."

"One day the Japanese soldier armed with rifle and an interpreter telling to forcing us to march to Manenggon concentration camp... If you stopped to rest, you'd be whipped and beat. These were the march when my father, got whipped—oh boy he was really whipped had no reason, apparent reason. He was whipped with tangantagnan stick five feet long, one inch thick, my dad was whipped so severely until his body was swollen, lacerated, covered with matted blood and bruises. The beating took so long, so the soldiers took turns beating him. When the beating was finished, my father went to the nearby river and soaked his wounds for two hours to lessen the pain, swelling and bleeding."

"Our people, as well as my family, endured so much hardship, pain and agony and torture. There are times I have nightmare remembering the suffering and torture and the killing that I witnessed as a young man. I still remember the mangled bodies with worms and flies feeding them."

Mr. LANDRY. Thank you, Governor. The Chair would now like to recognize Mr. Pula for five minutes.

STATEMENT OF NIKOLAO PULA, DIRECTOR, OFFICE OF INSULAR AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. PULA. Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss the Guam World War II Recognition Act.

It has been nearly 70 years since Imperial Japanese military forces invaded and occupied Guam, subjecting its residents to 33 months of horrific pain and death. Through it all, however, the largely native population, the Chamorro, remained ever loyal to the United States. In a monumental operation the United States ground forces surrounded the beaches of Asan and Agat on June 21, 1944. Although our forces experienced fears of battles throughout the Pacific, what they found and learned of Guam's occupation by the Japanese was shocking. Fellow Americans, innocent civilians were subject to summary executions, beheadings, rape, tor-

ture, beatings, forced labor, forced march and internment. Approximately 1,000 had died due to the brutality of the Imperial Japanese occupation.

No U.S. state or territories suffered as bitter a fate during World War II as did Guam.

Cognizant of the dire straits of the people of Guam, the U.S. Congress passed the Guam Meritorious Claims Act in November 1945, just after the surrender of Japan. The U.S. Government later granted relief to certain residents of other areas occupied by Imperial Japanese military forces. Guam was not included in this subsequent legislation under the mistaken belief that Guam residents had already been compensated.

For nearly 30 years, beginning in the 1970s, Guam delegates to Congress introduced legislation regarding war claims. It was not until 2002 that the Guam War Claims Review Commission Act became public law. Congress had instructed the Commission to determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act as compared with awards made to other similarly affected United States citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II.

The Commission met on numerous occasions, held lengthy hearings in both Guam and in Washington, and exhaustively analyzed relevant information and materials before committing its collective judgment to paper in its 2004 report. The Commission carefully stated 32 findings and developed six recommendations for the Congress, including $25,000 for eligible survivors of Guam residents who died, $12,000 for personal injury, including rape, malnutrition, forced labor, force marching and internment to each person who personally suffered any of these harms or to the eligible survivors, and establishment of a trust fund for research, education, and media to memorialize the events of the occupation and the loyalty of the people of Guam.

Legislation which drew from the report has passed the House of Representatives on several occasions beginning with the 109th Congress. However, it has failed to receive the support that would see it through to the enactment that we believe it deserves. As Congress is aware, Guam is vital to the protection of American interests. The United States has plans to move about 8,000 Marines, including their dependents from Okinawa to Guam. Many hope that the passage of the Guam Loyalty Recognition Act would show goodwill on the part of the Federal Government and would act as reciprocity for the goodwill and loyalty of the people of Guam have always exhibited and will exhibit by hosting the enlarged military presence.

The Obama Administration, through the Department of the Interior, strongly supported enactment of the Guam World War II Loyalty Recognition Act in the 111th Congress, and we continue to offer our strong support for these provisions. Enactment of H.R. 44 would restore the dignity lost during occupation and heal wounds bound in the spirits of those who survived.

Thank you for the opportunity to testify.

[The prepared statement of Mr. Pula follows:]

Statement of Nikolao I. Pula, Jr., Director, Office of Insular Affairs, U.S. Department of the Interior, on H.R. 44, The Guam World War II Loyalty Recognition Act

Mr. Chairman and Members of the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs, thank you for the opportunity to discuss H.R. 44, the Guam World War II Loyalty Recognition Act.

It has been nearly 70 years since Imperial Japanese military forces invaded and occupied the United States territory of Guam, subjecting its residents to 33 months of horrific pain and death. Through it all however, the vast majority of the largely native population, the Chamorro, remained ever-loyal to the United States. In prayer and song, many longed for the return of the Americans.

In a monumental operation, United States ground forces stormed the beaches of Asan and Agat on June 21, 1944. It took nearly two months to dislodge a well-hidden enemy, but Guam was finally secured on August 10, 1944. Although our forces experienced fierce battles throughout the Pacific, what they found and learned of Guam's occupation by the Japanese was shocking. Fellow Americans, innocent civilians, were subjected to summary executions, beheadings, rape, torture, beatings, forced labor, forced march and internment. Approximately 1,000 had died due to the brutality of Imperial Japanese occupation. No U.S. state or territory suffered as bitter a fate during World War II as did Guam.

Once Guam was secured, its residents were overwhelmingly thankful that their prayers had been answered, and conversely, our grateful nation had immense admiration for them and the pain and suffering they had endured. Cognizant of the dire straits of the people of Guam, the United States Congress passed the Guam Meritorious Claims Act in November 1945, just after the surrender of Japan,.

The U.S. Government later granted relief to certain residents of other areas occupied by Imperial Japanese military forces. Guam was not included in this subsequent legislation under the mistaken belief that Guam residents had already been compensated by Congress. While the Guam relief recipients were appreciative, over the years it became evident that they may not have received treatment equivalent to that later given to Americans in other areas occupied by Japanese forces.

For nearly 30 years beginning in the 1970s, Guam Delegates to Congress introduced legislation regarding war claims. It was not until December 10, 2002 that the Guam War Claims Review Commission Act became Public Law 107–333. Pursuant to the Act, the Secretary of the Interior appointed the Commission's five members, all of whom had experience relevant to the task at hand.

Congress had instructed the Commission to "determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act as compared with awards made to other similarly affected United States citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II...."

The Commission met on numerous occasions, held lengthy hearings both in Guam and in Washington, and exhaustively analyzed relevant information and materials before committing its collective judgment to paper in its 2004 *Report on the Implementation of the Guam Meritorious Claims Act of 1945.* The Report is indeed comprehensive. The Commission carefully stated 32 findings and developed six recommendations for the Congress.

Included in the recommendations are:

- $25,000 for the eligible survivors of Guam residents who died during the Japanese occupation, which amounts to approximately $25 million for approximately 1,000 deaths;
- $12,000 for personal injury, including rape, malnutrition, forced labor, forced march, and internment (including hiding to avoid capture), to each person who was a resident of Guam during the Japanese occupation and who personally suffered any of these harms, or to the eligible survivor(s) of such individuals, which amounts to approximately $101 million for the entire 1990 census population of Guam; and
- Establishment of a trust fund for scholarship, medical facilities, and other public purposes for the benefit of the people of Guam and for research, education and media to memorialize the events of the occupation and the loyalty of the people of Guam.

Legislation, which drew from the report, has passed the House of Representatives on several occasions beginning with the 109th Congress. However, it has failed to receive the support that would see it through to the enactment that we believe it deserves.

As Congress is aware, Guam is vital to the protection of American interests in Asia and the Western Pacific. The United States since 2000 has been building up

its military forces on Guam, and has plans to move about 8,000 Marines and their dependents from Okinawa to Guam as part of a bi-lateral agreement with Japan. Many hoped that passage of the Guam World War II Loyalty Recognition Act would exhibit good will on the part of the Federal government and would act as reciprocity for the good will and loyalty the people of Guam have always exhibited and will exhibit by hosting a large military presence.

The Obama Administration, through the Department of the Interior, strongly supported enactment of the Guam World War II Loyalty Recognition Act in the 111th Congress, and we continue to offer our strong support for these provisions. Enactment of H.R. 44 would restore the dignity lost during occupation and heal wounds bound in the spirits of those who survived. For the thousand who passed by saber or savagery their memory remains in stories of principle, courage, and sacrifice.

The Island of Guam has undergone tremendous change since World War II, and that change will continue as its strategic value is realized in the 21st Century. The opportunity to reach back and provide equity, parity, and justice is manifested in the Guam World War II Loyalty Recognition Act.

Mr. LANDRY. Thank you. The Chair would now like to recognize Mr. Tamargo. You are recognized for five minutes.

STATEMENT OF MAURICIO TAMARGO, FORMER CHAIRMAN, GUAM WAR CLAIMS REVIEW COMMISSION, FORMER CHAIRMAN, UNITED STATES FOREIGN CLAIMS SETTLEMENT COMMISSION

Mr. TAMARGO. Thank you, Mr. Chairman, Ranking Member, Members of the Committee, for the opportunity to appear before you today to speak about the work of the Guam War Claims Review Commission.

My name is Mauricio Tamargo. I had the distinct honor of serving as the Chairman of the Review Commission and I served with a very talented and knowledgeable group of fellow commissioners and staff. For the sake of brevity, I am summarizing my remarks.

The Review Commission was an advisory body established by the Secretary of the Interior pursuant to the Guam War Claims Review Commission Act enacted in December of 2002. The Review Commission was established to determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act as compared with awards made to other similarly affected U.S. citizens or nationals in territories occupied by Imperial Japanese military forces during World War II, and to advise on any additional compensation which may be necessary to compensate the people of Guam for death, personal injury, forced labor, forced march and internment suffered at the hands of the Japanese forces during the occupation.

Guam was a U.S. territory when Japanese forces attacked it on December 8, 1941. Two days later, on December 10th, the Japanese overran and occupied the island. What followed was a period of 32 months of cruel, brutal and barbaric oppression of the people of Guam by the Japanese occupation forces. Great numbers of islanders were beaten. The Commission found that great numbers of islanders were beaten and whipped and many of the women were raped. There were numerous beheadings. In the last months of the occupation nearly all of the islanders were subjected to force labor and forced marches and herded into concentration areas including the elderly and the very young, causing them to suffer acutely from malnutrition, exposure, and disease.

The Review Commission found that U.S. forces began the liberation of Guam on July 21, 1944, and the United States declared Guam secure on August 10, 1944. We also found that the Navy immediately began organizing the island as a base from which the U.S. intended to launch air and sea attacks in the direction of Japan. The U.S. Navy also devoted as much material and effort as it could spare to constructing shelters and providing assistance to the residents of Guam. Housing and shelter was scarce on Guam not just because of the combat fighting between the U.S. and Japanese forces, but also because many of the residents were being displaced by the ever-increasing build up of U.S. forces on the island. The task of both acquiring all necessary lands for U.S. forces and for providing monetary relief for damages to the residents of Guam was undertaken by the Navy's Land and Claims Unit, which later became the Navy's Land and Claims Commission.

As the first word in both organization's titles implies, the Navy's priority was acquiring all the necessary land on the island needed by the military for the war effort, not attending to the claims of the residents of the island. To a great extent, this is understandable as the U.S. was still engaged in a very serious war effort.

The Review Commission report acknowledges that the Navy's efforts on behalf of the residents of Guam was admirable. However, the Review Commission also noted that the two missions of the Land and Claims Commission were at cross purposes because while the Navy was trying to inform the residents of Guam of their right to file a claim, and while it was trying to provide them with shelter and housing, the Navy was also displacing much of the population of Guam.

Ultimately the Navy grew to occupy 75 percent of the island. Within weeks after the termination of hostilities on Guam, the Congress enacted the Guam Meritorious Claims Act of 1945. In addition to providing other authorizations, this Act directed the Navy to provide immediate relief to the people of Guam in the form of monetary payments.

In undertaking its tasks, the Review Commission conducted research, extensive research on the administration of the Guam Meritorious Claims Act of 1945 by the Navy's Land and Claims Commission, comparing that claims program to other claims programs conducted pursuant to other acts of Congress.

The Review Commission also conducted hearings on Guam and in Washington, D.C. Finally, the Review Commission submitted its report to the Secretary of the Interior and to specified congressional committees summarizing our findings and our recommendations. The Review Commission, as detailed in our report, found that the Navy's Land and Claims Commission administered pursuant to the Guam Meritorious Claims Act of 1945 was significantly flawed and fell short on a number of important counts when compared to the claims programs provided to the residents of other U.S. territories.

The most significant of the flaws of this claims program was the poor public notice given to the residents of Guam and to the short opportunity for residents of Guam to file claims in the claims program. The Review Commission also found, and I would like to now make special mention of the fact that the residents of Guam during

the Japanese military occupation exhibited great courage and loyalty to the United States in case of extreme hostility, and they did it at a time when the outlook for the U.S. prevailing in the war was far from assured.

