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THE STATE OF THE U.S. TERRITORIES

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

FEBRUARY 26, 2019



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THE STATE OF THE U.S. TERRITORIES

TUESDAY, FEBRUARY 26, 2019

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

The Committee met, pursuant to notice, at 10:00 a.m. in Room SD–366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

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

The CHAIRMAN. Good morning, everyone. The Committee will come to order.

I would like to begin by welcoming our Governors for being with us this morning. I know that certainly for some of you this is quite a trek, actually for all of you, and so it is greatly, greatly appreciated. I mean, it is hard enough to get time on one Governor's schedule for a meeting, let alone getting four of you together here. So I am especially grateful and appreciative that you are here.

Unfortunately, Governor Moliga from American Samoa was unable to make it to Washington, DC, today, so he is not with us in person, but we do have his written testimony which will be made part of the record.

The purpose this morning is to hear about your priorities for your respective territories for the coming year and how our Committee can be helpful in achieving them.

I had the privilege just last year of visiting four of the territories as Chairman of this Committee, including a trip last February to Guam, to Tinian, to Saipan—very, very impactful certainly for me and my first visit out there. I had the opportunity to be in Puerto Rico and the U.S. Virgin Islands shortly after the devastating hurricanes the year prior.

I think it is fair to say that Congress does not always acknowledge the contributions that the territories make to our nation. But from high participation rates in our Armed Forces, the distinct culture of the islands and their geographical importance, the territories are clearly, clearly, an integral part of the United States.

I would note that each of the territories has had at least one major disaster declared by the President in the past two years. Of course, we are all very familiar with the impacts of Hurricanes Irma and Maria on Puerto Rico and the U.S. Virgin Islands. We have had much discussion here in this Committee about that, but we are also aware of Cyclone Gita, Typhoon Mangkhut, and most recently Super Typhoon Yutu, which directly struck the Northern

Marianas Island of Tinian with sustained winds of 178 miles per hour and gusts over 200 miles per hour. I heard back from many friends and Alaskans or acquaintances who described the damage that Tinian had sustained and in Saipan as well.

NOAA says that the Super Typhoon Yutu was the second strongest storm to ever hit any part of the United States, so I would anticipate that we are probably going to be hearing a little bit today about the role of the Federal Government in responding to these disasters, including what has worked and what can be improved.

Of course, disaster relief is not the only area of concern. From workforce issues to healthcare and tax treatment, I think we have plenty to talk about this morning. And a new issue arose a few weeks ago when a three-judge panel of the First Circuit Court of Appeals determined that the manner in which the members of the Financial Oversight and Management Board, established by PROMESA, was appointed is unconstitutional. And while narrow in its ruling that the Board members are principal officers of the United States and subject to the Senate's advice and consent, the panel's finding on Congressional authority under the Territorial Clause could have broader consequences down the road if left to stand. We are still reviewing this here on the Committee and could possibly take that up in the future.

But again, plenty, plenty to discuss this morning.

I thank you all for being here and for your leadership in your respective areas.

With that, I turn to my colleague and the Ranking Member, Senator Manchin.

STATEMENT OF HON. JOE MANCHIN III,
U.S. SENATOR FROM WEST VIRGINIA

Senator MANCHIN. I want to thank you, Chairman Murkowski, for convening this important hearing on the state of U.S. territories, and we welcome all of you here, again. It is great to see the territory Governors here today, and I want to thank all of you for traveling great distances from your homes to be here. I understand that Governor Moliga of the American Samoa could not be here because of health issues, and we wish him a full and speedy recovery. As a former Governor myself, I am well aware of the many demands on your time. So thank you, again, for making yourselves available.

As many of my colleagues know, the Committee has a longstanding jurisdiction of territory and insular affairs, and I look forward to a productive relationship with each one of you in my role as the Ranking Member.

We are here today to discuss the opportunities and challenges facing the territories including how to best support each of you in advancing the well-being of those living and working in territories. I have often said that, and I know that you get people coming to you all the time asking for your assistance or asking for your help. And I have always said government should be your partner. I am not your provider, I am your partner. That is a two-way street, and I think that is what we are looking for.

Unfortunately, there are many challenges still facing the territories today. First and foremost, numerous devastating natural dis-

asters—which the Chairman has gone over—in the Caribbean and the Pacific, at least in the last few years, leaving not a single territory unharmed. I think every one of you all have been touched. Hurricane Irma struck Puerto Rico and U.S. Virgin Islands in September 2017. Then two weeks later, Hurricane Maria delivered an even stronger blow to you all. In addition, a slew of record-breaking typhoons and cyclones have hit the Pacific territories impacting infrastructure, agriculture and local economies.

Recovery is still going on. I applaud the excellent work to restore power, water and communication capacities in the wake of these disasters; however, I would be remiss if I did not acknowledge how much work remains in order to fulfill the promise of a full recovery. Further, we must also ensure that we are rebuilding in a way, and I repeat that, rebuilding in a way that will help our territories face the challenges associated with extreme weather and climate change. This includes the need to advance a robust coordinated strategy for the future of the electric grid in Puerto Rico. We are now over a year out from the hurricanes, and I am frustrated at the lack of meaningful progress toward the grid's recovery. So I look forward to today's discussion about where that recovery stands.

Again, as I have said in my position previously, I know all too well the challenges that you all are facing in leading your territories through these difficult recoveries. It is critical that investments made now are feasible and that there is the capacity on the ground to maintain the infrastructure investment going forward. Please be assured that we stand with you, ready to assist as you seek to restore capacity and bring economic vitality and opportunity to your communities.

Additionally, serious immigration and workforce challenges still face the Northern Mariana Islands and Guam. Given the labor violations in the 1990s and early 2000s and again in the last few years, it is critical that any immigration plan promotes growth without sacrificing labor standards, workplace safeties and the well-being of the workforce. This Committee has spent much time and effort on these issues but much more work needs to be done.

I look forward to discussing how we can work with both of you to shore up the economic opportunities while advancing the transition from a foreign to a domestic workforce. I repeat that, a transition from foreign to domestic workforce, and ensuring that none of this is done at the expense of our labor standards which we hold near and dear to our workforce.

Underlying many of the challenges we will discuss here today are questions of economic development and fiscal stability; however, we all know that finding the right balance is critical for the long-term survival and prosperity of our communities. Therefore, I am interested in hearing about your plans to promote sustainable economic growth in your communities.

Additionally, I know that one of the unique challenges territories face relates to health care. As you know, territorial Medicaid funding is capped and the federal match is fixed at a lower level than for most of our states. With the Affordable Care Act funding expiring at the end of this year, I am concerned about your citizens' abil-

ity to access essential health care services. So I am interested in discussing what options exist to resolve that upcoming challenge.

So again, I want to thank you all, and I look forward to this discussion today.

The CHAIRMAN. Thank you, Senator Manchin.

I would note that today is just about the beginning of March.

Senator MANCHIN. There is a lot going on.

The CHAIRMAN. We call it March madness around here. If you had a long line in front of you to enter the building, it is just indicative of what we have in front of us. So the fact that we do not have full attendance at this morning's hearing is not indicative of a lack of interest in the territories. Please, please, hear me on that. It is just that there are many, many competing hearings that are also beginning at ten o'clock. So we are going to have members cycling in and out and I apologize for the up and down, but I thank my colleagues that are here.

We will begin this morning with hearing from each of you. As I mentioned, we have the testimony that has been submitted by the Governor from American Samoa.

[Governor Moliga's written testimony follows.]

TESTIMONY OF GOVERNOR LOLO MATALASI MOLIGA BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

February 26, 2019

Chairwoman Murkowski, Ranking Member Manchin and Members of the Senate Committee on Energy and Natural Resources, I bring to you warm island greetings from Americans living on America's only piece of real estate in the Pacific, South of the Equator. We are proud Americans as evidenced by the distinction of having the highest per capita enrollment in the Armed Forces of the United States defending our freedoms and our way of life.

Since the Flag of the United States was first hoisted on the soil of Tutuila and Manu'a 118 years ago, on April 17, 1900, a historical event which transformed our lives, the people of American Samoa have reenacted and celebrated this solemn occasion annually with pomp and pageantry reflecting our great pride and honor of being members of the American Family. We are doubly proud because this union was not fashioned by annexation or a military conquest but was shaped based on friendship and mutual respect.

This is the first time in my six years as Governor of the Territory of American Samoa that I have been able to appear before this Committee to address the needs and the challenges hindering our well-meaning efforts to grow our economy and to improve the quality of the lives of our people, and I am grateful to be afforded this opportunity this morning.

I would be remiss if I did not recognize, with appreciation, the benevolence and the kindness of the United States of America and its continued commitment to promoting and safeguarding the welfare of the people of American Samoa spanning 118 years since the memorialization of the Treaties of Cession.

The United States Department of the Interior, since it assumed the administration of the Territory of American Samoa, established its vision for the islands underscoring the advancement of self-sufficiency and self-reliance objectives. This vision has guided the efforts of the Territory of American Samoa to become a contributive member of the American family with hopes of becoming self-sufficient and self-reliant to the maximum extent practicable.

Regrettably, this vision seems very elusive and misleading because, given certain realities and prevailing challenges, it is deemed implausible and unreachable. Notwithstanding, we have not, cannot, and will not succumb to any perceived sense of desperation because the lives of our people are at stake.

We are making strides toward a more vibrant economy, better lives for our people and much more self-sufficiency through transformation of our economy to industries like tourism,

but such a transformation for a small island territory such as ours faces many challenges that only Congress can help us overcome.

Our appeal to you today, Madame Chairwoman and Members of the Committee, is to continue to work with us to remove as may obstacles as possible to our progress through policy and regulatory reforms that recognize the realities of our Territory, its location and its economy.

Madame Chairwoman, I would like to describe for the Committee our highest priorities for assistance from the federal government which will address our many social, economic and infrastructure challenges and I am hopeful for your kind advocacy of these initiatives as the Committee performs its oversight role of policies affecting the U.S. Territories.

Cyclone Gita Disaster Relief. The spate of disasters that occurred across the United States and throughout its territories in 2018 was horrific in terms of loss of life as well as in the lingering effects on the health and well-being of the people of the affected areas and on local economies.

While damage sustained by American Samoa from Cyclone Gita last February was thankfully not of the same magnitude as some other disasters, the effect of losses sustained by the people of American Samoa were dramatic, indeed.

We sustained significant damage to our infrastructure, including our LBJ Medical Center, but we were especially hard hit by losses to our 2600 farmers who lost 100% of their crops for an entire growing season. Where many of these farmers depend on their crops not only for their livelihood but also to feed themselves and their families (numbering 15600 in total), the need for nutritional assistance on American Samoa skyrocketed this year.

I therefore made a request to Congress and the Administration for nutritional assistance that will allow us to help feed those thousands of people.

As a result, $5 million in nutrition assistance was included in the House passed Disaster Supplemental Appropriations bill, however, the need is much greater than originally estimated. I therefore wrote to you, Madame Chairwoman, and other Members of the United States Senate asking that the amount be increased to a total of $18 million.

I would greatly appreciate the strong support of the Members of this Committee for this modest request which would provide $139 per month in food assistance for each affected child, woman and man through the remainder of this fiscal year.

Assistance to Territories. I would like to acknowledge and thank the Congress, beginning with you, Chairwoman Murkowski, for certain provisions included in the recently enacted Interior Appropriations bill which will provide much needed assistance to American Samoa; specifically, an increase to the American Samoa Operations Grants/American Samoa Construction program.

We would like to encourage Congress to provide annual funding to this program in a way that acknowledges the growing needs and costs associated with maintaining our operations and infrastructure.

Healthcare/Medicare/Medicaid. Healthcare is a very important priority because there is only one acute care hospital and four community health clinics which serve our population of 59,600. The nearest US hospital is Hawaii.

American Samoa depends heavily on Medicaid and Medicare funds to supplement the cost of healthcare services provided to the people of American Samoa. While we are very thankful for the availability of Medicaid funds, the American Samoa government must pay a 45% local fund match to access 55% of the Medicaid dollar spent on healthcare service. Moreover, a Medicaid funding cap that is placed on Medicaid funding availability to the territory prevents full coverage of actual spending on medical services delivered to the people of American Samoa. We are fortunate that we are able to access Affordable Care Act funds when the Medicaid Cap is reached. Lamentably, our ACA fund allocation will lapse on September 30, 2019.

It appears that Congress will not extend the period of use for our ACA funds when they lapse but instead it will consider the establishment of Block Grants to support the healthcare needs of the territories. If this is the case, American Samoa hopes that a minimum of $30 million will be the amount of its block grant to minimally meet the healthcare needs of our people.

LBJ Acute Care Hospital. American Samoa's only acute care facility is 54 years old and is simply not sufficient to meet the healthcare needs of our people. Incremental progress has been made through the renovation of the patient wards, pharmacy, diagnostic imaging, dialysis and laboratory facilities. The main operating theaters and the intensive care unit are in the process of being renovated.

However, the needs at LBJ are great and the progress towards making necessary improvements slow; a situation that was exacerbated as a result of damage incurred by the Medical Center during Cyclone Gita.

We appreciate the acknowledgement by Congress of the importance of LBJ to the health and well-being of the people of Samoa. We are particularly grateful for the inclusion of language in the recently enacted fiscal year 2019 Interior Appropriations bill which directs the Office of Insular Affairs to study and report to the Committee, within 90 days of enactment, on the condition at LBJ, the estimated cost that would be required to replace the hospital building, estimated costs associated with modernizing the hospital and estimates as to whether a renovated facility would have sufficient capacity to meet American Samoa's needs.

Madame Chairwoman, after OIA submits its report to Congress, we would like to work with this Committee and the Committee on Appropriations to formulate the best option for renovating or replacing the LBJ Medical Center and respectfully request the support of this Committee in providing necessary financial assistance to undertake the preferred option as soon as possible.

Minimum Wage. American Samoa raised its minimum wage once again on September 30, 2018, marking the 5th federally-imposed increase since the passage of the 2007 Fair Minimum Wage Act. Per the Act, American Samoa's minimum wage will reach that of the current Federal minimum wage by 2036.

While we agree with the spirit of having a minimum wage that keeps pace with the cost of living for our people, once again we face the consequences of decisions made in Washington with insufficient consideration given to local conditions.

Our insular economy does not compare to economies in the continental United States, a condition that is worsened by our geography which does not allow us to participate significantly in tourism from Japan, China, Korea and other Asian countries. In addition, we do not enjoy the financial benefits of having a significant military presence in our territory.

As such, special considerations must be made before making decisions, or enforcing poor decisions, that can ultimately decimate our economy and eventually our territory.

After a complete and thorough economic analysis, including a 2016 GAO report on this matter, and having lived through the past five increases, we can no longer remain silent nor tolerate inaction on this very critical matter, especially in the face of a possible $15 per hour national minimum wage.

Ultimately, what we would like to see happen is that the authority or control of our minimum wage be returned to local decisionmakers, with representation from public, private, and labor groups with oversight or participation by DOI as we had in place previously.

We are pleased that in the FY19 Interior Appropriations bill Congress acknowledged the potentially dramatic negative impact that an unrealistic minimum wage could have on American Samoa, especially on top of an economy that is far less robust than that of much of the rest of the United States and exacerbated by very significant losses recently sustained from Cyclone Gita. We hope that this awareness of our unique circumstances will remain as Congress deliberates over a minimum wage bill in the coming months.

30(A) Tax Credit Permanent Extension. We are keenly aware of and fully understand the challenges placing the future of the remaining tuna fish canning plant, Star Kist, one of two economic pillars, in jeopardy which among others include federal policies such as the automatic imposition of the federal minimum wage escalation, removal of federal incentive programs such as the 30(A) tax credit, IRC Section 936, shrinking fishing grounds for the US Fishing Fleet, and the added financial cost attributed to regulatory assessed penalties.

The two other tuna fish canning plants, Van Camp Seafood Company and Samoa Tuna Processor, which operated out of American Samoa, closed in 2009 and 2016 respectively, instantly terminating 2,500 direct jobs and approximately 1,500 residual jobs triggering economic havoc reflected in the recorded plunge in our Gross Domestic Product figures since 2015. If Star Kist closes operation in American Samoa economic and social chaos will occur and the displacement of the population will result.

The support for American Samoa's efforts to diversify its economy received from the U.S. Department of the Interior and its Office of Insular and International Affairs is recognized with deep gratitude and appreciation particularly shoring up federal funds to supplement locally generated dollars dedicated to the establishment of our third economic development technologically based economic pillar.

Given the limited amount of capital improvement project funds provided to the territory on an annual basis for infrastructure projects, we have twice entered the Bond Market to derive needed investment capital to accelerate the construction of need economic development projects.

While we recognize that we cannot solely depend on the federal government for all of our financial needs, which then compels us to seek other investment capital sources from other avenues such as the bond market, we are very sensitive, fully mindful, and committed to our obligation to make sure sufficient revenues are generated to liquidate our liabilities.

Economic diversification is the key to American Samoa's economic and financial stability and we are taking steps to realize this vision. One important way to make this vision a reality is to extend – and make permanent – the American Samoa Economic Development Credit, known as 30(A). 30(A) will help attract new businesses to the island, as companies will be incentivized to invest in American Samoa.

Territorial Education Improvements. Education is crucial to the future of American Samoa and I am not ashamed to say that our students' reading and writing skills are three to four grades behind their Hawaii and mainland counterparts.

English is a second language to 90 percent of our student population thus comprehension and analytical skills are a challenge, as well, which consequently demands smaller classes sizes and a well-trained cadre of teachers.

Our partnership with the Department of the Interior and its Office of Insular and International Affairs in the development of technologically based third economic pillar was the positive implication on improving the quality of our educational system making available additional educational resources through the internet to improve learning experience.

With the assistance of the Department of the Interior and the Office of Insular and International Affairs 85 additional classrooms have been constructed and more are being planned not counting the repair of the existing classroom structures, thus additional funds, estimated at $2 million, are needed to accelerate the construction of new classrooms, providing training for teachers, and apply required maintenance to old buildings to prolong their useful lives.

We are mindful of the natural athletic aptitude of our young men and women along with the need to combat the threat of obesity among our young people, thus we have started investing in the construction of gymnasiums so year-round athletic activities are made possible. It is estimated that $5 million is needed to construct gymnasiums for elementary schools with 1,000 or more enrollment.

Department of Veterans Affairs Clinic. It is our hope that Congress will authorize and appropriate funds for construction and operation of a Department of Veterans Affairs healthcare facility in American Samoa to fully address the healthcare needs of our veterans who must now travel to Hawaii to meet these needs.

Territorial Infrastructure Needs. Our infrastructure needs are numerous which entail the repair of the existing assets and construction of new facilities.

We are grateful and thankful for the financial support from the United States Department of Transportation, the Federal Aviation Administration, and the Federal Highway Administration for funds to improve our airports, ports, roads, and seawalls. Nonetheless, additional funds are needed to address our total infrastructural needs in the areas of harbors, docks, runways, seawalls, roads, and equipment.

We invested $13 million in the construction of a new vessel to improve transportation to the Manu'a Islands. The existing harbors are too shallow to allow the new vessel to enter the two harbors on the Island of Ta'u. Dredging is urgently needed for these two harbors. A minimum of $5 million is required to address this shortcoming.

American Samoa's dependence on the fishing industry has created a great need for additional docking space for fishing and other vessels. A new dock is being designed to address this need to entice more fishing vessels to homeport in American Samoa thereby supporting and expanding our tertiary industries. This project needs a minimum of $5 million to complete.

The Ronald Reagan Marine Railway is in dire need of repair to capture the economic opportunity inherent in the repair of purse seiners and long line fishing vessels which off-load their fish catches at the StarKist. Funding is needed to repair the 2,000 Ton main hauling chain.

To promote our tourism industry, our airport terminal along with the construction of a Jet-Bridge is being planned. American Samoa is the only territory without this type of facilities and our neighbor, 80 miles from us had its beautiful terminal and jet-bridge financed and constructed by China. We are seeking assistance to help us improve our airport facilities to accommodate passengers as well as TSA and other operations.

In view of these significant land, sea and air infrastructure needs which will contribute to the improvement and diversification of our economy, we are hopeful that as part of your FY 2020 appropriations cycle and should Congress consider a major national infrastructure and transportation bill, that you will address our infrastructure needs to the greatest extent possible.

Need for Coast Guard Vessel for Border Protection. Homeland security is very important given that American Samoa is the only US Territory in the South Pacific with its neighbor welcoming the influx of the Chinese. The US Coast Guard currently has no vessel assigned to American Samoa to patrol our ocean borders. As a result, this responsibility falls to our government to perform this function. We are hopeful that Congress will provide funds for the purchase and operation of a Coast Guard vessel to patrol our borders to stop drug trafficking, money laundering, smuggling of alcohol and tobacco. It is estimated that the cost of such vessel is $5 million.

Progress on Energy Self-Sufficiency. I am proud to report to you and the Committee that the Territory of American Samoa has taken the lead in the utilization of alternative energy to reduce the importation of fossil fuel. All the three islands on Manu'a are now 100% powered by solar energy. Our American Samoa Power Authority has recently signed a purchase power agreement with a Canadian company for 20 Megawatts of Solar Power and in the process of sign a purchase power agreement for 42 Megawatts of Wind

Power with another off-island company. When all these systems are fully functional, the cost of electricity to our people will be reduced by 50%.

Cabotage Policy. Unfortunately, and regrettably' the application of the federal "cabotage" policy to American Samoa has effectively neutralized our attempts to develop tourism as one of our economic pillars.

American Samoa is located 2,300 miles south west from Hawaii, 5,000 miles from the West Coast and 10,000 miles from the Nation's Capital. There are only 2 flights a week from the mainland U.S. via Hawaii with an added flight during the summer and Christmas season. The average one-way fare is from $500 - $800 and could reach $1,200 for a last-minute purchase. With all due respect, Madame Chairwoman, and as you are well aware, American Samoa's air transportation challenges are far worse than those existing in the great State of Alaska, which is exempted from the Cabotage policy.

We earnestly and humbly ask that Congress grant American Samoa a waiver from the cabotage policy.

Madame Chairwoman, Ranking Member Manchin and Members of the Committee, I thank you for affording me this opportunity to discuss with you the current state of affairs on American Samoa. I am grateful for your time, attention and thoughtful consideration of our challenges and needs.

God Bless the United States of America and God Bless American Samoa.

SOIFUA (farewell) AND FA'AFETAI (thank you)

LOLO MATALASI MOLIGA
GOVERNOR OF THE TERRITORY OF AMERICAN SAMOA

The CHAIRMAN. We will begin with the Honorable Ricardo Rosselló, who is the Governor from Puerto Rico. He will be followed by the Honorable Lourdes A. Leon Guerrero, who is the Governor for Guam. The Honorable Albert Bryan is the Governor for the U.S. Virgin Islands, and the Honorable Ralph Deleon Guerrero Torres is the Governor for the Commonwealth of the Northern Mariana Islands (CNMI).

I would ask you all to try to limit your comments to about five minutes. Your full statements will be included as part of the record, but we will have an opportunity for a good exchange once you have concluded your remarks.

We will begin with you, Governor Rosselló, and just proceed down the line. Welcome to each of you.

Governor Rosselló.

STATEMENT OF HON. RICARDO ROSSELLÓ, GOVERNOR, PUERTO RICO

Mr. ROSSELLÓ. Thank you.

Good morning Chairwoman Murkowski and Ranking Member Manchin and all of the members of the Committee. Thank you for the opportunity to discuss the state of the U.S. territories and of Puerto Rico.

While Puerto Rico is confronting a number of very serious challenges, I believe we are at the cusp of a transformational moment for our island. It depends on pulling the right levers, both on the local fronts and on the federal front. The actions we take today will either help open the doors to equality, progress and success for Puerto Rico or continue to yield social and economic stagnation that will further exacerbate existing trends of mass outmigration and possibly lead to further degradation of our island.

My written testimony discusses Puerto Rico's ongoing fiscal and debt restructuring, the process of economic and disaster recovery and reconstruction and the need for equality under federal laws and programs. While these are necessary components for Puerto Rico's success, none will be sufficient unless Congress ends the current unequal and undemocratic territory status placed on Puerto Rico and places a definitive path toward statehood. It is the root cause of the problems that we will be discussing here today.

Prior to my administration, this was the last take of Puerto Rico, large government expenditures without accountability, an unsustainable debt burden, the imposition of an undemocratic fiscal oversight board, decades of economic decay and unmaintained infrastructure systems. We aim to change that.

We worked intensively to establish a fiscal and structural plan that both achieved fiscal responsibility and a path forward to growth and to a better society. We enacted labor reform, established a gold standard framework for public-private partnerships, cut political appointments by 20 percent, reduced 21 percent of our agencies with a head count reduction of 10 percent in our government, got a fiscal plan certified by the board and we had the single, largest one-year reduction in state budgets, 17 percent, in at least the last 35 years of the United States. So we are doing our part to be responsible.

Our plans moved along but not one, but two, devastating storms hit our island causing catastrophic humanitarian damages to over three million U.S. citizens. At that point, we had to work on three parallel work streams. One, the immediate emergency response; two, the recovery; and three, the rebuilding of Puerto Rico. Critical actions in the beginning lacked the necessary sense of urgency, such as the restoration of energy. This, need I remind you, took over a year. No other jurisdiction in the United States would have found that to be acceptable. Other actions have been unfortunately slow, and there are lingering problems that threaten the pace of our recovery.

By their own report, FEMA's response to our island was inferior to that of other states, and that inferior response continues. For example, Puerto Rico has had approximately 65 large, permanent work projects approved in the last 17 months that followed the hurricanes. In stark contrast, in the same timeframe, over 13,000 projects were approved for Louisiana and Mississippi in the wake of Hurricane Katrina. For the first time, people stateside were able to clearly see the unequal treatment of U.S. citizens on our island.

Facing many challenges, Puerto Rico was fortunate to have strong partners, and I would like to thank a few, Congress and HUD, for their response.

Despite all the challenges, we continue with renewed resolve to transform our island. We move forward. Our energy transformation build that allowed a new grid with private stakeholder collaboration. We enacted education reform. We created a new healthcare model to increase access and to increase choice. We've renegotiated the debt of two major credits saving the people of Puerto Rico over $17.5 billion in the long run. We've created a Recovery Office with unprecedented transparency and accountability streams. Our commitment is firm and unwavering. We are doing our part, and we expect the Federal Government to do theirs.

We need our resources to move fast. A slow recovery hinders the prospects of U.S. citizens in Puerto Rico. We need fair and sustainable treatment on Medicaid. Our citizens have been receiving a third or a fourth of what the Federal Government provides to states in similarly situated conditions. We need NAP relief for over one million U.S. citizens who are at risk of seeing reduced nutritional assisted benefits at the end of March. We need tax treatment that supports economic growth and a path forward. And we certainly need a final solution to the perennial unequal treatment of U.S. citizens in our island. Indeed, statehood is the best path forward into economic growth and prosperity. If Puerto Rico can be transformed into a place of thriving prosperity, it can serve as a beacon of hope for all Americans and a sign to the world that the best for America and for Puerto Rico is yet to come.

