Written Testimony of
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Committee on Natural Resources
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Good afternoon Chairwoman Bordallo 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 before you today on the implementation of Public Law 110-229 to the Commonwealth of the Northern Mariana Islands (CNMI) and Guam and the Secretary of the Interior's Report on the Alien Worker Population in the CNMI. The CNMI Senate appreciates the Subcommittee's consideration on the implementation of Public Law 110-229 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. CNMI Immigration Employees were Displaced by the Law

Public Law 110-229 superceded 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. A few employees were close to completing the required CNMI retirement service. Public Law 110-229 specifically provided that to the maximum extent practicable and consistent with the satisfactory performance of assigned duties under applicable law, the Attorney General, Secretary of Homeland Security, and the Secretary of Labor shall recruit and hire personnel from among qualified US citizens and national applicants residing in the Commonwealth to serve as staff. However, 37 of approximately 70 immigration employees were automatically disqualified from being hired by Department of Homeland Security (DHS) because they were over the 35 age limitation for applicants.

On two occasions, I wrote letters to the DHS officials requesting that they consider hiring the displaced immigration employees to no avail. These employees are trainable employees and could serve the DHS in carrying out its duties and responsibilities. There are still several displaced employees looking for employment at this time. I recommend that DHS waive the 35 year old age limitation for applicants, and consider establishing a program to train our immigration employees in the enforcement of federal immigration laws and give them the opportunity to work for DHS.

B. CNMI Government Lost $5,000,000 in Nonresident Worker Fees

The implementation of Public Law 110-229 caused the CNMI government to lose approximately $5,000,000 in revenue collected each year as nonresident worker fees beginning fiscal year 2010. The CNMI is in dire straits financially and its economy continues to decline each year. The CNMI's projected revenue collection for FY2010 is only $137 million dollars; as such, $5 million dollars is a substantial loss. In addition, the CNMI stands to lose millions of dollars in business gross receipt taxes, wage & salary taxes, hotel occupancy taxes, and other revenue due to the impact of the implementation of the law.

Public Law 110-229 authorizes the Secretary of Homeland Security to impose an annual supplemental fee of $150 per alien worker on employers under the CNMI transitional worker visa program, which shall be paid to the CNMI Treasurer. However, the fees can only be used for the purpose of funding ongoing vocational educational curricula and program development by CNMI educational entities. Unlike the supplemental fees above, the CNMI imposed a $300 per alien worker fee that deposited into the general fund used partly for vocational programs and for the operations of the government. I recommend that the US Department of Labor grant the Governor of the CNMI authorization to certify temporary foreign labor certifications and provide funds and technical assistance to the CNMI Department of Labor to carryout the US Department of Labor responsibilities. This will ensure the continuity of the department and the employment of its employees.

C. CNMI Foreign Students were not Considered in Public Law 110-229

Public Law 110-229 created special immigration provisions for exiting alien workers and alien investors in the CNMI. However, the law did not create provisions for the hundreds of foreign students attending the Northern Marianas College (NMC) and other small colleges, and private elementary and high schools in the CNMI. At this time, approximately 199 foreign students are enrolled at NMC paying nonresident tuition. Out of the 199 students, approximately 120 students are in the CNMI by virtue of their parent(s) who is an alien worker or investor. Public Law 110-229 authorizes the admission of spouses and minor children of aliens. However, most, if not all, of the 120 foreign students at NMC are adults not minors and may not qualify to be admitted in the CNMI under their parent's immigration status.

Moreover, in order to apply for F1 student visa status, the foreign students presently in the CNMI are required to return to their home country and apply for an F1 student visa from there. The students would have to obtain an I-20 form and an acceptance letter from NMC. Then they must fill out an F1 visa application and wait for an interview from a U.S. Embassy in their home country. There are also some fees to be paid to their home country and there is no guarantee that their F1 student visa application will be approved. Many of these students have been in the CNMI for several years and are paying nonresident tuition which comprises one-fourth of the college's total $3.1 million dollar tuition payments. As such, I recommend that the existing foreign students at the college be grandfathered in the F1 student visa system or be granted waivers of the stringent visa requirements without having to leave the CNMI.

D. CNMI Prevailing Wages are Lower than U.S. Prevailing Minimum Wages

Public Law 110-220 does not discuss "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 all 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 $4.55 per hour and will be increased to $5.05 in September 30, 2010. 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). 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.