In conclusion, the five commissioners who served on the Review Commission came from different points of view and different backgrounds, as well as from both political parties, and yet we came to the findings and recommendations unanimously. I stand by these findings and recommendations and continue to believe strongly that they should be implemented.

I would also like to say that those of us who came to the Review Commission from the Foreign Claims Settlement Commission were pleased to have had the opportunity to use our familiarity and expertise regarding war claims issues to assist in this important work.

Mr. Chairman, this concludes my statement and I am happy to respond to any questions that you and the Ranking Member may have. Thank you.

[The prepared statement of Mr. Tamargo follows:]

Statement of The Honorable Mauricio J. Tamargo (Ret.), Partner, Poblete Tamargo, LLP, Former Chairman, Foreign Claims Settlement Commission of the United States, and Former Chairman, Guam War Claims Review Commission, on H.R. 44, The Guam World War II Loyalty Recognition Act

Chairman Fleming and Members of the Subcommittee, thank you for the opportunity to appear before you today to speak about the work of the Guam War Claims Review Commission.

My name is Mauricio Tamargo, and I was the chairman of the Foreign Claims Settlement Commission at the Department of Justice from 2002 to 2010, and I was also chairman of the Guam War Claims Review Commission (Review Commission) until June 9, 2004 when the Review Commission completed its work.

The Review Commission was an advisory body established by the Secretary of the Interior under the Guam War Claims Review Commission Act, Public Law 107–333, enacted in December 2002.

I had the honor of serving on the Review Commission with a very talented and knowledgeable group of individuals including the Vice Chairman of the Review Commission, the late Hon. Antonio Unpingco, former Speaker of the Guam Legislature, the Hon. Robert J. Lagomarsino, former Member of Congress from Ventura, California, the Hon. Benjamin J. Cruz, former Chief Justice of the Guan Supreme Court-now a Senator in the Guam legislature, and Mrs. Ruth Van Cleve, a former career senior executive in the Department of the Interior, and Mr. David Bradley, the Executive Director and the rest of the Review Commission staff.

The Review Commission was established to "determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act as compared with awards made to other similarly affected U.S. citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II" and to "advise on any additional compensation that may be necessary to compensate the people of Guam for death, personal injury, forced labor, forced march, and internment" suffered from the Japanese occupation of the island during the war.

The island of Guam, was a U.S. territory when it was attacked by Japanese forces on December 8, 1941. Guam was attacked on the same day as the attack on Pearl Harbor occurred, but this attack happened on the other side of the International Date Line. Two days later, on December 10, 1941, the Japanese overran and occupied the island. What followed after that was a period of 32 months of cruel, brutal, and barbaric oppression of the people of Guam by the Japanese occupation forces. Great numbers of the islanders were beaten and whipped, and many of the women were raped. There were numerous beheadings and, in the last months of the occupation, nearly all of the islanders were subjected to forced labor and forced marches and herded into concentration areas, including the elderly and very young, causing them to suffer acutely from malnutrition, exposure, and disease.

The Review Commission found that after beginning the liberation of Guam on July 21, 1944, the United States forces declared Guam secure on August 10, 1944, and immediately began organizing the island as a base from which the U.S. intended to launch air and sea attacks in the direction of the Japan, the Japanese homeland. At the same time, the U.S. Navy devoted as much material and effort as it could spare to constructing shelter for the local citizens.

Housing and shelter was scarce on Guam not just because of the combat fighting between U.S. and Imperial Japanese forces but also because many residents were being displaced by the ever increasing build up of U.S. forces on the Island. The task of both acquiring all necessary land for U.S. military forces, and providing monetary relief and damages to the residents of Guam was undertaken by the Navy's "Land and Claims Unit", which later became the Navy's "Land and Claims Commission" when the Congress enacted legislation. As the first word in both organizations title implies, the Navy's priority was acquiring all the necessary land on the Island needed by the military—not attending to the claims of the residents of the Islands. To a great extent this is understandable as the U.S. was still engaged in a very serious war effort.

The Review Commission's Report acknowledges the Navy's efforts on behalf of the residents of Guam as admirable. However, the Review Commission also noted that the two missions of the Land and Claims Commission were not aligned and in fact were at cross-purposes. Because, while the Navy was trying to inform the residents of Guam of their right to file a claim and trying to provide them with shelter and housing, the Navy was also displacing much of the population of Guam. Ultimately the Navy occupied seventy-five percent of the Island. Leaving a mere twenty-five percent for the population of Guam to inhabit.

With-in weeks after the termination of hostilities in Guam, the Congress enacted the Guam Meritorious Claims Act of 1945. In addition to providing authorizations, this Act directs the U.S. Navy to provide "immediate relief" to the people of Guam. This directive included providing monetary payments to the people of Guam.

In undertaking its task, the Review Commission conducted research on the administration of the Guam Meritorious Claims Act by the Navy's Land and Claims Commission, and compared the claims program conducted pursuant to it with the following statutes, and the claims programs conducted pursuant thereto, after the war:

- The Philippines Rehabilitation Act of 1946
- The War Claims Act of 1948, including the 1952, 1954, 1956, and 1962 (Wake Island) amendments to the Act, and Title II of the Act, added in 1962—The Micronesian Claims Act of 1971—The Aleutian and Pribilof lslands Restitution Act (1988)

The Review Commission also conducted hearings on Guam, at which time we heard moving testimony from survivors of this terrible period in history. We then held a legal experts' conference in Washington, D.C., where relevant legal issues and the history of Guam were discussed. Finally, the Review Commission submitted its Report to the Secretary of the Interior and to specified congressional committees summarizing our findings and recommendations.

The Review Commission found that the Navy's Land and Claims Commission, administered pursuant to the Guam Meritorious Claims Act of 1945, was significantly flawed and fell short on a number of important counts, when compared to the claims programs provided for residents of other U.S. territories. The most significant of the flaws in this program being the poor public notice given for the claims program on the war ravaged and chaotic Island and the short opportunity residents of Guam had to file claims.

The Review Commission also found, and I would like to make special mention, that the residents of Guam exhibited great courage and loyalty to the United State in the face of extreme hostility at a time when the outlook for the U.S. prevailing was far from assured. As demonstrated by the time when a number of the residents of Guam hid and protected an American sailor during the Japanese occupation. But for the assistance by the U.S. national residents of Guam, who knows how WW II would have ended?

The Subcommittee has asked me to address a number of specific questions regarding the work of the Review Commission. These questions are: why should U.S. taxpayers pay for these WW II reparations?; How are the awards under H.R. 44 different from the amounts already received by 4,356 claimants under the Guam Program?; What is the justification for the different levels of compensation in H.R. 44?

The Japanese cannot be held responsible for any further payment of reparations for World War II wrongs committed against Americans, including the World War II claims of the American residents of Guam, because the terms of the 1951 Treaty of Peace released the Japanese from such responsibility.

At the same time, notwithstanding that the actual funding to pay these Guam claims will come from taxpayer funds, it could be argued that the funds are, in some sense, traceable to the funds derived from the postwar liquidation of the Japanese and German assets frozen at the beginning of World War II. Those Japanese and German funds were lumped together and distributed by the Department of the Treasury, pursuant to the various War Claims Commission and Foreign Claims Settlement Commission claims programs. No distinction was drawn between Japanese and German responsibility for any particular claim or set of claims. (This contrast with the funding of war claims against the Axis countries Hungary, Romania, and Bulgaria. Title III of the international Claims Settlement Act of 1949 mandated separate funds, derived from the respective countries' frozen assets, to cover claims against each of those countries.) Insofar as the Foreign Claims Settlement Commission is aware, it has not been possible to determine whether all of the proceeds from liquidation of the Japanese and German assets have in fact been expended. Therefore, in this case, it could be said that these Guam claims would be paid with Japanese funds.

With regards to the 4,356 claims received, although I don't recognize that number, the first thing I wish to point out is that while the Guam Program shows a total of 6,365 awards, only 318 of those were death claims and only 257 were injury claims, the rest were property claims. Again, this breakdown indicates where the Navy's priorities were, understandably with the war effort. The other point I wish to make with regard to this question is, as like all such war claims programs, there is no legal obligation to make these payments and, as I have said before, the payment of these awards are ex-gratia.

As to why the Review Commission recommended different categories of claims, the Review Commission found that due to the passage of years and the loss of relevant records, it is virtually impossible to differentiate among the many brutal injuries each resident of Guam suffered during the Japanese occupation. We also looked at other similar remedial claims programs to this recommended program and found that the most appropriate method for apportioning compensation for the resident's suffering would be to grant one single lump some award covering each categories of harm, regardless of how many types of harm a person may have suffered. Each level of compensation is justified by the different, brutal, and very difficult hardship experienced by each of the residents of Guam during the occupation. Even the least severe level of compensation, the internment, caused significant illness and death due to exposure to the elements for weeks without shelter.

In conclusion, the five Commissioners who served on the Review Commission came from different points of view and backgrounds, as well as both political parties and yet we came to these findings and recommendations unanimously. I stand by those findings and recommendations and continue to believe strongly that they should be implemented. I would also like to say that those of us who came to the Review Commission from the Foreign Claims Settlement Commission were pleased to have had the opportunity to use our familiarity and expertise regarding war claims issues to assist in the accomplishment of this important work.

Mr. Chairman, this concludes my statement. I will be happy to respond to any questions that you or the other Members of the Committee may have.

Response to questions submitted for the record by Mauricio Tamargo, Former Chairman, Guam War Claims Review Commission, and Former Chairman, U.S. Foreign Claims Settlement Commission

From The Honorable Madeleine Z. Bordallo

Q: In previous war claims programs administered by the United States, is it typical for an Administration to request funds for the claims program in its annual budget request to Congress prior to the authorization of the program by the Congress and the subsequent approval of valid claims under that program?

A: "The Administration has not requested funding to pay claims under any program of the nature currently contemplated for the residents of Guam. This is necessarily so, as it would be impossible to know how much funding to request in advance of ascertaining the universe of potential outstanding claims.

In a few small claims programs, Congress has appropriated funds to pay claims after it had conferred authority to adjudicate the claims on a commission, but prior to the commission having evaluated the specific claims. In these particular claims programs, the Administration and Congress had an idea of the likely universe of outstanding claims. One such Program arose out of post-World War II conflicts and

involved inadequate rations and inhumane treatment of American servicemen held as prisoners of war.

In this current legislation, as in most claims programs, even though we have a rough idea of how many claims there may be, due to the age of the claimants, it is too difficult to estimate the appropriated funds that will be needed to cover this program."

Mr. LANDRY. Thank you. I would now like to recognize Brig. Gen. V.G. Ben Blaz, and also a former Member of this body for an opening statement. Thank you for being here today, General.

STATEMENT OF BRIG. GEN. V.G. BEN BLAZ, USMC, RETIRED. FORMER MEMBER OF CONGRESS

Mr. BLAZ. Thank you. Thank you very much, Mr. Chairman, Ranking Member, Members of the Committee.

I came here to use my time reading my statement as the others have done. I have decided to forego that, sir, because with all due respect in your opening statement I was concerned about some comments that I feel that if I don't respond there might not be another opportunity for me to respond.

I am very sincere when I say to you, with all due respect, as a former Member, I understand fully the responsibilities that you have and what decisions you need to make and how you weigh one against the other. But having mentioned the Heritage Foundation, apparently the source of much of your information, you just admitted something for the record, I say to you, sir, please read my statement later on.

Let me just start with the first thing that you mentioned about the citizens of Guam 1943 to 1956 received $8 million and you said apparently that is inadequate. Sir, I would prefer to call it incomplete, incomplete, and the reason it is incomplete is simply because there were so many people that were not aware. I was on Guam, Mr. Chairman. I was 17 years of age at that time when this thing was happening. I come from a family of eight children and my mother and father there were 10 of us. Our concern at the time was clearing the debris from our home and finding a meal for the next time that we sit down.

We were stunned later on when we discovered that there had been this Commission out there, and you just can't imagine how welcome it would be if you are starving and somebody handed you a dollar, and that is what we would have embraced the person.

So I think that there is a sentiment, and I think it is a very distressing sentiment that somehow this thing is now over. I say it is incomplete, and I say that we need to give them another shot.

The second thing that was mentioned was that at least—good grief, this distresses me somewhat as a Marine officer—that someone from the Heritage Foundation would characterize the death, killed in action, as being that is enough, what else do you want us to do? What else do you want us to do? We liberated you.

It shows an intensely ill-informed person that would write that. It presumes that the reason United States came to Guam was to liberate us and that alone. It presumes that the reason we captured the Northern Marianas rather than liberate them was to set them free. That is not enough because you would have to answer the question why did we lose so many people in two of the fiercest

battles in World War II in either theatre, taking Peleliu, no residents, attacking Iwo Jima, no residents. So the argument falls flat on its face, sir, that somehow the United States came. We are grateful. I know we are grateful, but by golly, we gave the United States, we gave, and besides Saipan and Guam, we practically defeated the Japanese by ourselves because our land was so—forgive me, forgive me, sir, for speaking so loudly but this is very dear, very dear to my heart.