Thank you.

[The prepared statement of Mr. Rosselló follows:]

Written Statement
Hon. Ricardo Rosselló
Governor of Puerto Rico
U.S. Senate – Committee on Energy & Natural Resources
Hearing, "Examine the State of U.S. Territories"
February 26, 2019

Good morning Chairwoman Murkowski, Ranking Member Manchin, and members of the Committee:

Thank you for the opportunity to appear before you today to discuss the state of the U.S. territory of Puerto Rico. As you are aware, Puerto Rico is confronting a number of very serious challenges, but I believe we are also at the cusp of a transformational moment that can shape our future and unlock the potential of our 3.2 million U.S. citizens for decades to come. It is not an overstatement to say that the actions my Administration, the U.S. Congress and the Executive Branch are taking today will either open the doors to equality, progress and success for Puerto Rico, or continue to yield social and economic stagnation that will further exacerbate existing demographic trends of mass outmigration and possibly lead to the further degradation and collapse of our island's society as we know it.

I am dedicating every waking moment of my Administration to advancing the former and preventing the latter. Today I invite you, indeed I implore you, to join me in this mission. Let's re-imagine, re-invent, re-capitalize and re-build a new Puerto Rico, one that can serve as a beacon of hope for the collective future of not only our island residents, but for America as a whole.

My testimony will focus on the following: (1) Puerto Rico's ongoing fiscal and debt restructuring under PROMESA; (2) the process of economic and disaster recovery and reconstruction, including the reconstruction of our entire energy sector; and (3) the need for equality under federal laws and programs, and the need for new tools to spur economic development and competitiveness. However, although all of these are necessary, none will be sufficient in unlocking the full potential of Puerto Rico unless Congress works with us to end the current unequal and undemocratic territory status and place Puerto Rico on the definitive path to full equality through statehood.

Restructuring Debts, Restoring Fiscal Stability & PROMESA's Promise of Economic Growth:
Long before Hurricanes Irma and Maria ever struck, Puerto Rico has suffered from decades of economic, fiscal, and demographic challenges. Due in large part to its unequal treatment under federal laws as a U.S. territory, as well as years of mismanagement both on and off the Island, Puerto Rico and certain of its instrumentalities had accrued over $72 billion in public debt and over $50 billions of dollars in unfunded pension liability that could not be satisfied with available revenues. Recognizing the need for Puerto Rico to restructure its debts, achieve fiscal stability, and regain economic growth, in 2016 the U.S. Congress passed the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), P.L. 114-187.

- **Power Sharing and Debt Restructuring Under PROMESA**

Since taking office in 2017, I have confronted the challenging and time-consuming process of Puerto Rico's fiscal, economic and debt restructuring under PROMESA head on. We started out with the most complex municipal bankruptcy in U.S. history, which was further complicated by an untested statutory scheme that incorporated a unique power-sharing arrangement between the entire elected Government of Puerto Rico and the seven person, federally appointed Financial Oversight & Management Board ("Oversight Board"). That arrangement, which was only made possible by Congress' use of the

territorial clause of the U.S. Constitution[1], has led to the Oversight Board repeatedly attempting to substitute its views of public policy for those of Puerto Rico's elected officials, and seeking to exercise control over the manner in which the Government operates or implements the fiscal plans which they are required by PROMESA to certify. Although this type of governance arrangement should have no place in a democracy, we have followed the rule of law, stuck to the process, and worked to make the best out of it.

Notwithstanding tensions and disagreements with the Oversight Board and aggressive litigation from certain of our creditors, I am proud that we have made real progress towards fiscal responsibility and renewed access to the capital markets. In the past four months alone, we have restructured more than $21 billion in funded debt obligations. And we have done it largely consensually, balancing the needs and legal rights of Puerto Rico with the rights of the creditors. My Administration has been at the forefront in negotiating with creditors and executing on complex new bond issuances.

Specifically, in November of 2018, we consummated a deal that restructured more than $4 billion in bonds issued by the Government Development Bank for Puerto Rico (GDB). We reached consensus with on-Island and mainland financial creditors in a highly innovative transaction that represented the first-ever use of Title VI of PROMESA. We also recently obtained court approval of a Title III plan adjusting more than $17 billion of COFINA debt. We brought together bondholders, insurers and other parties to provide recoveries for creditors (many of whom are American citizens residing in Puerto Rico who invested their retirement funds in COFINA) in a deal that reduced debt and provided the central government with access to billions of dollars in revenue over the next 40 years. This money can be used to shore up our finances and take care of our most vulnerable residents.

In addition to our success in restructuring GDB and COFINA, we have also entered into a preliminary restructuring support agreement with an ad hoc group of Puerto Rico Electric Power Authority (PREPA) and are proceeding with negotiations with the ad hoc group and other creditors in an effort to complete the definitive agreements related the PREPA restructuring.

After years of hesitancy from the capital markets, we are seeing investors and investment begin to flow back to the Island, and we are determined to ensure that the human capital will follow. This marks a critical first step on our road to financial recovery.

- **Fiscal Plans and Structural Reforms**

Again and again, Puerto Rico has demonstrated a willingness to make the sacrifices needed to achieve fiscal responsibility and achieve meaningful structural change. We have worked with the Oversight Board to craft and adjust the Fiscal Plan (and certified budgets under it) to meet the evolving needs of Puerto Rico in a way that not only addresses the fiscal imbalances of the past, but that prioritizes pro-growth structural reforms in our economy as well as reforming our government structures to better reflect and respond to the needs and carrying capacity of our society.

Our commitment to collaboration with the Oversight Board is evidenced by our near constant dialogue with them and their advisors. The Government and its advisors have joined the Oversight Board's Executive Director in weekly meetings where Government officials agree to undertake tasks and assignments to produce information for the Oversight Board or to carry out necessary financial analysis. We have also complied with the Oversight Board's contract compliance policy and offered to provide the Oversight Board full visibility into Government requests for federal funds.

[1] Section 101 of P.L. 114-187 states that, "The Congress enacts this Act pursuant to article IV, section 3 of the Constitution of the United States, which provides Congress the power to dispose of and make all needful rules and regulations for territories."

Regarding structural reforms, we have consolidated numerous agencies through legislation, and strengthened our underfunded pension system by moving to a PayGo retirement system. I am also proud to report that we have fulfilled my "Pledge for Puerto Rico" to reduce the size of the territorial government without firing anyone, while making it more efficient. We have reduced by 10.7% the number of government employees without firing anyone and are working to support those employees' transition to the private sector. We have implemented the largest budget reduction from one year to the next in the last 40 years in all of the United States. Additionally, we have passed local tax reform to reduce rates, simplify the tax code and broaden the tax base, as well as executing countless other reforms that seek to increase the ease of doing business and spur private sector investment. Much remains to be done, but we are already seeing positive reactions within the economy.

- **Concerns and Risks with PROMESA**

It is critical to the legitimacy of this process that the Government of Puerto Rico always retain its democratically derived powers and I am committed to continue restoring our island's credibility through concrete actions and a firm commitment to transparency and accountability. Yet, recent reports of a lack of transparency and potential conflicts of interests of the Oversight Board's consultants are deeply concerning. We are reviewing the Oversight Board's report to the U.S. District Court about how it intends to deal with these issues and hope that a meaningful resolution can be brought to bear in that venue. However, our Government also supports efforts to apply basic transparency principles to the Oversight Board through federal legislation as well.

As many of you know, the U.S. Court of Appeals for the First Circuit recently held that the method of appointing Oversight Board Members is unconstitutional. Although we whole-heartedly agree with that Court's criticisms of the Insular Cases and believe that legal precedent was wrong when decided and has no place in America today, we are still evaluating our options for how to manage the practical impacts of this decision. But we anticipate needing further engagement with both Congress and the Executive Branch to ensure that the corresponding actions do not imperil the progress we have made to date and can support Puerto Rico's continued advancement toward the core goals of PROMESA.

- **Congress Must Make Good on the Promise of Economic Growth Under PROMESA**

As Congress itself has repeatedly recognized, the need to restore Puerto Rico's competitiveness and capacity to achieve economic growth is fundamental to the success of PROMESA. Yet while Puerto Rico has been busy making hard choices and taking concrete actions to advance steadily toward those objectives, Congress has so far failed to address the vast majority of the recommendations presented by the Congressional Task Force on Economic Growth for Puerto Rico.[2] The inescapable reality is that federal laws, policies and regulations set the boundaries of what is possible to accomplish in Puerto Rico's economy. As countless economists and experts have noted, austerity alone will never accomplish the goals of PROMESA. Therefore, Congress must take robust and timely action to provide Puerto Rico with the tools to grow and prosper. I stand ready to work with this Committee and all of Congress to help make that happen.

From Total Disaster and Devastation to Comprehensive Recovery and Reconstruction:

The massive devastation caused by Hurricanes Irma and Maria in September 2017 has been documented amply before this Committee, Congress and in the national press. These events were total

[2] Congressional Task Force on Economic Growth for Puerto Rico, "Report to House and Senate, 114th Congress," December 20, 2016; https://www.finance.senate.gov/imo/media/doc/Bipartisan%20Congressional%20Task%20Force%20on%20Economic%20Growth%20in%20Puerto%20Rico%20Releases%20Final%20Report.pdf.

game changers for Puerto Rico -- laying bare the vulnerability caused by decades of underinvestment and deficient maintenance of the territory's critical infrastructure, and the immense challenges of responding to a disaster of this scale. The catastrophe and its aftermath have taught us that the lives, safety and security of the 3.2 million U.S. citizens of Puerto Rico depend as much on our local capacity to respond to the immediate emergency needs, as it does on the capacity to muster a proportionate and timely response from the federal government. Unfortunately, as academic studies have found, the federal response was faster and more generous across measures of money and staffing to Hurricanes Harvey and Irma in Texas and Florida, compared with Hurricane Maria in Puerto Rico.[3] And, although a number of factors publicly acknowledged by the Federal Emergency Management Agency (FEMA) led to this disparate and deadly outcome,[4] it is impossible to assert that Puerto Rico's lack of full voting rights and equal political power at the federal level because of our current territorial condition was not a major reason for this result.

Now 17 months into our recovery, and dealing with over $100 billion in damages, we are seeing that the lack of equality for Puerto Rico is also a threat to our capacity to ensure that a comprehensive process of recovery and reconstruction takes place so that no future disaster will ever bring the same level of devastation to the island as Maria did. Earlier this month, in compliance with P.L. 115-123, the Bipartisan Budget Act of 2018 (BBA), I submitted to Congress a detailed status report on our federally mandated Economic and Disaster Recovery Plan for Puerto Rico.[5] The report includes details on both the progress and challenges of our recovery. Therefore, I will summarize a few key points from that document and then focus on the progress in reconstructing Puerto Rico's energy sector, which I know is of great interest to this Committee.

- **Implementation of the Recovery Plan**

The Recovery Plan set forth an ambitious and far-reaching vision for the future of Puerto Rico.[6] Beyond mere recovery, the vision expressed in the plan seeks to rebuild Puerto Rico's infrastructure in a way that not only achieves resilience, but that can help us create a new engine to drive the island's economic future. The plan emphasizes improved safety and disaster response capacity, but also reflects our vision of Puerto Rico's competitiveness within the global economy and our expanded value to the United States as an economic hub for the Caribbean and Latin America regions. Through integrated planning, government reform, public engagement, and a 21st century approach based on technological innovation, Puerto Rico is working to leverage its intellectual and physical resources to maximize investment in the Island's recovery, renewal, and future growth. Toward this end, the Recovery Plan identifies 276 Courses of Action (COAs) grouped into Capital Investments and Strategic Initiatives.

The Capital Investments focus on the following foundational areas: Energy; Communication/Information Technology; Water; Transportation; Housing; Public Buildings; Education; Health and Social Services; and, Natural and Cultural Resources. The Strategic Initiatives are designed to move beyond infrastructure recovery and focus on the following areas of long-term social and economic growth: Enhancing the Ocean and Visitor Economies; Modernization of

[3] Willison CE, Singer PM, Creary MS, et al, "Quantifying inequities in US federal response to hurricane disaster in Texas and Florida compared with Puerto Rico," BMJ Global Health 2019; https://gh.bmj.com/content/4/1/e001191.

[4] Federal Emergency Management Agency, "2017 Hurricane Season FEMA After-Action Report," July 12, 2018, https://www.fema.gov/media-library-data/1531743865541-d16794d43d3082544435e1471da07880/2017FEMAHurricaneAAR.pdf.

[5] Gov. Ricardo Rosselló to Leaders of U.S. House and Senate, "Progress Report on Economic and Disaster Recovery Plan," February 14, 2019.

[6] Central Office for Recovery, Reconstruction and Resiliency, "Transformation and Innovation in the Wake of Devastation: Economic and Disaster Recovery Plan for Puerto Rico," August 8, 2018, https://cor3.pr/assets/documents/pr-transformation-innovation-plan-congressional-submission-080818.pdf.

Emergency Services; Agricultural Transformation; Digital Transformation; Transition to a 21st Century Workforce; Entrepreneurship Expansion; and, Reduction of Policy and Structural Barriers to Support Advanced Manufacturing.

Last year, we took the first steps by assigning each COA to a state government agency to act as the lead entity in its implementation. A total of 30 agencies were selected to be COA leads. Currently, each of the selected agencies has been tasked with developing specific action plans for the accomplishment of each COA under their purview. Each plan will describe the projects and related steps that must be taken, identify the funding sources, and lay out a timeline for completion.

- **Central Office of Recovery, Reconstruction and Resiliency (COR3)**

To ensure proper oversight, coordination, and execution of the COAs, I established the Central Office of Recovery, Reconstruction and Resiliency (COR3) in December 2017 with all necessary authority, powers, and capability to manage the post-disaster reconstruction. Recognizing the need for expert support to ensure the success of COR3, we underwent an extensive proposal process to contract a group of highly qualified third-party specialists with years of disaster recovery and reconstruction experience. In the last six months, COR3 established a comprehensive and effective digital information system designed to manage federal funding while also promoting accountability and transparency to all stakeholders. The Disaster Recovery System (DRS) is owned and operated by COR3 and is designed to have an independent data source, protections for data integrity, and system of record that can be used to reconcile discrepancies and push accountability as both federal and state partners work toward effective coordination and collaboration in the execution of all recovery programs. To increase the accessibility of the complex data within DRS as well as to support public awareness, COR3 has established a Transparency Portal website (https://www.recovery.pr/en/home.aspx) with the purpose of documenting and demonstrating the status of the recovery.

- **Challenges that Threaten Puerto Rico's Recovery and Reconstruction**

A series of decisions by federal agencies have slowed our post-disaster recovery, compared to the post-disaster recovery in other jurisdictions stateside, which threatens the timely and successful execution of our recovery plan. Among these are: inconsistencies in FEMA guidance with respect to the implementation of Section 428 Alternative Procedures for permanent work Public Assistance; significant delays in fixed cost estimate approvals by FEMA; unnecessary requirement of duplication in damage description and dimension analysis by FEMA; and, a lack of willingness by FEMA to end the 270 Manual Drawdown Process. Our reconstruction depends on us completing these processes as diligently and quickly as possible, and we rely on FEMA to get the job done. Puerto Rico has only had approximately 45 "Permanent Work" projects approved in the 17 months that have followed the Hurricanes. In stark contrast, in the same timeframe, over 13,000 projects were approved for Louisiana and Mississippi in the wake of Hurricane Katrina. The discrepancy is startling.

Additionally, we are deeply concerned by the Administration's departure from the New Orleans precedent in FEMA's denial of Puerto Rico's request for an extension of the 100% federal cost share on Categories A & B for emergency work. We have appealed the decision and the appeal has been denied, exhausting our administrative remedies and leaving only legislative options for relief.

Another area of grave concern to us are actions that appear to defy Congressional intent regarding FEMA's authority to provide assistance to restore disaster-damaged facilities or systems to industry standard and to restore functionality of the disaster-damaged facility or system without regard to pre-disaster condition. In the BBA, Congress crafted Section 20601 to ensure that the large investment of federal taxpayer monies into the recovery efforts on Puerto Rico and the U.S. Virgin Islands do not

end up throwing "good money after bad" by restoring facilities to a condition that would only cause them to continue to deteriorate, put people back into at-risk situations in sub-standard facilities, and result in both buildings and infrastructure not being reconstructed in a manner that meets current best-practices and standards. To do otherwise would be shortsighted and would not only waste the many billions of dollars of taxpayer funds that would be invested in Puerto Rico and the U.S. Virgin Islands, but also put the taxpayer at extraordinary risk the next time a hurricane or other natural disaster caused widespread impacts to the islands.

- **Need for Additional Disaster Supplemental Legislation**

To this day, the post-disaster needs of the U.S. citizens in Puerto Rico remain pronounced, and the House of Representatives recognized those needs with its passage of a Fiscal Year 2019 disaster relief supplemental appropriations bill - a bill that awaits Senate action and Presidential signature. Of the critical elements included in the House-passed bill, two stand out: an extension of the 100% Federal Cost-Share for FEMA Categories A & B and an additional $600 million in funding for the Nutritional Assistance Program (NAP). Both of these requests are the direct consequence of Hurricanes Irma and Maria, and the absence of immediate Congressional action will only further delay the recovery of the nearly 3.2 million U.S. citizens of Puerto Rico.

The Category A & B work on the island is still not anywhere near complete, and our Government continues to face a critical financial situation exacerbated by the Hurricanes, island-wide economic recovery and the constraints of PROMESA. The extension we request is no different from the extension that was granted after Hurricane Katrina.

With regard to food security on the island in the near term, the House-passed disaster supplemental also included $600 million in NAP funding, which would allow the Government of Puerto Rico to provide the same basic nutritional assistance that other states receive through the end of fiscal year 2019. Since 1982, Puerto Rico has been treated differently than the other States and Territories that participate in the U.S. Department of Agriculture's Supplemental Nutrition Assistance Program (SNAP). Puerto Rico's NAP block grant provides significantly lower benefits, has a much lower poverty threshold for eligibility, and leaves many vulnerable individuals and families in need without the food security that they would have if they were living in the states. The Hurricanes of 2017 greatly exacerbated the food insecurity on the island, and the pronounced need to address food insecurity still persists today as the island continues to struggle to recover and rebuild. The need will become even more acute very soon, since the $1.27 billion in disaster NAP funding provided by P.L. 115-72, the Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2017, is projected to expire at the end of March 2019. In about a month's time, nearly 230,000 NAP participants will either lose benefits or see a reduction in benefits. Congressional action on the additional $600 million for NAP is needed to ensure the most vulnerable populations in Puerto Rico do not lose their critical nutritional assistance at the end of next month.

- **Transforming the Energy System**

Although power has been fully restored to homes and businesses in Puerto Rico after the island-wide blackout, the fact that it took almost a year to complete is absolutely unacceptable for me or my constituents. Access to reliable and affordable energy is fundamental to the functioning of our society and economy, and what this experience taught us is that Puerto Rico must never go through that again. Thankfully, we have made real progress toward the transformation of Puerto Rico's energy system. Last June, I signed into law a bill to begin the process of privatizing PREPA and, as discussed below, we are making steady progress in that direction. The process seeks to carry out a concession for the transmission and distribution (T&D) functions, while simultaneously privatizing the development of

new generation capacity. This will allow for the hardening, modernization and standardization of our energy system as it is being rebuilt. The goal for the T&D reconstruction is that it will be designed to be able to withstand an extreme category 4 storm (such as Maria) with sufficient margins to ensure high survivability for a category 5 storm. The goals for the generation plan are significant savings of close to $1 billion per year in energy costs for consumers on the island, as well as reductions in CO_2 emissions of approximately 50 percent in 10 years.

The process to privatize the T&D system is well underway. In late October 2018, the Puerto Rico Public-Private Partnerships Authority (P3 Authority) issued a Request for Qualifications (RFQ) seeking statements of qualification from companies and consortia interested in managing and operating Puerto Rico's electric power transmission and distribution system. The RFQ defined the project goals as: (i) delivery of low-cost electricity to ratepayers of Puerto Rico; (ii) increasing system resiliency and reliability; (iii) deployment of new technologies; and (iv) implementation of industry best practices and operational excellence. Four qualified RFQ respondents - Duke Energy Corporation, Exelon Corporation, PSEG Services Corporation, and a consortium formed by ATCO, Ltd, IRM and Quanta Services - were invited to submit responses to a Request for Proposal (RFP) issued in late January 2019. The process of developing RFP responses is ongoing.

We are also addressing the generation assets as part of remaking our energy sector. Our objectives with regard to generation include:

- Transfer of existing generation assets to private ownership and/or operations; establish framework wherein future generation assets are privately owned/operated;
- Reducing reliance on fuel oil and overall fuel cost;
- Modernizing the generation fleet, retiring inefficient units and increasing the development of renewable energy and natural gas-fired facilities;
- Investing in facility repairs and enhancements to improve system resiliency
- Leveraging proven energy storage, distributed energy, and "mini-grid" technologies to provide greater flexibility, reliability, and resiliency of energy supply;
- Improving dispatch capabilities by implementing modern technologies; and
- Improving overall system operational flexibility

Consistent with these objectives, we expect all new generation assets will be owned and/or operated by private entities and existing generation to be sold or otherwise privately managed. Although the ultimate plan for the privatization of the existing generation assets has not yet been finalized, we have taken two concrete steps toward this process: (i) the recent San Juan natural gas conversion contract, which should provide a framework for future fuel supply conversion, and (ii) development of the new Integrated Resource Plan (IRP).

The fuel conversion project involves upgrading Units 5 and 6 of the San Juan Combined Cycle Power Plant so that those units can operate on liquefied natural gas (LNG). The transaction, announced in December 2018, is one of the most flexible LNG/gas agreements in the world and undeniably the most flexible fuel supply agreement in PREPA's portfolio. This transaction should produce material savings for PREPA customers.

In addition, on February 13, 2019, PREPA filed a new Integrated Resource Plan ("IRP") with the Puerto Rico Energy Bureau for review and approval.[7] The new IRP envisions the establishment of a

[7] Siemens PTI, "Puerto Rico Integrated Resource Plan 2018-2019 Draft for the Review of the Puerto Rico Energy Bureau," Prepared for Puerto Rico Electric Power Authority, February 12, 2019; http://energia.pr.gov/wp-content/uploads/2019/02/PREPA-Ex.-1.0-IRP-2019-PREPA-IRP-Report.pdf.

series of mini-grids, which are a design for energy transmission and distribution networks that systematically improves resiliency by separating the existing grid into pockets of critical loads served by distributed resources that can operate in both grid-connected and islanded modes. These mini-grids are distinguished from microgrids in that they utilize existing distribution infrastructure and can be sized much larger than typical microgrids; for example, one mini-grid will encompass the San Juan region. The proposed eight mini-grids will cover most of the island and will be able to withstand or recover very quickly from a catastrophic weather event. Putting in place the mini-grid concept, adding more distributed generation resources, including more renewable resources, and adding new, highly efficient natural gas-fired generating facilities, as the IRP envisions, will significantly reduce Puerto Rico's vulnerability to hurricanes and other weather events, and permit the island to respond quickly and effectively when they occur. At the same time, the planned changes to Puerto Rico's electric infrastructure will improve energy efficiency, reduce fuel costs and dramatically reduce air emissions. We are excited by the opportunity to lead the way into a future in which electric systems are more efficient, more reliable, more resilient and greener.

Equality in Federal Programs & Tools for Economic Growth:

A fundamental limitation for Puerto Rico as it seeks to address the multiple overlapping crisis (economic, fiscal, demographic, political and disaster recovery) is that our current territorial status allows for structural inequality. As you are aware, under Puerto Rico's territorial status Congress can and does treat the island unequally under multiple federal laws, programs (such as Medicaid, Medicare, Nutritional Assistance, Child Tax Credit, Earned Income Tax Credit), and many other policies. This means that the Government and U.S. citizens of Puerto Rico cannot count on the same amount of federal support that state governments and residents receive and are expected to perform economically in an uneven playing field. The inequitable policies also lead to an overall quality of life in Puerto Rico that is below the standard in the states in multiple respects. Given the mobility of Puerto Rico residents, which as U.S. citizens can travel freely between the island and the states, and the growing population of stateside Puerto Ricans, island residents are keenly aware of the discrepancy in quality of life. As one would expect from rational persons, Puerto Rico residents aspire to attain a standard of living in the island equal to that afforded to our fellow citizens in the states and if they cannot obtain that on the island they simply leave and move stateside. The ongoing loss of population is detrimental to Puerto Rico's tax base, labor force, consumer demand, debt repayment capacity, and overall prospects for economic growth. In order for Puerto Rico to retain its population, attract newcomers and compete for new investments on an equal playing field, we need federal support that is in line with that provided to other U.S. citizens in the states.

- **Saving the Healthcare System**

The most notable areas of unequal treatment of Puerto Rico, which requires immediate Congressional action is federal healthcare funding. The federal government's inconsistent and incoherent healthcare funding and policy decisions toward Puerto Rico put the stability of the island's entire healthcare system at risk and have contributed to a mass exodus of medical and health professionals which cannot be easily replaced. This applies to Medicaid as well as to Medicare. For the Government of Puerto Rico, the Medicaid funding cliff represents a massive threat because on September 30, 2019, 7 months from now, the federal funding approved for the program after Hurricane Maria will expire. Along with the expiring of these funds, the federal matching for the program will be reduced from 100% to 55%, meaning that Puerto Rico will have to once again have to contribute a much larger share of its own funds than any other State with similar demographics. The current projection is that the remaining federal funds that are appropriated after September 30, 2019, will only cover 5 months of the federal share for the program. What this means is that Puerto Rico will not have enough federal funds to be able to provide benefits for the 1.3 million Medicaid enrollees in the next federal fiscal year.

The Medicaid cliff is already affecting the program and the continuation of our new healthcare model, it also creates great uncertainty for all of those who participate in it, including our hard-working healthcare professionals. This also places in jeopardy the extraordinary efforts and commitment to reinforce program integrity and federal visibility, such as establishing the Medicaid Fraud Control Unit and the Medicaid Management Information System (MMIS), which the U.S. Department of Health and Human Services (HHS) recognized as the fastest implementation for any MMIS program. Should Congress fail to act in a timely fashion, over 425,000 children will not have guaranteed access to their pediatricians, 305,000 of our elderly and disabled will have to survive without the care they deserve, 17,000 pregnant women will not be able to receive pre-natal care, and 12,000 newborns will enter this world without the assurance that they will survive their first year of life.