E. DHS Agencies in the CNMI – Lack of Consultation and Accessibility

Public Law 110-229 requires the Department of Homeland Security to consult with the Governor of the Commonwealth on the implementation and enforcement of the law to the CNMI. The law further requires the federal agencies tasked to implement the

law to consult each other, collaborate with one another, and establish agreements on how to implement Public Law 110-229. However, DHS has failed to adequately consult the Governor as required by the law. The CNMI is not aware of any agreements executed by affected federal agencies regarding the implementation of the law. The CNMI government seems to be left out in the implementation of the law despite the Congressional intent and mandate of the law.

Public Law 110-229 extends US immigration laws to the CNMI and creates special immigration provisions that affect at least 15,000 aliens in the CNMI. Employers and employees are now required to avail of a new immigration system that is unfamiliar to them. However, DHS is applying the same visa application procedures it has for the 50 states, which is to apply on the internet or through the mail. DHS and the CNMI will have to learn how to implement the two new transitional visa classifications during the transition period. It would be more efficient to allow employers to apply for the CNMI transitional worker visa or CNMI investor visa at a DHS office located on Saipan. There are many questions regarding the INA application process. It is difficult to get answers to specific questions on the DHS website and it is time consuming and burdensome to make an appointment on the internet to see an official at DHS office.

Moreover, the DHS requires applicants to fly to its Saipan office for an interview and for biometric services. The CNMI includes people from Saipan, Tinian, and Rota. There are many employers, alien workers and investors, and immediate relatives residing on the different islands. Many people cannot afford to purchase a ticket from Rota to Saipan or Tinian to Saipan for any purpose. It would be more cost efficient if DHS schedule appointments on each island and send one official to conduct all the interviews and required processes. It is cheaper for one person to fly to Rota or Tinian rather to have 10 people fly to Saipan. I recommend that DHS permit people to file their applications, provide customer services, and to allow people to make appointments at its Saipan Office.

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 also negatively affects existing CNMI foreign investors. The law extends the INA to the CNMI with some temporary provisions for the CNMI that are effective over a transition period of at least five years. Among the CNMI-specific provisions applicable during the transition period is a provision authorizing the Secretary of Homeland Security to classify an alien foreign investor in the CNMI as a CNMI-only

"E-2" nonimmigrant investor under Section 110(a) (15)(E)(ii) of the INA, codified as 8 U.S.C. 1101(a)(15(E)(ii).

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.

The USCIS published in the federal register (Vol. 74, No. 176) proposed amendments to its regulations that would establish procedures for classifying long-term investors in the CNMI as provisional E-2 nonimmigrants. The proposed rule implements the CNMI nonimmigrant investor visa provisions of Public Law 110-229 during the transition period only. The USCIS has announced that the final regulations on the CNMI transitional nonimmigrant investor classification will be released in July 2010. Therefore, this testimony may only comment on the amendments as proposed and not on the final ruling.

The proposed 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 U.S. 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 comments 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.

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.

Recommendations:

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. Establish a formal and regular consultation process between CNMI and federal officials

Public Law 110-229, SEC. 702(e)(2) provides: "CONSULTATION.- in providing such technical assistance under paragraph (1), the Secretaries shall – (A) consult with the Government of the Commonwealth, local businesses, regional banks, educational institutions, and other experts in the economy of the Commonwealth; and (B) assist in the development and implementation of a process to identify opportunities for and encourage diversification and growth of the economy of the Commonwealth and to identify and encourage the needs opportunities to meet the labor needs of the Commonwealth." It is recommended that this plan be in place by July 2010, to allow the CNMI government and local businesses to properly plan. As has been suggested to the federal government in the past, it is also recommended that some consultation mechanism be put in place at the earliest possible time. The CNMI needs such a mechanism to raise its concerns and receive timely answers to pressing issues. This would also seem to benefit federal officials as the implementation of Public Law 110-229 is an on-going effort. It is suggested that representatives of the Governor and the CNMI Legislature meet with DHS representatives from U.S. Immigration and Customs Enforcement (ICE), USCIS, and U.S. Customs and Border Protection (CBP) on a regular basis at DHS facilities on Saipan.

2. Maintain CNMI only E-2 visas under current eligibility requirements during the post transition period.

To minimize to the greatest extent possible the adverse effects the implementation of Public Law 110-229 will have on the CNMI economy, it is suggested that the CNMI-only E-2 visa remain in place after the expiration of the transition period. This CNMI-only E-2 visa would maintain the eligibility requirements under the CNMI foreign investor certificate regulations and allow foreign investors, and foreign business owners, to continue to contribute to the CNMI economy during the post-transition period. Alternatively, these investors could be issued EB-5 visas under the criteria of a targeted employment area.