I also want to mention that the matter that you mentioned about the treaty of—I mean, the $10 million or $10 billion. I agree with you. I absolutely agree with you. I cannot imagine, I cannot imagine that an organization such as the House with all its tremendously capable people in the U.S. Government as well that somehow we cannot find a way to say that out of that $10 billion we must be able to carve a few pennies and settle this matter.

Now, why do we want to settle this matter? We want to settle this matter, sir, because we need one. Now the military likes to describe Guam as the tip of the spear. Well, Guam has been the tip of the spear since 1898. I have here a picture, Mr. Chairman, I have here a picture of stamps that were issued in 1990, while I was here, and it is a picture of Guam. Guess what it says parenthetically. "A U.S. outpost." So I challenged the Committee, why do you call Guam a U.S. outpost? The Committee staff checked it all out. They called me in and said, "because that is what it is." And I said, "I understand."

That is what it remains, it would appear.

So, what I would like to say to you, sir, is that this whole idea of compensation, the whole idea that somehow we don't owe the people of Guam this, there is a lot more to what is intended here than monetary value. At the risk of misquoting it why don't we call it, given the intensely loyal sentiment on Guam for the United States, why don't we call it the lack of response? It is obviously unrequited love, unrequited love.

We now are about to ask them one more time to look at China and to look at North Korea as an outpost and say, hey, will you let us know when something else is happening out there? I say to you, and I am way past my time, obviously, and I don't want to be chastised about this, but, Mr. Chairman, if you don't remember anything else that I have to say is that, sir, we are not trying to get this compensation to bring back the dead. All we are trying, sir, is to get this compensation to honor the living.

Thank you.

[The prepared statement of Mr. Blaz follows:]

Statement of Brigadier General Vicente G. "Ben" Blaz, USMC (Ret), and Former Member of Congress from Guam, on H.R. 44, the Guam World War II Loyalty Recognition Act

Chairman Fleming, Ranking Member Sablan and Distinguished Members of the Committee

It has always been an honor for me to be in the halls of Congress as a visitor, a witness, and a former Member. Since leaving the Congress, I have frequently told my friends that hearing rooms on the Hill are like mini-coliseums. The Members are the Caesars and the witnesses the gladiators!

When Guam was liberated in July of 1944, about 20,000 sons and daughters of Guam emerged from the concentration camps ragged and gaunt. Some joyous and singing, some quiet with guarded smiles, and others perplexed with lingering fear

in their eyes! Virtually all the elders, however, were in unison, fingering their rosary beads seemingly in a race as though the ones who finished the fastest would be the first to be freed. Of the original number liberated, it is estimated that only several thousand are still alive. I am one of them. I appear before you on their behalf.

My compliments to my successors, Congressman Robert Underwood and Congresswoman Madeleine Bordallo, and you, Mr. Chairman and members of the Committee for your efforts in getting us to this juncture in our long odyssey to resolve an issue which has torn the hearts of American citizens on Guam, particularly those who survived the occupation. To Chairman Tamargo and fellow commissioners on the Guam War Claims Review Commission, I tip my hat and extend a hearty, Si Yu'os Maase,* for a report well researched, well documented, well written, and exceedingly well done. (*In the language of our people, this translates to "May God have mercy on you," the customary way of expressing gratitude).

Filing cabinets here in Congress are replete with thousands of pages centered on the astonishing brutality suffered by our people during the occupation. The unspeakable evil inflicted on conquered peoples by Imperial Japanese forces during World War II pains the heart to recall. The rape of Nanking in 1937, the Bataan Death March in 1942, and the Manila Massacre in 1945 stunned the free world. Rape, forced marches, forced labor, and massacres were also inflicted on the people of Guam.

Numerically, the number of victims on Guam did not draw notice as those in China, Singapore, and the Philippines did; however, statistically, on a per capita basis, Guam was spared no quarter. That American nationals, on U.S. soil, under the American flagpole could be so brutally and cavalierly mistreated was extremely difficult for us to comprehend and accept. It may have earned us the dubious distinction of being the first Americans mistreated in this manner in our own American land. Remarkably, it appeared to me that the harsher the treatment, the deeper the devotion to the United States. The profound loyalty of the people of Guam was the subject of many writings and commentaries during and after the war. Among those who filed reports from Guam was war correspondent, Quentin Reynolds, who, after spending time in rehabilitation camps, reported, "These are real Americans. There never were any quislings on Guam." Sadly, these "real Americans" have been waylaid from receiving war reparations benefits on technicalities, their remarkable patriotic record notwithstanding.

Once again, Guam's strategic location in the western Pacific has attracted national attention. Once again, our small island, still only 30 miles long, is slated to host thousands of Marines and other military personnel and their families. In the early 1970's, I commanded the 9th Marine Regiment of about 4000 Marines stationed in Okinawa. One of the most challenging problems we had was maintaining cordial relations with the neighboring communities. Because we were in a foreign country, we were guided by the status of forces agreement between the U.S. and Japan. There is no such agreement between the armed forces on Guam and the civilian communities. Good will must prevail between the Americans on the base and the Americans outside the base.

Strategists are generally in agreement that there would be a large military contingent on Guam for the rest of this century. By the time deployments are executed, the chances are there would only be a handful of Guam war survivors still alive. The sons and daughters of the survivors and their children, many of whom are lawyers, doctors, dentists, engineers and business men and women would be the leaders in our communities. Were the contentious matter of reparations continue to remain unresolved, it is not likely that the fabled hospitality of the people of Guam would be unaffected. Having agonized with their parents for many years over the lack of action concerning war reparations matters, the historic goodwill between the military and the people of Guam is likely to be in jeopardy.

Once again, as it has done in the past during World War I, World War II, Korean War, Vietnam War and other conflicts which followed, Guam, by virtue of is strategic location, will have a major role in the security and defense of the United States. No other community in the U.S., territory or state, has served the national and international security interest of the United States as consistently and loyally as Guam and its people. Per capita, more of its sons and daughters have given their lives in defense of the United States than any other community its size and population. With China and North Korea just a few time zones from Guam, its strategic importance remains indispensable. The U.S. needs Guam's help again. Meanwhile, Guam could use help now in its quest for reparation for its sufferings and losses during World War II.

When Guam was captured and occupied in World War II, it changed our lives on Guam profoundly and, for some, permanently. In accordance with national and

international practice, custom, and tradition, we sought reparation not for broken homes but for broken bones. It has been a long journey on a trail with too many crossroads.

I was 13 when the journey started. I am now 83.

Mr. LANDRY. Thank you, General, and I understand and I appreciate your comments. I can't imagine what it was like living through that. It was a horror for a lot of people around the world at that time that I am sure the trials and tribulations that the people of Guam went through was repeated not only in the Pacific Islands but also in Europe as well.

I would like to recognize myself for five minutes since you took some issue with some of my comments.

Governor, it is my understanding that Guam leaders have rejected past settlement offers. Where is Guam in regard to these settlement offers, these settlement numbers?

Governor CALVO. As to a poll? Please recite the question.

Mr. LANDRY. It is my understanding that in 1990 there was an offer that was made of approximately $49 million, and then that offer was rejected. Do you agree with that?

Governor CALVO. You know, I was not aware of that. I was not in public office back in 1990 so I wouldn't be the right one to ask that question. I don't have an answer. What I do know is I go funerals every week and every week I see one less person to be compensated because they are in a funeral.

Mr. LANDRY. I would like to make sure that we understand that from the research I have done it is not as if the government has said—has been absolutely no money offered to Guam. It is my understanding that—Mr. Tamargo?

Mr. TAMARGO. Yes, sir.

Mr. LANDRY. Would you like to comment on that settlement offer?

Mr. TAMARGO. The 1990 settlement offer? Yes, the report studied that and makes mention of it in our report, and that was some of the members of the Commission, when we decided—when we came up with the recommendations we used that as the measure of those living at that time because we thought it was unfortunate that they did not come to an agreement at the time, and it was unfair to hold that against the people of Guam, so that was simply used as a marker as to those living at the time should be included in the remedial program.

Mr. LANDRY. Well, I guess my concern is that in 1990 there was an offer on the table for $49 million. Here we are some 20 years later. There are a lot of people that have passed away between now and 20 years, and I am trying to understand why $49 million at the time was not enough. I am trying to understand where did we come up with this quantity of $100 million.

Mr. TAMARGO. If your question is, sir, why was the offer not accepted at the time, my information was that the offer was limited to those living at that time, and the community of Guam did not believe that was——

Mr. LANDRY. OK.

Mr. TAMARGO. That was the issue at the time.

Mr. LANDRY. So it is not as if there has not been, that Congress and this government has been—you know, there wasn't any offers going out there. I mean, there was money on the table, I think a considerable amount of money, and I know my time is almost limited.

Mr. TAMARGO. Mr. Chairman, I would like to add though that there was unanimity in the Federal Government to do something about the program then.

Mr. LANDRY. Right.

Mr. TAMARGO. The administration at the time, the Congress at the time——

Mr. LANDRY. It is a question of money now. Is it the amount?

Mr. TAMARGO. Well, these monies are more symbolic than they are actual.

Mr. LANDRY. Well, here is the problem and this goes on, which leads into my next question—I only have a minute fifteen—to the gentleman and I hope he understands—$15 trillion in debt. At the time the $49 million was offered, we were only $3 trillion in debt. I guess my question, General, if we pass this bill, where would you suggest we take that $100 million from?

Mr. BLAZ. Sir, last year in the Pigford settlement that awarded Black farmers and other minorities recognition of their agricultural claim, we found $4.2 billion last year. The year before that we found $198 million for the Filipino scouts. In 1998, we found a billion dollars for the Japanese Americans that were relocated which was a horrible part of our history, but that is what happened. In 1988, we found money for the Aleutian restitution, and in 1971, we found money for the Micronesian claims.

Mr. LANDRY. If you don't mind, General, if I may interrupt, the problem we have here is now we are under a different set of rules. We are under—if we are going to award $100 million to one, we have to cut it somewhere else because in a lot of the instances you just explained there was a lot more money available. In the last two years we have spent $2.5 trillion more than we spent two years ago, and so I respect that, and I wasn't here in that Congress, and look, that is why I am here today asking these questions. I am just trying to find out where we would offset that money from because we can't just do what the past Congresses have done over the last 30 years or so. We can't just add it to the deficit. We have to cut it from somewhere else, and I am sorry that they spent so much money in the last two years. They spent an ungodly amount of money. I wasn't here. I want you to understand that. I wasn't a part of that particular spending but, unfortunately, I am now part of the group that has to make real tough decisions, and so that was all.

I know my time has gone over, so I would like to go ahead and recognize the Ranking Member, Mrs. Bordallo—Mr. Sablan. She was looking at me.

Mr. SABLAN. No, that is fine, Mr. Chairman. I yield my five minutes to Mrs. Bordallo.

Mr. LANDRY. All right, fine. Mrs. Bordallo.

Mrs. BORDALLO. Mr. Chairman, I was listening very carefully to your exchange her with General Blaz, and if I find an offset will you then support H.R. 44?

Mr. LANDRY. I couldn't commit to that but what I would tell you is I would be interested in where—you know, in where.

Mrs. BORDALLO. Good, because this bill has passed the Congress five times. It is only the Senate, and I have been told that if I find an offset over there in the Senate they will agree, so I am just asking you. Would you agree?

Mr. LANDRY. I couldn't commit on that right now, but it certainly would—it certainly would be a starting point.

Mrs. BORDALLO. All right, the Chair entered—yes?

Governor CALVO. With all due respect, I was reading the newspaper the other day. One of the things as a loyal citizen of the United States, and Congresslady you see some of the issues just on FEA that I mentioned or AITC, what I brought up earlier, and it would be too long to recount all the Federal mandates that have really bankrupted our island, but I could recommend—I just saw in the news Pakistan. If they are cutting aid to Pakistan, why don't you offset some of that money with a loyal American territory such as Guam? A little recommendation.

Mrs. BORDALLO. Thank you. Governor, just for the record I would like to ask you the same question I asked General Blaz. The Chair entered a statement from the Heritage Foundation that suggests that whatever war claims are due do not take into account the sacrifice of lives and injuries to liberate Guam. How would you respond to this?

Governor CALVO. What I understand is I don't think the Heritage Foundation is—I am wondering whether anyone from the Heritage Foundation has ever stepped foot on our island.

Mrs. BORDALLO. Probably not.