It is time for urgent action by Congress to fully fund Puerto Rico's Medicaid program and put an end to territorial inequality once and for all. Only this will allow the U.S. citizens that count on the Puerto Rico Medicaid to have guaranteed access to essential healthcare services. Congress must also end the inequalities in Puerto Rico's Medicare and Medicare Advantage programs, which also contribute significantly to the underfunding of our healthcare sector on the island and diminish the quality of life of our elderly.

- **Federal Tax Law Should Help Spur Economic Growth**

Another drawback of Puerto Rico's current status as an unincorporated territory is the inconsistency in how we are treated under federal tax laws where for some matters we are considered domestic and foreign for others. Although some argue that this has worked to our benefit because of the lack of federal income tax for island residents on their Puerto Rico derived income, this seeming advantage is nullified for the vast majority of island residents because of their unequal treatment or outright exclusion in federal programs and tax benefits like the Child Tax Credit (CTC) and the Earned Income Tax Credit (EITC).

The passage of P.L. 115-97, the Tax Cuts and Jobs Act of 2017, added yet another challenge to Puerto Rico with the imposition of the Global Intangible Low-Taxed Income Tax (GILTI) as if we were a foreign jurisdiction. While we do not yet know the full impact GILTI will have on Puerto Rico's manufacturing sector and the local tax revenues they generate, it's clear that the way this new tax was applied will do nothing to help Puerto Rico attract new investment and economic activity. Recognizing this, Congress should work to include other economic development tools for Puerto Rico, such as the application of a tourism industry tax credit and EITC to the island in any upcoming legislative vehicle with tax provisions or technical fixes before the end of this year. Credit is due however for Congress' effort to include almost the totality of Puerto Rico as an Opportunity Zone in tax reform. We are grateful for this policy and are aggressively working to utilize Opportunity Zones to attract new private sector investment to the island.

Resolution of Undemocratic & Unequal Territorial Status:

The question of Puerto Rico's ultimate political status and relationship with the Federal Government is intimately linked to the island's prospects for economic growth, fiscal stability, and successful disaster recovery. By allowing Congress and the federal Executive Branch to treat Puerto Rico differently and in ways that discriminate against the island and its residents, the current territorial status inherently limits our chances of success. It does this by allowing the propagation of federal laws and policies toward the territory that lack the coherence and consistency required to provide for the island's sustained socioeconomic development and growth. The democratic deficit generated by the lack of voting representation at the federal level results in an inability of the elected officials from Puerto Rico to exert sufficient influence in the federal policy and regulatory making process to be able to ensure that the island's needs, conditions and aspirations are duly considered and accounted for.

The unfortunate reality is that federal policy towards Puerto Rico is oftentimes executed as an afterthought and without a proper understanding of the circumstances of the island and its residents. There are countless examples of federal policies and practices that harm or limit Puerto Rico's economic development potential. Among these are the disparate treatment and sometimes-outright exclusion of Puerto Rico from a variety of federal programs, the island's exclusion from a multitude of federal studies and statistics, the disproportionately low level of federal procurement from businesses in Puerto Rico, and unnecessary regulations that limit interstate commerce such as the Electronic Export Information requirement.

Another factor that negatively impacts the island's economy is the significant levels of political and policy uncertainty and risk created by the territorial status at both the local and federal levels. For businesses making investment decisions this political and policy risk decreases the desirability of making investments on the island and it also increases the borrowing cost for the government and private businesses on the island.

The current reform process happening in Puerto Rico under PROMESA, and the post-disaster recovery and reconstruction, present an ideal opportunity to finally define the ultimate political future of Puerto Rico, and to begin a transition toward that end. Congress must act definitively to resolve Puerto Rico's future political status, because extending the failed 121-year-old territory status will only further delay the island's full economic, fiscal and demographic recovery as well as its reconstruction. Congress must resolve Puerto Rico's status to unleash its full potential and should implement the democratically expressed will of voters who have expressed twice in the last six years a clear desire to end the current territory status and to achieve statehood for Puerto Rico. Indeed, for America and Puerto Rico both, statehood is the best possible answer and the best path forward out of this century old issue and into a new century of economic growth and prosperity.

Conclusion:

Despite our many challenges, the state of the U.S. territory of Puerto Rico is optimistic, determined and full of potential. In the 17 months since the Hurricanes of 2017 and nearly three years since Congress passed PROMESA, Puerto Rico has been challenged by the most damaging storms in U.S. history, significant population loss, as well as an island-wide recession. Despite these long odds, Puerto Rico continues to endure and recover. Our goal is to re-imagine, revitalize and rebuild Puerto Rico so that it can develop to its full capacity for the benefit of not only island residents, but for America as a whole. To do this we must recognize and acknowledge our past mistakes and work together diligently to correct them. If America's most challenged jurisdiction, Puerto Rico, can turn itself around and be transformed into a place of thriving prosperity, it can serve as a beacon of hope for all Americans, and a sign to the world that the best is yet to come. Statehood for Puerto Rico is not only about realizing Puerto Rico's full potential. It is about America living up to its most noble values by creating *a more perfect Union.*

The CHAIRMAN. Governor, thank you very much.
Governor Guerrero, welcome.

STATEMENT OF HON. LOURDES A. LEON GUERRERO, GOVERNOR, GUAM

Ms. GUERRERO. Good morning and Hafa Adai to the members of this Committee, and thank you for the opportunity to present testimony today.

I am Lou Leon Guerrero, the Governor of Guam, first female Governor elected in Guam and have been on the job for 51 days and still love my job.

I would like to ask your assistance in resolving five top priorities of my administration.

Number one and foremost is the H-2B issue. The Department of Homeland Security's recent administrative action that removes the eligibility of the Philippines for the H-2B program affects us greatly. While USCIS has discretion to approve petitions that serve the national interest, including those that qualify under section 1045 for the Fiscal Year 2019 NDAA, it is clear that the ban on foreign skilled labor from the Philippines is having a very detrimental impact in Guam. It has caused delays in home construction, business expansion has been delayed and I am sure our military buildup will also slow down. Our island's economic stability is national security. Inside and outside the fence doesn't work on an island 30 miles long and 8 miles wide. All projects must be considered as associated with military realignment. I ask for your legislative or administrative actions that Guam, along with our sister territory of the Northern Mariana Island, be exempted from prohibitions in accessing foreign labor from the Philippines.

Two, Compacts of Free Association (COFA). While we welcome our neighbors from the Outer Micronesian Islands as part of the Compact of Free Association, our local social services and infrastructure has been overly taxed to their influx while promises from Congress to cover the cost go unfulfilled. The Compact Impact cost from Fiscal Year 1987 to 2018 has been more than about $1.4 billion and our assistant grants is only $229 million.

Next is our Income Tax, Earned Income Tax Credit (EITC). The Government of Guam receives over 55,000 tax returns annually and refunds about $120 million, with over $50 million for Earned Income Tax reimbursement. EITC is our second-largest unfunded mandate, second only to the costs associated with providing services to citizens of the Freely Associated States (FAS). While the states are reimbursed by the Federal Government, Guam is required to pay EITC reimbursements, and we are not reimbursed by the Federal Government. I ask that Congress fund this mandate and ensure that Compact reimbursement funds account for EITC payments to FAS citizens.

Medicaid. The Guam Medicaid Program operates differently than it does in the states. Because Guam's Medicaid operates essentially as a block grant with an annual ceiling, we would often exhaust our federal funds allocations. We want to be treated fairly, as with the states, and we want to be evaluated and calculated on the per capita income basis.

The Guam World War II Loyalty Recognition Act. This Committee's work has been tremendous, and I thank you for your work. The Guam World War Loyalty Recognition Act authorizes Section 30 funds to be set aside for war claims compensation; however, the Department of Treasury is now claiming that they are unable to issue final award payments based on their interpretation that the Act does not contain appropriations language. With this inaction, the Federal Government is not just withholding payments of war claims, they are withholding parity and closure for Guam's remaining survivors. I am hopeful that members of this Committee can express their support to the Trump Administration to resolve this issue administratively, and I pledge that my administration is willing to work with Congress and the Trump Administration to be able to provide immediate payment of adjudicated claims stemming from the Island's occupation. We must bring closure and honor to the survivors of wartime. We rely on your leadership and advocacy in addressing these issues for our Island.

We ask for your assistance in helping us reach a better quality of life for our people.

Thank you and Si Yu'os Ma'ase.

[The prepared statement of Ms. Guerrero follows:]

Testimony of the Honorable Lourdes A. Leon Guerrero
Governor of Guam
United States Senate - Committee on Energy and Natural Resources
February 26, 2019

Hafa Adai and Si Yu'os Ma'ase for the opportunity to present testimony to this Committee. I am Lou Leon Guerrero, I Maga Hagan Guahan, the Governor of Guam. In the less than two months of my Administration, I have been working tirelessly to address issues and priorities that will provide significant and lasting change to our island and shape a brighter future for all who call Guam home --including economic diversity, public safety, education, healthcare, and financial discipline. I want to provide testimony about issues that require immediate attention from Congress.

H-2B

As you know, Guam is among the most patriotic places in the entire country. Per capita, we have one of the highest enlistment rates and veteran populations in the nation. We welcome the military buildup and the economic impact it will bring, but it must be done at a pace that will benefit our local people, our island, and the U.S. military.

The Department of Homeland Security's recent administrative action that removed the Philippines from a list of countries eligible for the H-2B program effective January 19, 2019 affects us greatly. While the new policy provides the U.S. Citizenship and Immigration Services (USCIS) with discretion on a case-by-case basis to approve H-2B petitions that serve the national interest, including petitions that qualify under section 1045 of the National Defense Authorization Act (NDAA) for FY 2019, it is clear that the ban on foreign skilled labor from the Philippines will have a detrimental impact in Guam.

Since the end of World War II, Guam has been a primary focus for U.S. military investment because of its high strategic value in the Asia-Pacific region. Guam is home to Naval Base Guam, Andersen Air Force Base, THAAD Missile Defense System, and, in the near future, Marine Corps Base (Camp Blaz). Alongside these strategic military investments, Guam has developed into a tourist destination with 1.7 million visitors annually and a projection to surpass the 2 million mark sometime between 2025-2027. Guam's military and civilian growth has been supported by foreign skilled labor. Given Guam's close proximity to the Philippines, local employers have come to rely on the Philippines as the primary source of supplementary skilled labor when utilizing the H-2B program.

We have already experienced the impact that a loss in skilled foreign workers has on our island. Beginning in late 2015, USCIS' seemingly arbitrary denial of nearly all H-2B petitions for Guam, which previously had routinely been approved at a 95% rate, resulted in a severe shortage of skilled foreign labor for the island's construction industry. From an average of 1,500 foreign

workers yearly prior to the blanket denials, the H-2B workforce dwindled to 252 in 2017 and 71 in 2018. In May 2018, Guam reached an unprecedented zero H-2B workers on the island.

The FY 2019 NDAA partially addressed this issue through Section 1045, but such language primarily was passed to ensure that the U.S. military and its projects funded by military construction dollars, maintained access to foreign labor. However, uncertainty of approvals on the civilian side has led to delays in ongoing projects and discouraged contractors from bidding on new ones. This scenario has driven up construction costs, stifling private sector development and causing irreparable harm to the local economy and the military buildup.

Specifically, DHS cited a national 40% overstay rate and a high volume of trafficking of visa holders from the Philippines as reasons for the country's removal from the programs. This is not the case for Guam. The island's rate of H-2B workers who intentionally overstay is negligible and there are no known trafficking cases involving Philippine citizens.

For decades and up until today, Guam understands that our location provides our country with a valued location in which to monitor and project military force in the Asia Pacific region. Whether one agrees or disagrees with U.S. military presence on our island, it is inarguable that we possess strategic value and contribute to the national security of our nation.

Because of this, I submit to this Committee that Guam's economic security is equally important to the country's national security. For many years, this Committee, and the Congress has worked to develop policies to assist all territories develop our respective economies.

Today I present to you that the more than $8 billion of U.S. military construction dollars is generating considerable interest of others to invest in Guam. We welcome this interest and want to capitalize on this opportunity to increase the quality of life for our people, our visitors, and the military men and women who call Guam home.

Along with our military partners, we are taking a One Guam approach. However, not everyone in the federal family is on the same page. Segregating our community to further the perception of "Inside the fence" and "outside the fence" attitudes do not work on an island 30 miles long and 8 miles wide.

As Congress considers the 2020 National Defense Authorization Act, I ask for legislative or administrative clarification that Guam, along with our sister territory of the Northern Mariana Islands, be exempted from prohibitions in accessing foreign labor from the Philippines.

As One Guam, ALL projects on Guam must be considered as associated with the military realignment and under Section 1045 of the FY 2019 NDAA. I respectfully request that further amendments to Section 1045 be made to allow for the approval of workers from the Philippines notwithstanding the regulations associated DHS's H-2B approved countries list.

Compacts of Free Association

The Compacts of Free Association Act authorize unrestricted immigration of citizens from the Federated States of Micronesia (FSM), Republic of the Marshall Islands (RMI) and Palau, allowing them to work and establish residence on Guam as non-immigrant aliens. While we welcome our neighbors from the outer Micronesian islands as part of the Compacts of Free Association Act, our local social services and infrastructure have been overly taxed by their influx - while promises from Congress to cover the costs go unfulfilled.

The Compact Impact cost from FY 1987 to FY 2003 totaled $269 million, including $178 million for education, $48 million for health, welfare and labor, and $43 million for public safety. Yet Guam's request for $200 million in debt relief was declined. Since then, a total of $1.4 billion in costs were incurred from FY 2004 through FY 2018, with Compact Impact Assistance Grants awarded to Guam totaling only $229.2 million.

We cannot continue to support this unfunded mandate. Our local services and infrastructure are being stretched too thin and we need the federal government to step up and keep their promise.

Earned Income Tax Credit

The Government of Guam receives over 55,000 tax returns annually from taxpayers and refunds about $120 million, with over $50 million for Earned Income Tax Credit reimbursements. EITC is our second-largest unfunded mandate, second only to the costs associated with providing services to citizens of the Freely Associated States.

While the states are reimbursed by the federal government, Guam is required to pay EITC reimbursements from its General Fund, without federal reimbursement. EITC claims have substantially increased over the years. In tax year 2016, $55.2M, or 43 percent of all tax reimbursements, were EITC payments. Further, while states have been reimbursed for their payments to FAS citizens living in the mainland, Guam has been burdened with paying EITC to eligible FAS citizens from its General Fund. I ask Congress to fund this mandate and ensure that the Compact reimbursement funds account for EITC payments to FAS citizens.

Medicaid

The Guam Medicaid Program, like other U.S. Territories, operates differently than it does in the states. Because Guam's Medicaid operates essentially as a block grant with an annual ceiling, we would often exhaust our federal funding allocation. The Affordable Care Act changed this by increasing the federal allocation to ensure that Guam would have the resources to provide essential health services, without depleting the federal dollars in the Medicaid program.

While states' Federal Medicaid Assistance Percentage are calculated annually and use a formula that takes into account per capita income, the calculation for Guam is limited by statute. The

ACA increased the Medicaid dollar allotment and increased the FMAP by 5%, but this is not enough. Although Guam received additional funding of $268 million to help alleviate its Medicaid funding shortfall, our government cannot provide the local match to fully expand the program and utilize the $268 million, which will expire on September 30, 2019.

If ACA funding is not extended or replaced, the Guam Medicaid Program could be forced to decrease its income guideline and terminate more that 50 % of its current eligible population. We cannot allow our most vulnerable to fall off this fiscal cliff.

I ask Congress to raise or eliminate the Medicaid funding cap as well as the 55% Federal Medical Assistance Percentage and to give our island the highest FMAP applicable under law.

Guam World War II Loyalty Recognition Act

Finally, many of you may not be aware that residents of Guam were subject to rape, severe personal injury, forced labor, forced march, internment, and even execution as a result of the occupation of Guam by Japan during World War II. The Guam World War II Loyalty Recognition Act authorizes Section 30 funds to be set aside for war claims compensation. However, the U.S. Department of Treasury is now claiming that they are unable to issue final award payments based on their interpretation that the Act does not contain appropriations language.

With this inaction, the federal government is not just withholding payments of war claims, they are withholding parity and closure for Guam's remaining survivors. I ask you to support H.R. 1141, which was introduced by Guam delegate Congressman Mike San Nicolas, that provides language for these compensation payments to be made. I ask you to right the wrongs of the past for these fellow Americans on the 75th anniversary of the Liberation of the people of Guam.

Closing

We look to your leadership and assistance in addressing these issues for the island of Guam. Si Yu'os Ma'ase.

The CHAIRMAN. Thank you very much.
Governor Bryan, welcome.

STATEMENT OF HON. ALBERT BRYAN, JR., GOVERNOR, U.S. VIRGIN ISLANDS

Mr. BRYAN. Good morning, Chairwoman Murkowski, Ranking Member Manchin, and members of the Committee. Thank you for the opportunity to appear today to discuss the state of the United States Virgin Islands and our Territory's priorities for 2019.

The people of the U.S. Virgin Islands are grateful to you and your colleagues in Congress for your support in helping us recover from the unprecedented damage caused by the catastrophic hurricanes on September 2017. With help from our federal partners, we are on the path to recovery, but long-term recovery will take several years. Your continued support and assistance is critically needed for us to rebuild our territory to be stronger and more resilient in the face of constant economic pressures and the increasing occurrence of natural disasters.

Even before the hurricanes, the Virgin Islands and other territories faced unique challenges not encountered on the U.S. mainland. Many of these challenges are the result of factors beyond the control of the Federal Government, such as geographic isolation and lack of natural resources. But some challenges we face are exacerbated by federal policies, which are within the power of the Congress to change. In my comments here today, I will focus on those issues for which we most urgently need and request your assistance.

Healthcare. The area where Congressional action is most critical is healthcare. Even before the hurricanes, our healthcare system was under great stress. Under Medicaid the average arbitrarily high local match requirement has imposed severe and unsustainable financial demands on our territory. We are grateful for the temporary disaster-related waiver of the local match and additional allotments that Congress provided in the Bipartisan Budget Act of 2018. This funding has been a lifesaver for the territory's poor. However, unless Congress acts before September 30th, 2019, two events will cause potentially catastrophic damage to our Medicaid program.

First, the temporary disaster relief is scheduled to end on September 30th. Our severe disaster-related revenue losses are projected to extend well beyond that date. As a result, we simply cannot afford to pay the local match starting October 1st. We therefore urge the Congress to extend the disaster-related Medicaid relief by one year to allow our Medicaid program to operate through Fiscal Year 2020 and allow our hospitals to recover.

In addition, we and all other territories face the so-called Fiscal Cliff on September 30th when our Affordable Care Act allotments expire. Unless Congress takes action to eliminate the Fiscal Cliff, up to 30 percent of our entire populations could lose access to Medicaid. We urge Congress to act to prevent this potential calamity, well before September 30th.

Disaster funding, our second critical need that relates to local match requirements for federal disaster funding. The Virgin Islands does not have the resources available to come up with the

local match in order to access disaster funds. Anticipating this lack of resources in the territories, the Insular Areas Act provides all federal agencies the discretion to waive local match requirements for insular areas, including the Virgin Islands, but with a few exceptions FEMA has proved reluctant to do so despite overwhelming evidence of the territory's financial plight.

For example, FEMA has prematurely ended the 100 percent federal funding for public assistance categories A and B. These projects, even though they were delayed as a result of federal, not territorial, delays in implementation, we have administratively appealed FEMA's decision and are hopeful that these issues can be resolved in a cooperative manner. If not, we may ask for your assistance.

Similarly, FEMA has been reluctant to agree to waive the local match for the territory for FEMA public assistance categories C through G which include the permanent repair or reconstruction of key facilities. The policy reasons for invoking the Insular Areas Act Waiver are at least as compelling for these projects.

Therefore, we respectfully request that Congress direct FEMA to exercise its discretion under the Insular Areas Act and waive the local share for public assistance grants awarded to the USVI. Alternatively, Congress could enact legislation to specifically waive the local match.

Finally, we believe that there are several simple administrative steps that would not cost anything and yet would significantly expedite our recovery, including enabling FEMA to advance funding for our major recovery projects to relieve the strain in our already depleted cash flows, reducing bureaucratic obstacles in FEMA's project approval process and encouraging FEMA to approve our application to administer our own permanent housing construction program reducing project cost and administrative burdens these things would accomplish. Each of these steps is described in greater detail in my written testimony. We would be deeply grateful for Congressional assistance in achieving these relatively simple and no cost measures.

High visit infrastructures. The third major area in which we seek Congressional assistance is transportation infrastructure. The Territorial Highway Program in recent years has been unfairly singled out for funding cuts. While the states and DC have received significant funding increases, we urge Congress to correct this inequity in the next infrastructure bill by increasing funding levels for the Territorial Highway Program.

Finally, we seek Congressional assistance in crafting federal tax policies that fairly reflect the unique status and circumstances of the U.S. territories. Federal tax policy plays a crucial role in creating the investment climate to create jobs, generate sustainable economic growth and improve the territory's long-term fiscal health. The current Federal Tax Code is in key respects unfair to the territories in ways that impair economic development and financial self-sufficiency.

For example, under the Internal Revenue Code, the Virgin Islands is considered a foreign jurisdiction even though Virgin Islanders are U.S. citizens and Virgin Island's businesses are U.S. businesses. U.S. territories should always be treated more favor-

ably than foreign jurisdictions under federal tax law. But as a result of unduly harsh provisions in the JOBS Act of 2004, the territories are in some ways treated worse than foreign jurisdictions. In particular, the income sourcing rules imposed by the JOBS Act have inhibited our ability to attract new employers and grow our economy. I urge your support for modest corrective changes to the JOBS Act to remedy these inequities.

Further, the Tax Cuts and JOBS Act of 2017 inadvertently disadvantage U.S. investments in the Virgin Islands with respect to new taxes imposed by that Act. We request the Committee's support for a technical amendment to provide parity for such investment in our territory.

Thank you for considering this testimony and for your support of your fellow Americans in the U.S. Virgin Islands. I look forward to answering any questions you may have.

[The prepared statement of Mr. Bryan follows:]

GOVERNOR ALBERT BRYAN, JR.
U.S. VIRGIN ISLANDS

Written Testimony of Governor Albert Bryan, Jr. of the United States Virgin Islands Before the Senate Committee on Energy and Natural Resources

Good morning Chairwoman Murkowski, Ranking Member Manchin, and members of the Committee:

Thank you for the opportunity to appear before you today to discuss the state of the United States Virgin Islands and our Territory's priorities for 2019.

On behalf of the people of the U.S. Virgin Islands, I wish to thank you and your colleagues in Congress for your concern and support in our recovery from the unprecedented damage, estimated in excess of $10 billion, caused by two back-to-back Category 5 hurricanes—Hurricanes Irma and Maria—in September 2017. It is ever important to remember that our recovery is not only physical but economic and social as well. With our federal partners, we have made great strides in dealing with the immediate impacts of the hurricanes. And we are on the path to longer-term recovery, but that recovery will take several years. Your continued support and assistance is critically needed for us to recover from the hurricanes and rebuild our Territory to be stronger and more resilient in the face of constant economic challenges and increasing occurrence of natural disasters.

Even before the hurricanes, the Virgin Islands and the other Territories faced unique challenges not encountered on the U.S. mainland. Many of these challenges are the result of factors beyond the control of the federal government, such as geographic distance and isolation, lack of natural resources, and general small island limitations on scale and their related impact on economic development options. But some challenges we face are exacerbated by—and, in some cases, the direct result of—federal policies, which are within the power of Congress to change. I will focus my comments today on the more pressing issues we face and how Congress can and should act to address them.

Healthcare

Federal healthcare policy is a prime example of an area where Congress can and should act as soon as possible. Healthcare funding in the Virgin Islands was under great stress even before the two hurricanes. We are grateful for the temporary disaster-related waiver of the local match (and additional allotments, all of which we will expend) in the Bipartisan Budget Act of 2018, which have allowed our Medicaid program to continue to operate during these trying times. However, unless Congress acts before September 30, 2019, two events will cause potentially catastrophic damage to our Medicaid program.

First, the temporary Medicaid relief is scheduled to end as of September 30, 2019. The Territory's severe disaster-related revenue losses are projected to extend well beyond that date—for at least another two years. Consequently, the Virgin Islands simply cannot afford to meet local match requirements for Medicaid (generally 45%) after September 30, 2019. We urge Congress to extend the disaster-related Medicaid relief in the Bipartisan Budget Act —the local match waiver and the additional Medicaid allotment of 100% federal funding—by one year and thereby allow the USVI's Medicaid program to continue to operate through the end of FY 2020. I would also like to bring to your attention that our citizens have only one hospital that they can access for healthcare on each island.

In addition, all of the Territories face the "fiscal cliff" on September 30th, when their Affordable Care Act Medicaid allotments expire. (The requested additional disaster-related allotment for the Virgin Islands would delay the "fiscal cliff" for only one year.) Until Congress eliminates the Medicaid cap for the Territories, or at least provides additional allotments (and allows a Territory to access its remaining ACA allotment, if any), the results will be severe. Up to 30,000 U.S. citizens in the U.S. Virgin Islands—30% of the Territory's population—could lose access to healthcare coverage under Medicaid. And because there is no viable private healthcare insurance market in the Territory, those citizens will add to the already precarious fiscal situations of our hospitals and potentially cause our public healthcare system to collapse. We urge Congress to act to prevent this potential calamity well before September 30, 2019.

Further, the Medicaid match rate needs to be addressed. The arbitrarily low federal matching rate ("FMAP") of 55%—and the corresponding arbitrarily high local matching requirement of 45%—for the Territories has imposed severe and unsustainable financial demands on the Territories. In contrast, the Territories would qualify for an FMAP of 83% if they were treated equally with the States. The bipartisan Congressional Task Force on Puerto Rico recommended more

equitable treatment for the Territories under Medicaid. We urge the Committee to follow the Task Force's recommendations and support a state-like FMAP for the Territories.

Disaster Funding Cost-Share

The Insular Areas Act, 48 U.S.C. § 1469a, provides FEMA and all other federal agencies the discretion to waive for Insular Areas, including the U.S. Virgin Islands, any and all local match otherwise required by law for federal funding programs. The policy reasons for the waiver are obvious. While the Insular Areas are in great need of federal funding, they do not have the resources available to come up with the local match in order to access those funds.