3. Grandfather in foreign retirees or create CNMI-only foreign retiree visa

The CNMI has devoted significant resources to building and branding itself as a retirement destination. Japanese, Korean, Russian and other regional nationals have invested their life savings in CNMI homes with the assumption that they would be able to maintain residency in the Commonwealth. To preserve this market, and grow the CNMI economy, it is recommended that current holders of CNMI foreign retiree certificates be grandfathered into the federal system and become eligible for E-2 investor status. To maximize the potential growth of this market, and the CNMI economy, it is suggested that a CNMI-only foreign retiree visa be created mirroring eligibility requirements under the current CNMI guidelines.

4. 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. The law provides that the federal immigration transition program shall be implemented pursuant to regulations to be promulgated by the head of each agency or department of the United States having responsibilities under the transition program. More than one year after the enactment of PL 110-229, USCIS published in the federal register its proposed regulations relative to E-2 Nonimmigrant Status for Aliens in the CNMI with Long-Term Investor Status on September 14, 2009, less than 60 days before the November 28, 2009 transition program effective date.

Subsequently, USCIS published an interim rules creating a transitional worker visa classification in the CNMI during the transition period on October 27, 2009, which was only 30 days before November 28, 2009. The transitional worker visa would allow alien workers currently ineligible for other classifications under INA and who perform

services or labor for an employer in the CNMI to receive nonimmigrant visa classification. What meaningful comment could the CNMI government, employers, and employees make in such a short period of time. More importantly, what changes would USCIS consider during the short time? Consequently, the CNMI filed an injunction to stop the implement of the USCIS interim rule. On November 25, 2009, a federal district court issued an order prohibiting the DHS from implementing this interim final rule. As a result, the transitional worker visa classification is unavailable to CNMI employers, workers, and their families until further notice from USCIS. The lack of communication and information from USCIS has caused many to expect the worst of possible scenarios for the CNMI transitional worker visa classification.

It is May 2010, six months after the federal court order, and USCIS has yet to file the transitional worker visa final interim rules. USCIS must publish final interim rules on the transitional worker visa for the CNMI in a timely manner so as to afford the CNMI government, employers, and employees the opportunity to comment on the regulations before they take effect. I request this subcommittee to inquire why USCIS has not published its regulations on the transitional workers and to direct USCIS to give the CNMI more than ample time to comment on such regulations before its implementation.

B. ICE not Addressing 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. However, the law 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.

The CNMI Department of Labor provided ICE with the names and identification of over 1,300 illegal or overstaying aliens in the CNMI. In the five months that ICE has been in control of deportations, not one single person on the list has been removed from the CNMI. It appears that ICE is unable to quickly move cases. Moreover, there is a very long delay and backlog in deportation cases within the Los Angeles district, which handles the deportation cases of the CNMI. Currently, the average waiting time for a hearing in the Los Angeles federal immigration courts is over 700 days. I recommend that the Federal District Court of the Northern Mariana Islands be authorized to review and dispose of immigration cases from the CNMI.

C. Medical Expenses and Admission of Spouse and Minor Children of Alien Workers

Prior to the enactment of Public Law 110-229, employers were required to pay for the medical expenses of their alien workers. This requirement was to ensure that the employers, not the CNMI government, bear the cost of workers brought into the CNMI. Public Law 110-229 does not require the CNMI transitional worker regulations to require

employers to provide medical benefit. This will result in additional financial liability for the government. I recommend that DHS regulations should include a requirement that employers pay for the medical expenses of alien workers. Otherwise CNMI will have more than 15,000 workers without medical insurance or coverage.

Furthermore, Public Law 110-229 authorizes the Secretary of Homeland Security to admit the spouse and minor children of the alien workers admitted under the CNMI transitional worker visa classification. Many of the existing alien workers in the CNMI did not qualify to bring their dependents to the CNMI under its immigration laws due to the inadequate income of such workers. Once again, the CNMI cannot mitigate the impact of an unanticipated and unfunded influx of more aliens into the CNMI during the transition program without knowing what the CNMI transitional worker visa regulations are at this time. However, I recommend that any proposed regulations authorizing the admission of the families of alien workers require minimum income criteria so as to prevent such persons from becoming wards of the CNMI and burdening the limited resources available to resident and U.S. citizens including but not limited to education, healthcare, and other public services.