Governor CALVO. You know, when I first came to college out here, when I said I was from Guam, and it was well meaning, a lot of folks were saying, oh, is that near South America?

Mrs. BORDALLO. Yes.

Governor CALVO. Or do you live in huts? And unfortunately, you know, we are so far away that there is little understanding of our island.

Mrs. BORDALLO. That is true.

Governor CALVO. Just myself, my grandfather was first cousin of Father Dueñas. Father Dueñas had his head chopped off. My father didn't take off his shoes when he went into a classroom and the sensi beat him up.

Mrs. BORDALLO. Yes.

Governor CALVO. You know, I had another uncle, when you have an uncle whose father was a U.S. Marine, what they did with him was they stuck a hose in his mouth and he filled up with water. When it is filled sufficiently, they put the board on top of him and jump on him. These are things—I don't know if you can quantify it.

Mrs. BORDALLO. No.

Governor CALVO. But they were all loyal citizens——

Mrs. BORDALLO. Yes.

Governor CALVO.—when they were alive, and their children are still also loyal citizens.

Mrs. BORDALLO. Loyal citizens.

Governor CALVO. This has been 67 years.

Mrs. BORDALLO. Governor, I just want to mention to the Chairman, yes, when I came to Congress, you know, this is my fifth term, and when I came to Congress, just to show you how much they know about the territories, that is not just Guam but all of us, they asked me if Guam was part of Hawaii, one of my colleagues. So, you know, we have a big job here. We work three times as hard as any other Member when it comes to explaining our situation and why we are important to our country.

Mr. Tamargo, can you explain the Review Commission's finding that there is not a legal obligation for Guam war claims as one of the statements for the record states while the Commission report also states there is a moral obligation? Would you explain the distinction?

Mr. TAMARGO. Certainly, Congresswoman. War claims, there is never an obligation by a nation to pay—to create a claims program. That is simply a moral obligation, and that is what I was going to explain to the Chairman also. These are war claims given to citizens so that no one citizen has a disproportionate burden in the war. Soldiers have different programs for them but civilians are given the opportunity to file a war claim if they are so eligible, but Heritage's remarks about soldiers dying on the beaches—I have great respect for the American servicemen, but those are apples and oranges. We are not talking about soldiers. We are talking about civilian population that suffered war damages, and the mission of the Commission was to compare the claims program that was given to civilians on Guam and compare it to the civilians given to other U.S. civilians elsewhere in the Pacific, and there is disparity in the comparison, and that is just the facts.

So, if the facts that they were not treated fairly, then what would be called for as a moral obligation was to achieve parity. They would need to re-create a remedial program to give equity to the civilians of Guam, so it is a moral obligation.

Mrs. BORDALLO. Thank you. Mr. Chairman, Mr. Sablan, would you yield your time to me? Yes, to continue.

Mr. SABLAN. To continue, I yield my time.

Mrs. BORDALLO. Thank you, Mr. Chairman.

Mr. LANDRY. The Chair now recognizes Mrs. Bordallo for five minutes.

Mrs. BORDALLO. Mr. Tamargo, I want some clarifications here because I think our Chairman is new to Congress and probably doesn't understand all of the situation, but can you explain for the Committee the legal rationale for why the United States would pay for Guam war claims and not the government of Japan under this legislation?

Mr. TAMARGO. Certainly. Well, in the Treaty of Peace in 1951, the U.S. relieved Japan of all further liability and accepted all debts against Japan have been satisfied and they seized the frozen Japanese assets that were in U.S. banks at the time as settlement for all damages caused by the Japanese in World War II.

It was done with the Germans as well and it was commingled with U.S. funds, and so I would say these funds that would be paid to these, as were with all the other claims programs, these funds are indirectly coming from the Japanese and from the Germans, frozen assets that were seized and put into the Federal treasury.

Mrs. BORDALLO. Very good.

Mr. TAMARGO. So in my view Japan is paying for the damages. This is Japanese funds that are paying for these claims.

Mrs. BORDALLO. I don't know if you were listening, Mr. Chairman, but—right, oh, to explain. I see.

Another question that comes up when we have been through all of this for the last nine years is would this set a legal precedent? For example, people have come up to me and said, well, if we do this, then that would open up a flood of claims from other groups like the POWs, the veterans or the Filipinos.

Mr. TAMARGO. In my opinion it would not open up other claims. As the Chairman said earlier, and as others have said, and I have said, this is a moral obligation, not a legal obligation. So in the case it satisfies this moral obligation does not necessarily open you up to other obligations because there is no legal bind. It is just a moral obligation that the country feels they owe to these nationals.

Mrs. BORDALLO. Thank you. And Governor Calvo, how important is it to resolve this matter of Guam war claims? Can you speak to its priority on all the issues of our territory, and I know you have a lot of issues in addressing with respect to Federal territorial relations?

Governor CALVO. I just got through an election and I barely won it, but going through that election, going out there, especially with the young people, and I think it is very important not only for the Chairman but of people from the House of Representatives and the Senate to recognize, we are a loyal people, but that young generation, they are much smarter than us and they are getting—they are knowing history. Guam and the Marianas are strategic to the United States, and I do not want to repeat all—I would be here all day—the issues that have happened since World War II, but there are so many issues that now our young people are aware of.

As we move forward in political self-determination, I do believe the goodwill of Members of this Congress, this Administration, the Federal Government, or the ignorance or the nonchalance or the uncaringness will have an impact on these later generations on what direction we will go politically, I really do.

I would like to see closer union with the United States, but there is a burden that has been part of the people of Guam because we have been so—you know, 9,000 miles away. We are a forgotten people, and we have been so loyal.

Mr. Chair, I am a great grandson of a U.S. Marine who came in in 1901, so there is this history like many of us have with the U.S. military. There is a love of the men and women in uniform, but unfortunately some of the decisions that have been made in Washington, D.C. I do believe will have an impact on the direction of where our people will want to go in the future.

Mrs. BORDALLO. Thank you.

Governor CALVO. And this is one of those decisions.

Mrs. BORDALLO. I wish to reclaim my time here, and one final question I have is for the Department of the Interior. For the record, Mr. Pula, can you clarify once and for all does President Obama support H.R. 44?

Mr. PULA. I believe in my statement I said the Obama Administration through our Department of the Interior support the amendment.

Mrs. BORDALLO. Thank you. And will you then help us find an offset?

Mr. PULA. We are always looking for offsets these days.

Mrs. BORDALLO. Thank you. And I yield back, Mr. Chair. I yield back.

Mr. LANDRY. Thank you. The Chair now recognizes Mr. Faleomavaega for five minutes.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I have been listening very closely not only for the most eloquent statements from my colleague, the gentlelady from Guam, Mrs. Bordallo, but also the statements made by our witnesses this morning, Governor Calvo, Mr. Pula, Mr. Tamargo, and my good friend Brigadier General Blaz, a former Member of this great institution.

Mr. Chairman, this is like a broken record for the past 65 years since we have been discussing this issue before the Congress, a broken record to the fact that five times this bill has passed this House, and for some reason or another somehow we just cannot seem to persuade our colleagues in the other body to do the right thing in giving the proper compensation for these people who suffered so much.

I do appreciate your concerns to the fact that we have some very trying period in our country's situation, economic situation with the deficit and the some $14.5 trillion national debt that we are faced with. But, Mr. Chairman, there are some historical aspects that I want to share with you in my understanding formerly not only as a Vietnam veteran, but someone who has lived in Guam, and with a real deep respect for the Chamorro people and understanding their concerns, and what they were confronted with.

In the first place before the Japanese attack on Guam in 1941, Mr. Chairman, it was a very unusual situation on the part of our government because these people were U.S. nationals, and somehow our military leadership decided not to take the people off the Island of Guam before the invasion by the Japanese. Is it because they were not U.S. citizens but they are U.S. nationals? And as U.S. nationals, according to the immigration laws, is defined as any person who owes permanent allegiance to the United States, and this is another bit of history, Mr. Chairman, in wanting to know why these U.S. nationals were never evacuated before the invasion of the Japanese forces in Guam in 1941. That still remains to be a question why this was done. Is it because they are not U.S. citizens, but I have just defined what a U.S. national is according to our own immigration laws.

Mr. Chairman, I don't know what the Heritage Foundation, I have not received a copy of the letter from the Heritage Foundation. If they raise objections to the substance of this bill, I just want to say that I do have a high respect for the Heritage Foundation for its conservative positions and issues that we discussed here nationally, but this one instance, Mr. Chairman, I cannot believe that the Heritage Foundation questions the validity of this proposed bill.

Now, there are some questions raised about, well, where are we going to get the money. Somehow we are able to find $10 billion for the relocation of some 9,000 Marines and their dependents in the coming years, and part of the funding of some five to six billion dollars is going to come from the Japanese government. And I wonder in that respect, Mr. Chairman, that maybe this is the pot we ought to look at seriously in providing compensation as part of the $16 billion transfer. If we can do it for 9,000 Marines and their dependents, then I am certainly—I cannot believe that we cannot find funding as part of the $16 billion transfer. I do want to offer that recommendation strongly since Japan is also paying part of this transfer at five to six billion dollars.

Mr. LANDRY. Will the gentleman yield?

Mr. FALEOMAVAEGA. I will be glad to yield to my friend.

Mr. LANDRY. If I may, I think that is a great point, but if I could clear up the air here on this Heritage Foundation letter——

Mr. FALEOMAVAEGA. Please.

Mr. LANDRY.—that seems to have created some fire storm. I will tell you how I feel and that is why I am here is to ask these questions and to understand, and you are right. Guam is a distance away from the mainland. At this particular time, in this particular Congress with the financial situation that we are in it is very, very sensitive subject, and it is hard because it is personal to people like the General. But those finances are just as personal to the U.S. taxpayer as well, and I am sure, Governor, that the U.S. Government and these Congresses have appropriated millions, maybe tens of millions, maybe hundreds of million dollars over the last 50 somewhat odd years in support of infrastructure and things on Guam.

I want you to know that I believe in supporting the territories of this country. I was in Puerto Rico not too long ago, and telling someone I think it is a great place. I don't know why it is not a great vacation place for a lot of people in the United States. It is a great place, beautiful. I would look forward to going to Guam. I enjoy visiting those islands. I would like to support them economically.

The tension here is a matter of cost of where we are financially in this country. So understand that that is why I chose these issues. It was not to slight anyone from a personal standpoint, but I think a lot of U.S. taxpayers out there are asking those particular questions, but I think you raise a great point of where we could get the money from.

Mr. FALEOMAVAEGA. And Mr. Chairman, I do want to thank you, and I never, never to question your sincerity in wanting to reach out and trying to understand where can we possibly get the proper funding. It is of interest, too, Mr. Chairman, and I really don't believe it is the money, it is the principle, Mr. Chairman. I think that all the Chamorro people are asking for as loyal citizens of this great nation of ours.

Let me just say Guam is the most important military strategic island that we have in that whole region of the Asian Pacific. Let me just share another point with my good Chairman. When I first came here 20 years ago as a Member of this great institution, as a Member of the Foreign Affairs Committee I wanted to be on the

Asia Pacific Committee. Becoming a member of that subcommittee, nobody wanted to be on the Asia Pacific Subcommittee on Foreign Affairs. Do you know why? Because the whole mentality here in Washington was on Europe and the Middle East. The Asia Pacific region was not even on the radar screen. If it was, we were not—if we were not bashing the Japanese, we were bashing the Chinese. It was never a positive experience, and understanding now the Asia Pacific region we have to make better attention, and our relationship with this area, which is almost 60 percent of the world's entire population, and Guam is part of that.

Again, I realize my time is up but I do want to share this with the Chairman. I cannot have a better witness than someone whom I have always considered not only as a father figure but as a military veteran himself and for someone who has my utmost respect as a retired Brigadier General of the United States Marine Corps, and I will never forget the words that he shared with this institution in terms of how we have treated people from the islands, and this is what he said, this is what my good friend General Blaz said, and I will never forget what he said. "We are equal in war but not in peace."

So it is OK for people from the islands to get their guts spilled and killed and all of the battles and the things that we volunteer to be part of our defense system, but when it comes to situations where we are giving proper compensation for what the good people of Guam is asking for, and as some of our witnesses said and I am sure my good Chairman will agree, this is a moral obligation that our government has toward these people, and I cannot think of a higher standard than we would have to suggest that if we do otherwise, then I think we failed as a nation to do what we should be doing in honoring the sacrifices that the Chamorro people have made on behalf of our country, on behalf of our country, and never once did they ever fail to prove their loyalty and their absolute convictions that this is a great country, but they just feel like they are not being just treated fairly. I think that is the bottom line, Mr. Chairman.

I know my time is up and I just want to say that I have 100 more questions I wanted to raise here but I know time is up, and hopefully maybe wait for the second round. Thank you, Mr. Chairman.