FEMA staff confirmed that the Insular Areas Act applies to FEMA disaster funding, and there is ample precedent for FEMA to waive the local match under the Insular Areas Act. Indeed, in recognition of the severity of Hurricanes Irma and Maria, FEMA has already invoked the Insular Areas Act to waive the 25% non-federal matching requirement for the Hazard Mitigation Grant Program in the Territory, for which we are grateful. However, FEMA has prematurely ended the 100% federal funding for Public Assistance Categories A and B projects, even though the Territory had a reasonable expectation—because FEMA had issued Mission Assignments to the U.S. Army Corps of Engineers to undertake this work—that many of the projects would have been completed by the 100% federal share deadline. Indeed, as of today, Mission Assignments for Temporary Medical Clinics and Debris Removal are more than a year behind schedule, and some—such as the St. Thomas medical clinic and the removal of damaged trees dangerously leaning over public rights-of-way—still have not even started. We have administratively appealed FEMA's decision, and are hopeful that these issues can be resolved in a cooperative manner.

Further, FEMA has been reluctant to agree to waive the local match for the Territory for FEMA Public Assistance Categories C through G ("permanent work") projects, such as the permanent repair or reconstruction of key facilities like roads, bridges, buildings and equipment, and utilities. The policy reasons for invoking the Insular Areas Act waiver are at least as compelling for these projects. It would be extremely difficult if not impossible for the Virgin Islands to provide local matching funds for Public Assistance Categories C through G. As a result of the hurricanes, our financial resources and ability to borrow have been exhausted. Indeed, we have relied on FEMA Community Disaster Loans in order to maintain our basic governmental functions.

Therefore, we respectfully request that Congress direct FEMA to exercise its discretion under the Insular Areas Act and waive the local share for grants awarded to the USVI under the Public Assistance program for Hurricanes Irma and Maria. Rest assured, we understand the federal government's concern about states and territories not having "skin in the game" without a local cash contribution, but we have the lives of 110,000 Americans who do not have an option to evacuate in the face of natural disasters. We must rebuild quickly, and can ill afford not to be fully prepared as another hurricane season looms. We have nowhere else to run. The U.S. Virgin Islands is prepared to maximize use of Section 428 of the Stafford Act for large Public Assistance projects and implement other measures that would create cost savings for the taxpayer equivalent to a local match.

Building Back to Industry Standards

Section 20601of the Bipartisan Budget Act authorizes FEMA to provide assistance to restore many Hurricane Irma and Maria-damaged facilities and systems in the Virgin Islands to an industry standard without regard to pre-disaster condition. FEMA has issued formal guidance interpreting that provision that appears generally consistent with the statute.

In support of recovery efforts, the Virgin Islands has engaged with nationally recognized industry experts and local stakeholders to devise reasonable industry standards appropriate to conditions in the Virgin Islands as directed by law. The Territory intends to continue to fully cooperate with FEMA in ensuring that Section 20601 is implemented to the maximum extent permitted by law, but we may need support in clarifying Congressional intent for FEMA.

Territorial administration of the permanent housing construction program

I congratulate Congress for passing the Disaster Recovery Reform Act, which was part of the FAA Reauthorization Act of 2018. An important disaster recovery reform provision in that law is Section 1211, which allows a State or Territory the option of administering its own permanent housing construction program for owner-occupied primary residences pursuant to Section 408 of the Stafford Act. Because it will take some time for FEMA to promulgate regulations to formally implement Section 1211, the Act authorizes FEMA to enter into pilot programs with States and Territories in the interim. The Virgin Islands Government has applied for FEMA approval of such a pilot program. Once approved, we will be able to undertake these repair and reconstruction projects

more expeditiously and at a far lower cost than would otherwise be possible. We are hopeful that FEMA will approve our pilot program as soon as possible.

Improvements to FEMA reimbursement mechanism

The U.S. Virgin Islands is extremely grateful that FEMA has already obligated more than $3 billion of disaster assistance directly to our citizens and their families and for a wide range of response, recovery, and mitigation projects. There are a couple of simple steps that FEMA could take that would not cost anything, and yet would significantly expedite our recovery.

First, the FEMA Public Assistance program is a reimbursable program requiring the Territory to submit paid contractor invoices prior to being able to request reimbursement of federal funds. As the pace of recovery quickens in 2019 and many individual invoices totaling many millions of dollars are being received each month, the Territory's severe cash flow problems make it extremely difficult to advance the cash to pay our contractors, leading to long delays in starting work and widespread contractor dissatisfaction that will drive up the cost of recovery if not resolved. We request assistance, either administrative or legislative, that will enable FEMA to advance funding for our major recovery projects. We are confident that we have the financial systems and accounting mechanisms in place to track and reconcile these funds in accordance with federal requirements.

Second, every project from every disaster in the nation with a cost of one million dollars or more must go into a FEMA headquarters queue, known as the OLA (Office of Legislative Affairs) queue, for a review process that takes many months to complete. This review process is after the USVI-based FEMA staff have devised, reviewed, and approved the project scope and costs collaboratively with Territorial staff. We fully understand and appreciate the need for due diligence; however, with so many major disasters nationwide and so many projects costing over a million dollars, the FEMA OLA queue team seems unable to keep pace and complete its reviews in a timely fashion. For example, we have been waiting for a $296 million Project Worksheet to clear OLA for more than five months for our STEP Housing Recovery Program, causing long delays in paying contractors. Contractors who have completed repairs on thousands of homes over the past half-year still cannot be paid pending the OLA review. To resolve this pressing problem, we request Congressional assistance in encouraging or requiring FEMA to streamline its project approval processes (perhaps by increasing the

threshold amount for OLA review, or by devoting additional resources to the review process) to better serve the project beneficiaries.

We would greatly appreciate any assistance in resolving these issues. The money is there, FEMA is in agreement that the work is eligible and the costs are reasonable, but we still are unable to access the funds expeditiously which is unnecessarily hampering recovery.

Territorial Highway Program

In the final years of the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" ("SAFETEA-LU") and extensions thereof, Congress allocated $50 million annually to the four small Territories under the Territorial Highway Program (in addition to amounts equivalent to the funding for High Priority Projects in the Territories). In July 2012, the Moving Ahead for Progress in the 21st Century Act ("MAP-21") maintained highway funding levels for all states, as well as the District of Columbia and Puerto Rico, but inexplicably cut the Territorial Highway Program funding by 20% (to $40 million). Singling out the four small Territories for funding cuts was unfair, discriminatory, and ignored the substantial pressing transportation funding needs of the Territories. The subsequent bill (FAST Act) did not restore the funding cut in MAP-21; it provided only a small increase over the reduced MAP-21 allocation for the small Territories.

We urge Congress to correct this inequity in the next infrastructure bill, by increasing funding levels for the Territorial Highway Program, including restoring the SAFETEA-LU funding levels and providing post-SAFETEA-LU increases similar to those provided to states and the District of Columbia.

Economic Development

Federal tax policy plays a crucial role in creating the investment climate to create jobs, generate sustainable economic growth, and improve the Territory's long-term fiscal health. In any tax legislation, Congress should consider the unique status and circumstances of U.S. Territories.

For example, under the Internal Revenue Code, the Virgin Islands is considered a foreign jurisdiction and not part of the United States, even though Virgin Islanders are U.S. citizens and Virgin Islands businesses are U.S. businesses. In addition, the Virgin Islands' income tax system is based on a "mirror system" of taxation, in which the Internal Revenue Code is used as the Territory's tax code ("Mirror Code"). As a consequence, any change to the U.S.

Internal Revenue Code automatically impacts the Mirror Code Territories. Consequently, great care should be taken by Congress in enacting tax legislation, in order to avoid unintentional and harmful effects on the Mirror Code Territories.

Further, specific federal tax provisions have unnecessarily harmed the Territories and impeded their economic development efforts. The U.S. Territories, as part of the United States, should always be treated more favorably than foreign jurisdictions under federal tax law, but that is not always the case. As a result of unduly harsh provisions in the JOBS Act of 2004, the Territories are treated worse than foreign jurisdictions. In particular, the (effectively connected) income sourcing rules imposed by the JOBS Act have unfairly restricted our Economic Development Commission program and inhibited our ability to attract new employers and grow our economy.

The Virgin Islands Government has been working with the U.S. Department of the Treasury and Congress to revise the overly restrictive JOBS Act rules by making modest corrective changes to the JOBS Act. I urge your support for inclusion of these changes in legislation.

Further, the Tax Cuts and Jobs Act of 2017 inadvertently disadvantaged U.S. investments in the Virgin Islands with respect to new taxes imposed by that Act. We request the Committee's support for a technical amendment to provide parity for such investments in our Territory.

Energy

A major impediment to our economic development and quality of life for our citizens is the high cost of electricity in our Territory. We urge Congress to take two actions that would help lower the cost of electricity while at the same time improving our grid resiliency. First, Congress should support our efforts to secure USDA or other federal assistance to allow our Water and Power Authority to convert from burning fuel oil to alternative fuels for generation of electricity. Second, Congress should direct HUD to allocate to the Virgin Islands a fair share of the $2 billion in CDBG-DR funding for electrical systems damaged as a result of Hurricane Maria.

* * *

We have an opportunity to liberate the Virgin Islands once and for all from fiscal distress through the collective impact of this recovery. The recovery opportunities that have been presented will make us resilient economically and physically. As we recently celebrated our 100th anniversary of being an American

Territory, you can ensure that we are prepared for the next 100 years. Strengthening our infrastructure and ability to eliminate poverty, provide healthcare, and give us a fighting chance to compete and do more for ourselves is of our highest priority. All we ask is your gracious assistance.

Thank you for considering this testimony and for your support of your fellow Americans in the U.S. Virgin Islands.

The CHAIRMAN. Thank you, Governor Bryan.
Now we will turn to Governor Torres, welcome.

STATEMENT OF HON. RALPH DLG. TORRES, GOVERNOR, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. TORRES. Good morning and Hafa Adai. On behalf of the people of the Commonwealth of the Northern Mariana Islands, I want to thank Chairman Murkowski and Ranking Member Manchin and all the members today.

Many of the issues facing the territories today are unique to us. We all fight against issues of geography, limited land mass, labor access, natural resources scarcity, distance from the United States, and import reliance are key among these issues. But I believe most important among these issues is our continual struggle to gain the Federal Government's understanding of the complexity of achieving substantial progress for the people living in the territories.

I thank Chairman Murkowski for your outstanding effort on behalf of the U.S. Senate for organizing and encouraging participation in Congressional Delegation visits to the CNMI. Many of the challenges we face are difficult to comprehend if one does not travel the 8,000 miles across the Pacific Ocean to experience it for themselves. Efforts such as these are critical when federal laws have such over-sized effects on the fragile state for the U.S. territories.

One of the most urgent priorities is the rebuilding of safe and resilient homes that were destroyed by Super Typhoon Yutu last October. According to damage assessments performed by the American Red Cross, 5,910 homes were destroyed or suffered major damage after October 25th last year. Nearly four out of every ten homes on the islands were impacted by this disaster at a time where available housing stocks were already at capacity.

Already the cost of policies limiting access to construction labor has increased the cost to the Federal Government for disaster recovery.

After Typhoon Yutu, FEMA and the Department of Defense recognized the challenges of performing their work for the American citizens living in the CNMI by seeking out new and innovative solutions that conforms to our unique circumstances. If it weren't for the 200 men and women of the Seabees and the Red Horses, 184 homes in Tinian would still be without roofs over their heads because there are simply no available construction workers from the Island of Tinian.

The CNMI, along with Guam, more than ever needs the Federal Government to recognize that there is a choice between the progress of the thousands of U.S. citizens in the territories and all the encompassing application of national laws and regulations, and in many instances, it is clear that these two choices are mutually exclusive.

It is a priority to reduce instances of poverty and increase wages and opportunities for my people, but the resources the CNMI has and its ability to grow the economy to meet the needs of the population are slim. These challenges are not unique to the CNMI around the world, but are unique within the United States. Still, it is essential that we leverage available resources to build a stronger community. However, Federal Government actions such as

the restriction of labor access, threats to the already essential tourism markets and the growing competitiveness to the global economy are severely limiting our potential to succeed.

I make mention of these challenges to highlight an essential point, the United States needs to recognize the unique challenges of its territories and work toward a new approach when dealing with its territory issues. I am proud to say that we have made great progress in the CNMI over the course of the last couple of years. Either enhanced public services, launched our first ever public transportation system and increased social service benefits to our people. Our streets are safer and our people have more opportunities to thrive.

Excuse me.

We have made progress on our issues discussed in this Committee. Over the course of my administration we have undertaken efforts to ease concerns over money laundering as the Commonwealth Casino Commission and the newly established House and Senate Committee on Gaming move forward on stronger legislation to protect our people from the harms associated with the gaming industry. My administration has also worked closely with FinCEN to ensure our regulations are created with the primary goal of ensuring compliance with federal anti-money laundering and bank secrecy laws.

Thank you for the opportunity to provide you this testimony. I sincerely appreciate the efforts being made to increase communication with the U.S. territories, and I'm committed to continuing these efforts to discuss in the months and years ahead.

Thank you. Si Yu'os Ma'ase.

[The prepared statement of Mr. Torres follows:]

WRITTEN TESTIMONY
OF
RALPH DLG. TORRES
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
BEFORE THE
U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

February 26, 2019

On behalf of the people of the Commonwealth of the Northern Mariana Islands, I want to thank Chairman Murkowski, Ranking Member Manchin and the distinguished members of this committee for recognizing the need of this important conversation about the priorities of the US territories and allowing for this submitted testimony for the record.

Many of the issues facing the territories today are unique to us. We all fight against issues of geography. Limited land mass, natural resource scarcity, distance from the United States, and import reliance are key among these issues. We face labor challenges, where our locations, economies, outward migration and population sizes are not suitable to build resiliency or strength in a globally competitive market. But I believe most important among these issues is our continual struggle to gain the federal government's understanding of the complexity of achieving substantial progress for the people living in the territories.

I thank Chairman Murkowski for her outstanding effort on behalf of the US Senate for organizing and encouraging participation in Congressional Delegation visits to the CNMI. Many of the challenges we face are difficult to comprehend if one does not travel the 8,000 miles across the Pacific Ocean to experience it for themselves.

Efforts such as these are critical when federal laws have such over-sized effects on the fragile state of the US territories. Territories, while not having full representation in our House of Representatives, no direct representation in the US Senate, and are unable to cast a vote for President, suffer the harshest side effects of the unintended consequences of federal actions that do not account for the vulnerability our communities.

The topic of today's hearing is on the state of our territories and the priorities for my administration going forward. While I have many goals for the next four years in office, I must be honest in recognizing the greatest obstacles toward improving the lives of the people of the CNMI are the actions of the federal government.

One of my most urgent priorities is the rebuilding of safe and resilient homes that were destroyed by Super Typhoon Yutu last October. Super Typhoon Yutu was the worst typhoon to hit US soil since 1935. According to damage assessments performed by the American Red Cross 5,910 homes were destroyed or suffered major damage after the October 25th disaster of last year. Nearly 4 out of every 10 homes on island were impacted by this disaster at a time where available housing

stocks were already at capacity. These homes will require rebuilding and new construction to maintain the safety and security of their families, yet the availability of construction labor to do this necessary and critical work has been limited by federal actions preventing construction companies' access to the necessary foreign labor through the H2-B program.

In this situation, the prohibition of CW-1 positions for new construction workers combined with the federal government's position that the majority of construction contractors are ineligible to source their labor through the H2-B process, will result in fewer safe and sanitary homes in the CNMI. What should be of great concern is the wide-ranging implications that will follow for socio-economic mobility, education, and health throughout the islands. Down the road this will require even greater federal resources to support these families.

In my time, I had to lead my islands through two once-in-a-generation natural disasters. It is not a question of if another disaster devastates our islands, but when. This WILL happen again, and without the presence of construction labor to rebuild resilient homes, the cost to the federal government will be greater and greater in the years to come.

Already the cost of policies limiting access to construction labor has increased the cost to the federal government for disaster recovery.

After Typhoon Yutu, FEMA and the Department of Defense recognized the challenges of performing their work for the American citizens living in the CNMI by seeking out new and innovative solutions that conformed to our unique circumstances.

One week after the disaster, DoD and FEMA officials announced a program in collaboration with the CNMI called the Temporary Emergency Tent and Roofing Installation Support or TETRIS program. Under TETRIS, the Joint Task Force West, saw more than 1,000 uniformed service members mobilized in support of the relief efforts. Seabees from the 30th Naval Construction Regiment and the 254th Red Horse Squadron were activated in the hundreds to support the installation of tents and emergency roof repairs for the thousands of affected homes because local manpower and resources could not scale in the capacity necessary to prevent further loss of life, mitigate suffering and reduce the impact of the disaster.

If it were not for the 200 hundred men and women of the Seabees and the Red Horses, 184 homes in Tinian would be without roofs over their heads because there are no available construction workers there.

Further FEMA recently approved a Permanent Housing Construction Program that will source and provide labor and materials to reconstruct the homes of eligible households. Currently there are 9,400 applicants for this program and FEMA is in the process of looking toward bringing in labor from outside the CNMI because of the lack of local manpower. The homes that are selected will be fortunate. Now as FEMA and SBA resources have been released to the residents of the CNMI, the thousands of homes remaining will not be able to afford the cost of transporting labor nor will there be available contractors to help rebuild their lives.

The Department of Defense and FEMA have experienced the challenges we live with daily when it comes to labor and have created new pathways to work around them. I ask that you consider

their experience and join it with the experiences of our private sector partners who are struggling to grow our economy and hire our people in the face of the restrictions imposed on us by Washington, DC.

Many in this committee are familiar with the CNMI's labor struggles. I thank this committee and Chairman Murkowski for your tireless efforts toward the enactment of Northern Mariana Islands US Workforce Act that recognized the CNMI's labor shortages and economic needs and provided additional time and resources for our community to grow. This was an important effort for the CNMI, and the process shows that the territories require specific solutions to their unique issues, but the conversation must continue.

The CNMI, more than ever, needs the federal government's recognition that there is a choice between the progress of the thousands of US citizens in the territories and the all-encompassing application of national laws and regulations, and that in many instances these two choices are mutually exclusive.

According to the most recent 2010 Census information, 52% of individuals in the CNMI lived beneath the federal poverty line, an increase of 6 percentage points from 10 years prior. Between these two surveys, federal actions to apply the federal minimum wage and federalize the immigration system were enacted. The prolonged economic depression that highlights that period was as a result of the elimination of the controversial garment industry, a dramatic contraction of our visitor arrivals, and the institution of strict government austerity as a result of reduced government revenues – three main pillars of the CNMI's economy.

Only recently has this trend begun to level off. Our economy has just recently rebounded to pre-depression levels but is just 5% the size of the smallest US state's economy. Our US labor force is steadily increasing beyond the 50% mark in 2017, increasing 11 percent from 2016, thanks in part to higher wages that are now on average above $12 per hour. Yet, the CNMI lags far behind the United States.

The median income of individuals in the CNMI is $18,000 lower than the national average. Rates of those without health insurance is 37 percentage points higher in the CNMI than the nation and the poverty rate is 39 percentage points higher than the national average.

It is a priority to reduce instances of poverty and increase wages and opportunities for my people, but the resources the CNMI has available to it to grow its economy to meet the needs of the population are slim. The CNMI is not rich in extractive resources, has limited fisheries stock for commercial fishing, and does not have enough land mass for competitive agriculture industries. The islands are too isolated to participate in global supply chains, we suffer from inflated costs for the importation of goods and materials, have lost our sole manufacturing sector, and experience exorbitant utilities costs due to a reliance on imported diesel.

The sole remaining economic driver in the CNMI is tourism but even in that field we are at a competitive disadvantage. The cost of air service to the CNMI is undercut by lower cost alternatives in the region. Philippines, Vietnam, Thailand and Indonesia are our direct competitors and our use of the US dollar increases costs for on-island expenses when tourists arrive. The

limited economic resources because of these issues further reduces destination enhancement efforts and the competitiveness of the islands. The CNMI's tourism market is solely reliant on three source countries – Japan, Korea and China – to provide the revenue for our small economy.

The travel time and distance from the US mainland results in limited investment from American companies and a reliance on foreign investment to maintain economic viability.

And natural disasters represent a clear and devastating risk to economic activity and government resources.

Much of these issues are caused by the problem of scale. Too few consumers and investors are present in the CNMI to reduce cost and create a virtuous cycle toward greater levels of development and resiliency. These challenges are not unique to the CNMI around the world but are unique within the United States.

A little more than a half century ago, the Northern Mariana Islands was still war-torn agricultural community with no economy to speak of - isolated geographically and politically from the world.

And despite progress since joining the United States 40 years ago, the CNMI is still in many ways a developing country in all aspects except its relationship to the United States. Where the American government recognizes the economic challenges of developing states and supports a growth trajectory through stages of development, the CNMI is forced to support the needs of its people and attempt growth while under restrictions and rules developed through centuries of American economic history, all with a small fraction of the resources of the US mainland.

We are also required to strive to accomplish this possibly impossible task with fewer federal resources to support our population. The Medicaid program operates differently in the territories capping the total amount of Medicaid dollars given to the population and has a statutorily set federal match as opposed to the formula applied in the states. Employment services such as the Wagner-Peysor act are not available to the CNMI because we do not fall under the statutory definition of "State". Our infrastructure development fund, created to only support the economic development of the CNMI in 1978 has remained at $27.72 million dollars for 41 years and that limited pot is now shared between Guam, American Samoa and the U.S. Virgin Islands. Our sons and daughters fight alongside the sons and daughters of your states in our nation's military but receive less care and support as veterans solely because they live in the CNMI.

Whether it is possible to build a prosperous community when contending with such unmistakable limitations is still an open question.

Still, it is essential that we leverage what resources are available to us to build a stronger community. But federal government actions, such as the restrictions on labor access, threats to our essential tourism markets, and the growing competitiveness of the global economy is severely limiting our potential to succeed.

I make mention of these challenges to highlight a central point: The United States needs to recognize the unique challenges of its territories and work toward a new approach when dealing with territorial issues.

For the CNMI, immigration issues are front and center of our development. We cannot build enough scale within our community to lower the costs of living, increases the efficiency of government services, or support those in greatest need – our retirees, our students, our disabled and our mentally ill, without a sufficiently robust economy, and this economy cannot exist without workers and tourists.

The reality that the inflexible application of federal immigration law will be one of the greatest obstacles toward bettering the lives of the people of the CNMI.

I ask that we reconsider the prohibition of construction labor under the Northern Mariana Islands US Workforce Act to allow for the CNMI to determine the allowable cap on construction permits available to both safeguard the scarcity of these permits and allow for the necessary construction of our islands. And I ask that Congress replicate the program allowed for our neighboring island of Guam and their military buildup program and permit the entry of construction workers under the H2-B program to work with general contractors and construction companies as we continue the long rebuilding process ahead of us.

We must think of the practical application of requiring half of the current labor force to return to their countries of origin every two years while the economy sits and waits for the months of renewal processing.

And we should closely monitor the implementation of these new provisions, so they do not undermine the economy and US jobs we worked so hard to build and protect.

In order to have a chance at creating a viable economy, we must have a willingness to cooperate toward the development of a system that prevents the errors of the past from reoccurring but do so in a way that respects the special relationship the CNMI has with the United States.

Our people exercised their right to self-determination 40 years ago and voted to become Americans. Many of those who voted for our entry into the American family are still alive today and supported our status because of the promise that partnership with the United States would offer the standards of living equal to that of the larger American community.

In the process of joining the United States we relinquished critical areas of our autonomy and entrusted it with this body, under the hope that the members that fill its halls and chambers understand and care for the people of our islands.

The relationship since that point has had its successes and its conflicts and there is still much work to do in building a strong and viable US community in the Western Pacific.

I ask that this work begin with a belief that we are not a problem to be solved. Our problems require understanding of the nuanced and complex path that created them.

I ask that you allow us the opportunity to scale the development path. Recognize that we have only recently begun to step foot on this ladder, and that what works for California, Nevada, Idaho, or New Hampshire may not work for a community with such pronounced challenges like the CNMI.

And most importantly, I ask that the federal government treat us as partners in the goal of economic growth in the CNMI. We must acknowledge that the federal government has an incredible amount of power to influence the lives of the people living there. Using that power responsibly for the betterment of our people requires mutual respect in recognizing where failures exist and collaborating to address the underlying issues.

I am proud to say that we have made great progress in the CNMI over the course of the last years. We have enhanced public services, launched our first ever public transportation system, and increased social service benefits to our people. We have created our first substance abuse rehabilitation center to fight back against the spread of Crystal Methamphetamine addiction, we have more local funding appropriated for our public schools, maintained low public debt, decreased unemployment, and increased average wages. Our streets are safer, and our people have more opportunities to thrive and our islands' sole hospital has new equipment and resources to save lives. These successes are due to the growth in our economy, but this success hinges whether the federal government will allow this growth to continue or not.

We have made progress on issues discussed in this Committee over the course of my administration. I am pleased to say that the CNMI continues to make progress to ease concerns over money laundering as the Commonwealth Casino Commission and the newly established House and Senate Committees on Gaming moves forward on stronger legislation to protect our people from the harms associated with the gaming industry and my administration has worked closely with FINCEN to ensure our regulations are created with the primary goal of ensuring compliance with federal anti-money laundering and bank secrecy laws.

Additionally, our new CNMI Department of Labor has created the strongest relationship the CNMI has ever had with officials of the US Department of Labor and is actively pursuing all labor violation claims to ensure all workers are given an equal opportunity for success.

My priorities on infrastructure development, destination enhancement, upgrades to our education system, diversification of our economy, reduction in substance abuse and non-communicable diseases, reduction to instances of poverty, the strong and resilient recovery from Typhoon Yutu, and the improvements to core government services will be meaningless without the willingness of the federal government to understand our issues and address constraints within federal policy that hinder growth.

As a key actor toward the accomplishment of these priorities, I look forward to speaking with you further about the obstacles we are facing with our immigration system, our continued access to tourism markets, and the complications of building an economy in a remote US territory.

Together I know we can work toward redefining our relationship with the federal government and carve a path forward that maintains the partnership our forbearers envisioned 40 years ago.

Thank you for the opportunity to provide you with this testimony. I sincerely appreciate the efforts being made to increase communication with the US territories and am committed to continuing these important discussions in the months and years ahead.

The CHAIRMAN. Thank you.

I would also like to note that Congresswoman Radewagen has joined the Committee today. We appreciate your leadership as well coming from American Samoa.

Let me begin my questions, just kind of focused on the aftermath of the disaster that we have seen and particularly out in Guam, in the Northern Marianas, the issue of how you rebuild when you simply lack the workers. And this is, as you say, Governor Torres, it is tough to rebuild your housing stock when you don't have the workers there. Governor Leon Guerrero, you note that with the military construction and the buildup there, there really is nothing outside the fence in the sense that the island is one where everything is related to the military construction.

Governor Torres, you mentioned the impact from the ban on those coming from the Philippines. The question that I have is whether or not you are looking to other sources of labor that you could tap into for any of these construction projects, whether Taiwan, Korea, Indonesia, any other Pacific locations for an option?

