

## Witness Statement

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Representatives which has oversight jurisdiction of the territories and commonwealths of the United States, including the Northern Mariana Islands. The hearing today before this Committee is focusing on three areas. The first relates to the adequacy of enforcement of federal laws in the Northern Mariana Islands, particularly the federal labor laws, the equal employment opportunity laws, and the occupational health and safety laws. The second will examine the use of federal funds by federal departments charged with the enforcement of federal laws in the Northern Marianas. The third will examine the use of federal funds for capital improvement projects by the Commonwealth Government.

Because Governor Pedro P. Tenorio is separately addressing the significant progress being made by the Commonwealth Government in the enforcement of local laws with respect to immigration and labor reforms in the Commonwealth since he began his administration a year and a half ago, our testimony will focus on the reform legislations that the Commonwealth Legislature has enacted to combat labor abuse in the Commonwealth and to improve our local system of immigration. We shall, however, briefly address the areas that are the subject of this hearing in relation to our reform efforts; and set forth our views, observations and concerns, if any, with respect to those areas, particularly the adequacy of enforcement of federal laws in the Northern Marianas and the use of federal capital improvement funds by the Commonwealth Government.

Finally, we wish to bring to the attention of this Committee, an issue that we would like the U.S. Congress to look into: our request for Congress to appropriate federal funding to reimburse the Commonwealth for the financial costs that unrestricted migration from the Federated States of Micronesia, Belau, and the Republic of Marshalls has had on the Commonwealth over the years, under the Compacts of Free Association.

## 2. Local Reform Legislations

Mr. Chairman, we begin our testimony today by going over the series of reform legislations that the Commonwealth Legislature has enacted or is in the process of enacting since early 1998, immediately after the immigration and labor hearing before Senator Frank Murkowski's Committee on Energy and Natural Resources. That hearing came on the heels of the adverse publicity and criticism leveled against the Commonwealth by the national news media, various human rights groups, and officials at the Department of Interior. The purpose of the hearing before the Senate Committee on Natural Resources last year, as well as the hearing held two days ago before the same Committee, was to consider proposed federal legislation intended to make the U.S. Immigration and Nationality Act applicable to the Northern Marianas.

Proposed legislation was introduced in the U.S. Senate in 1998 and again re-introduced this year to take away our local control of immigration matters, in part because of widely-publicized criticism that guest workers in the Commonwealth were abused by their employers. Another criticism was that guest workers had outnumbered the local resident population. A third criticism was that guest workers were working and living in deplorable and unsanitary conditions. A fourth was that many aliens have been illegally overstaying in the Commonwealth beyond the term of their entry permit. A fifth was that the garment industry was taking advantage of the non-quota, duty-free treatment of manufactured products given the territories, a privilege intended for the benefit of local businesses and local workers.

We know that you, Mr. Chairman, your committee, and other members of the Congress are likewise concerned with these issues and have been working steadily to promote improvements in the Commonwealth situation. You have personally taken time from your busy schedule to visit the CNMI and see for yourself conditions there. We thank you for your sincere and forthright approach to these questions. We also find it especially useful when members of Congress work in a cooperative way to help us address labor and immigration issues and to help us better understand federal concerns. We believe this kind of approach provides a more effective approach to what problems may exist and is a far greater service to our respective constituents than confrontation and condemnation. We see these hearings in this light and look forward to continue to work with the Congress and this Committee to better conditions in the

Commonwealth for residents and nonresidents alike.

Governor Pedro P. Tenorio immediately began taking action to address the concerns raised, from Day One of his administration. Through the CNMI Department of Labor and Immigration (DOLI) he began conducting unannounced inspections of the working and living conditions of guest workers, particularly those employed by the garment industry. The Commonwealth Legislature joined the Governor's call for reform and began considering legislation that would address the labor and immigration criticisms mounted against the Commonwealth.

One of the first pieces of legislation that was enacted by the Commonwealth Legislature was the moratorium law (P.L. 11-6), which imposed a moratorium on the hiring of additional guest workers. The law was enacted in response to the criticism that the non-immigrant guest worker population had already outnumbered our local, resident population. We understand from the Department of Labor and Immigration that, since this law was enacted, there has been a 22.7% decline in the issuance of guest worker permits for 1998, as compared to those issued in 1997. Because of the moratorium, which is still in effect, we expect the number of guest worker permits issued for 1999 to go lower than 1998. Our goal is to continue to decrease the number of guest workers to an acceptable level and hire only guest workers that we truly need to supplement our local work force.