IV. Guam-CNMI Visa Waiver Program

The CNMI's only industry today – the tourist industry – has tremendously suffered 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 will need 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

In the implementation of Public Law 110-229, every effort must be made to employ the local, U.S. citizen population in the Commonwealth. We will want to ensure that all of our residents who seek gainful employment will be able to find a job in our islands. We must also consider those of our local population who have left the Commonwealth for better opportunities, and create an environment that will encourage them to return home. It is here that we seek the federal government's assistance.

An important provision in the law mandates that the Secretary of the Department Interior provide technical assistance to the Commonwealth. The law states that technical assistance and other support to the Commonwealth 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 Commonwealth in securing employees first from among the United States citizens in the Commonwealth. 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.

It is important to provide the aforementioned technical assistance during the implementation of Public Law 110-229. I recommend that the Secretary of the Interior consult with the CNMI Governor, legislators, business community, the Northern Marianas College, the Northern Marianas Trade Institute and other interested persons, and provide the necessary and required technical assistance as authorized by the law.

Moreover, in order to promote job training, I humbly ask this subcommittee to support the passage of Congressman Gregorio Kilili Sablan's H.R. 3181: legislation to establish a Jobs Corps training facility in the CNMI. This is the type of assistance our community needs in order to train our local residents. Additionally, in order to encourage the diversification of the CNMI economy, I ask this subcommittee to support Congressman Kilili's (1) H.R. 4686: legislation to authorize the Secretary of Interior to study the suitability and feasibility of designating a National Park on Rota, one of the islands in the CNMI, and (2) H.R. 3511: legislation to establish a visitor's center for the Marians Trench Marine National Monument. These legislations will assist the CNMI in training its local residents, providing new job opportunities, creating new visitor attractions, and grow our economy.

VI. DOI Report on the Alien Population of the CNMI

Public Law 110-229 required the Secretary of the Department of Interior (DOI) to report to U.S. Congress on the nonresident worker population of the CNMI within two years of the law. The DOI Report submitted on April 2010 is not consistent with the Congressional Intent and provisions of U.S. Public Law 110-229. Section 701 provides that in enacting the law, the U.S. Congress intended to extend federal immigration laws to the Commonwealth with special provisions, among other things, and to minimize to the greatest extent practicable potential adverse economic and fiscal effects of phasing-out the Commonwealth's nonresident contract worker program and to maximize the Commonwealth's potential for future economic and business growth.

The CNMI's right to self-government is evident in the Congressional Intent of Public Law 110-229 as set forth in Section 701, which provides that federal immigration laws shall be extended to the CNMI with special provisions "recognizing local self-government, as provided for the Northern Mariana Islands in Political Union with the United States of America through consultation with the Governor of the Commonwealth". The Secretary of the Interior drafted, finalized, and submitted the Report to the U.S. Congress without consultation with the Governor of the Commonwealth as required by the law.

Moreover, the Report contains numerical and other data derived from inconsistent and unreliable methodology. The Report further recommends that the U.S. Congress consider permitting alien workers who have lawfully been in the CNMI for a minimum period of five years to apply for long-term status under U.S. Immigration laws without discussing the social, economic, political, and cultural impact of such a recommendation, and the loss of employment opportunities for resident U.S. citizens and the increase in medical care costs for the Commonwealth government. Additionally, the Secretary's recommendations did not include a complete and thorough impact assessment study of the possible serious effects on the Commonwealth's economy if such recommendation became law.

I recommend that this subcommittee direct the Department of Interior to (1) consult the Governor of the Commonwealth of the Northern Mariana Islands as mandated by Public Law 110-229 and (2) collaborate with the Governor of the CNMI in preparing and submitting to Congress a report that includes the Commonwealth government's position and recommendations as to the future status of the alien worker population in the CNMI. I further recommend that the CNMI and the people be given an opportunity to study and review the various recommendations.

VII. Conclusion

Based on the foregoing reasons, I submit 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 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.

I submit 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, and the foreign students at our college 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. It should be CNMI prevailing wages only.

I further recommend that this subcommittee direct the Department of Homeland Security to (1) consult with the Governor of CNMI on the implementation and enforcement of Public Law 110-229, (2) publish final interim 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) provide better access to DHS offices and personnel on Saipan, and travel to Tinian and Rota on a regular basis to conduct its business.

Lastly I recommend this subcommittee to direct the Department of Interior to consult the Governor of the CNMI on matters pertaining to Public Law 110-229 and collaborate with the Governor in preparing and submitting to Congress a report that includes the Commonwealth government's position and recommendations as to the future status of the alien worker population in the CNMI. I further recommend that DOI fulfill

its mandate to provide technical assistance relative to job training, business diversification, and economic growth to the CNMI, businesses, and people.