And then also to you, Governor Leon Guerrero, about where we are with the H-2B visas there on Guam for non-military construction? I know that those numbers have effectively shrunk to zero. Can you both speak a little bit to where you can turn for additional assistance when it comes to labor?

Go ahead.

Mr. TORRES. Thank you for the question.

Like I said, there's 5,900 homes destroyed. FEMA is giving us hundreds of initial dollars to rebuild our economy, I mean, rebuild those homes, but there's simply no construction workers. They're trying to hire construction workers out here in the United States to bring them down to Saipan because of our restriction of labor. That's costing, again, the Federal Government hundreds of millions of dollars.

I mean, if it wasn't——

The CHAIRMAN. Were they able to bring in sufficient numbers of workers from stateside here?

Mr. TORRES. No, ma'am.

They're having a hard time getting the materials, let alone workforce. Up to this date there's absolutely no construction company that has agreed or found by FEMA to come down to rebuild our homes. On top of that, there's—with the hospitals and all the other government infrastructure that was damaged—there's no construction, again, to build them.

So again, there's two things here. Economic growth and then, more importantly, is building homes for our folks. And if it wasn't for the military coming in, we had over 1,500 men and women came down to Saipan from Hawaii, Japan and Guam to help, not just the debris, but building roofs of our fellow citizens. If it weren't for them, we have over 500 families that would still be without a roof. Up to today we still have more than 3,000 homes that need to be——

The CHAIRMAN. So it is not only homes, but it is also your public buildings as well that lack the ability to be repaired.

Governor Leon Guerrero, can you speak just a little bit to the situation with the H-2Bs then?

Ms. GUERRERO. Yes, thank you, Senator Murkowski.

The H-2B visa, we have really been approved, our petitions have been approved in the past, no problem. And then in 2015 the Homeland Security just decided to deny all petitions which impacted our workforce from 3,000 to almost zero. I do know, as you are aware also, that there has been a provision that was put in by Congress to allow 4,000 workers for military projects, but even that doesn't help our civilian projects. And that's why I made the statement that all projects in Guam is really aligned to the military. The roads, the military travel in the same road's infrastructure, in terms of social infrastructure, like restaurants, hotels and so forth—those are also related to military buildup because you increase the population and the supply for those workers are not there.

It has impacted greatly our economy. Homes now are delayed in construction. Costs of homes have gone up. We used to construct at $110 per square foot. Now it's $160 per square foot. That's a 45 percent increase. So it's impacting us economically.

It has even put a big strain with the recent Administration's declaration that the Philippines is no longer an eligible country for H2 workers. So we have also looked at other places, but the Philippines is a very prime resource. Their culture is the same as ours. The language, we can speak English. It's quite difficult to construct when all the instructions and the designs are in English and you only speak Chinese or you only speak Japanese or you only speak Korean. So there's a big concern and a challenge in that also.

We have looked at the Island's sovereign nations of Micronesia. We have looked at Republic of Palau, Pohnpei, but they are also at a challenge in needing their workforce. So I cannot over emphasize, overstate, the concern and the impact that this is costing, causing, our Micronesian areas both with the CNMI and ourselves. We are short of skilled labors.

And to Senator Manchin's concern about foreign to domestic workforce, we are working very feverishly with our Guam Community College to start training people in high school. We are working very closely with the Guam Trades Academy that's bringing in students to learn the trade of construction.

But our immediate, that's not the immediate solution right now. We can see that in the long run, but right now our immediate solution we seek is please exempt us from this ban of the Philippine workforce and help us try to make our economy more stable and expanded by providing the workforce that we need to build our islands.

The CHAIRMAN. Thank you.

It is certainly something that I came to appreciate very directly when I was over there. The effort that is made to attract those workers coming over from the continental United States and maybe in Hawaii and Alaska, we can appreciate it a little bit better. But the reality is when the economy here is strong, nobody wants to be 4,000 miles away from their families. It is very, very expensive to get out there and get back. The workforce conditions and issues are very, very challenging.

Senator Manchin.

Senator MANCHIN. Thank you, Madam Chairman, and thank all of you.

I have had the pleasure of visiting, I think, three of the islands. I have been to Guam and, of course, Puerto Rico and the Virgin Islands. I have not been to the Marianas, and I assure you I will be there.

First of all, Governor Rosselló, part of the conversation regarding the future of the grid infrastructure which I am concerned about in Puerto Rico. There have been plans put forward to do a public-private type of, to get private investment, to get private oversight or overseers invested with Puerto Rico. You all own the system now, correct?

Mr. ROSSELLÓ. That's correct.

Senator MANCHIN. Okay.

We have invested about $2 billion, I am understanding, so far, about $2 billion in emergency work for Puerto Rico on the grid? I know there's billions more that is needed.

The indications point to Puerto Rico absolutely not being in a position to take care of the infrastructure it already has. A little loan to billions of dollars is going to be needed. So my question would be, what mechanisms have you put in place to ensure that Puerto Rico is in a position to maintain these infrastructure improvements as weather continues to hit?

And I have been in the islands. I have been in the Virgin Islands probably as much or more than the other, but it is such a fragile system. It is, kind of, with no disrespect, hodge-podged to a certain extent. And if we are going to put a major grid system with billions of dollars, how do we approach that and get that done correctly? How do we bury when we should be burying? How do we basically maintain against these severe weather conditiions that we are going to continue to have if all of us don't get our head out of the sand and start working in a more——

Mr. ROSSELLÓ. Well, thank you for the question, Senator.

I would like to address that by stating that we recognize that in the past our energy authority has been lackluster.

Senator MANCHIN. Right.

Mr. ROSSELLÓ. And as I came into the administration, part of my commitment was to change that. We needed to change the structure, we needed to change the culture and we needed to establish investment.

We were stating the obvious that the infrastructure was old, that it was mostly energy generated by expensive and damaging fossil fuels and that it was unmaintained. Of course, a few months into our administration a hurricane came and demonstrated to everybody that this was really the case.

And we can do one or two things, Senator, and this is my petition. We cannot either rebuild the old energy grid that we had which is exactly what they did in the Virgin Islands for the past five hurricanes. It's not a very good solution. It's not a very good use of taxpayer money because you're going to have to reinvest again in rebuilding it because weather patterns are changing. Or we can think forward and see what we have to do now in order to rebuild the energy grid of the future, not just for Puerto Rico, but for it to be a model for all of the jurisdictions.

And here's what we're doing. Immediately in the aftermath of the storm I said I had to work on three work streams. Number one, the emergency response, saving people's lives; number two, getting back to normalcy and recovery; but number three, how do we rebuild Puerto Rico better and more effective?

At that point I decided to push forward a transformation bill that would allow private stakeholders to come to Puerto Rico to be part of that solution. We also established a regulatory framework that is being considered right now that it's completely independent and it is very empowered so that the markets can have, you know, support with that. So there are certain levers that we had under our control in order to transform.

We also have a gold standard public-private partnership law that allows for unsolicited proposals. And we've been getting several of these proposals. That is under our control.

We went forward to get an IRP so that we could see the resources as planned toward the future and based on that resources plan, we can achieve our objectives. And we've worked with the markets to see market sounding and the good news is when we went to the market to see what the transmission and distribution would capture, we expected the best we would get response from maybe two stakeholders. We got response from five stakeholders. So there is interest in rebuilding in Puerto Rico now.

We are doing, on our end, all of those changes and operational efficiency changes within the current power authority. But really, we need the support of the Federal Government.

We have——

Senator MANCHIN. Let me ask this question.

Do you all have, do you have a partnership with any of the utilities in the United States?

Mr. ROSSELLÓ. In terms of the——?

Senator MANCHIN. The partnership coming in and being a partner, bringing their expertise to the island to work with you to rebuild this?

Mr. ROSSELLÓ. Oh yes. In the rebuild we've partnered with Florida Power and Light.

Senator MANCHIN. Okay.

Mr. ROSSELLÓ. And we partner with Long Island Power Authority, but that's just to put it back up. That was the $2 billion that they just focused on.

Senator MANCHIN. Right.

Mr. ROSSELLÓ. Right now, we're looking toward making that new energy grid because, Senator, if we leave it as is and another storm comes by——

Senator MANCHIN. Yes.

Mr. ROSSELLÓ. It's going down again and we're reinvesting.

Here's what we want and let me define the energy grid that we want for the future. We want one that's customer centric. That is based on renewables and that can reduce the carbon footprint significantly. I've made a pledge to reduce the carbon footprint by 50 percent in the next seven years. We've made a pledge to go to renewables to 40 percent in the next four years and 100 percent by 2050. So, we're establishing that path forward and there are critical levers——

Senator MANCHIN. I understand your renewables were the first to come down with the storms?

Mr. ROSSELLÓ. I'm sorry?

Senator MANCHIN. I understand that renewables were the first, whether it be your wind and solar, the first to come down.

Mr. ROSSELLÓ. Wind got severely affected but solar actually had significant resilience.

Senator MANCHIN. Come back quicker, yes, I understand that.

Mr. ROSSELLÓ. And so, we feel——

Senator MANCHIN. Sir, my time is——

Mr. ROSSELLÓ. Okay.

Senator MANCHIN. This is really interesting. We are going to get into this more but I have to, if you don't mind indulging me——

The CHAIRMAN. Go ahead.

Senator MANCHIN. ——if I can ask Governor Torres. The foreign labor force, okay, you are still at 15 percent unemployment, your unemployment has not changed?

Mr. TORRES. We actually dropped down to ten percent in 2017.

Senator MANCHIN. Okay.

Mr. TORRES. We have more U.S. workers today than we ever had.

Senator MANCHIN. Yes, I know that.

The immigration policy that you have, you want relief on that right now and I think we gave you relief last year?

Mr. TORRES. Well, Senator, yes, what we did is increase the number of CW contract workers but eliminate construction workers under the CW so that our private companies will go to H-2B for construction workers.

Senator MANCHIN. From an education standpoint, what are you able to do as far as to train the local population? Are any of them in skilled training? Are any of them in these types of skills that are needed, whether it be carpentry, plumbing and electrical?

Mr. TORRES. Thank you very much for that question.

I just recently signed a bill that during the Northern Marianas Trade Institute which is an institution that we have into my own government executive branch to make sure that that program works forward with our public school system. And we're creating a program to start young students at the age of seven, seventh grade, sorry, seventh grade, move forward to high school and moving on to occupations that we need, whether it be carpentry, plumbing, construction workers and so forth.

We have our business alliance in the back that are here showing support that their company also is a stakeholder on making sure our labor force for the U.S. citizens are available.

Senator MANCHIN. I am over my time, but I want all of you to think, because I will come back for a second round here, are you building to new typhoon/hurricane standards? Are you all basically to those standards? So if you could think about that, and we will get back to it because I am over my time.

Thank you, Madam Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you. Thank you all for being here.

Let me follow up on this conversation, and maybe I can start with Governor Rosselló.

I know in your testimony you highlighted the need for additional disaster supplemental funding for Puerto Rico, and my understanding is the House passed a bill to do just that but the Senate has yet to act.

Let me ask you this, as part of the discussion on what the future grid looks like and what your future construction looks like, it is my understanding that before the need for any disaster package to come forward, it is important that we waive the prior condition limitation. Is that correct? And that is what you are talking about is if we put that prior limit condition, if we don't waive that, then we are building up to what we have done before. We know the weather patterns are going to be the same or worse, and that is why we need to be able to build for the future. Is that right?

Mr. ROSSELLÓ. That's correct. That's correct.

And if I may add, Senator, the other day we had a panel with some of the FEMA experts and they gave us an interesting piece of data that I think we should all reflect upon. FEMA spent $80 billion in the past year and a half which is more than what they had spent in the last over 38 years. So if you imagine that will either sustain or increase with the changing weather patterns, then there needs to be some significant changes to the statutes to the Stafford Act and so forth. There needs to be changes both on regards with flexibility, number one. And number two, with the actual financing. I've heard, you know, some of the concerns of my fellow governors. The money is just not flowing through. They're putting bureaucratic obstacles.

As Governor, I inaugurated a project last year that was started in 1998 from a previous hurricane. If we are to understand that weather patterns are changing and that we need to rebuild stronger and more resilient, we also need to see how we can get that money into the rebuilding sector quicker so that we can build resiliently. Otherwise, we're going to be impacted by storm after storm and we're never going to get up to date.

Senator CORTEZ MASTO. Yes and I agree. I think it needs to be waived. It just makes sense as we look to appropriate money for disaster recovery. We should be smart about that as well in how that money is being utilized in your infrastructure needs for all of the territories.

Let me also say this. I absolutely agree with somehow exempting or opening up for H-2B visa programs. I get it. Short-term you are going to build up your workforce, but you don't have it right now. So there has to be a way to bring the skilled workforce in that is willing to help. And so I completely understand, and I think we should be addressing that issue on behalf of the territories.

Let me ask all the governors. Can you discuss a long-term impact of the hurricanes, the typhoons and other natural disasters on your healthcare system and delivery of healthcare? I am curious, what are you seeing and how do your governments anticipate covering any additional expenditures because of these natural disasters? Governor Torres, let me start with you.

Mr. TORRES. I'll just briefly state that working with HHS has been a great partner with the CNMI. They've brought in Rubicon

which is a program that they brought doctors and nurses to the Island. And they brought these nurses and doctors actually to the villages where they went house to house, some of the nurses, they give shots.

Because we only have one hospital it's critical that the additional help comes from our partners, otherwise our people in the CNMI, especially Saipan and Tinian, will not get the health care they need because the facility is damaged and let alone, lack of nurses and doctors.

Senator CORTEZ MASTO. Okay, thank you.

Governor Bryan?

Mr. BRYAN. Yes, Senator.

So, three things. One hospital on each island and that has been a serious problem. We've essentially had universal healthcare in the Virgin Islands forever because we have to take care of everybody that comes to that hospital whether they're covered by insurance, Medicaid or anything else. So the storms have damaged each of those hospitals to the point where the one in St. Croix has to be totally rebuilt. Up to now we still haven't gotten the temporary hospital done so we can start the deconstruction. And we're two years from sticking a shovel in the ground due to federal regulations. In St. Thomas we're doing a complete rehabilitation of that hospital. St. John, the same thing. And we're still dealing with 1980s basing for CMS.

So not only are we, have we started in a bad fiscal situation, the storms have created a situation where now our hospitals do not have their revenue streams that preexisted and still have to service the indigent who suffer from kidney dialysis needs that is not a revenue generator, emergency rooms that are overwhelmed because we don't have beds to put people in and we have, and FEMA doesn't cover the existing debt that they started out when those hurricanes blew on that night.

So, we have the debt, legacy debt, to take care of, the existing debt of keeping our physicians engaged because it's hard for us to get specialists out to the islands and to stay. For some while, they didn't even have customers. So, we have a lot of issues around the healthcare system. That's why we're desperately asking for the extension of these Medicaid concessions.

Senator CORTEZ MASTO. Thank you.

I am over my time, so I am going to ask Governors Guerrero and Rosselló—I will submit these questions for the record and if you would just provide a response, that would be great.

Thank you.

The CHAIRMAN. Thank you, Senator Cortez Masto.

I had an opportunity shortly after the devastating earthquakes to be there at St. Thomas and to see how the hospital had been completely blown through from one side back out to the other. It was extraordinary to know that the one on St. Croix was not habitable at all. When you don't have the ability to be able to provide for the care—and I guess it was after that that they sent everybody over to Puerto Rico and then Puerto Rico got hit. So it was just one continuing disaster after another.

Senator Hirono.

Senator HIRONO. Thank you, Madam Chair, and welcome to all of you. Thank you very much, and welcome to Congresswoman Radewagen. It is good to see you with us.

Governor Rosselló, you mention in your testimony the importance of the nutrition assistance program and, unless Congress takes action, this program will end in March. And the Administration has called plans to provide additional ongoing disaster food aid to Puerto Rico excessive and unnecessary. Can you respond to this characterization, and if Congress fails to act by the March deadline, what will be the impact on low income Puerto Ricans and the local economy?

Mr. ROSSELLÓ. Sure.

We completely reject the notion that it's unnecessary and excessive. And as a scientist, I'd like to rebut those notions with data.

Eighty-five percent of our folks are food insecure. Puerto Rico is under the NAP program as opposed to the SNAP program with the rest of the states. That means we're entitled to a significantly lower amount of funding and what was given after the storm, the $1.27 billion, was in order to get us kind of up to par to that moment.

What we're asking right now is an extension of that because we still, obviously, haven't fully recovered and there are hundreds of thousands of U.S. citizens in Puerto Rico that will be severely affected if they don't have this.

So, on the short-term, Senator, we've asked for $600 million for this NAP relief, but really, we need to be talking about long-term sustainability here. We want to be considered, to be included into the SNAP program, as everybody else so that we can have the appropriate resources and can move forward again. Our island, you know, exports most of the food that it eats. It's food insecure in many ways.

And this, a final note, the characterization of unnecessary and excessive clearly denotes a lack of understanding of the inequalities of Puerto Rico. This is why I state and I bring every time that we have this discussion, the overarching root cause of the problem.

Puerto Rico, being a colonial territory, has severe limitations in empowerment, in decision-making. We've seen them in the past, whether it's healthcare and we've seen them now in the recovery phase where we get shortchanged or delayed in the process.

So, I would encourage everybody to ask yourselves if in the United States we are content with having two types of citizenships or if our value system is based upon one that there is one and equal U.S. citizen where all of the people get the appropriate and just resources?

Senator HIRONO. Well, Hawaii having been a territory herself, I can understand your commitment.

I have some questions related to the impact of COFA citizens in your area. So this is a question for Governor Guerrero because we know that COFA citizens can travel anywhere they want and while most reside in Guam and Hawaii, CNMI as well as states like Arkansas, Oregon and Washington also have high populations of COFA citizens.

Now one of the issues involves their eligibility for Medicaid under the Medicaid program and back in 1996, when the so-called welfare reform was enacted, the COFA citizens' eligibility for a

number of programs, social welfare programs, including Medicaid, where in my view having done the research was inadvertently eliminated.

Since then the territories and states like Hawaii had a significant increase, well, they've had to bear the expense of the care for COFA migrants. And in 2014 alone, the State of Hawaii is estimated to have spent over $163 million to pay for social services, healthcare and other services for COFA citizens residing in Hawaii with 40 percent of that going to healthcare. I know that you face similar concerns in Guam, having visited Guam.

Could you comment on the challenges that you face in dealing with the fiscal costs of COFA citizens coming to Guam and would you support legislation that restores Medicaid eligibility for COFA migrants? I would ask this of Governor Torres also, and anyone else who wants to comment.

Ms. GUERRERO. Yes, thank you, Senator Hirono, for that.

In healthcare we have one public hospital and we are mandated by statute to treat everybody. Thirty percent of the patients that come through our public hospital are non-paying patients. You know that in any business you'd go bankrupt if you didn't get those payments.

So we are faced with a very severe financial challenge with that, and a large portion of them are COFA citizens and it also impacts our educational system. It impacts our public safety, our Department of Corrections. I just took a tour to the prison there, and I would say 80 percent of the women that are in prison are COFA residents. And so it does impact us financially, because we have to bear the burden of that cost through our general fund, our local funds.

So, I do support, you asked if I support, although I don't know in details what that would be, but I do support them being eligible into Medicaid but I also will support it if Medicaid is calculated the same way we are calculated throughout the United States which is a per capita income basis and if we also are given an extension of our ACA expanded Medicare. So we estimate about over a $1.5 billion short impact since the COFA.

I spoke to Governor Ige during the conference and he's going to work with me to try and get standardized calculations, because that was the issue with GAO when we sent in our report for expenses that there wasn't a standard calculation of the COFA impacts. So we are going to work together and get that standardized.

Senator HIRONO. We are going to need to greatly increase the amount of money that we provide for the compact impact.

Could I just ask Governor Torres to also respond because you do have some COFA citizens in the CNMI as far as I know.

Mr. TORRES. Yes, I would like to go ahead and say we have a good relationship but we do need assistance also for the Medicaid part. For the COFA, I'll be turning in my answer to that because it's a long process for me to——

Senator HIRONO. So you, too, would support restoring Medicaid eligibility for COFA citizens?

Mr. TORRES. Yes, yes, Senator.

Senator HIRONO. Something that I have been working on for what seems like a long time. We will get it done eventually.

Mr. TORRES. For sure.

Senator HIRONO. Thank you very much.

Mr. TORRES. Thank you.

The CHAIRMAN. Thank you, Senator Hirono.

Just continuing on that. If Congress were to extend the ability to use each territory's Affordable Care Act Medicaid allotments beyond FY'19 by making the funds available until they are expended, how much is left out there in your particular territories in the Block grant and basically how long does it last? How helpful is this?

Ms. GUERRERO. For our island we have the extended, sorry, expanded ACA and we have about $61 million that's not been expended yet. Our challenge there is finding the 45 percent match because, as you know, we are 55/45 which is a real big burden on our general fund. And then we have another $24 million from a different supplemental that we can access but we cannot access it until we exhaust the $61 million.

The CHAIRMAN. Are the other territories kind of similarly situated that it's the match issue that—go ahead, Governor Bryan.

Mr. BRYAN. Yes, it is. The match hampers us and also the cap, because the cap is at $17.1 million for us. So that's the max we can get in a year. So it would last us another four to five years with the current situation. But if we were to lift the cap and give us the 80/20, we would go through it a lot faster.

The CHAIRMAN. Governor Torres?

Mr. TORRES. Senator, I would like to report that we've actually exhausted all our resources there but an extension and lowering the matching will definitely alleviate us from using our local funds.

Mr. ROSSELLÓ. We have about $250 million that would be utilized but just to put it into context, sustained levels of funding would be about $1.6 billion. And of course, without that, without that $4.8 billion that was appropriated we would be at $300 million which is a, you know, severalfold decrease from what we previously had. So one of the considerations is seeing if we can extend the usage of that fund beyond September 2019 that would at least give us a little bit more runway.

The CHAIRMAN. Governor Bryan, you mentioned in your comments the reliance on the FEMA Community Disaster loans to basically help you maintain basic government functions which I think we recognize is not a tenable position going forward. How long do you expect USVI to be in this financial position? You are just now beginning your term here, but what is the vision going forward there for the Virgin Islands?

Mr. BRYAN. For us, I would like to say, I'm happy to report that, you know, we're looking at a bright financial future because of the help of the Federal Government. But it's like they've erected, you know, this gigantic, beautiful vault of money and then put a glass, 12-inch-thick glass in front of it and created all types of obstacles in order for us to get that money from the Federal Government to the kitchen table of our residents.

One of the things that I've been commenting on is while there is a disaster response from FEMA that is rapid, the actual disaster recovery process, there is no emergency process that is activated or

implemented by the Federal Government to make those funds becoming available urgent.

I'll give you an example, while Puerto Rico is building their grid, we rebuilt ours. If we had to go through the federal procedures that really the money that we're going through HUD and the other funds we're using now to rebuild our grid, we still wouldn't have had a pole struck yet.

We're getting a message from a lot of people from HUD and people from FEMA and other places that this is going to be a five-year and ten-year process and referencing Katrina and Sandy. We simply don't have that luxury of time. June starts the hurricane season again. We still don't have our hospitals up. Our schools are still in temporary units. You know, we've finally been seeing some road repairs and our stop lights are going back up. Our hotels won't be open up until 2020, so we won't be getting any real tourism economy until the following year.

The CHAIRMAN. Let me ask because you are all nodding your heads—we understand that this is the lag here.

What are perhaps some more island specific suggestions that you might have given what you are dealing with in your respective territories that could help us better ensure that it is not just a focus on the disaster the day of and the week after, but really, kind of, that longer-term, how you recover?

Mr. BRYAN. Well, one thing, Senator, I would like the Senate and the Congress and the President, but mostly the Senate and Congress are considering governors. Each of you have disasters that happen to your states from time to time. If it's taking us small islands this long to give relief to our residents, imagine how long it would take you with millions of people, as Puerto Rico's experience, to get relief to theirs.

These are the basic labs where you can test quick response to recovery and allow FEMA to do some new things in HUD that will make our recovery go faster. We can identify the stop gaps, the best practices so when it happens on a major scene, like a California fire or Houston flood, you can implement them and make FEMA work even faster and better for you.

The CHAIRMAN. Governor Rosselló?

Mr. ROSSELLÓ. Yes, I would say several things.

Number one, there are things that we can do on the local level that we can start giving the example. For example, in our pledge for Puerto Rico, we've put a commitment to spend 100 percent of our CapEx money into resiliency so that everything that we build has to be at a certain standard.

Number two, I think, I mean, this might be island specific and we've learned a lot after the storm, but I think it impacts everybody. If we are to understand that at any juncture, you know, a catastrophic devastation might occur anywhere in the states, then it is important for us to either start building resiliently now or recover resiliently toward the future because in the aftermath, Madam Chairwoman, here's what's going to happen if those funds don't come. We're going to be waiting for resources to come for several years. Perhaps another storm, another earthquake will come and you will just go back after spending billions of dollars in, sort of, getting things back up, you're going to have to start from

ground zero again. Our petition to you is let's fix the initial condition problems for the territories and for, you know, for recovery in general.

I'll tell you one that's important for the territories since I didn't have the opportunity to answer the Senator's question. It is finding a permanent fix to the Medicaid problem. If it is an initial condition and our response and our resources were weakened because we didn't have those resources moving forward. So I think there needs to be a clear path and commitment toward finding a sustainable and permanent solution because otherwise all of us territories are going to be coming over here every other year to try to get a little bit more money that's just not sustainable toward the future.

And secondly, just in terms of recovery, climate change and weather patterns that are changing, it's a reality. It's not a theory. I'm living in it in Puerto Rico. It is the third jurisdiction in the world that has been mostly affected. There is a little island off the East Coast of Puerto Rico that was called Palominito. It was there three years ago. It's not there anymore. There are coastlines that are eroding. We did—you saw our hurricanes hitting our island, but we have faced major droughts as well. And all of these things compound. And if we don't get the resources in, you know, in a fairly effective manner, then we won't be able to rebuild resiliency until the next challenge comes along.

So there's two paths over here. One, there's the Congressional path. But secondly, there is an administrative path. And in the case of Puerto Rico, my colleagues can speak for themselves on this matter, but we have been imposed additional obstacles to get resources from FEMA.

I'll give you one example. Every state, every state, disperses the funding from FEMA. They're empowered to do so. In Puerto Rico's case, administratively, FEMA controls the purse. And what has been the outcome of that is that we have several orders of magnitude less projects than even in Katrina. So if we are to recognize that there is a new landscape, if we are to recognize that for this landscape we need to execute quickly and we need to build smarter and better, changes need to be made both on the administrative front and on the legislative front.

The CHAIRMAN. Thank you.

Let me turn to Senator Manchin.