A second significant legislation that was enacted by the Commonwealth Legislature soon after the March 1998 hearing before Senator Murkowski's Committee on Energy and Natural Resources was Public Law 11-69 which limits to three-years the maximum length of stay in the Commonwealth for non-resident workers; after which they must exit the Commonwealth for at least six (6) months before applying again to return to work. This legislation is similar to the federal regulation promulgated by the U.S. Immigration and Naturalization Service (INS) limiting to 3-years the maximum length of stay of H-2B workers admitted to work in the United States, after which they also must exit the United States for at least six (6) months before entering again to work. This measure is intended to remove the criticism that a substantial number of guest workers have been staying in the Commonwealth for many years without having any voice in our political process.

A third legislation that we enacted in 1998 is Public Law 11-22, which establishes "special industry committees" charged with studying the several industries in the Commonwealth, such as the hotel and tourist industry, and recommending to the Commonwealth Legislature the minimum wage rates appropriate for employees of a particular industry. This measure is patterned after the Special Industry Committee established by Congress for American Samoa many years ago. As you know, Mr. Chairman, for several years now the Department of Interior has chastised the Commonwealth for not implementing outright the federal minimum wage in the Northern Marianas. Our economic conditions and circumstances, however, are far different from the economy of the continental United States, forcing us to adjust our wage levels based on the factors that affect our economy, which is directly dependent on the economies of Asia and Japan. This direct reliance on the economy of Asia and Japan is best illustrated by the adverse effect that the Asian economic crisis, which began in 1997 and is still continuing, has had on the economy of the Northern Marianas. Since the financial crisis in Asia began two years ago, our tourist industry has suffered a severe decline of at least 30% in the number of visitors to the Commonwealth. This has translated into a corresponding 30% decline in local government revenue, which has crippled our ability to provide essential public services.

A fourth piece of legislation that we enacted within the past year was Public Law 11-66 which addressed the plight of our guest workers who were abandoned by their employers and were left stranded without any means to feed themselves or to return to their country of origin. This was one of the criticisms seized upon by the national news media and later became the rallying cry of some officials at the Department of Interior and human rights group seeking the federalization of immigration in the Commonwealth. Unfortunately, the focus of the criticism was not on the employers who had abandoned these workers, but on the

Commonwealth Government which had allowed the hiring of these workers without fully scrutinizing the financial resources and commitment of their employers.

Public Law 11-66 established a deportation fund to purchase airline tickets for abandoned guest workers and provide at least a 3-month salary for those who had received judgments for back wages. Since February of this year, over 163 abandoned workers have been repatriated under this law, and 111 of these workers qualified for the salary relief. An additional 50 workers are also seeking similar relief. So far the program has cost the Commonwealth \$359,000, a fairly hefty sum considering the Commonwealth's continuing revenue decline.

A fifth important piece of legislation that we enacted in early 1998 was Public Law 11-33 which established a "limited immunity program" for illegal guest workers who were encouraged to come forward, register and become legal. The Commonwealth had been criticized that a large number of aliens were staying illegally in the Commonwealth. This law provided the opportunity to rectify the situation. It was a huge success: 3,079 guest workers who had overstayed beyond the term of their entry permit stepped forward and were registered. The program was a voluntary one and no threat was made to any guest worker. The Commonwealth Government thereafter assisted the workers in locating employment locally. 1,246 have since been employed under one-year contracts. Those who cannot find employment are being asked to voluntarily depart.

A sixth piece of reform legislation has just been passed by our legislature and has been transmitted to the governor for his review and consideration. This is Senate Bill No. 11-153, S.S.1., which requires a health and criminal background, pre-clearance check for each guest worker in the guest worker's country of origin, before being issued an entry/work permit to enter the Commonwealth for employment. This legislation would ensure that all guest workers entering the Commonwealth are free of communicable or contagious diseases and do not have any criminal background. It accomplishes this by providing that the Commonwealth will use the same sources for health clearance certification and criminal background checks as those relied on by the U.S. State Department and the Department of Justice.