Mr. LANDRY. I was just informed that they need this room for another meeting that is coming up. I find that there is another hearing, so we won't be able to have a second round, so I thank the gentleman for his comments, and I would like to thank the panel again for their valuable testimony and contributions. Members of the Subcommittee may have additional questions for the witnesses, and we ask that you respond to these in writing. The hearing record will be open for 10 business days to receive your responses.

Finally, again I would like to thank the Members and the staff for their contributions to this hearing. And if there is no further business, without objection this Subcommittee will stand adjourned.

[Whereupon at 1:24 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

Statement submitted for the record by Frank F. Blas, Jr., on behalf of the Guam Survivors Memorial Foundation, in support of H.R. 44

Hafa Adai (Greetings) Mr. Chairman and members of the House Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs. I am Frank F. Blas, Jr., Minority Leader for the 31" Guam Legislature and also President of the Guam War Survivors Memorial Foundation, and I want to thank you for the opportunity to submit written testimony in support of H.R. 44 (the Guam World War II Loyalty Recognition Act).

In December 8th and 9th of 2003, a War Claims Review Commission (a panel created by Public Law 107–333, L16 Stat. 2873, known as the Guam War Claims Review Commission Act) held hearings on Guam to receive oral testimony from survivors of the World War II Japanese occupation of the island. In the two day period, the Commission heard from over 90 individuals who testified about the brutality, the fear, the agony, and the pain that was endured by the people of Guam from December, L94L to July of 1944.

During those hearings, the Commission received testimony from Dr. Rosa Palomo Carter, who stated that she was twelve when Guam was first occupied by Japanese Imperial Forces. She told of the squalid conditions she and her family were forced to live in. She told of the forced labor and interrogation she was subjected to as a child. And she also told of having to forage for food and fearing many times that she would starve to death.

The Commission also heard from Mr. Edward L.G. Aguon, who stated that he was fifteen when Guam was invaded. Mr. Aguon testified that during the occupation, he and others were forced to watch as people were brutalized, tortured and killed. He had agonizing memories of seeing people's faces as the final stab of the bayonet pierced their flesh, and hearing their cries as their last breath left their bodies.

Mr. Aguon ended his testimony by stating that he was77 years old, and if he was asked again to testify in another ten years, he may not be able to testify.

Mrs. Delores Cruz Meno also testified before the Commission in 2003. Mrs. Meno provided that she was ten years old and the youngest in a family of ten children when Guam was occupied. She told of the farm labor she was forced to perform in order to feed the Japanese occupiers. She also told of a forced march that she and others feared would lead them to their deaths. Mrs. Meno testified that while the march was unexplainably halted, she later learned that her two oldest brothers were killed by Japanese soldiers at the place she was supposed to march to.

Mr. Cristobal Reyes was also given the opportunity to testify before the War Claims Review Commission in December 2003. While there, Mr. Reyes testified that although he was just an infant during the occupation, he was informed of the atrocities by his father and wanted to share his father's information. Mr. Reyes stated that because of his father's complexion and build, the Japanese soldiers suspected that he was part American and subjected him to brutal beatings. Mr. Reyes' father feared that he was going to be killed but an old Japanese friend and pre-war Guam resident convinced the Japanese soldiers that Mr. Reyes' father was not American, but was of Chinese ancestry.

Another survivor that was allowed to testify in the 2003 hearings was Mr. Jesus Perez Sablan. Mr. Sablan said that he was fourteen when Guam was thrust into the war, and throughout the occupation, was he was subjected to continuous forced labor. Mr. Sablan testified that although his family was originally from Sumay (a village that was once located near the south of Guam), the family was forced to move to different villages around the island, and when they thought that they could finally settle in Yigo (the northern-most village on the island), they were forced to march to a concentration camp in Mannenggon. To sum up his experience, Mr. Sablan stated in his presentation, "Believe me, war is hell."

Lastly, the War Claims Review Commission received testimony from Mr. Juan Unpingco who stated then that he was seventeen when the war started on Guam and that throughout the occupation, he witnessed so many horrible incidents that he now suffers from nightmares. Mr. Unpingco testified that his aunt was raped, his parents were brutally beaten, and he and his siblings were forced into labor. In his testimony, Mr. Unpingco told of a time when he, his father, and his brother were rounded up with other individuals to carry munitions for the Japanese soldiers. His father and brother were sent with a group that headed to the south of the island, and he was to carry munitions with others to the north. Mr. Unpingco stated that during the trek he found an opportunity to flee and was grateful that he did so because he later learned that all the individuals in his group were beheaded after delivering their supplies.

In the introduction of his book, "Bisita Guam: Let Us Remember (Nihi Ta Hasso)," former Guam Delegate to the U.S. Congress and retired Marine Brigadier General Ben Blaz wrote the following:

> "For the People of Guam, World War II was as personal as war could get. That is not to say that for people throughout the country, the war did not strike directly into their homes. From loved ones going off to battle, to rationing, to the makeup of the workforce, every American was deeply affected. But no Americans could say that the cities or towns where they had been born were invaded, none could say they lived under the harsh dictates of an occupying force, no one in the United States could say he or she suffered unique privations simply for being American except the people of Guam. The only other American territory occupied by hostile forces was the Aleutian lslands off Alaska, but they had no permanent population.
>
> Among Americans, only the people of Guam know what it means to live under the hostile yoke of a foreign conqueror. Each of the 22,000 people who lived on the island through the occupation has his or her tale to tell. As must happen, however, those who experienced the occupation first hand are inexorably growing fewer and fewer. It will not be too many more years before those of us who were there will be gone, and there will be no one left to attest to the facts of life under the control of a foreign military that viewed Guamanians as potential, if not outright enemies—people who had to be subjugated by iron, totalitarian rule to keep us in line."

General Blaz himself is a survivor of the Japanese occupation of Guam.

During the House Hearing held on this measure on July 15, 2011, it was obvious that Members of the Subcommittee were concerned that passage of this bill could result in additional war claims and there was further concern of where the funding would come from to pay such compensation. I submit that the testimony and answers provided by Mr. Mauricio Tamargo and Brigadier General Vicente G. Blaz, USMC (Ret.) adequately addressed the concerns expressed by the Honorable Jeff Landry. I further submit that there exists no reasonable or logical explanation to continue to deny the people of Guam who endured the cruelty and agony of the Japanese occupation their rightful recognition and compensation.

Mr. Chairman and Members of the Subcommittee, I began my testimony by giving you excerpts of previous testimonies because had Dr. Carter, Mr. Aguon, Mrs. Meno, Mr. Reyes, Mr. Sablan, or Mr. Unpingco been given the opportunity to testify before you, I am sure that they would have provided you the same. But I submit to you that their chance to again relive their experiences would not be possible, because they have all since passed away. These survivors, along with almost twenty thousand (20,000) of the twenty-one thousand (21,000) people of Guam who were "liberated" from enemy occupation sixtyseven (67) years ago have since left their earthly dwellings. The tragedy in their passing is that they were never recognized for their loyalty to the United States or for the suffering they endured because the enemy saw them as Americans. lt is in their honor that I plead their case for recognition and ask that you fook favorably on and support the passage of the Guam World War ll Loyalty Recognition Act.

Thank You.

Statement submitted for the record by Valerie J. Bock, Resident of Guam, Representing self, on H.R. 44, The Guam World War II Loyalty Recognition Act

My interest in H.R. 44, Guam World War II Loyalty Recognition Act is not as a recipient but, as Floridian-American. I've been a resident of Guam for five years.

The responsibility of the Japanese invasion rests solely on the shoulders of the United States of America. The Guam survivors should be compensated for the atrocities they endured. These atrocities were born from Guam's relationship with the United States.

The point is very simple; the Japanese would never have invaded Guam had it not been a territory of the United States. Had Guam been independent, the Japanese would never have bothered them. This elucidates the United States as responsible for the brutality endured by the residents of Guam.

It's not a matter of how much the Guamanians suffered during the Japanese occupation. Although, it is well known they suffered atrocities only seen on soil foreign to the United States.

It's not a matter of how long it took the United States to remove the Japanese invaders. Priorities were illustrated by the very short response for Hawaii versus a two year response time for Guam.

It's not even a matter of the patriotism of the Guam survivors. Though, their patriotism has been a constant source of United States military veterans even after the draft was repealed to today. Guam has the highest number per capita of United States soldiers who have paid the ultimate price.

Then after the war was won, peace treaties were signed, forgiveness was shared and the United States forgave Japan with a promise to pay all claims against Japan for the suffering by U.S. citizens. Was it truly the right of the United States to speak for Guam? I don't think so.

Now that the United States *has* spoken for Guam, it is their responsibility to repay the survivors for the two, long, hard years of slavery and occupation they endured as a result of their association with the United States. At the very minimum, the payment should include two years of salary. 2005 average salaries equaled $46,300. This would equate to a salary repayment of $92,600. Add a small token of consideration for the pain and suffering would amount to about $192,600 owed to each survivor of the war. Less than 1000 World War II survivors are still alive. This amount certainly isn't going to break the United States budget!

I am so embarrassed by the actions of my country. We treat our fellow citizens of Guam with total disregard for their membership in our country. I find the many years that have passed with no reparations to the Guamanian survivors is frustrating to them and embarrassing to me. It should be embarrassing to every member of the United States Congress.

I implore you to correct this wrong. Let us help these survivors move on and let them know they are important United States citizens.

Thank you for your time.

Sincerely, Valerie Bock, P.O. Box 7145, Agat, GU 96928

Statement of The Honorable Benjamin J.F. Cruz, Vice Speaker, 31ST Guam Legislature, on H.R. 44, Guam World War II Loyalty Recognition Act

Buenas yan Hafa Adai! Chairman Fleming and members of the Committee, thank you for the opportunity to submit written testimony on H.R. 44, Guam World War II Loyalty Recognition Act.

H.R. 44 is the latest attempt in a long and arduous effort to resolve an issue very dear to the people of Guam. I applaud Congresswoman Madeleine Bordallo's introduction of this measure as a standalone as opposed to its inclusion in the National Defense Authorization Act, as this proposal should be evaluated on its own merits.

As a member of what was then the Guam War Claims Review Commission, I know that we have substantial evidence against the Government of Japan for war claims, yet we chose to forgive Japan and this sensitive issue is now before the federal government to settle. I am hopeful that you have all had the opportunity to read the Commission's final report which was submitted years ago.

The findings of the Guam War Claims Review Commission were affirmed on five separate occasions by members of this House only to fail in the Senate through the efforts of a small minority. In spite of this continued refusal, Guam's people have never disavowed their pursuit of Justice.

It is my sincere hope that 70-year-old atrocities are given closure through federal recognition. The trials of the Chamorro people endured during the Japanese Occupation of Guam were especially heinous and fully deserving of an end to this long chapter in our history.

Too often legislative bodies are confronted with seemingly insurmountable problems; dilemmas which have no immediate solution or clear way forward—this is not one of those situations.

President Obama has lent his support for war reparations, the House has passed this measure repeatedly, and Guam's WWII survivors still believe that old sacrifices will not be forgotten.

Statement of The Honorable Benjamin J.F. Cruz, Vice Speaker, 31st Guam Legislature, on the Implementation of Public Law 110–229 to the Commonwealth of the Northern Mariana Islands and Guam

Buenas yan Hafa Adai! Chairman Fleming and members of the Committee, thank you for the opportunity to submit written testimony on the Implementation of Public Law 110–229 to the Commonwealth of the Northern Mariana Islands and Guam.

Let me preface by stating: If the original intent of passing Public Law 110–229 several years ago was to align U.S. Immigration Policy for Guam and the CNMI and to promote tourism, that intent is not being fulfilled. In November 2009, Parole Au-

thority was extended to the CNMI for China and Russia tourists and not to Guam. This is clearly in contradiction to Congressional Intent.

The current policy of allowing visitors from China and Russia to enter the CNMI under parole authority while requiring visas for those entering Guam is unfair and discriminatory.

It is even more unfair given the new the obligations now posed on the Guam community to support the realignment of U.S. forces in the region and the unique set of circumstances now facing the visitor industry as a result of the disasters in Japan.

Last year, this committee was informed by officials of the Government of Guam and the Guam Visitors Bureau that the sustainability of the Japan market, the primary source of visitors for Guam, was in question because of fierce competition from lower Asian resort destinations and an aging Japan population.

This year, I am afraid to report that the state of affairs has become worse given the tragedies in Japan last March. Please note that three out of every four visitors to Guam are from Japan. According to statistics provided by the Guam Visitors Bureau, the number of Japan visitors as of March is down by over 18 percent. As you can imagine, the impact is substantial given Guam's level of dependence on visitors from Japan. However, it should also be noted that this market has been in an ongoing and gradual decline. Japan arrivals have declined by 27% between Fiscal Years 2000 and 2008.