Senator MANCHIN. First of all, I think about the time when you take office, when you get sworn in and the first thing you do when you get elected before swearing in is figure what have I got my hands on now and how do I get a handle on this? Basically, it's getting your financial house in order.

The first thing I wanted to do was find out the finances of my state. I went to Wall Street immediately, and I went to all my standards. I went to Standard and Poor's, Fitch's, and Moody's. I went to, immediately, to find out from the people who do the credit, give us the credit ratings, because with credit ratings it affects your cost of doing business, what you can access capital for your territories and your states. And they told me in unbridled truth, you know, what my challenges and problems were.

Forty-five states have a balanced budget amendment. We have to. Every Thursday at two o'clock, like clockwork, my entire budget

team came to my office and we went through the finances of our state, adjustments I had to make on a week-by-week basis to stay in the balanced budget. So at the end of the year I would not run a deficit.

Now I had to make some pretty tough choices. During the 2007–2008 crash, we were meeting twice a day trying to get our hands around not getting upside down. The first thing, I had pension debts. Every state has pension problems. Every territory has pension problems. And the sooner you come to grips with them, the better you are going to be because, if not, they expand.

I know, my dear friends on the Virgin Islands, you have some challenges there, very challenging. You have the $2 billion public debt and even higher pensions. I guess I would like to hear a little bit. Do you have a team specifically set up to try to get your finances under control and, basically, see a pathway forward?

There are three pots of money I always looked at. So if your budget, I don't know what your budgets are, I will use a budget of $4 billion. Let's just use $4 billion. If that is your general revenue which is basically the budgets you have your legislature vote on, there are three pots of money you get. You get basically general fund, you get special revenue, and then you get federal. I have always said this, that basically you take all three, mostly your budget is based on general revenue. So if a state tells me that they are running on a $3 billion budget, that is about an $8 or $9 billion cash flow it takes to run that because they——

And then I have to make sure, are you collecting the taxes you are supposed to collect? Are you going after the revenue that has been lost? Have you looked at the fines and fees that have not been collected? Have you shut down the irresponsibilities of how the government has been working so inefficiently? Every state goes through that. We are held a little bit tighter on that, because the feds come at us a little differently.

So my thing would be not so much but working with you all trying to see if we can find a pathway, give you the support and the strength that it is going to take to make those changes. They are tough. And you will get a lot of pushback on that, a lot of pushback.

So, Governor Bryan, if you want, I mean, I have been a little bit more involved, you know, with my close relationships with so many of your friends down there, but if you want to give me a little bit of where you think you have been able to look at that and have a direction that you think might be favorable. I know you are all facing it.

Mr. BRYAN. Well, we are facing a lot of fiscal crisis, but the good news is, is that the storm and the Federal Government has created a lot of economic activity.

Senator MANCHIN. I mean, on pension reforms, are you looking truly at—reforms?

Mr. BRYAN. Oh, absolutely.

I ran on pension reform, reforming our government employees' retirement system. We met with the actuaries up to last week on several ways.

So we have two things that we're trying to do. We're trying to tier down on the amount of benefits that we give to employees, es-

pecially those who are active and trying to preserve as much as possible, the benefits of those who retired, changing the system so those coming into the system have less of a government liability and we can put more money toward supporting the pension system on a whole.

And then thirdly, identifying new revenue sources whether that's the attraction of new distilleries on the expansion of our tax incentive programs or other forms of financing revenue streams, as well as us finding some way in order for us to get money into the pension system. As you know, the Virgin Islands cannot really go back to the market and the rates that we are getting offered, while our odds are doing really well on the secondary market and are trading at par or over, it is just very difficult for us to go back and pay the type, the kinds of prices.

So what we have been doing is building back our dependability, our confidence in the system from the market while we have our financial advisors working on that, tightening our belts and making sure that this newfound revenue with the opening of the refinery and several other projects coming on board, that we direct those monies.

Senator MANCHIN. Back on St. Croix?

Mr. BRYAN. Say again?

Senator MANCHIN. St. Croix, the refinery back on St. Croix, is the refinery opening back up?

Mr. BRYAN. Yes, sir. We have about 800 people working right now on redoing the refinery. They're trying to be open for next year, 2020.

Senator MANCHIN. The property beside the refinery which was the, supposedly, the identification for where you were going to put a power plant.

Mr. BRYAN. Right.

Senator MANCHIN. Is that—nothing has materialized there, right?

Mr. BRYAN. In the last six years we've reinvested about $50 million in the old power plant site, so I don't think that we'll be doing that within the next five to ten years.

Senator MANCHIN. Does anybody else have a comment?

Mr. ROSSELLÓ. Yup, I would love to tackle that.

Puerto Rico's situation, I think, is well known, but I will reiterate what it was when we came into the administration.

We had very little visibility over budget expenditures in Puerto Rico. We had a mountain of mounting debt and a mounting pensions liability component. We had a fiscal oversight board imposed in Puerto Rico and there was low revenue streams coming in. That is why some folks, even as I approached office, were calling it the toughest job in politics because you had all of these other streams working.

So, what did we do immediately? And I concur, you have to get the fiscal house in order. Tough decisions to be made. We reduced budget one year to the other, 17 percent. That is the single largest reduction in budget from one year.

Senator MANCHIN. Do you all have a balanced budget amendment? By your constitution do you have to balance the budget?

Mr. ROSSELLÓ. Well, it hasn't been balanced in the past.

Senator MANCHIN. I know that. I know that. But has that part of the law just been ignored or has it ever been in your constitution?

Mr. ROSSELLÓ. Yes, it's been completely ignored.

Mr. BRYAN. We have a balanced budget law.

Senator MANCHIN. You do have it.

Mr. BRYAN. Yeah.

Senator MANCHIN. Governor Guerrero?

Ms. GUERRERO. Yes, I ran for fiscal responsibility also.

Senator MANCHIN. Do you all have a balanced budget?

Ms. GUERRERO. Yes.

Senator MANCHIN. All of you do, okay. It has just basically, it has been ignored.

Mr. ROSSELLÓ. Yeah, well there's and there's certain things I would love to talk about what we saw.

There was lack of visibility. There were streams created where even the government itself was not seeing where the expenditures were going. There was mounting debt that was, in theory, used for permanent work but was really being channeled for, you know, operational work in government. That is why there have to be some changes.

Look, we made those tough decisions as well. We reduced 21 agencies in our government. We enacted labor reforms in Puerto Rico. We went through permits reform as well. We opened ourselves to new markets. And so, there are a lot of things that we are doing but my petition over here, sir, would be that, as you stated, this is a partnership. And I think that the Federal Government needs to do their part as well.

I already, and I reiterate the recovery part. How can you have such a glaring difference, even when comparing it to Katrina that folks know wasn't the best recovery effort? You have 13,000 permanent project worksheets moving along by this time, and in Puerto Rico you only have 65.

That is orders of magnitude. There is a glaring problem there that needs to be addressed. How can we talk about fixing healthcare and fixing the budget if a lot of our budget goes into healthcare because we want to give access to all of our folks, but we get a third or a fourth, for every one of the citizens that we have? Those things need to change.

Senator MANCHIN. Governor Guerrero, we will go with Governor Guerrero first.

Ms. GUERRERO. Yes, thank you.

I ran on a fiscal policy and fiscal responsibility and all the things that you have said here, collecting taxes, creating some new revenues, credit ratings.

I was just in San Francisco and New York talking to our Standard and Poor's and Moody's, just to introduce myself, who I am, what kind of leadership we're going to be providing, how we can protect your investment and then, and how we can invest more because we do have, I believe, a good reputation in the capital market. And I want to keep that good reputation in the capital market for future capital improvement projects.

I ran on the fact that the previous government had $200 million of uncollected taxes. And the first thing I did after the flag was

raised and I was sworn in, was to go down to the Department of Revenue and Taxation and go over their collections process. I hired a very capable person to run that department. We have partnered with the U.S. Attorney, not the U.S., the Attorney General to enforce those businesses that are delinquent. We're going to crack down on businesses that are doing business in Guam that do not have a license and having the privilege of doing business. So all those kinds of things we are doing.

I monitor our cash flow every morning. And I get, I sleep better at night when I see, especially on payday week, that we have a positive cash flow.

So, believe me, I'm tracking that. I put together a very strong fiscal team and they know what my expectations are of them. So I am very much focused on that because I truly believe, Senator Manchin, that we need to be fiscally independent.

Senator MANCHIN. Don't follow the lead of the Federal Government here.

[Laughter.]

Because there is no one talking about fiscal responsibility.

Ms. GUERRERO. I want to be partners with the Federal Government because also we provide benefits to the Federal Government as a territory, geographically positioned, to be the first line of national security defense. And that's our leverage and that's our strength.

Senator Murkowski asked though, well what can we do to help us? First, I think, whenever federal policies are going to be passed that really affect the people, the stakeholders, I would like to have the courtesy of making an input to that. Additionally, I think it would go a long way if we had voting delegates in Congress so that they can have a strong voice in our representation from a federal level. So if you can do those things, I'd truly appreciate it.

Senator MANCHIN. It would be a miracle committee too.

Mr. BRYAN. Senator, could I add one more thing?

I think one of the greatest things you could do for the territories is to make Puerto Rico a state because between the three of us——

[Applause.]

——between the three of us we only represent 300,000 people and we're getting treated the same as Puerto Rico, who has three million people. So if you want to do something big, make them a state.

Senator MANCHIN. Governor Torres?

Mr. TORRES. Well, I want to talk a little bit about our government debt. Our government, since we got in, we pay the retirement fund settlement. That's $400 million. We're up to date on that. We definitely need to pass a balanced budget. That's within our law. We pay government employees' back pay that hasn't been raised in the last 15 years. Paid land compensation.

We actually, same as the Governor of Guam, just hired a new Director for Tax and Revenue. And we passed a law a couple of years ago that any supplemental budget that comes in, we save five percent of that toward the emergency declaration that for a rainy day. So we do have a fund that actually my chief of staff authored and passed into law. So we do have an emergency fund.

But what I would like to ask, Senator, Chair, is give us the flexibility, give us the flexibility with the territories whether it's workforce or funds for FEMA or something, just give us that flexibility because each one of us and you can hear we have the same issue of Medicaid, same issue with recovery, same issue with hospital, tourism, airfare. I don't think there's any issue that's not similar to all of us. But if you give us that flexibility, I guarantee you that we would take care of our state or our islands accordingly because at the end of the day, when we sleep at night, it's our people that we're making sure that their safety and the health is being provided.

So, thank you.

And Senator Manchin, please come down to Saipan since you're—okay. And please, you know, because Saipan and Tinian just had the worst typhoon in the land since 1935.

Senator MANCHIN. I am also on the Armed Services Committee. I have been on intel, so I know the geopolitical exchanges that are going on in the world. So we are very much concerned.

Mr. TORRES. We just approve on divert for Tinian. We actually have our Mayor of Tinian here, who is, we're fully supporting of our military arms.

The CHAIRMAN. Thank you, Senator Manchin.

I just have, just a couple more, quick questions, but this has been very helpful and I think particularly—go ahead.

Senator MANCHIN. If I may just say one thing. I have to go to an Armed Services meeting right now, but our staff, there are some follow-up questions.

If you all have any time at all, both of our staffs, we have great staffs and they work very well together. We'd love to get into a few questions with you in how we can have a better rapport. If you would——

The CHAIRMAN. Absolutely.

Senator MANCHIN. ——meet with them, they will be right here.

Mr. BRYAN. Thank you, Senator.

The CHAIRMAN. Thank you, Senator Manchin.

Then just, kind of quickly for me to be able to wrap up.

Senator Cassidy, before he left, had a question that he was hoping to ask you, Governor Rosselló, on as you modernize and rebuild and move toward a more resilient Puerto Rico, one of the objectives for transforming the energy system there is to modernize the generation fleet and increase the development of renewable energy and natural gas-fired facilities, including increased use of LNG. You indicated that your goal is to be 100 percent renewable by 2050. What steps are you taking to help facilitate the conversion to greater use of LNG?

Mr. ROSSELLÓ. Right. So we've already started with several projects on the pipeline.

So we see this in several work streams. Number one we have the IRP work stream so that we could put the resources that we need long-term. But number two, we also have the transmission and distribution work stream. Our commitment is that by the end of December 2019, we will have a concession model already in place in Puerto Rico. And through that track, there are several projects.

But I want to showcase one of them that's very particular. We have an RFP that we're almost ready to move forward on for the conversion of the San Juan 6 and 7 power plants into LNG from expensive fossil fuels. So our expectation is by summertime we will have that conversion. That will save anywhere from .8 to .9 cents a kilowatt-hour to the U.S. citizens in Puerto Rico. It will make it cleaner, and it will make it more sustainable.

We're also seeing with the IRP now different areas where we can make other conversions such as in the Palo Seco plant, in Mayagüez and down southeast which was severely affected, establishing a new plant that can give that energy LNG conversion.

So those projects are on their way. And in parallel to that, we have an RFP out for a peaker unit substitution but this one would be renewables. This one would be solar and battery component for peaker unit substitution as well as the renegotiation of outstanding PPOAs that amount to about 300–330 megawatts a kilowatt-hour.

So all of these projects that we're talking about, we aim to have them either finished or significantly started before the end of the year. That means that we're already pushing forward that agenda.

And within the scope there are 25 other projects I would love to discuss with your staff as well that we have in the pipeline whether it be conversion to gas or renewable projects such as a virtual power plant. This is one of the projects that I'm mostly excited about, using public housing, for example, to use the rooftops and then redirecting energy where it's needed. Puerto Rico can be a model showcase to do that.

And lastly, I would add, Madam Chairwoman, our commitment to incorporate nanogrids and microgrids that will be grid independent and that would be probably run on natural gas or CHP, at least the commitments that we have seen, so that the consumer has choice.

So projects are already moving forward. What we need to have is clarity as to where the resources for the rebuild, when are they coming and what the amount will be because that really will depend on what we have? We have a plan. We have a strategy. We're moving forward on many of these projects but we don't want, as the construction is moving forward, it would be a shame to have delays on federal resources and allocation be the bottleneck toward this transformation.

The CHAIRMAN. Let me ask just a little on that because you had mentioned in response to, I guess it was Senator Manchin earlier, in discussing FEMA and probably other federal agencies as well. What are you doing to align PREPA's needs and asks with the requirements in the funding process of the federal agencies, specifically changing the relationship that PREPA has with FEMA, in order to access more of these FEMA dollars?

Mr. ROSSELLÓ. Right.

So we recognize that there's always been, you know, when you look at PREPA the memories that are invoked are the memories of the past. We've put leadership in there in order to make those changes.

One of the changes was to establish a precise office with FEMA so that everything would run through, would have visibility and we could——

The CHAIRMAN. That has been established?

Mr. ROSSELLÓ. That's been established.

What we're expecting now is since we are committed to working under the 429, 428 section, where we can get the damage estimations for the sector. What we want to do is see how we can move that forward quicker because many of these projects which is the game changer with that 428 section, instead of having just to put the old poles back up, we can reinvest in the sector.

And we already have a damage assessment. We already know what we would need in order to create this new energy grid of the future. I can give you some of the estimates that we have. It looks, it's at about $17.5 billion for the transmission and distribution, complete process that we're seeing. And it's about $6 billion for the generation part now.

We need to see which one of those projects are eligible for FEMA, which ones would be eligible for CDPD funding and which ones would be private sector and local government enacted. But that conversation needs to be had because at the current state we're only talking about putting up the old grid which is unsustainable, and we really need to be pushing harder into the new grid and to the new model.

The CHAIRMAN. This is so much of that conversation we had in this Committee shortly after Puerto Rico and USVI had been hit by both of these devastating hurricanes. It was how do we make sure that we do not spend the money multiple times?

Mr. ROSSELLÓ. Right.

The CHAIRMAN. That the goal here is to do it right the first time and use those dollars wisely.

My last question to you and this, again, is directed to you, Governor Rosselló, and this is in reference to the First Circuit Court panel's ruling that I mentioned in my opening. In your view, what is the immediate impact of that ruling in that the members of the oversight board were appointed, that that is unconstitutional? Does this have any impact on the day-to-day interaction with the oversight board? What does it do to you on the ground right now, if anything?

Mr. ROSSELLÓ. Well, there's certainly some uncertainty that has been established. And I would propose that we use this moment and this juncture to address some of our concerns with the oversight structure that we have in Puerto Rico.

There are many things that we can talk about but I would like to focus mainly on one, and it is the notion that an oversight board oversteps its boundaries and starts trying to work on the policy-making decisions of the government of Puerto Rico and furthermore intruding into the day-to-day aspects of operations in government. This has been an unfortunate outcome of the PROMESA bill, and what we're looking for is clarity within this.

We recognize that there was a spirit of the law created with PROMESA that we can attend to the debt crisis, that we could push forward and have open, vibrant economy, moving forward. But the spirit of the law was not to control the policy of Puerto Rico and was not to get involved into the day-to-day workings of government. So, you know, our legal team is assessing what just happened, and we'll take steps in moving forward into the future.

But having this conversation now, it is important that we realize if we want some sort of experiment to work, it cannot be an undemocratic type of system that every day oversteps its boundaries and limits what the policy and decision-making prowess of the elected government of Puerto Rico is in charge for.

And I would likely, last, would like to reiterate, this only happens in Puerto Rico and potentially in the territories because we are not a state. This structure cannot happen in a state. It is inherently unequal. It is inherently undemocratic. I have opposed it from the get-go.

But you know, there are challenges. And I'm willing to work, and we've had results on that path forward. But in order to have results, we can't be overstepping the boundaries of the elected government of Puerto Rico. We need to work toward a solution. And we have a clear path forward on what we want to do. We just need all of the stakeholders to be aligned. And if we do so, I think the future of Puerto Rico and of the territories is going to be bright.

The CHAIRMAN. Governor Bryan?

Mr. BRYAN. Senator, I just want to say one thing before we wrap up.

I want to assure you and the American taxpayers that the money that you're spending to rebuild our islands, our territories, are being used wisely and are creating resiliency.

If you were to—this is the fourth total disaster that I've faced in my entire lifetime. If you look at, and all of them have been hurricanes. I'm not counting in the minor ones that were in between.

But if you were to take a census of the buildings and the damage that you see on the islands, they're the facilities and homes and residences that were built way before 1989 and our first initial disaster. Our public facilities, our public housing, they're 60 years old, they have seen four or five disasters.

The building codes we have imposed and have enacted, the bearing of the cables, the hardening of our aerials using composite pole, the things that we are doing now to make sure that we are more resilient is money well spent.

We have over 60 percent of the people who live on the islands have invested in some sort of generator. It's a little-known fact that we manage our own water systems. There's about 2,000 to 3,000 gallons of fresh water underneath for almost every Virgin Islander's home in a cistern.

We want to be able to have the same kind of energy independence by equipping our residents with whether they be generators, battery systems, solar systems, so that in the event of another storm and an unfortunate event that our grid system is damaged, everybody would have their own power. This is a move that we have to move toward on islands, not only because of global warming, but also because power is very expensive.

So trust that we are doing the things that will make our territories and our island resilient. But you have to give us the opportunity to do it without the morass of federal bureaucracy and the skin in the game that people keep talking about.

We can't get on a bus and drive to the next state when we face a hurricane. The skin in the game is our residents who face down these storms, every single year and do so without much com-

plaining. When the power goes out in a U.S. city for two hours, it's on CNN. We didn't have power for three months.

Thank you for your time and your patience here today.

The CHAIRMAN. Well, Governor, you clearly strike a chord with this Senator. We can get on a bus, but we have to go through another country.

[Laughter.]

And it takes about a week to get there. So we can relate, most definitely, to what you have outlined.

We just went through our own disaster with a 7.0 earthquake. We have had some 9,000 aftershocks. We are dealing with FEMA right now. So we can kind of feel your pain as far as that goes.

But it is interesting when we talk about resilience. Alaska is the most earthquake prone state in the United States. So we have learned from this, and what we saw with this strong earthquake was a resilience that we had not seen before because of the 1964 earthquake and the subsequent earthquakes. We have learned to build to standing code, just to building codes that have really helped. And we certainly see greater resilience as you all have done what you have done for tens and hundreds of years out on these islands because you get weather out there and you have to be resilient, you have to be independent, you have to, kind of, figure it out on your own.

I hear very clearly the plea for "give us some flexibility" because the way that you do it here in the Lower 48 is not necessarily how it is going to work in Tinian, in Guam, in Puerto Rico. It is just not going to be that way. So the conversation that we are having here today is very, very important.

I know that in the Omnibus appropriations bill a couple years ago, we established these energy action teams for each of the insular areas to help move you toward greater independence, if you will, from imported fuel, to work on your own domestic fuel source, to increase energy efficiency.

The whole concept of the microgrid is just so perfectly suited to our islanded territories and in that regard—Alaska is also viewed as somewhat islanded in that we are cut off from the rest of the Continental 48. And we have been pioneering and leading with how you integrate these small, little microgrids. We want to be able to share what we are doing in a cold, large place and share that with you in, perhaps, warmer and smaller places. Much of it is the same, but again, you need the flexibility to be able to adapt it as you will.

I will follow on Senator Manchin's ask. I know you are busy while you are here in Washington, DC, but any time that you and your teams can give the Committee this week to help build out some of the issues that were raised here or things that we have not raised.

It was brought to my attention, Governor Torres, that in Alaska we have a couple different energy projects that we have been trying to get help on.

We had an opportunity when we were in Tinian to look at the potential for partnering with our Alaska aerospace and launch facility.

So there are more things for us to talk about that we have not taken the time to raise here. I think it is important that we continue to work on just the aftermath of the emergency response, even though it is now two years after the fact or, in the case of CNMI, just months ago, how we are able to help there, but to deal with some of these issues that you all have addressed relating to healthcare, specifically Medicaid, how we tackle some of these very, very significant conversations. But know that within this Committee we do not forget you. You are a long ways away, but we do not forget you.

I really appreciate the effort that you all have made when visiting delegations come through that you take the time to try to educate us on the issues that are pending or that have been pending for quite some time.

Oftentimes in this Committee we focus on the energy and the natural resources side of our Committee's jurisdiction, but the health and well-being and economies of your territories is equally, equally, significant. So know that that is one of our many, many priorities.

Again, I thank you all for making the long trip back here. I wish you well in all of your meetings, and please let's keep working on all of these issues that you have raised.

With that, the Committee stands adjourned.

[Whereupon, at 11:54 a.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

U.S. Senate Committee on Energy and Natural Resources
February 26, 2019 Hearing: *The State of the U.S. Territories*
Questions for the Record Submitted to the Honorable Ricardo Rosselló

[No responses were received as of the date of print.]

Questions from Ranking Member Joe Manchin III

Question 1: What mechanisms have you put in place to ensure that Puerto Rico is in a position to maintain any grid infrastructure improvements?

What specific guarantees can you provide the Committee that these major investments will be maintained to a high quality standard for decades to come?

Question 2: I would like to clarify where things stand regarding the status of the electric grid recovery and plans for disbursement of funds to determine what is still needed to achieve long-lasting, substantive change for Puerto Rico's energy infrastructure.

- What is the status of your government's grid reconstruction plan? What are the remaining steps to implement the plan?
- How much in emergency and permanent work funds for the energy sector has Puerto Rico requested from FEMA?
- How much of this request has been obligated?
- How much of this request has been disbursed?
- For funds that have not been disbursed, what do you understand is the hold up in getting these funds obligated and disbursed?

Question 3: As Governor I remember how important a balance between federal and local stakeholders on the ground is to a successful recovery after disaster strikes. There has been much discussion of the possibility of a "federal coordinator" to coordinate ongoing federal recovery and reconstruction efforts in Puerto Rico. This position would be similar to the federal coordinators assigned to assist in the recovery of the Gulf Coast after Hurricane Katrina.

What are your thoughts on a federal coordinator position?

How could the federal government work more closely with Puerto Rico to coordinate the transparent and efficient delivery of federal funds for permanent recovery efforts?

Question 4: I am concerned about the potential impacts on your citizens if we do not take proactive action this year on the Medicaid "fiscal cliff."

U.S. Senate Committee on Energy and Natural Resources
February 26, 2019 Hearing: *The State of the U.S. Territories*
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What impacts would the Medicaid "fiscal cliff" have on the healthcare of territorial residents, and what are your residents' other health care options?

Questions from Senator Ron Wyden

Question 1: During the hearing, you discussed the need to modernize the energy grid in Puerto Rico in the wake of Hurricanes Irma and Maria.
Given your acknowledgment of the possibility that future storms will be just as (or more) intense, what specific actions are being taken to ensure resiliency in the future when constructing energy projects?

Question 2: As you mentioned, a great disparity exists between the number of rebuilding projects the Federal Emergency Management Agency has approved for Puerto Rico in the wake of the hurricanes and those it has approved for States after other natural disasters.

How many projects that you believe are critical reconstruction efforts are either awaiting approval or have been denied? What specific projects?

Question 3: In your testimony you spoke about the high levels of food insecurity in Puerto Rico. You also mentioned that you wanted Puerto Rico to be considered for Supplemental Nutrition Assistance Program (SNAP) benefits to help increase the amount of funding for low income families to receive food assistance.

Based on your data, how many families in Puerto Rico would be eligible for SNAP, but do not receive benefits?

Question 4: The Administration's recent proposed rule "Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults without Dependents (84 FR 980) would limit state flexibility to waive work-requirement for SNAP recipients.

If implemented, how many of your constituents would lose food assistance as they struggle to find stable employment?

Question 5: When I was Chairman of the Committee on Energy and Natural Resources, I held a hearing regarding Puerto Rico's 2012 status plebiscite. It is clear Puerto Ricans rejected the current status as an unincorporated territory and the current undemocratic and unequal situation is hindering Puerto Rico, and is an embarrassment to the United States. The plebiscite in 2012 officially chose statehood but special interests tried to sow doubts arose as to the validity of the decision due to low turnout.

Working with others, I was able to helped enact a Federal law in 2014 for a plebiscite to take place under Federal law, ensuring the results would be clear and indisputable. It requires the Department of Justice to confirm the plebiscite conforms to the standards set by the United States' Constitution, laws, and policies, ensuring results above reproach.

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A 2017 plebiscite showed overwhelming support for statehood. However, the plebiscite was held under local laws and the results were again questioned due to low voter turnout.

A plebiscite under the 2014 law would make the vote and its results indisputable.
Will a plebiscite under the Federal law be held and, if so, will it be in time for this Congress to consider the results?

Questions from Senator Mike Lee

Questions: Mr. Rossello, as you know Puerto Rico has some of the most expensive energy costs in the nation – between two and three times the national average. It is my understanding that the Jones Act makes it difficult to comply with Congress's and the Department of Energy's recommendation that you convert your power generators from diesel fuel to natural gas because not one of the world's 478 LNG carriers are Jones Act compliant. In December 2018, you filed a formal request to DHS to have a ten-year limited waiver of the Jones Act solely to permit the shipment of LNG purchased in the United States to Puerto Rico.