A seventh piece of legislation that is now being re-drafted for consideration by the Commonwealth Legislature is the Resident Workers Fair Compensation Act. This measure is intended to attract our unemployed resident population to work in the private sector, such as the hotel and tourist industry. The measure proposes to "level the playing field," so to speak, with respect to the "true wages" being paid non-resident workers and what the equivalent wages should be for resident workers if employed for the same positions. All of the benefits being given a non-resident worker, such as free housing, food, and medical insurance, for example, are computed in order to determine the true wage that is being paid a guest worker for a particular position. This measure proposes to address the criticism that the Commonwealth has a high unemployment rate of 14% for local residents, yet has continued to allow the hiring of guest workers without first finding work for unemployed local residents. The goal of this legislation is to attract our local residents to work for the private sector, to reduce the resident population's unemployment rate, and to lessen the number of residents working for the local government.

The foregoing illustrates the many legislations that the Commonwealth legislature has passed and enacted into law, or is now considering, to address the immigration and labor issues for which we have been criticized. It is a joint effort between the CNMI executive and legislative branches, with the assistance and participation by interested parties, such as the Saipan Chamber of Commerce, the Hotel Association of the Northern Mariana Islands, the Saipan Garment Manufacturers Association, and others. We shall continue considering other legislation that would assist in addressing and eliminating our immigration and labor problems. We are committed to rectifying the abuses of the past so that we do not repeat them again, and so that we will regain our credibility and reputation in the eyes of those around us.

### 3. Adequacy of Enforcement of Federal Laws in the Commonwealth

The first area that the Committee is focusing on at this oversight hearing is the adequacy of enforcement of federal laws in the Northern Mariana Islands, particularly the federal labor laws, equal employment opportunity laws and the occupational safety and health laws. Based on our general observation over the 20 years since we became a member of the American political family, the U.S. Department of Labor, particularly its Wage and Hour Division, has established and made its presence known in the Commonwealth through the prosecution of highly publicized cases involving employer violations of wages and hours of employment. We believe that Labor's Wage and Hour Division has done a good job of monitoring and prosecuting various violations of the federal wage and hour laws.

As to the enforcement of the equal employment opportunity laws, we wish to note that staff of the Equal Employment Opportunity Commission (EEOC) only recently began coming to the Commonwealth to take complaints from aggrieved employees. EEOC has no permanent office in the Commonwealth, as far as we are aware. As you know, Mr. Chairman, the enforcement of any law is only as good as the personnel and resources committed by the agency enforcing the law. The presence of EEOC staff on Saipan for about a week every month or so is clearly inadequate. It is difficult for Commonwealth employees to follow-up or to find out the status of one's case without a local office. EEOC should hire at least one or two permanent staff for Saipan. On a positive note, however, we are happy that EEOC staff has begun conducting seminars and training sessions for private employers and local government agencies so that the Commonwealth is now becoming more aware of the various EEOC laws and regulations.

The third federal law that the Committee is addressing is the occupational safety and health laws. Our major complaint with OSHA is also the fact that it does not have any permanent staff on Saipan to assure continuity and to provide assistance and information to employers and employees. OSHA investigators come to Saipan fairly regularly, inspect job sites and conditions of employment, issue citations and impose fines; then they leave. We believe that OSHA should have one or two permanent staff on Saipan so that the enforcement of OSHA laws and regulations would have permanency and continuity in terms of enforcement. Our second concern is that fines collected under OSHA laws is not turned over to the Commonwealth as is the case with federal taxes and fees collected in the Northern Marianas, pursuant to the Covenant. We would like to see that fines collected under OSHA be also remitted to the Commonwealth just like the federal taxes and fees collected in the Northern Marianas.

We also wish to mention the Office of the Federal Labor and Ombudsman which recently opened. By all accounts, this is a very helpful and welcome office. We have a very good working relationship between local officials and the new Labor Ombudsman. Already the office has begun to help expedite resolution of a large number of complaints.

Finally, we want to note that we urged Congress last year to provide the CNMI with its own United States Attorney. Although we believe the U.S. Attorney's office is doing a good job and continues to improve its record of prosecutions, we remain convinced that a separate U.S. Attorney for the CNMI is justified and would significantly enhance Federal law enforcement in the Commonwealth. One benefit would be a better focusing of Federal legal resources based on the particular circumstances and unique needs of the Commonwealth.

#### 4. The Use of Federal Funds by Federal Agencies to Enforce Federal Laws in the Commonwealth

We respectfully defer to the respective federal agencies to explain to this Committee how they have used federal funds to enforce federal laws in the Commonwealth.