This is why every opportunity must be taken to improve other tourism source markets in order to keep Guam viable. This is why parole authority should be granted for Guam for visitors from China and Russia.

The combined number of outbound tourists from the People's Republic of China and Russia is approximately 70 million. The number of outbound tourists from Japan is 16 million, of which 5.5% (or 900,000) visited Guam last year. Thus, Guam through existing federal policy is being denied a tremendous opportunity to repair and advance its visitor industry and to provide gainful employment to Americans living on Guam.

Based on CNMI figures, China and Russia provide compelling market viability for Guam. Spending by Chinese and Russian tourists in the CNMI in 2008 reached $58 million, with per-person spending for Chinese visitors averaging $967 and for Russian visitors, $4,323. Overall, Chinese and Russian tourists contribute approximately 20% to the CNMI's tourism revenues. Based on research conducted by the Guam Visitors Bureau, China and Russia may potentially generate $212.2 million in combined payroll, hotel lodging, and gross receipts taxes by 2018.

Furthermore, it should be noted that the experience in the CNMI has yielded no significant issues with respect to asylum seeking and overstays. Nor has there been reported instances of asylum and overstays for the 4200 visitors to Guam from China permitted under existing Charter flights from China to Guam.

The full implementation of PL 110–299 is also imperative to the entire region, not just for Guam. An improved Guam economy provides carryover benefits to the other communities in Micronesia including the Republic of the Marshal Islands, the Republic of Palau and the Federated States of Micronesia. You should be aware that Guam is host to thousands of migrants permitted to live on Guam under the Compact of Free Association.

By working to improve the Guam-CNMI visa waiver program, Guam will be in a better position to improve its economy, reduce its dependency on the federal government, and provide carryover benefits throughout the region. It will also serve to provide the island with some level of sustainability after the military buildup.

I realize that the House Subcommittee on Insular Affairs, Oceans and Wildlife is committed to fostering economic development in Guam and the CNMI in a fair and equitable manner. I respectfully request that the members take my testimony into consideration and seriously consider the economic consequences of not acting to address the inequity.

Thank you for your time and kind consideration.

Statement of The Honorable Jeff Duncan, a Representative in Congress from the State of South Carolina

America is broke. We are $14 trillion in debt, which is more than enough for one nation. Worse, our current budget deficit remains over a trillion dollars. This requires us to tighten our belts and live within our means.

I stand strongly opposed to H.R. 44, the Guam World War II Loyalty Recognition Act. My heart goes out to the people of Guam for the violence that they suffered during World War II. However, the United States committed no crimes against the

people of Guam. To the contrary, we liberated Guam from Japanese occupation in 1944. Out of sheer generosity of spirit, the United States paid Japan's restitution of $8 million in 1951, which would be equivalent to nearly $100 million in current dollars.

During this time of great economic uncertainty, I cannot support legislation that would cost this country another $126 million of taxpayer money. As we debate a debt ceiling increase, it is fiscally irresponsible to be paying for something that was not our fault and that we cannot afford.

Statement of Susana Blas Deleon Guerrero, President, CNMI Women's Association®

Hafa Adai Chairman Fleming and members of the subcommittee. I am Susana Blas Deleon Guerrero, President of the CNMI Women's Association (CWA). I am testifying on behalf of the CNMI Women's Association, which seeks to protect the indigenous people of the Northern Mariana Islands, the native Chamorros and Carolinians, from displacement in their ancestral homeland, and other matters. The CWA rejects House Resolution 1466, a bill to resolve the status of certain persons legally residing in the Commonwealth of the Northern Mariana Islands (CNMI) under the immigration laws of the United States, introduced by U.S. Delegate Gregorio C. 'Kilili' Sablan, NMI-at-large, also a Ranking Minority Member of this subcommittee.

The CNMI Women's Association agrees with CNMI Governor Benígno R. Fitial regarding the arguments behind Public Law 110–229, a Consolidated Natural Resources Act of 2008 and its effects in the CNMI. Please take time to read Governor Fitial's written testimony.

The CNMI Senate Committee on Federal Relations and Independent Agencies held seven public hearings regarding the implementation of Public Law 110–229 and other matters affected by such law. After many written and oral testimonies submitted and recorded during the hearings, it was evident that the indigenous people of the CNMI who attended the hearings reject any improved status of thousands of aliens (including illegal immigrants) residing in the CNMI. It is not that those in opposition refuse aliens to have some status, but the people oppose being displaced in their own ancestral homeland—the only home they have ever known.

The CNMI Women's Association acknowledges the plan under Public law 110–229 to phase-out alien workers in the CNMI by November 28, 2011 and then the final transition period in December 31, 2014.

House Resolution 1466, introduced by U.S. Delegate Gregorio C. 'Kilili' Sablan, NMI-at-large, introduces four types of categories that aliens can gain improved status. Furthermore, H.R. 1466 will allow also 11,000 and possibly more new U.S. citizens in the CNMI within 10 years or less. Some may state that this number is small compared to the immigrants in the U.S., but one must understand that there are currently 30,000 U.S. citizens residing in the CNMI most of whom are Chamorro and Carolinian. Additionally, according to the U.S. Ombudsman's Office in the CNMI, there are approximately 23,000 aliens residing in the CNMI, excluding their children. Subsequently, it is arguable that there are more aliens residing in the CNMI than there are indigenous Chamorro and Carolinians. Unfortunately, many agencies over the years have failed to control the immigration of aliens into the CNMI. However, the indigenous people acknowledge the need to stop this massive increase of aliens and the possibility of displacing indigenous people of the CNMI. House Resolution 1466 is not the best solution to address the 23,000 aliens in the CNMI.

According to the information provided by the CNMI Commonwealth Health Center, from calendar year 1990 to May 2011, out of 31,180 live births, 18,431 were of Filipino, Chinese, Korean, Japanese, Thai, Indian, Nepalese, Bangladesh Taiwanese, Vietnamese, Malaysian, Burmese, and Sri Lankan descent. That is more than half and almost 60% of total live births during a ten year period. This appalling number of 18,481live births of aliens in the CNM has begun to disenfranchise the local indigenous population.

Based on the said numbers, H.R. 1466 will have a negative impact on the amount of social programs that will be available to the local residents. A bothersome fact for many people in the CNMI is that H.R. 1466 fails to address such devastating problem for local U.S. citizen residents.

A true story: A single mother, family of four, only receives $136 in food stamp benefits. She used to receive $250, which decreased to $196, and now at $136. This mother of four, works two jobs, and allows her 15 year old son to watch over his three siblings while the mother goes to work.

One possible reason behind this decline is the additional hundreds of new qualified applicants for food stamps, including aliens with children born in the CNMI. On July 11, 2011 as published in the local newspaper, *Marianas Variety,* the Department of Community and Cultural Affairs Secretary Melvin Faisao states, "that more than 500 people eligible for food stamp benefits were on a waiting list. . .there are about 9,700 residents receiving assistance from the Supplemental Nutrition Assistance Program." Within the past year, part of the agreement with the U.S. Department of Agriculture, SNAP benefits decreased by 26.7% in food stamp benefits. Now, does House Resolution 1466 address this issue? It does not.

Consequently, H.R. 1466 will also place the local indigenous population at a disadvantage in terms of employment and voting in local elections. Before Public Law 110–229, the CNMI immigration office mirrored laws to that of the federal immigration pertaining to sponsorship. According to the CNMI law, only those non-resident aliens who could sponsor their spouses were those who were identified as "professionals." Any non-resident alien who were identified as "professionals" had to have earned an annual salary of over $20,000. Many aliens residing in the CNMI today make much less than $20,000.

It is the purpose of the CNMI Women's Association to bring forth to your committee that H.R. 1466 may seem like a plausible humanitarian bill, which in actuality is the opposite and more harmful for the indigenous people. Not only will H.R. 1466 displace thousands of indigenous Chamorro and Carolinian people, it will also deprive them of full potential benefits from social programs and another small benefits provided by the CNMI government especially during our severe declining economy.

Chairman Fleming, we humbly and sincerely ask your committee to think of our indigenous Chamorro and Carolinian people of the CNMI, who have been colonialized and oppressed for over 500 years, to please reject House Resolution 1466.

Un dangkulu na si yu'us ma'ase—Ghilisoow—Thank you.

The written and oral testimonies during the Senate Committee on Federal Relations and Independent Agencies' public hearings on Public Law 110–229 and other matters can be accessed at: http://www.cnmileg.gov.mp/resources/files/Official_Senate_Recommendation_Appendices_A_thru_F.pdf. *From page 21–365.*

Statement of The Honorable Paul A. Manglona, President of the Senate, Seventeenth Northern Marianas Commonwealth Legislature, on "The implementation of P.L. 110–229, the Consolidated Natural Resources Act of 2008 and a legislative hearing on H.R. 1466, a bill to resolve the status of certain persons residing the CNMI under the immigration laws of the United States"

Good morning Chairman Fleming and members of the Subcommittee. I am Senator Paul A. Manglona, Senate President of the Seventeenth Northern Marianas Commonwealth Legislature. Thank you for the opportunity to submit my written testimony on the implementation of Public Law 110–229, the Consolidated Natural Resources Act of 2008 and H.R. 1466, a bill to resolve the status of certain person legally residing in the Commonwealth of the Northern Mariana Islands (CNMI) under the immigration laws of the United States. Although I previously testified before this Subcommittee in the 111th U.S. Congress on the same issue, the CNMI Senate appreciates this Subcommittee's consideration on the implementation of Public Law 110–229 in the CNMI as well as other matters concerning the CNMI.

I. Implementation of Public Law 110–229 to the CNMI Generally

Public Law 110–229, the Consolidated Natural Resources Act of 2008, was signed into law on May 8, 2008. The Congressional intent of Public Law 110–229 was to extend the U.S. Immigration and Nationality Act (INA) to the CNMI with special provisions to allow the orderly phasing-out of the nonresident contract worker program of the CNMI and the orderly phasing-in of federal responsibilities over immigration in the CNMI. *See* Public Law 110–229, Title VII, Subtitle A, SEC. 701(a)(1) codified as 48 USC 1806.

Federal immigration laws were to become applicable to the CNMI one year after the date of enactment of PL 110–229 on May 8, 2008 (transition program effective date). *See* Public Law 110–229, Title VII, Subtitle A, SEC. 702(a) codified as 48 USC 1806((a)(1). However, the Secretary of Homeland Security was given discretion to delay the transition program effective date for a period not to exceed 180 days

after such date. *See* 48 USC 1806(a)(3). On March 31, 2009, Secretary of Homeland Security Janet Napolitano exercised her discretion pursuant to PL 110–229 and extended the transition program effective date for another six months to November 28, 2009. Section 1806(a)(2) further provided for a transition period beginning the transition program effective date (November 28, 2009) and ending on December 31, 2014 during which the Secretary of Homeland Security shall establish, administer, and enforce a transition program to regulate immigration to the CNMI (transition program). The implementation of Public Law 110–229 created significant changes in the CNMI and has impacted all aspects of the CNMI government and economy. Below are some areas that were severely affected by the implementation of Public Law 110–229.

A. Generally. Public Law 110–229 superseded the local immigration laws of the CNMI, which immediately resulted in the displacement of over 70 CNMI immigration employees. Many of the displaced employees worked for the CNMI government for ten years or more and a few employees were close to completing the required CNMI retirement service. The implementation of PL 110–229 further caused the CNMI government to lose approximately $5,000,000 in revenue collected each year from nonresident worker fees beginning fiscal year 2010. The loss of nonresident worker fees has dramatically reduced our annual budget. For FY2010, the CNMI budget was $135M and in FY2011 our budget was $105M. The CNMI is in dire straits financially and its economy continues to decline each year. Although the law authorizes the Secretary of Homeland Security to impose an annual supplemental fee of $150 per alien worker on employers under the CNMI transitional worker program, the fees can only be used to develop vocational and educational programs by CNMI educational entities, not for general purposes to augment the loss of government revenue.

B. CNMI Prevailing Wages. Public Law 110–229 does not discuss which "prevailing wages" to be applied in the CNMI transitional worker visa program. However, the U.S. Department of Labor requires the prevailing wages of an occupation to be applied to H category visa workers. Pursuant to US Public Law 110–28, federal minimum wages became applicable to the CNMI in gradual increments of $ .50 per year until it reaches the actual federal minimum wage. Today, the CNMI-federal minimum wage is $5.05 per hour and will be increased to $5.55 in September 30, 2012.