- Do you think that Puerto Rico would benefit from a permanent exemption on LNG shipment? Why or why not?
- How does the Jones Act impact the economy of Puerto Rico more generally?
- Do you think the island would benefit from a general exemption from the Jones Act? Why or why not?

Question from Senator Mazie K. Hirono

Question: Each of the territories have developed energy plans to move away from relying on petroleum for most of the power and fuel. Hawaii understands the burden of high energy costs that the territories face.

What more would you like to see the Department of Energy and the Department of the Interior do to support your efforts to move toward cheaper, cleaner sources of energy for your residents?

Questions from Senator Catherine Cortez Masto

Question 1: If Congress fails to provide additional emergency food assistance to Puerto Rico through the Nutrition Assistance Program by the end of March, what will the impact be on Puerto Ricans who are relying on this assistance?

Question 2: How did the 2017 hurricanes damage the water systems in the territory?

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Question 3: Are repairs to the reservoirs dependent on additional disaster funding that Congress has yet to approve, and are these repairs dependent on waiving the prior-condition limitation for FEMA funding?

Question 4: How have natural disasters impacted your healthcare system?

Question 5: Can you describe which areas of your healthcare system cost significantly more than health care in the rest of the country?

Question 6: What impact will the expiration of additional Medicaid funds from the Affordable Care Act have on Medicaid services?

Question 7: If Medicaid funds for the territories were uncapped, and instead operating under the formula applied to the rest of the country, what changes would you be able to make to your Medicaid programs?

Question 8: If the territories' federal medical assistance program (FMAP) percentage was decided the same way as the rest of the country (using a state's per capita income) what would your territory's match rate would be?

Question 9: If the territories were assigned FMAP percentages based on per capita income, how would your local governments' expenditures change? Please provide estimates if possible.

U.S. Senate Committee on Energy and Natural Resources
February 26, 2019 Hearing: ***The State of the U.S. Territories***
Questions for the Record Submitted to the Honorable Lourdes A. Leon Guerrero

Questions from Ranking Member Joe Manchin III

Question 1: The Department of Homeland Security announced last month that the Philippines would not be eligible to participate in the H-2A and H-2B visa programs in 2019 due to a nearly 40 percent overstay rate of visa holders and a high risk of human trafficking. I understand this will have a significant impact on the Guam labor force and economic activity. You have mentioned that in Guam, the rate of overstay for H-2B workers from the Philippines is only 3-5%.

- Does lack of access to foreign workers in Guam impact military construction and readiness?
  Answer: The lack of access to foreign workers in Guam does not have the same effect on military construction and readiness as it does the construction needs for Guam's development. The U.S. military is allowed to source foreign labor readily, via language passed in the National Defense Authorization Act, to fulfill the on-going demand for construction and readiness. Current agreements allow Guam construction needs to be fulfilled by foreign labor, however the civilian projects must have a connection to Guam's military build-up and must be verified by the Commander of Joint Region Marianas. The situation is far from ideal and does not respond to Guam's civilian construction demands.

- Do you expect Guam's reliance on foreign workers to increase or decrease in the years to come?
  Answer: With the continuing investment into Guam by the military, along with Guam's efforts to increase its tourism industry, we have an expectation that a steady demand for foreign labor will be necessary that runs concurrent with the significant federal investment being made to relocate the U.S. Marines from Okinawa to Guam. To keep up with civilian construction demands, and to keep construction costs affordable, foreign labor must be accessed. Guam however is also making investments to expand apprenticeship programs to attract our local workforce into the construction trade. However, realistically, not unlike anywhere else in the U.S., Guam will always have a need to avail itself to a foreign workforce. Guam is hopeful that our efforts to invest into our local workforce will eventually decrease our current demand for foreign labor.

Question 2: I am concerned about the potential impacts on your citizens if we do not take proactive action this year on the Medicaid "fiscal cliff."

What impacts would the Medicaid "fiscal cliff" have on the healthcare of territorial residents, and what are your residents' other health care options?
Answer: The Medicaid "fiscal cliff" will have a devastating effect on healthcare availability for Guam's residents. Guam has locally established a "Medical Indigent Program" which is funded entirely by local dollars and captures "gap demographics" who otherwise are not eligible for Medicaid. Largely, citizens from the freely associated states, who are able to travel to Guam, visa-free, are the largest demographic utilizing this program which costs the Government of Guam nearly $15 million dollars.

Question from Senator Mazie K. Hirono

Question: Each of the territories have developed energy plans to move away from relying on petroleum for most of the power and fuel. Hawaii understands the burden of high energy costs that the territories face.

What more would you like to see the Department of Energy and the Department of the Interior do to support your efforts to move toward cheaper, cleaner sources of energy for your residents?
Answer: To lessen Guam's reliance on fossil fuels and to increase our utilization of renewable sources of energy, Guam would benefit from technical assistance in the formulation of procurement policy to facilitate renewables usage by government of Guam agencies. In addition, we believe that additional funding from the Department of the Interior to assist in strengthening Guam's energy grid and also funding for more renewable energy pilot projects would greatly enhance our ability to maximize our local renewable sources and decrease our need to import fossil fuels.

Questions from Senator Catherine Cortez Masto

Question 1: How have natural disasters impacted your healthcare system?
Answer: Generally, Guam's healthcare facilities are aged and the natural elements make maintenance a difficult challenge. In the wake of any natural disaster, providing healthcare means having facilities that are able to withstand the strength of typhoons, which are regular occurrences for Guam. Guam's challenge in the coming years would be to replace our only public hospital that is more than 50 years old.

Question 2: Can you describe which areas of your healthcare system cost significantly more than health care in the rest of the country?
Answer: Aside from the age of facilities, the significant costs for healthcare on Guam is the disparate and inequitable treatment of Guam under the Medicaid formula. Guam is advocating for fairer treatment by decreasing our local match and lifting the caps, both established by federal law. The economies of U.S. territories are fragile, isolated, and not as developed as States within our Union. It is troubling that for U.S. citizens choosing to live in a U.S. territory where wages are lower and the economics are fragile, that a larger burden is

placed on local governments to have cap healthcare services and also be mandated to devote a larger share of local revenues to access Medicaid for our residents.

Question 3: What impact will the expiration of additional Medicaid funds from the Affordable Care Act have on Medicaid services?
Answer: The ACA lifted the caps and decreased Guam's matching requirement under Medicaid. As a result, it's clear that more of Guam's residents have had access to healthcare. Guam, under the ACA, has spent tens of millions of dollars more to provide healthcare services for our residents. If Guam were forced to return to federal formulas that limited access by capping our access and increasing our matching requirement, then access to healthcare decreases for all of Guam's residents.

Question 4: If Medicaid funds for the territories were uncapped, and instead operating under the formula applied to the rest of the country, what changes would you be able to make to your Medicaid programs?
Answer: If Guam were uncapped and operating under the formula for the rest of the country, it would mean that access to healthcare would increase amongst our population. Expanding our services to capture a larger share of Guam's residents would be key for our local agencies. In addition, if Guam were treated equally with regards to the Medicaid formula, it would free up local revenues that would allow us for additional investments to improve our healthcare system.

Question 5: If the territories' federal medical assistance program (FMAP) percentage was decided the same way as the rest of the country (using a state's per capita income) what would your territory's match rate would be?
Answer: Guam would need to do due diligence to determine the island's per capita income average over the past three calendar years. For States, this average is determined by the U.S. Department of Commerce. However, Guam knows firmly that the current disparate treatment is a burden on local coffers and that an equitable formula would allow us broader access and savings.

Question 6: If the territories were assigned FMAP percentages based on per capita income, how would your local governments' expenditures change? Please provide estimates if possible.
Answer: Guam would need to study this specific question and first determine what its per/capita income would be over a three year period. We believe that CMS, when conducting a similar study for States ensures that their share is no greater that 45%.

THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
340-774-0001

OLC MEMORANDUM

TO: **U.S. Senate Committee on Energy and Natural Resources**

FROM: **Albert Bryan, Jr.**
Governor

DATE: **September 10, 2020**

RE: ***Honorable Albert Bryan Response to Questions for the Record—February 26, 2019 Hearing: The State of the U.S. Territories***

Response to Senator Mazie K. Hirono (D-HI)

Question: Each of the territories have developed energy plans to move away from relying on petroleum for most of the power and fuel. Hawaii understands the burden of high energy costs that the territories face.

What more would you like to see the Department of Energy and the Department of the Interior do to support your efforts to move toward cheaper, cleaner sources of energy for your residents?

Response: The USDOE and USDOI have been instrumental in providing technical assistance and grant funding towards the USVI in recent years. The Virgin Islands' remote and vulnerable location presents a unique opportunity for adoption of innovative energy resources, utilization strategies, and energy resilience. Additionally, these topics are well aligned with critical areas of interest throughout the US energy industry as well. The USVI's relatively small size and footprint means that efficient investment in assessing and implementing emerging energy technologies has the opportunity to bolster the Territory's energy profile and provide quantitative case-studies to inform decision-making on a national scale.

Additionally, federal support for energy innovation should be coupled directly to support for workforce development. By empowering the community to not only benefit from the availability of emerging technology but also play a pivotal role in enabling the technology's implementation creates a sustainable foundation for the adoption of cleaner and more affordable energy resources.

USDOE & USDOI: Additional Requests

- Prioritize funding support for Innovative energy technologies that reduce energy cost and bolster energy resilience:
  - Micro-Grid Pilot Projects
  - Technical Assistance relative to sustainable integration of Utility Scale Renewable Energy
  - Distributed Energy Resource Management Systems
  - Development of affordable financing mechanisms to enable Energy Equity
- Prioritize funding support for Smart-Grid integration & utilization:
  - Advanced Metering Infrastructure
  - Distributed Energy Data Analytics
  - Utility Rate Reform
    - Strategic migration away from static electricity rate structure
- Support for Electric Vehicle Adoption
  - Sustainable EV charging infrastructure deployment & integration
  - Development of EV O&M supply chain
- Government Building Reconstruction
  - Providing technical support and resources to ensure FEMA rebuilding projects throughout the territory incorporate energy best practices as it relates to:
    - Energy Efficiency
    - Renewable Energy Adoption
    - Energy Resiliency
- Energy Sector Workforce Development
  - Funding support for training/certification programs that seek to align the local labor force with growing energy sector needs territory-wide.

***

Response to Ranking Member Joe Manchin III

Question: I am concerned about the potential impacts on your citizens if we do not take proactive action this year on the Medicaid "fiscal cliff."

What impacts would the Medicaid "fiscal cliff" have on the healthcare of territorial residents, and what are your residents' other health care options?

Response: Medicaid makes up a substantial percentage of the payor mix in the Territory. There is no viable private insurance market in the Territory. Not less than 32,000 individuals, or 32% of our population, relies on Medicaid at their source of healthcare coverage. The Medicaid "fiscal cliff" would drastically decrease that funding source and severely impact access to health care. We have estimated that about half (not less than 15,000 individuals) would lose eligibility if the fiscal cliff were to occur.

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Response to Senator Catherine Cortez Masto

Question 1: Can you describe which areas of your healthcare system cost significantly more than health care in the rest of the country?

Response: Radiological studies, orthopedic surgery, implants, and joint replacements, chemotherapy, and certain other medical services are more expensive than on the U.S. mainland. The reasons for such cost disparities include geographic isolation, shipping costs, lack of economies of scale, and low levels of competition. As a result of these cost disparities, it is uneconomical to provide many services in the Territory. As an example, the Medicare reimbursement rate for joint replacements is less than the cost of only the device, and thus provides no compensation for the surgery or related services. Consequently, such procedures are performed off-island, requiring additional travel costs and burdens. Also, Medicare reimbursement for chemotherapy is much less than the cost of the drug. As a result, the cost of the drug is under-reimbursed, and the cost of related services is uncompensated.

Moreover, as a result of Hurricanes Irma and Maria, the hospitals were so badly damaged that they cannot provide some of these services to this day, necessitating the evacuation of patients off-island, adding to the cost of care even further.

In addition, pediatric specialty services and several types of adult specialists (rheumatology, neuro surgery to name two) are unavailable in the Territory.

Question 2: What impact will the expiration of additional Medicaid funds from the Affordable Care Act have on Medicaid services?

Response: The Medicaid program in the U.S. Virgin Islands (and the other Territories) differs from Medicaid programs operating in each of the 50 states and the District of Columbia. Our Medicaid delivery system is a subset of the larger public government healthcare delivery system for most of the Territory's population. The Virgin Islands Department of Human Services is the single state agency. We are grateful for the increased section 1108 allotments and increased Federal Medicaid Assistance Percentage (FMAP) for fiscal years 2020-2021, and the additional funding under the CARES Act. These additional funding measures have so far delayed a fiscal cliff, but only through the end of fiscal year 2021.

A permanent solution to the Medicaid funding situation for the Territory is still needed. Without a permanent fix to the funding issues, the USVI program will revert to the current law regular Medicaid cap of approximately only $20M per year. However, given the current size of the USVI Medicaid program, we need at least $85M in federal section 1108 funding yearly for the base program, along with all of our other Medicaid funding, to just maintain the current program. Reverting to the regular Medicaid program would decimate our program.

And, with the downturn of our economic situation due to the loss of tourism dollars, our FMAP for administrative expenditures remains at 50%. Our local economy and local tax revenues will not recover during the COVID pandemic, and our Medicaid program continues to grow with the increased demand for benefits caused by the massive small business lay-offs. Addressing the 50% FMAP for administrative services is an area where we require assistance.

Question 3: If Medicaid funds for the territories were uncapped, and instead operating under the formula applied to the rest of the country, what changes would you be able to make to your Medicaid programs?

Response: Uncapping the program would allow for improvement and expansion of services and lead to better determinants of health in the Territory.

We would be able to convert services currently being paid with all local USVI funds to federal Medicaid matching funds. Currently, we pay for some services with all local funding in order to remain within the cap. If we had uncapped federal funding, along with a state-like FMAP, we could convert these services into federally match-able services. Examples include personal care services in the homes for our very sickest populations who have no other alternative in care. We could expand nursing facility services by building our current facilities for our elderly into federally-certified facilities. Finally, we could expand our care for the mentally ill, which is essentially covered by only local funding currently.

Question 4: If the territories' federal medical assistance program (FMAP) percentage was decided the same way as the rest of the country (using a state's per capita income) what would your territory's match rate would be?

Response: The FMAP would be the statutory maximum, or 83%.

Question 5: If the territories were assigned FMAP percentages based on per capita income, how would your local governments' expenditures change? Please provide estimates if possible.

Response: As noted in our answer above, we would be able to convert more local expenditures to federal Medicaid match-able expenditures.

MICHAL RHYMER-BROWNE
U.S. VIRGIN ISLANDS

Written Testimony of
Michal Rhymer-Browne Assistant Commissioner of the
United States Virgin Islands Department of Human Services
Oversight of the Medicaid Division
Before the House Committee on Natural Resources

May 23, 2019

Chairman Grijalva, Ranking Member Bishop, and Members of the Committee:

Thank you for the opportunity to provide testimony on the significant impacts to our healthcare system and the people of the United States Virgin Islands, in light of the impending Medicaid fiscal funding cliff which will impact us beginning October , 2019. I am Michal Rhymer-Browne, Assistant Commissioner of the Virgin Islands Department of Human Services, and I have direct oversight of the Medicaid Division. Accompanying me today is Mr. Gary Smith, our Virgin Islands Medicaid Director. I must also thank Kimberley Causey-Gomez, Commissioner Designee of the V.I. Department of Human Services, who has extended to us her complete support as we prepared to come to this important Committee meeting today.

On behalf of the Honorable Governor Albert Bryan, Jr. and the more than 100,000 American citizens living in the U.S. Virgin Islands, we bring you greetings, and as we say in the Virgin Islands, "a pleasant good morning." As a people, we want to convey our heartfelt gratitude, appreciation, and thanks for the concern and the support that you and your colleagues in Congress have provided as we continue to recover from the unprecedented damage caused by Hurricanes Irma and Maria- two Category 5 Hurricanes, which ravaged the Virgin Islands in September of 2017. We are a resilient people, but my testimony today is truly intended to actualize the empathy.

I appear before you today to request your continued urgent support to address the critical Federal and local funding crisis we are facing in our healthcare system on September 30, 2019. By that date we are currently projecting we will have fully expended the additional $142.5 million in Federal Medicaid funding provided under the Bipartisan Budget Act of 2018 (BBA) and the 100% Federal matching rate will expire. Along with this, we are projecting we will lose access to the nearly $158.9 million in remaining Federal funding provided under the Affordable Care Act (ACA). It is only through this additional federal funding and the 100% matching rate that we have been able to sustain our healthcare system during these trying times.

Members, with no exaggeration, the Congress, together with the Administration, must Act by September 30, 2019, to avert catastrophic damage to our healthcare system, if left on its current course. At that point, the federal Medicaid matching rate will revert back to the statutorily mandated 55% matching rate for most of our Medicaid program and the Federal Medicaid funding cap of approximately 18.8 million. This is not sustainable, given the current state of our Medicaid program. If the Virgin Islands only receives the statutory cap amount of $18.7 million at the 55% matching rate, that funding is projected to only cover 26% (barely one quarter) of the Federal funding needed during the fiscal year for the Medicaid expenditures supported by that cap. This is the Medicaid "fiscal cliff" that we have been warning about for some time. Once the cap is exhausted, the Virgin Islands would have to fully make up the deficit in Federal Medicaid funding, as it has in the past, and pay for its Medicaid services with 100% local funding. That local funding is not available, and our citizens will not be able to receive the essential healthcare they need, and our already fragile healthcare infrastructure would be further destabilized and its recovery would be further delayed.

We believe that there needs to be a permanent statutory fix that addresses the unfair and disparate treatment all Territories face in their Medicaid programs along the lines of H.R 1354, "The Territories Health Equity Act," introduced on February 25, 2019, by our Delegate Stacey Plaskett. However, we understand from various informal discussions with Congressional and Administration staff that such a permanent fix may not be possible at this time. Therefore, I am requesting that the Congress and the Administration work with us to support the following five-year (Fiscal Years 2020-2024) Medicaid funding request:

1. 100% federal Medicaid matching rate be extended to the U.S. Virgin Islands for **two** additional Federal fiscal years (October 1, 2019 through September 30, 2021) and we are currently projecting that at least $251.5 million in additional Federal Medicaid funding be provided during this period, as was done in the BBA 2018. This assumes that other Federal requirements and funding under the Medicaid program remain in place during this period.

2. At least an additional $377 million in Federal Medicaid funding based upon our current projections, in lieu of our annual Medicaid cap, be provided to the U.S. Virgin Islands at an 83% Federal matching rate for three additional Federal fiscal years (October 1, 2021 through September 30, 2024). This assumes that other Federal matching requirements and funding under the Medicaid program remain in place during this period for areas such as CHIP allotments, MMIS, Eligibility and Enrollment, and Medicare Part D Co-insurance and deductibles.

As we reiterated in previous meetings with the Administration, and in Testimony before Congress, healthcare funding in the Virgin Islands was under great stress even before the two hurricanes. Under Medicaid, an arbitrarily low federal matching rate (FMAP) and a

correspondingly high local matching requirement added to the limited capped Federal funding have imposed severe and unsustainable financial demands on the Territory. We have had to contribute a vastly disproportionate share of our own limited local funding for our Medicaid Program compared to that of the States.

We are particularly grateful for the additional Federal funding provided under the ACA and the temporary disaster-related waiver of the local match and additional Federal funding provided through the BBA 2018. These actions have allowed us to more than double our Medicaid program to over 27,000 individuals from approximately 12,000 individuals since 2012, increase total expenditures under our Medicaid program to over $120.5 million, provide much needed healthcare services to our people, and allowed our Medicaid program to continue to operate during these trying times.

However, unless the Congress and the Administration act to support the two requests I have outlined above before September 30, 2019, the U.S. Virgin Islands will be faced with potentially catastrophic damage to our Medicaid program and our healthcare system as detailed below:

- The U.S. Virgin Islands will have to remove upwards of 15,000 individuals from our Medicaid program who still need health care services.
- We will not be able to continue the outreach to the community to bring into the Medicaid program those 15,000 to 20,000 additional Virgin Islanders who we believe are eligible for the program currently but not yet enrolled.
- The U.S. Virgin Islands will have to pay for any needed healthcare services with all local funds that are not available in our budget at this time.

- We will face further delays in rebuilding our hospitals and clinics and other healthcare infrastructure as funds will have to be diverted to pay for needed ongoing day to day healthcare services.
- The U.S. Virgin Islands will have to continue to evacuate even more patients to the mainland, at even further costs to us, which we are unable to support with local funding as delays in the rebuilding of our healthcare infrastructure continue.
- We will be faced with losing more and more of our medical providers if we are unable to pay and retain them. This will be compounded by our inability to attract new medical professionals willing to come and work in the islands when we are facing such a critical financial crisis in our healthcare system and they are concerned with whether they will be able to be paid.
- We will not be able to expand much needed long term care support services to our elderly and disabled population—our most fragile population--as we have no certified nursing homes in the U.S. Virgin Islands and such care has to be provided mainly in the community.
- Finally, the U.S. Virgin Islands is facing a mental health and behavioral health crisis as declared by Governor Albert Bryan, Jr. in March 2019 as a result of the lack of providers and facilities to address the demand for these services in the territory, and we will not have access to needed Federal funds to help address these critical issues.

We are also keenly aware that with the added Federal support being provided by our Federal partners comes additional responsibility on our part to utilize and oversee that support in an efficient and effective manner and with full accountability. Towards that end, the U.S. Virgin Islands has moved forth with purposeful actions, and we are implementing various activities, as outlined below which will ensure that this accountability continues:

- We implemented the first ever Territory Medicaid Management Information System (MMIS) in 2013.
- The U.S. Virgin Islands implemented a Medicaid MAGI compliant on-line Medicaid eligibility system in July 2017, called the Virgin Island Benefit Eligibility System (VIBES). This system will be expanded beginning later this year to complete integration with our other Federal programs like SNAP and TANF.
- We implemented a Medicaid Fraud Control Unit (MFCU) in 2018.
- The U.S. Virgin Islands also implemented the Transformed Medicaid Statistical Information System (TMSIS) with CMS through our Medicaid Management Information System (MMIS) in 2018 to ensure detailed statistical and financial reporting be provided to the Centers for Medicare & Medicaid Services (CMS).
- We shortly be completing cost report audit reconciliations for our two hospitals and two Federally Qualified Health Centers (FQHCs) to bring those audits and reconciliations current.
- The U.S. Virgin Islands will shortly begin the audit and reconciliation process for our Department of Health Clinics.
- We recently completed the CMS Medicaid Program Integrity (PI) Review.
- We also executed a memorandum of understanding with CMS to receive technical assistance in additional Medicaid PI activities and Medicaid data analytics.

- The U.S. Virgin Islands is working with HHS to finalize an advance planning document which will provide upwards of $15 million to implement a territory wide health information exchange system.

We believe that all of these activities indicate our strong ongoing commitment to ensuring the integrity of our programs and our responsible stewardship of the Federal Medicaid funding that we receive. The U.S. Virgin Islands is also committed to the ongoing improvement of program integrity, transparency, and efficiency and the Federal funding outlined above is needed to continue these efforts and maintain our programs.

For the forgoing reasons, I strongly urge the Congress, in conjunction with the Administration, to promptly act on this matter of critical urgency to the people of the U.S. Virgin Islands. The enactment of our proposal will serve to enable us to continue to provide urgent health care services to our citizens while we work to rebuild our health care infrastructure and economic viability, and will serve to provide a temporary "fix" to the disparate arbitrary, and unfair treatment that the Territories continue to receive under the Medicaid Program.

Given the very short time remaining in this fiscal year, and the need for the U.S. Virgin Islands and other Territories to be able to reliably and predictably plan their upcoming internal Medicaid program changes and budget request, I ask that you address this issue in the next available legislative vehicle.

I appreciate the opportunity to share my views with you. We look forward to working together with you to address the immediate issue of the impending Medicaid fiscal funding cliff and we look forward to collaborating with you on achieving a permanent solution that can finally eliminate the unequal treatment of Virgin Islands and the other Territories under the Medicaid

Program and provide parity for Medicaid enrollees and the full benefits of the Federal Medicaid program for our citizens and our providers.

Thank you for your consideration and attention to these urgent matters. I am honored to be here and open to answer any questions you may have, along with Gary Smith, our U.S. Virgin Islands Medicaid Director.

U.S. Senate Committee on Energy and Natural Resources
February 26, 2019 Hearing: *The State of the U.S. Territories*
Questions for the Record Submitted to the Honorable Ralph Deleon Guerrero Torres

Questions from Ranking Member Joe Manchin III

Question 1: I understand that there is a pending lawsuit regarding those injured while working for the Chinese company Gold Mantis on the Imperial Pacific casino construction site in Saipan. The Department of Labor was able to ensure that these workers—and many others—ultimately received payments for minimum wage violations. However, the suit alleges that these workers still have not received workers' compensation for their injuries. Many of these injuries were quite serious, and it is disturbing that there continue to be questions regarding their compensation.

- **What safeguards have you put in place to ensure that all workers in CNMI are cared for properly in the case of injury and that employers have adequate workers' compensation insurance for their employees?**

The CNMI Workman's Compensation Office requires that every establishment carry Workman's Compensation insurance. Employers are also obligated to submit a report of any injury or death within 10 days after the date of injury and to maintain an accurate record of any injury. The record must also contain information as to the nature of the injury or disease. Additionally, the employer must report the serious injury or death to Federal OSHA within 24 hours for serious injuries and within 8 hours for reported deaths.

Further, the CNMI Department of Labor/OSHA office makes yearly requests for statistics on Injury and illness from the Worker's Compensation office in order to discern industry rates for injuries and fatalities. DOL/OSHA also requests Form 300/300A (Injuries and Illness Log) from business establishments to analyze the types of injuries in order to provide necessary training and assistance on how to prevent injuries.

DOL/OSHA is mandated to provide On-Site Consultation Services to business establishments with less than 250 employees. As the IPI project employs more than 1,000 employees, we are not authorized to conduct On-Site Consultations on that property. In discussion with the US DOL Wage and Hour Division, the case between IPI's contractors is still in litigation, and so they are unable to provide CNMI DOL with a copy of the court's decision.

Moreover, my administration is looking to the labor laws and regulations currently employed in our neighboring island of Guam and around the nation to propose and implement a local set of workplace safety rules for employers to follow. The US Department of Labor has been increasingly active in the support of CNMI labor issues, but does not have a local presence to actively monitor worksites. Currently, CNMI regulations do not currently exist with sufficient strength to allow for the CNMI Department of Labor to actively participate in the enforcement of labor standards.

