



FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
Commonwealth of the Northern Mariana Islands
Capitol Hill, Saipan, MP 96950

**Statement of Oscar M. Babauta, Speaker of the House
Fifteenth Northern Marianas Commonwealth Legislature
Before the House Committee on Natural Resources,
Subcommittee on Insular Affairs
Field Hearing August 15, 2007
Saipan, MP**

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

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

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

1. Federalization of the CNMI's Immigration System.

As for the "federalization" of our immigration system, I feel that the full extension of the Immigration and Nationality Act (INA) to this Commonwealth is neither necessary nor appropriate given the historical relationship between the United States and the CNMI. When our people voted overwhelmingly to join the American political family, it was with the understanding that ours was a unique and mutually respectful relationship, and that certain powers and responsibilities would be left to the local government. The Covenant (48 U.S.C. §1801), subsequent federal and local legislation,

and federal and local jurisprudence have all recognized the unique nature of our islands and the importance of preserving local control over certain legal functions. I believe that a blanket application of the INA to this jurisdiction under a “one size fits all” approach impinges upon the ideal of self-government that framed the Covenant negotiation process.

Moreover, as our Commonwealth pursues new economic development strategies in order to reinvigorate an ailing economy, local immigration control is of critical importance. We are taking steps to diversify our tourism industry, and have in recent years cultivated new tourist markets beyond the CNMI’s traditional market of Japan. These new markets include China, South Korea, and Russia. In 2004, the CNMI signed an Approved Destination Status Agreement with China, an agreement that facilitates Chinese travel and provides for direct flights from major Chinese cities. Because of the anticipated boom in Chinese outbound tourism, we hope to experience significant growth in this market in the coming years. Maintaining local control over immigration is critical to the development of this growth, as our local immigration authorities are able to work directly with Chinese government officials and respond to the changing conditions of the market as needed. Our long term strategy also focuses on the development of the South Korean market. Arrivals from the Republic of Korea have been steadily increasing even as other country numbers decline. Finally, we have been working diligently to develop an eastern Russia tourist market with regular (via Seoul) and charter flights to the CNMI. The Russian market is characterized by longer than average visits resulting in increased revenues, a high percentage of return visitors, and little to no legal complications. As with the development of the Chinese market, I do not believe the CNMI could have experienced such a rate of success without local immigration control. I feel that our full absorption into the INA could threaten this growth and, as a consequence, undermine our economic recovery.

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

The recent passage of federal legislation applying the minimum wage to the CNMI will eventually raise local wages to the national level and provide more economic security to both resident and foreign national workers. This should help to alleviate any lingering fears that foreign national workers in the CNMI are not being compensated appropriately. Furthermore, the Legislature is now debating final passage of House Bill 15-38, an Act to Repeal and Re-enact the Commonwealth Nonresident Workers Act. The

bill has passed the House and is awaiting Senate action. The Act will reform current foreign national labor laws, provide for increased local participation in the workforce, and ensure the fair treatment of both citizens and foreign nationals working in the CNMI.

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

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

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

2. The One-Time Nonimmigrant Provision

As the leader of the chamber charged with preparing the CNMI's yearly budget, I am concerned with the "One-Time Nonimmigrant Provision for Certain Long-Term

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

3. The Transition Provision

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

4. The Delegate Provision

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

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

Si Yu’us Ma’ase and Thank you.

Date: August 3, 2007

/s/
Rep. Oscar M. Babauta
Speaker of the House