The CNMI's prevailing minimum wages for all occupations are far lower than that of the United States due to the low minimum wage. The Guam Department of Labor is authorized to conduct wage surveys for H2B workers, which must be approved by U.S. Citizenship and Immigration Services (USCIS). The Saipan Chamber of Commerce is presently working on a CNMI prevailing wage survey which, among other things, is needed by CNMI employers to support their applications for U.S. work visas for their foreign employees. The survey will provide valuable data for the process of determining prevailing wage rates for individual job classifications, while petitioning for foreign labor work visas under the new requirements of the USCIS and the U.S. Department of Labor's Foreign Labor Certification Office. The CNMI Governor will be commissioning its own prevailing wage study to ensure that the end results are fair and impartial. I recommend that the U.S. Department of Labor grant the Governor of the CNMI the same certifying authority and apply CNMI prevailing wages for its alien workers under any visa classification.

C. CBP Lack of Professionalism. Since the time the U.S. Customs and Border Protection (CBP) took over the immigration functions of the CNMI Division of Immigration, there have been numerous complaints regarding long lines, delays, and the demeanor of CBP officials at the Saipan International Airport. Unfortunately, two senators and I witnessed these complaints first hand on April 16, 2011 when we returned from a business trip in Korea. Upon our arrival, the CBP officers were not prepared and all the passengers had to stand in line for about 15 minutes. Also, a CBP Officer was rude and abrasive to the pilot and crew. In the United States, the pilot and crew are usually given first class treatment and cleared through immigration without delay and hesitation. It should not be any different on Saipan.

Moreover, CBP officers took at least 10–15 minutes to clear each passenger. The CBP officers did not seem too concerned about the passengers standing in line who have been traveling a long distance to get to Saipan. The Asiana Airlines agent present at the Saipan International Airport informed us that the appalling treatment of the pilot, crew, and passengers from China by CBP officials is a regular occurrence at the airport. We understand and appreciate CBP's mandate to protect the American borders. However, the CNMI's ailing economy is heavily dependent on foreign investors and tourists to stimulate commerce. The treatment of visiting investors and tourists is crucial to the survival of our tourism industry. Investors and

tourists must feel welcomed as soon as they set foot on our islands. The officers must do their job diligently and efficiently.

Moreover, PL110–229 provides that "it is the intent of the Congress that the Commonwealth be given as much flexibility as possible in maintaining existing businesses and other revenue sources, and developing new economic opportunities, consistent with the mandates of [Title VII, Subtitle A)." CBP officers are required to fulfill the U.S. Congress' intent in implementing U.S. Immigration policies in the CNMI. In order to "expand tourism and economic development," CBP officers must conduct themselves professionally and courteously and refrain from abrasive and unwelcoming remarks and actions towards visitors from China and other foreign countries.

On May 13, 2011, CBP Deputy Commissioner David V. Aguilar responded to the Senate's complaint regarding the April 16, 2011 incident. Commissioner Aguilar had many excuses for the poor service and lack of professionalism of CBP officials that day. However, as I stated earlier, the Asiana Airlines agent present at the airport reported that the appalling treatment was a regular occurrence and the Senate and other public officials have received countless complaints regarding the same unacceptable behavior of CBP officials at the Saipan International Airport. Please conduct an official investigation into this matter to ensure that CBP officials refrain from objectionable conduct and treatment of U.S. citizen and non-citizen passengers at the airport and seaports of the CNMI.

II. Implementation of Public Law 110–229 as to Foreign Investors and Businesses

The CNMI heavily relies on foreign investors for its businesses and economic growth. As such, the implementation of Public Law 110–229 created a "freeze" on *new* investments in the CNMI due to the uncertainty of foreign investors' status under the law. Foreign investors were reluctant to invest even the smallest amount not knowing if their investments would be lost during the transition period. The freeze on new foreign investments has stifled economic growth and reduced the government revenues by the millions.

Public Law 110–229 authorizes the Secretary of Homeland Security to classify, during the transition period, a foreign investor in the CNMI as an E–2 nonimmigrant investor. On December 17, 2010, USCIS published final regulations with respect to investors, which allows foreign long-term investors to reside in the CNMI through December 2014 in CNMI E–2 nonimmigrant investor status. This rule temporarily resolves the immigration status of long-term investors in the CNMI and provides them time in which to obtain another lawful immigration status under the provisions of the Immigration and Nationality Act (INA).

At the end of December 2014, the transition period will expire and the E–2 CNMI investor status and visa will expire. Therefore, individuals in the CNMI with E–2 CNMI status must depart the CNMI at the end of the transition period or qualify for and obtain another nonimmigrant or immigrant status in order to lawfully remain in the CNMI. The CNMI-only investor status ends at the end of the transition period regardless of whether an extension to the transitional worker provision occurs. Any extension by the Secretary of Labor will apply only to the CNMI transitional worker category.

To qualify for E–2 CNMI Investor status, the primary applicant must: (1) Have been admitted to the CNMI with a long-term investor visa under CNMI immigration law before Nov. 28, 2009; (2) Have continuously maintained residence in the CNMI under long-term investor status; (3) Currently maintain the investment(s) that formed the basis for the CNMI long-term investor status; and (4) Otherwise be admissible to the United States under the INA.

Individuals who were admitted to the CNMI in long-term investor status under CNMI immigration law qualify, specifically: (1) A long-term business investor who was issued a long-term business certificate by the CNMI based upon an investment of at least $50,000; (2) A foreign investor with a foreign investment certificate issued by the CNMI based upon an investment of at least $100,000 in an aggregate approved investment in excess of $2 million or at least $250,000 in a single approved investment; and (3) A retiree investor over the age of 55 years who was issued a foreign retiree investment certificate based upon a qualifying investment in an approved residence in the CNMI (but not including the 2-year non-renewable retiree investor program limited to Japanese nationals).

The final rule implements the CNMI nonimmigrant investor visa provisions of Public Law 110–229 during the transition period only, after which CNMI E–2 investors would need to apply for another nonimmigrant status under the INA, such as the E–2 treaty investor visa. However, as noted by USCIS, a majority of CNMI investors would not meet the requirements for such treaty-visas. As stated in its com-

ments in the federal register, "a review of the CNMI eligibility criteria and anecdotal evidence indicates that many of (the current CNMI foreign investors) would not meet the minimum financial investment necessary to be eligible for U.S. E–2 status."

Moreover, an E–2 "treaty investor must be a national of a country with which the United States has a treaty of friendship, commerce, or navigation and must be entering the United States pursuant to treaty provisions." This will have a significant and detrimental effect on the CNMI economy as foreign investors, who fail to qualify for the E–2 visas after the transition period, will be forced to pick up their assets and relocate. Chinese and Russian investors in particular will be negatively impacted at the conclusion of the transition period and risk the loss of substantial investment in the CNMI.

Pursuant to the INA, the Treaty Trader (E–1) visa or Treaty Investor (E–2) visa is for "a national of a country with which the U.S. maintains a treaty of commerce and navigation who is coming to the U.S. to carry on substantial trade, including trade in services or technology, principally between the U.S. and the treaty country, or to develop and direct the operations of an enterprise in which the national has invested, or is in the process of investing a substantial amount of capital, under the provisions of the Immigration and Nationality Act." E–2 visa holders must be nationals from a list of participating treaty countries. Notably absent from this list are Chinese and Russian nationals who make up a substantial and growing segment of the CNMI foreign investor population.

Many of the current foreign investors residing in the CNMI will fail to meet the financial threshold for investment and other E–2 visa requirements once the transition period has expired. Over the decades, the small business community in the islands has been built by foreign investors, including but not limited to supermarkets, restaurants, and tourism related industries. It is debatable whether it may be in the best interests of the CNMI to have U.S. citizen investors fill these niches, and it certainly cannot be guaranteed. Our proximity to Asia has made the CNMI reliant on these foreign economies, and investors, and it is unlikely U.S. investors will be able to fill this void in the short-run. At a minimum, a majority of foreign small business owners will have to sell businesses that they have spent their lives building, and as a consequence eliminating a significant portion of the CNMI economy.

Further, current CNMI foreign retiree certificate holders will not qualify as U.S. E–2 investors after the transition period given the current E–2 visa requirements. These foreign retirees will be subject to the same visa requirements of other E–2 visa holders, post transition period. Elderly foreign retirees have made significant investments in CNMI homes. To revoke their status would be a hardship on these individuals and a detriment to the CNMI economy.

Public Law 110–229 intended to apply federal immigration laws to the CNMI while minimizing to the greatest extent practicable the potential adverse economic and fiscal effects and to maximize the CNMI's potential for future economic and business growth. *See* SEC. 701. Public Law 110–229's Congressional intent of maximizing the CNMI's potential for economic and business growth during the implementation of federal immigration laws to the CNMI could be achieved by the following:

1. Maintain the final rule CNMI only E–2 visas eligibility requirements after the transition period.
2. Grandfather in foreign retirees or create CNMI-only foreign retiree visa.
3. Grant Treaty Investor waiver for Chinese and Russian nationals.

Similar to the tourist visa waiver for Chinese and Russian nationals entering the CNMI, it is recommended that Russian nationals presently holding CNMI foreign investor certificates, or CNMI long-term business certificates, be allowed E–2 Treaty Investor status as provided to participating treaty member countries. It is suggested that this be applied on a CNMI only basis.

III. Implementation of Public Law 110–229 as to Alien Workers

A. Lack of Regulations for CNMI Transitional Worker Visa Classification

PL 110–229 requires DHS to promulgate regulations to implement the provisions of the law. It is now July 2011, more than three years after the enactment PL 110–229 and more than one year since I testified before this subcommittee in the 111th U.S. Congress and pleaded for USCIS to publish the CNMI Transition Worker regulations so the CNMI and its businesses can prepare for the transition program. It is unacceptable and outrageous that USCIS has not filed the transitional worker visa final interim rules. The fact that USCIS had draft interim rules in October 2009 makes it even more difficult to understand why the rules are still pending with the Administration at this time. PL 110–229 clearly mandates all federal agencies to comply with Congress intent to implement the law giving the CNMI as much

flexibility as possible in maintaining existing businesses and other revenue sources, and developing new economic opportunities consistent with the mandates of Title VII, Subtitle A.

USCIS must publish final rules on the transitional worker visa for the CNMI in a timely manner to afford the CNMI government, employers, and employees the opportunity to comment on the regulations before they take effect. The final regulations must consider and address the adverse and detrimental consequences, if any, of the proposed regulations. For example, it is crucial that the hotel hospitality alien workers be able to continue working under the regulations while training U.S. citizens and permanent residents to takeover such positions.

USCIS's failure to publish the final interim rules at this time is a violation of PL 110–229 and an example of the continued lack of respect and candor by the agencies of the Department of Homeland Security. The CNMI and the businesses should not be held hostage by DHS' inability to timely carry out its mandate set forth in PL 110–229. Once again, USCIS has failed to give the CNMI more than ample time to comment on the transitional worker regulations. There is only four months left before the regulations take effect. Four months is insufficient time for employees and employers to prepare for the changes in the transitional worker regulations. As such, I request this subcommittee to amend PL 110–229 to extend the employment authorization grandfather provision set forth in SEC. 6(e)(2)(B) from two years after the transition program effective date to *three years* after the effective date. This will give employers and employees more time to adjust to the new regulations that will become effective on November 27, 2011. Extending the employment authorization grandfather provision is different from extending the transition period which commenced on November 28, 2009 and will expire on December 31, 2014, unless extended by the Secretary of Labor. Extending the employment authorization grandfather provision will allow the existing nonresident workers to continue working in the CNMI under the umbrella permit conditions for one more year after November 27, 2011.

B. ICE not Deporting Overstayers in the CNMI

Public Law 110–229 provides that no alien lawfully admitted under CNMI immigration laws shall be removed from the CNMI until the earlier of the expiration date of the alien's employment authorization or 2 years after the transition program effective date, which is November 28, 2009. The law further authorizes the Secretary of Homeland Security to remove any alien from the CNMI who is removable under federal law except as provided herein. Moreover, the Secretary may execute administrative orders to remove aliens under U.S. or CNMI law prior or after November 28, 2009.

In 2009, the CNMI Department of Labor provided U.S. Immigration and Customs Enforcement (ICE) with the names and identification of over 1,300 illegal or overstaying aliens in the CNMI. In the last three years, ICE has deported fewer than 100 aliens. Moreover, although ICE does not have its own exit data base, ICE has prevented the CNMI from maintaining an exit database of passengers necessary to identify overstaying tourists. Since the implementation of federal immigration, it appears that we have an increase in the number of overstaying alien workers, family members, and tourists.

IV. Guam-CNMI Visa Waiver Program

The CNMI's only industry today—the tourist industry—has tremendously declined since the enactment of Public Law 110–229 on May 8, 2008. The CNMI's tourist arrivals decreased after the enactment of Public Law 110–229 especially from the Russian and Chinese markets. The decreased tourist arrival translates into low hotel occupancy, low tourist-related activities, low business gross receipt taxes, and less revenue for the CNMI.