#### 5. The Use of Federal Funds For Capital Improvement Projects in the Northern Mariana Islands

On the topic regarding the use of federal funds for capital improvement projects in the Northern Mariana

Islands, we wish to take this opportunity to thank the U.S. Congress for its constant support of the Commonwealth's continuing need for capital improvement funds, particularly under Section 702 of the Covenant. Contrary to the belief that others appear to have, Covenant Section 702 funding is the primary source of funding that we have for capital improvement projects in the Commonwealth. For example, this is the money that we have been depending heavily on to construct the Commonwealth's new solid waste disposal facility, away from the environmentally unsafe Puerto Rico Dump; to construct a new correctional facility; to build much needed classrooms; and to carry out essential water, power, and sewer infrastructures; and so forth.

In order to use Covenant Section 702 CIP funds, which requires a "dollar for dollar" local matching, the Commonwealth is required to adopt a prioritized CIP project listing. The Commonwealth Government completed the CIP Project Plan listing in 1998, which was adopted by the legislature recently. Attempts have been made to divert our Covenant funding to other jurisdictions on the mischaracterization that the Covenant funds that remain are "an unused balance from previous construction grants." This is not true. All of the Covenants funds have been earmarked for specific projects. What held back its usage in the past was either the absence of a prioritized project listing or the need to identify the required matching funds. Thus, for the Third Funding Period under the Covenant (FY1996-FY2002), we have now identified all of the essential capital improvement projects that will be funded. The federal funds available for this period is \$77 million, plus the \$77 million in local matching funds, bringing the total CIP Funding to \$154 million. We humbly ask the Congress to please not divert this money to other jurisdictions. We need the money for urgent CIP projects in the Commonwealth that have already been identified. To ensure that we have the matching funds needed, legislation has passed our House and Senate authorizing the Commonwealth Development Authority to float a \$60 million general obligation bond on behalf of the Commonwealth Government for CIP projects.

## 6. Financial Assistance Under the Compacts of Free Association

Mr. Chairman, while we are on the subject of federal funding, we would be remiss if we do not bring to the attention of this Committee a matter that in the past has not been given much attention or was not considered important enough by the Department of Interior. This is the matter of appropriating the funding needed to reimburse the Commonwealth for the financial impact that the unrestricted migration of Freely Associated States citizens into the Commonwealth has had on our treasury. In past years, Interior has given small grants to the Commonwealth to somehow defray the costs to the Commonwealth for its delivery of essential public services to FAS citizens. We ask the Congress to take a closer look at the issue and consider the substantial expenses that have been or are being incurred by the Commonwealth on behalf of FAS citizens who live in the Northern Marianas.

The CNMI Department of Commerce recently performed a study to determine the so-called "Compact-Impact" costs to the Commonwealth. The study, using both a "direct cost method" and a "percentage of total cost method," has concluded that our Compact-Impact cost for 1997 was \$13.7 million and for 1998, it was \$15.1 million, for a two-year total of \$28.8 million. The Commonwealth has requested and wants to be reimbursed for this amount. In approving the Compacts of Free Association which the United States entered into, Congress has stated: "In approving the Compact, it is not the intent of the Congress to cause adverse consequences for the United States territories and Commonwealth or the State of Hawaii." The Compact has in fact adversely affected us financially in terms of the delivery of public services. The Commonwealth, upon request by this Committee, would be very happy to determine the compact-impact costs for the years prior to 1997.

## 7. Conclusion and Recommendation

Mr. Chairman, we thank the Committee for giving us the opportunity to submit this testimony. The hearing before your Committee on the enforcement of federal laws in the Northern Mariana Islands and on the use

of federal funds to enforce those laws, in essence, complements the hearing held two days ago before the Senate Committee on Energy and Natural Resources chaired by Senator Frank Murkowski with respect to legislation being proposed to implement the U.S. Immigration and Nationality Act to the Northern Mariana Islands. We believe that the INA should not apply to the Commonwealth. We believe that the Commonwealth should be allowed to continue to enact and enforce laws that would eliminate guest worker abuse and address the criticisms that have earlier been made against the Commonwealth. The Commonwealth has earnestly begun to reform itself. We believe that a necessary "part of the equation" in our enforcement effort is the active participation of federal agencies in the enforcement of federal laws. Although there are signs that federal agencies, like the EEOC, are beginning to make their presence in the Commonwealth known and felt, the permanent presence of these agencies in terms of office and staff in the Commonwealth would make a big difference.

Thank you very much.

Respectfully submitted:

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Diego T. Benavente  
Speaker, House of Representatives

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Paul A. Mangloña  
President of the Senate

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