Public Law 110–229 replaces the existing Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program at INA § 212(l). The law extends the authorized period of stay under the Guam-CNMI Visa Waiver Program from 15 to 45 days. As of November 28, 2009, U.S. immigration law applies to the CNMI and the Guam-CNMI Visa Waiver Program is in effect; and DHS, Customs and Border Protection operate ports of entry in the CNMI for immigration inspection of arriving aliens and establish departure control for certain flights leaving the CNMI.

The major CNMI tourist markets are Japanese, Koreans, Chinese, and Russians. Under CNMI immigration laws, Chinese and Russian nationals were allowed to visit the CNMI for up to ninety-days without a visa. However, the new regulations on the Guam-CNMI Visa Waiver program do not include the Chinese and Russian nationals. As such, these nationals are required to apply for a visitor's visa to enter the CNMI. This posed a great threat to the CNMI's only industry at this time—

its tourist industry. The Chinese and Russian tourists represent a large portion of CNMI visitors. In order to preserve such tourist markets, the Governor of the CNMI requested DHS for a visa waiver for these tourists.

Public Law 110–229 authorizes the Secretary of Homeland Security to promulgate regulations that include a listing of all countries whose nationals may obtain the visitor's visa waiver. Public Law 110–229 further requires the Secretary to provide a listing of any country from which the CNMI has received a significant economic benefit from the number of visitors for pleasure within a one year period preceding the enactment of the law unless US welfare or security is threatened. The Department of Homeland Security determined that the People's Republic of China (PRC) and Russia meet this economic threshold.

Accordingly, on October 21, 2009, the Secretary of Homeland Security announced that she will exercise her discretionary authority to parole Chinese and Russian visitors into the CNMI for business or pleasure. Parole will be authorized on a case-by-case basis only for entry into the CNMI and will not extend to other areas of the United States. While the CNMI appreciates the Secretary's decision to parole Chinese and Russian visitors into the CNMI, I recommend that a more permanent arrangement be established such as amending the regulations to add China and Russia to the list of visa waiver countries. The CNMI needs its Chinese and Russian tourists indefinitely to keep the economy afloat. Making it difficult for these tourist markets to visit the CNMI will detrimentally affect the industry. Economic growth in the CNMI cannot be achieved without our Chinese and Russian markets.

V. Technical Assistance for the CNMI

Public Law 110–229 mandates that the Secretary of the Department Interior (DOI) provide technical assistance to the CNMI to advance recruitment of U.S. citizens. The law states that technical assistance and other support to the CNMI shall be provided to identify opportunities for, and encourage diversification and growth of, the economy of the Commonwealth. This technical assistance shall also include assistance in recruiting, training, and hiring of workers to assist employers in the CNMI in securing employees first from among the U.S. citizens in the CNMI. The law also provides that federal assistance should further include the identification of the types of jobs needed, identify skills needed to fulfill such jobs, and assistance to Commonwealth educational entities to develop curricula for such job skills.

In May 2011, the Department of the Interior, Office of Insular Affairs issued a report entitled "Guidance for the Design and Implementation of Technical Assistance Program Relating to Immigration in the CNMI Required under Title VII, Public Law 110–229, Consolidated Natural Resources Act, May 2008." The report outlines DOI's plan for technical assistance to the CNMI. In November 2010, the Assistant Secretary of the Interior for Insular Affairs held a public meeting, Forum on Economic and Labor Development (FELD), on Saipan. This was an opportunity for all stakeholders to begin a discussion on what types of assistance would be appropriate and made available to the CNMI.

PL 110–229 does not appropriate funds for the aid it mandates. The Office of Insular Affairs (OIA) has committed up to $1 million in financial aid, from existing technical assistance funds, to fill the requirements of the law. OIA funds will be devoted to two main programs: (a) assisting the CNMI to develop an economic revitalization program as suggested by the Governor of the CNMI, and (b) enabling the CNMI government to work with local agencies and non-profit organizations to provide on-the-job training for eligible U.S. workers.

Using the FELD's list as the guide, OIA designated areas of the economy and the labor market for technical assistance grants that would generate the greatest possible benefit for the CNMI. Primary areas to receive first priority for assistance are: tourism, which is the CNMI's largest income source and has growth potential; the labor market, which currently relies on foreign labor and whose stability is crucial to the transition and beyond; and renewable energy, agriculture and aquaculture, which reduce dependence on fossil fuels, contribute to food supply and create jobs. OIA's technical assistance will be committed to these areas. Although not the first priority, OIA has identified other areas of concern to be the health care industry, education, transportation, and communication

While the Senate appreciates all the technical assistance provided by OIA, the pledge of $1 million dollars in financial aid to the CNMI is insufficient to provide technical assistance in the tourism industry and labor market. The DOI's report suggests that the CNMI tourism industry would benefit from better trained hospitality staff and lessons can be learned from Hawaii's hospitality industry. The report further suggests that the labor market must be seen as a critical component with emphasis on training and vocational skills. These DOI suggestions cannot be achieved with $1 million financial aid. It will cost millions and many years to ac-

complish these goals. I request that the U.S. Congress appropriate funds for the technical assistance mandate under to PL 110–229. The federal government must be cognizant of the fact that the immigration and technical assistance mandates of PL 110–229 were established by the U.S. Congress but not funded accordingly.

VI. Senate Recommendation for Improved Status of Guest Workers in the CNMI

Public Law 110–229 requires the phasing-out of the CNMI's nonresident contract worker program by turning over responsibility for immigration to the Federal government. As required by PL 110–229, the Secretary of the Interior submitted a report to the U.S. Congress in April 2010 on the current status of the nonresident contract worker program and recommendations on how best to implement the law in the Commonwealth. Additionally, the U.S. Congress held an oversight hearing on the implementation of PL 110–229 and invited elected officials from the CNMI and Guam to testify.

At the hearing in May 2010, Governor Benígno R. Fitial, Chairman Frederick DL. Guerrero of the CNMI House Committee on Federal and Foreign Affairs and I testified before this Subcommittee on the implementation of P.L. 110–229 in the CNMI. The Senate was concerned that the leaders and people of the Commonwealth were not consulted in the Department of the Interior's report and its recommendations as required by PL 110–229.

In response to these concerns, the CNMI Senate Committee on Federal Relations and Independent Agencies held public hearings on the islands of Rota, Saipan, and Tinian, in June and July of 2010, regarding the implementation of Public Law 110–229. The public was overwhelmingly alarmed about offering so many nonresident workers an immigration status that would allow them to become citizens of the United States in the CNMI, and the effect it would have on the status and rights of citizens who are of Northern Marianas Descent (NMD or Indigenous). Several months after the hearings, the CNMI Senate produced a preliminary draft recommendation and scheduled hearings to gauge public sentiment. At the latest hearings in February 2011, indigenous residents and nonimmigrant workers reacted to the Senate's recommendation stated in this report. We produced this final report as a compromise between the interests of nonimmigrant workers and indigenous residents of the Commonwealth.

The CNMI Senate offered the following recommendation to the U.S. Congress: all aliens residing legally in the Commonwealth of the Northern Mariana Islands for ten years on the date U.S. Public Law 110–229 became law, shall receive similar immigration status as that held by citizens of the freely associated states (FAS) as set forth in U.S. Public Law 99–229. The Senate presented its report to Chairman Fleming and other members of Congress at a meeting in Washington, D.C. in March 2011.

The CNMI Senate made this recommendation acknowledging that persons who receive improved immigration status will be eligible for social welfare benefits, at a time when our economy is facing a major recession. CNMI revenues are negatively impacted by changes in federal law. For example, federalization of immigration means the U.S., not the CNMI, Department of Labor, now collect revenues from licensing and permitting nonimmigrant workers, resulting in a loss to the Commonwealth of nearly $5 million dollars annually. We encourage the U.S. to consider this impact, and appropriate the funds necessary to maintain sufficient federal benefits for our citizens.

VII. Senate Supports the Passage of H.R. 1466

In the 112th U.S. Congress, First Session, Congressman Gregorio Kilili Sablan introduced H.R. 1466—To resolve the status of certain persons legally residing in the Commonwealth of the Northern Mariana Islands under the immigration laws of the United States. The purpose of this Act is to provide to certain persons residing in the CNMI an immigration status applicable solely within the CNMI in order to allow such persons to remain lawfully in the CNMI. There are four groups of persons affected by this Act: (I) Aliens born in the CNMI between January 1, 1974 and January 9, 1978; (II) Aliens who were on May 8, 2008, permanent residents as defined in 3 CMC § 4303; (III) alien spouses and children of aliens described in subclasses (I) and (II); and (IV) Aliens who were on May 8, 2008, immediate relatives [as defined by 3 CMC § 4303] of a U.S. citizen notwithstanding the age of the U.S. citizen. Pursuant to the Act, the aliens in subclasses (I)-(III) shall be eligible to apply for permanent resident status between January 1, 2015 and January 1, 2016. The aliens in subclass (IV) shall be able to apply for permanent resident status when the U.S. citizen immediate relative reaches 21 years of age.

The Senate supports the passage of this bill with amendments. Most of the aliens under subclasses (I)-(III) have been in the CNMI at least twenty years and would also qualify for special status under the Senate's recommendation as set forth above. Moreover, the immediate relatives in subclass (IV) should be allowed to stay together with their U.S. citizens relatives in the CNMI until such time that the U.S. citizen may petition for the adjustment of the status of his or her immediate relatives. However, the Senate requests that H.R. 1466 be amended to require certain conditions for subclass (IV) such as the immediate relative shall be lawfully admitted in the CNMI, the immediate relative must have continuously maintained residence in the CNMI for at least five years prior to May 8, 2008, and any other condition as may be required by Congress. The Senate believes that these conditions will ensure that this special status conferred by H.R. 1466 will be limited to those lawfully admitted aliens residing in the CNMI. Moreover, if practical, the Senate further requests that H.R. 1466 be amended to include the CNMI Senate's recommendation for the improved status of guest workers in the CNMI as set forth in Section VII of this testimony.

VIII. Conclusion

Based on the foregoing reasons, the Senate submits that without proper consideration for the CNMI's employment requirements, present economic needs and future economic growth as mandated by Public Law 110–229, the implementation of the law will continue to adversely impact the CNMI government and business sectors. The Congressional intent of the law extends federal immigration laws to the CNMI with special provisions to allow for the orderly phasing-out of the alien worker program of the CNMI and the orderly phasing-in of federal responsibilities over immigration in the CNMI, and to minimize to the greatest extent practicable, the potential adverse economic and fiscal effects of phasing-out the alien worker program and to maximize the CNMI's potential for future economic and business growth.

The Senate submits that the Congressional Intent of Public Law 110–229 can be achieved if federal agencies adhere to and adopt regulations consistent with such intent. I recommend that this subcommittee authorize grandfathering into the federal system existing CNMI foreign investors and retirees to preserve those economic markets and grow the economy. Without these measures, the CNMI would lose most, if not, all of its foreign investors and businesses. Moreover, we need further clarification on the "prevailing wages" that will be applied to alien workers in the CNMI. The Saipan Chamber of Commerce and CNMI government are working on a "CNMI Prevailing Wage" survey to determine the appropriate wages to apply to the transitional worker program.

The Senate further recommends that this subcommittee direct the Department of Homeland Security to (1) collaborate and work with the Governor of CNMI on the implementation and enforcement of Public Law 110–229, (2) publish final regulations regarding the transitional worker visas in a timely manner to allow the CNMI to comment and recommend changes, if any; the CNMI must maintain its current employment workforce to maintain and grow the economy, (3) authorize visa waivers for Russia and China, (4) address the issue of overstayers in the CNMI, and (5) treat our residents and visitors with respect and courtesy when they enter the CNMI at the airport and seaports.

Finally, due to USCIS's delay in timely publishing the transitional worker regulations, the Senate requests that the U.S. Congress amend PL 110–229 to extend the employment authorization grandfather provision to three years after the transition period effective date to give employers and employers at least one year to adjust and train employees to transfer to transitional worker program. The Senate further requests that the U.S. Congress appropriate funds necessary to carry out the technical assistance mandate of PL 110–229 and instruct the Department of Interior to work closely with the CNMI government and the stakeholders on the technical assistance program by providing additional financial aid for job training, business diversification, and economic growth. The CNMI needs more than $1 million in technical assistance financial aid to accomplish the training and diversification necessary to implement PL 110–229 while simultaneously growing the economy. At a minimum, fulfillment of these requests and recommendations would make the implementation of Public Law 110–229 more efficient and workable. Thank you for your time and consideration of the CNMI's issues and concerns regarding the implementation of PL 110–229 and H.R. 1466.

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