The regulations we seek to employ will enhance the mandate of the CNMI Department of Labor and it is my intention to have the CNMI Department of Labor be an active monitor of labor laws to the extent practicable under current budget constraints.

- **Have any fines or penalties been issued against Gold Mantis or Imperial Pacific for a failure to purchase workers' compensation insurance?**

I have requested my staff to research this question and wish to provide you with an accurate response, however, I do not have sufficient information gathered at this time. I will provide your office with this response as soon as it is available.

Question 2: When you were before this committee last February, you indicated that there would soon be a comprehensive set of reforms to how CNMI conducts oversight and regulation of casino operations. These reforms were to prevent money laundering by increasing enforcement authority and expanding investigative and enforcement abilities.

- **What is the status of these reforms, and have they gone into effect?**

In the 20th Legislature, I championed reforms to strengthen the Commonwealth Casino Commission's authority and powers to regulate Saipan's casino industry. I was pleased with the progress this large piece of legislation made in the 20th legislature, where necessary amendments were discussed and added to secure compliance with federal laws through local controls.

While this legislation failed to achieve final passage in the 20th Legislature, the reforms were one of the first pieces of legislation introduced anew in the 21st Legislature and I will remain an advocate for its passage into law.

The Commonwealth Casino Commission has been diligently attempting to aid the Commonwealth Legislature in the passage of legislation to grant law enforcement authority to the Commission's Enforcement Division. Commission members, staff and counsel aided in the drafting of legislation, attended meetings and sessions of each House of the legislature, and generally made themselves available to aid the Legislature in any way it could. Sadly, while the bill received majorities in each House of the legislature, the bill did not acquire the votes necessary for final passage due to supermajority requirements of the Commonwealth Constitution (bills entertained during sessions which occur after a regular general election require supermajorities to pass).

The new legislature has since convened, and is currently reviewing House Bill 21-11, which will grant law enforcement authority to the CCC and strengthens its powers in carrying out its regulatory responsibilities and related mandates. Commission staff and legal counsel have met again with the proper House committee, provided information to said committee, and again stand ready to assist said committee in its deliberations. The Commission is hopeful the legislation will be enacted this session.

- **If so, please explain the nature of these reforms and any impact they have had on money laundering activities.**

Anti-Money Laundering provisions are generally found in federal law (the Bank Secrecy Act, among others) and the primary enforcers of federal law are the agents of the United States Government.

Commonwealth Casino Commission members and staff are ready to, and will assist federal agents upon request. Commission staff primarily gather information and data which can be given to federal authorities upon request with the permission of the Commonwealth's Attorney General.

The exclusive Casino Licensee is required to comply with Title 31/Bank Secrecy Act as it is considered a financial institution under Title 31 and must establish the four pillars of a strong Anti-Money Laundering (AML) program that includes having:

1. a designated AML/BSA Compliance Officer,
2. a written policy and internal controls,
3. a BSA/AML training program, and
4. independent testing to test the program.

The BSA mandates that financial institutions Know Your Customers (KYCs) and their Source of Funds (SOFs) as part of their program and recordkeeping for purposes of reporting to Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of Treasury. Further, The CCC receives copies of the electronically-filed Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs) that are sent to FinCEN regularly from the Casino Licensee as part of the regulatory mandates.

The Commonwealth Casino Commission has also mandated as part of its Casino Regulations that all Casino Employees, Casino Key Employees, Junket Operators, and casino gaming-related agents receive annual Anti-Money Laundering Training and Certification as part of the Commission's Licensing Requirements.

All five Commission licensed Junket Operators are considered Money Service Businesses (MSBs) under Title 31 and are required to establish the four AML/BSA pillars as well. The Commission has made it a policy to ensure that the licensed Junket Operators adopt its own AML/BSA Program and Policy, designate an AML/BSA Compliance Officer, train all its principals, employees, and agents in AML/BSA, and independently test their programs.

- **What enforcement actions have you taken since you were before us last February?**

Since appearing before the committee in February 2018, I have worked closely with the Commonwealth Casino Commission in strengthening its internal regulations and its cooperation with CNMI departments and agencies to ensure stricter compliance with US laws and regulations.

The Commonwealth Casino Commission works closely with the Division of Customs Services, Department of Public Safety, and other CNMI and Federal law enforcement agencies in monitoring movement of casino equipment and related gaming assets. Future plans include the establishment of a local CNMI Interagency Task Force on Casino Enforcement and networking activities with other CNMI law enforcement and CNMI gaming regulators.The Commonwealth Casino Commission, through its Division of Audit, works closely with Casino Licensee's Finance and Audit Department as well as the CNMI Department of Finance's Division of Revenue and Taxation in reviewing and auditing all gross gaming revenues generated by the Casino Licensee through its gaming tables, electronic gaming machines (EGMs), and other gaming-related revenues. CCC staff compiles daily revenue reports from the respective gaming-related areas and performs monthly reconciliations with what the Casino Licensee

reports to the Division of Revenue and Taxation to ensure that it is properly assessing and the correct amount of Gross Gaming Revenue Taxes. Further, the Commission randomly performs surprise observations of the drop, count, and reporting as well as conducting physical chip and currency counts to ensure that what is reported on the daily reports reconcile with actual activity.

The Commission also monitors all non-gaming vendors doing business of more than $250,000 in a calendar year with the exclusive Casino Licensee. The Commission requires such vendors to obtain CCC licensing to ensure that those whom business with the Casino Licensee are found suitable.

CCC staff are continually trained and attempt to keep up-to-date with the most current FinCEN requirements by attending national and regional trainings, research, and dialogue.

Lastly, we have seen the Casino Licensee make great strides in ensuring that they are compliant with Title 31/BSA through engaging the active services of its consultants:

1. Mr. Kenneth Hines of Hines Consulting USA, a former Director of Operations Policy and Support at IRS – Criminal Investigation's National Headquarters with around 24 years of service to IRS – Criminal Investigations.

2. Attorney Gregory Lisa of Hogan Lovells, a former Interim Director of the Office of Compliance and Enforcement at the Financial Crimes Enforcement Network (FinCEN) and former Chief of the Money Services Businesses and Casinos Section within FinCEN's Enforcement Division.

These consultants have been actively involved and instrumental in the formulation and structuring of the AML programs of the Casino Licensee and Junket Operators. Both individuals were also major players with FinCEN's enforcement action on the Tinian Casino Licensee with respect to AML/BSA Compliance.

In 2018, the Commission and the casino licensee settled allegations of violations of casino regulations resulting in a payment of approximately $7,500 to the Commonwealth's General Fund. Those allegations did not involve allegations of money laundering. The Commission is presently in settlement discussions with the casino licensee regarding three sets of alleged violations of CCC Regulations. None of these allegations at this time appear to concern money laundering.

Question 3: I am concerned about the potential impacts on your citizens if we do not take proactive action this year on the Medicaid "fiscal cliff."

What impacts would the Medicaid "fiscal cliff" have on the healthcare of territorial residents, and what are your residents' other health care options?

There is good reason to be concerned for two reasons:

1. The Medicaid program provides healthcare access for the near majority of the population. The CNMI population currently has higher rates of poverty than the national average and the most impoverished state in the nation. These Medicaid beneficiaries provide substantial financial support for the CNMI's only hospital. The CNMI Medicaid program did an exemplary job in

expending all additional funds provided under the Affordable Care Act prior to the expiration of the funds this year. We increased services and access to healthcare for a vulnerable population. These vulnerabilities were exacerbated after the onslaught of Super Typhoon Yutu in 2018. Now more than ever the CNMI healthcare system needs resources to meet the vital healthcare needs of our population.

2. The Medicaid program has created a dramatic inequality in how it treats American citizens living in the US Territories. This should be of deep concern to Congress as the rates of poverty and depressed standards of living of Americans in the territories require more attention and support. However under current law, the Medicaid program in the CNMI is not allowed to calculate its funding in the same manner as it does in the states. Not allowing the high rates of poverty to be taken into consideration in calculating the federal matching rate. Higher rates of poverty mean decreased access to government revenue, however federal law requires territories to expend more local resources than states with lower levels of poverty. Additionally, the territories lack access to the full range of beneficial Medicaid programs as our total amount of funding is statutorily capped. To attempt to expand services, or increase efficiency, the CNMI would have to sacrifice baseline services to our population – when our people require more not less services. This inequality is only increased as the additional Medicaid funds provided by the ACA expire along with the increased federal share. The CNMI is now asked to support a vulnerable population with less resources and required to expend more of its limited local funds already severely encumbered by natural disasters.

   I have communicated these concerns to Congressman Gregorio Sablan and asked for his support in pushing for emergency Medicaid funds to be included in the upcoming disaster appropriation bill. I ask for your support on this emergency appropriation measure for this year. However, the needs of the CNMI population will extend beyond this year, so I further ask for your consideration and support of continuing the additional Medicaid funding and be a champion for the US territories in our goal of achieving equity for the thousands of American citizens who rely on the Medicaid program. I have attached my communication with Congressman Sablan to this response for the record.

   CNMI Medicaid Office's responses:

   The CNMI Medicaid Program reached the edge of the "fiscal cliff" March 2019 and will be in freefall sometime in April 2019 as the Medical Assistance Program (MAP) funds of $6.1 million has been completely expended for FY 2019, and the final available balance of the increase provided under the Affordable Care Act will be completely depleted. As of March 20, 2019, the CNMI Medicaid Program only had $70,000 left and those funds will be zeroed out with the next payments made by the CNMI Department of Finance.

   The Medicaid Program has requested that any form of emergency appropriations be made from the CNMI Government to continue Medicaid services. However, given the reduction of government revenues due to Typhoon Yutu, the CNMI Government, despite its best efforts, has not yet been able to provide a funding commitment. As such, the CNMI Medicaid Program in the process of determining how to *severely* curtail healthcare services to the approximately 15,316 eligible beneficiaries of the 55,144 in the territory. This represents about 28% of the population.

The system of health care services in the CNMI is very limited. The Commonwealth Healthcare Corporation (CHCC), a public corporation, is the largest health care provider in the CNMI. There are 34 Medicaid providers in the CNMI and 56 off-island medical service providers throughout the United States, principally in Guam, Hawaii, and California. In FY 2018, 82% of the Medicaid expenses were for on-island services with 18% paid to off-island services.

The CHCC is responsible for the sole hospital in the territory with 86 beds, basic ancillary services, inpatient and outpatient pharmacy, a CMS-certified dialysis center, a dental clinic, several outpatient clinics, behavioral and mental health services, all public health services, and the sole health clinics on the smaller islands of Tinian and Rota that are reachable only through air-travel. The hospital facility has not been renovated since it opened in 1986. As the territory health system, CHCC, for example, does not have an on-island radiologist, limited radiology technology (e.g. only a refurbished 16 slice CT scanner), no gastrointestinal specialist, and no oncologist. Residents must air travel off-island for advanced or specialist health care services.

CHCC remains CMS certified today, however, in 2012 it was determined by CMS to be in Immediate Jeopardy for compliance with the CMS Conditions of Participation. Fortunately, the U.S. Department of the Interior and the Department of Health and Human Services dispatched a 22-person team from the U.S. Public Health Commissioned Service Corp to work with the CHCC to improve conditions. In the 2011-2012 austerity period, the CHCC lost doctors and nurses due to the inability of pay salaries and contracts.

A critically important problem which contributed to the Immediate Jeopardy findings was the dawn of the chronic financial challenges of the CNMI Government which had instituted austerity measures because of the downturn in the overall economy beginning in 2009. The CNMI Medicaid Program needed to request use of the Certified Public Expenditure (CPE) methodology on January 1, 2012 and was eventually approved by the CMS as the CNMI Medicaid State Plan Amendment Number 12-003 for inpatient care and Number 12-004A for outpatient services in September 2012.

This enabled the CNMI Medicaid Program to draw down the federal share of the Medicaid program funding using the expenses of the CHCC, a public corporation, as the local match through CMS established methodologies. Using this methodology, the CNMI was able to exhaust the ACA funding allotted beyond the statutory Section 1108 budget cap without needing to pay a forty-five percent local share out of pocket. While this provided steady funding for the CHCC during tough economic times, it also meant the CHCC received a low reimbursement rate of about fifty-five percent without receiving the local share.

In 2017, the CHCC proposed going back to the regular billing option for Medicaid. While the idea is still an option and would significantly lessen the shortfall of payments to the CHCC, it would require that the CHCC submit medical claims, that the CNMI Medicaid Program be able to process the *paper claims*, and is contingent on the Territory having matching funds available for payments which has been a perennial problem. Since the CNMI Medicaid Program does not currently have a Medicaid Management Information System (MMIS), the CHCC has not been generating billing data for the Medicaid program, and the program lacks the staffing resources to

process the anticipated paper claims for the hospital, there remains a significantly high risk of delayed payments.

In FY 2018, Medicaid reimbursements made up almost one half (49%) of all third-party payor reimbursements to the CHCC and about thirty percent of CHCC's total revenues (about $17.3 mil). This high proportion exists despite the fact that CHCC only receives a fifty-five percent reimbursement from Medicaid, and is not eligible for supplemental Medicaid payments, such as Disproportionate Share Hospital (DSH) payments or Critical Access Hospital designation on the remote islands because of its location in a U.S. territory. As the sole hospital service provider, the CHCC provides one hundred percent of on-island inpatient and emergency care to CNMI Medicaid beneficiaries, and provides far more outpatient visits to Medicaid beneficiaries than any other provider in the CNMI.

The operation of the CHCC is highly dependent on Medicaid's ability to pay for services, especially given that 28% of the population relies on Medicaid to access health care services and about forty-six (46%) percent of CNMI *adults don't have any form of health insurance coverage*.

Fifty-two percent of CNMI residents, it must be noted, live on incomes at or below the Federal Poverty Level, and the median household income for CNMI families was less than half of the U.S. nationwide median household income in 2010. Despite the high poverty rate, many CNMI residents don't qualify for Medicaid coverage because they do not hold the necessary permanent resident status to be eligible. As of 2010, forty-three percent (23,184) of all CNMI residents were non-U.S. citizens, with fewer than one fifth of them holding the immigration status necessary to be eligible for CNMI Medicaid assistance. Employer-sponsored insurance is not a requirement for any class of employees in the CNMI, and individual health insurance plans are not available from private insurance companies operating in the CNMI.

If no action is taken to cushion the free fall from the Medicaid fiscal cliff for the CNMI, the CHCC would not be able to continue to sustain the range of services that it makes available to *all CNMI residents* today. This would impact all health services as personnel at the CHCC may need to be drastically cut, leaving residents to either forego the care they need, or seek care off-island, possibly becoming Medicaid beneficiaries of other states or territories such as Guam. For most island residents, off-island care is not a viable option due to the cost of travel and services.

The health care system problems of 2011/2012 will recur, where services are eliminated and doctors and nurses leave the island. In order to consistently ensure patient safety and service quality, CHCC will need to make the hard decision to cut back on essential services and refer off-island.

Although the CHCC offers a sliding fee discount for patients who live on low incomes and don't have health insurance, this program is unfunded, and is primarily a means to reduce barriers to care. The CHCC incurred roughly $18 mil of uncompensated care from uninsured patients in the FY 2018, and about $4 mil in charity care under the sliding fee discount program.

If CNMI Medicaid is unable to pay for services for Medicaid beneficiaries, then, the CHCC, as a safety-net provider of care, will bear an *even larger burden* of uncompensated and charity care, making

operations even more difficult to continue, thereby affecting the whole population requiring any form of health care services. The operational expenditures (OPEX) and capital expenditures (CAPEX) would be further eroded.

Questions for the Record Submitted from Senator Ron Wyden

Question 1: At the end of the hearing, Senator Murkowski mentioned you are looking at new energy programs in the Commonwealth of the Northern Mariana Islands.

- **Could you please expand on what these new energy programs entail, and what options for the incorporation of renewable resources are being considered? Furthermore, what steps are being taken to ensure these new energy programs are resilient and can withstand natural disasters?**

Energy is at the forefront of our efforts to create a sustainable economy that can provide jobs and opportunities for our people. However, high costs of fuel, outdated power generating facilities and significant issues related to power distribution are hindrances to enhancing living standards for our people.

Power generation should be considered one of the priorities for territorial infrastructure development, but since joining the United States in 1978, federal funding for the development of resilient and sustainable energy opportunities has diminished. Capital Improvement Program funds provided by the U.S. Department of Interior was originally provided only to the CNMI under the negotiations of our Covenant agreement. The original funding amount of $27.72 million has remained stagnant for the 41 years since that time, however now the CNMI shares in this sum with Guam, the US Virgin Islands, and American Samoa, substantially decreasing total available funding for necessary infrastructure improvements.

The CNMI has plans and goals for increasing the efficiency and affordability of our energy production.

These plans include:

- The completion of a geothermal exploratory drilling and the potential construction of a geothermal power plant
- Waste-to-energy feasibility study with the collaboration of the CNMI Department of Public Works
- The replacement of old engines to more efficient and reliable engines with utility combined with utility scaled battery storage
- The construction of at least one utility scale PV plant with Battery Storage on each island
- A rooftop PV program to move from net met metering to net billing, new interconnection standards to include battery storage behind the meter, utility owned and operated rooftop PV systems on Gov. Buildings etc.
- Undergrounding of critical Loads (hospitals, airports, business districts, storm shelters)
- The installation of concrete poles throughout the islands
- The installation of redundant sub-transmission circuits between power plants and substations.
- The construction an additional substation for efficient distribution of energy and harden existing substations

- Full implementation of the following Smart Grid Initiatives: GIS, Automated Meter Infrastructure (AMI), Distribution Automation (DA), Outage Management (OMS), Integrated Voice Response (IVR), Economic Dispatch and Automatic Generation Control (AGC) (These programs will be designed to make the electrical grid more resilient and allow for greater resistance to natural disasters.)

However, the capital expenditure necessary to undertake any of these options would be unaffordable to any jurisdiction of our size even before accounting for increased costs associated with our geographic location.

Ultimately, the allowance of additional resources to develop a sustainable and resilient power generating system in the CNMI will be in the best interest of the federal government. In the four years I have served in the CNMI Administration, we have been forced to recover from two once in a generation natural disasters. These typhoons crippled our transmission lines and required increase Public Assistance expenditures to ensure the safety and security of our citizens here. Investment into a modern energy infrastructure now will reduce emergency costs when the next disaster strikes.

I ask for you assistance in providing additional funds for the CNMI's energy grid to explore available options in building a sustainable and resilient power system. Allowing for the CIP program to adjust for inflation and provide stable funding for all territories would be a monumental step in that direction.

Questions from Senator Mazie K. Hirono

Question 1: Each of the territories have developed energy plans to move away from relying on petroleum for most of the power and fuel. Hawaii understands the burden of high energy costs that the territories face.

- **What more would you like to see the Department of Energy and the Department of the Interior do to support your efforts to move toward cheaper, cleaner sources of energy for your residents?**

In alignment with the Department of Interior's mission to have the territories of the United States utilize reliable and affordable energy sources, the Commonwealth Utilities Corporation would like to create a smart grid system that prioritizes solar energy and geothermal, if determined feasible as the main renewable energy resource to achieving affordable energy for its residents and cleaner energy resources. CUC's vision for a smart grid system will integrate residential and utility scale grid-tied solar energy systems. Additionally, The CNMI and CUC would like to see the following:

- Funding for Technical Assistance to formalize and adapt Energy Program. This should include the creation of a roadmap or an implementation plan.
- Funding for Technical assistance for renewable projects. To include assistance with optimum siting, Production Cost Modeling, Stability analysis, Hosting Capacity, interconnection studies, revision of interconnection standards which would incorporate latest IEEE standards etc.
- Funding for Technical studies IRP, Avoided Cost, etc. in which these results will be used as inputs into the Finalization of the energy road map

- Technical Assistance with Smart Grid Initiatives
- Once the Energy Road Map/program is fully adapted, CUC will need assistance with Funding for projects or assistance with the identification of Funding Sources for the successful implementation of the energy plan

Question 2: Late last year, the U.S. Citizenship and Immigration Services announced that it would be terminating all CNMI parole programs, leaving approximately 1,600 individuals living in CNMI until June 29, 2019 to leave or obtain other status. While many of these individuals may be eligible for a change or grant of status, other long-term residents lack the financial resources to go through this process, or may not qualify.

- **Have you heard from constituents regarding the impact that this policy change has had on families throughout the Northern Mariana Islands?**

The impacts are heart wrenching. Many of these residents have called the CNMI home for decades and helped support the growth of our community. Their children (many of whom are US citizens) go to school with our kids, they work alongside us, and their loss will have a dramatic impact to the fabric of our society. 1600 individuals may not be a significant number in larger mainland communities, but in the CNMI that is a substantial impact to the daily lives of not just our economy, but to our interactions with people.

- **Have you taken a position on H.R. 560, introduced by Representative Sablan, which would extend legal status to individuals that would extend legal status to those impacted by the termination of the parole program?**

Yes. In testimony before the House Committee on Natural Resources on February 27, 2019, I voiced my support for the provisions of HR 560 and HR 559, and I ask for your support of these pieces of legislation if it is before the US Senate for action.

Question 3: Governor Torres, could you comment on some of the challenges that the Commonwealth of the Northern Mariana Islands has faced in dealing with the fiscal costs of Freely Associated States (FAS) citizens living and working in the Commonwealth? Does the Commonwealth have sufficient CW-1 funds to conduct a prevailing wage survey?

We are actively seeking stronger partnerships with our neighbors in the Freely Associated States in an effort to enhance interconnectivity of our economies, particularly as it pertains to increased labor from FSM, Palau and the Marshall Islands. In the environment of an increasing constriction of labor access, we are looking to the region to assist in filling the demands of our economy. But there are issues relating to chain migration, where there exist firm familial ties between the FAS countries and other large population of FAS citizens in the United States. These connections draw increasing amounts of FAS citizens to Arkansas, Hawaii and Guam. We are endeavoring to increase the influx of FAS citizens to support our labor needs, and to do that we must continue to establish strong ties and connections. This will take time, but our existing FAS population has been crucial contributors to our economy and our community.

In trying to expand our workforce to meet the mandates of the current transition period, the benefits of developing stronger ties with FAS countries for our economy and our community outweighs the potential costs.

On the topic of costs for the prevailing wage survey, the CNMI anticipates the need for additional funding to be provided in order to meet the mandates of U.S. Public Law 115-218. Currently the CW program and the CNMI are the only areas within the U.S. immigration system required to produce an annual prevailing wage survey.

Question 4: Governor Torres, the Northern Mariana Islands U.S. Workforce Act of 2018 requires that the Governor of the Commonwealth conduct an annual prevailing wage survey to determine what foreign workers in the Marianas should be paid. The Act also requires that the U.S. Secretary of Labor to determine that the survey "meets the statistical standards for determining prevailing wages in the Commonwealth".

- **Have you received any guidance from the Secretary of Labor on statistical standards or other criteria that they would require of a prevailing wage survey for CNMI? Has the Secretary of Labor provided any comments on the methodology or statistical significance of past prevailing wage studies conducted by the Commonwealth?**

The CNMI Department of Commerce has reached out to the US Department of Labor requesting Technical Assistance in the performance of the 2019 Prevailing Wage Survey. Recently the US Department of Labor has responded and has offered support in the calculation of the updated wage survey.

It should be noted that the CNMI is the only place in the nation that requires an annual prevailing wage calculation. This is a requirement that does not provide funding for the performance of an annual survey and the CNMI is not included in the national labor surveys being conducted by the U.S. Bureau of Labor Statistics or the U.S. Census Bureau's American Community Survey.

The CNMI is increasingly tasked with providing data, where existing data resources provided to the states, such as unemployment statistics and population data is not provided to the CNMI as it is provided to the states.

However, the effort to produce an updated prevailing wage is critical. As US Public Law 115-218 was enacted in July 2018, the CNMI has a limited amount of time to produce a survey that will serve as a baseline for all wages in subsequent years. Artificially high wages that do not comport with the CNMI's economic condition will result in a contraction of the labor force as employers will have to reduce personnel budgets to accommodate the required Guam rates.

The CNMI Department of Labor is working with the Saipan Chamber of Commerce to ensure that a Prevailing Wage Survey is conducted within the next few weeks. The Saipan Chamber is in the process of selecting a contractor to conduct the PWS.

We have not received any guidance from the US Secretary of Labor on standards or other criteria that they would require of a prevailing wage survey for the CNMI. This is not to say that there may not have

been communication between the CNMI Department of Commerce, but we are not aware of any such communication. While in Washington DC, the members of the business community and the CNMI Secretary of Labor did meet with officials from the PWS national office. We requested for their approval to utilize the current PWS, which had expired in February 2019, until such time a new PWS is completed (by this fiscal year).

The acceptance of the Prevailing Wage and Workforce Assessment Study survey methodology when it was first conducted in 2011 was more of an "implied acceptance" as a result of a series of email exchanges and telephone conversations between the CNMI Contractor who was hired to perform the work and the US Department of Labor's Bureau of Labor Statistics personnel who was referred to establish communications with the CNMI Department of Commerce's contractor.

In 2011 when the Department of Commerce published the first CNMI Prevailing Wage and Workforce Assessment Study, it was a collaboration between the CNMI Department of Commerce and the CNMI Department of Labor.

The CNMI DOL made initial contacts with the US Department of Labor and had Mr. Philip Doyle, the Assistant Commissioner at the Office of Compensation Levels and Trends establish contact with the CNMI DOC contractor.

Mr. Doyle and the Contractor had a series of exchanges regarding survey questionnaire content, survey data collection methodology, wage calculation processes and report layout.

In addition, Mr. Doyle was the point of contact with the relevant section of the U.S. DOL BLS, particularly the Statistical Methods group he was soliciting comments and suggestions from as part of the exchanges to arrive at the best survey method for the CNMI Prevailing Wage survey.

All concerns from Mr. Doyle and those that were passed to our Contractor from the Statistical Methods group were satisfactorily taken care of by the Contractor and all suggestions were taken into consideration.

The draft of the report was shared with Mr. Doyle and again the CNMI Contractor solicited his input and those were also considered and incorporated into the report as part of the Final Published 2011 CNMI Prevailing Wage and Workforce Assessment Study.

The 2014 and the 2016 Prevailing Wage and Workforce Assessment Study surveys followed and employed similar methods as was used in the 2011 PWWAS.

Questions from Senator Catherine Cortez Masto

Question 1: Can you describe which areas of your healthcare system cost significantly more than health care in the rest of the country?

The high costs associated with operating an efficient healthcare system in the CNMI are born largely from the issues affecting all operations in our islands and the disparate treatment the territories receive by the

federal government. The Commonwealth Healthcare Corporation (CHCC) has to contend with power and utility rates far exceeding those of other jurisdictions, CHCC suffers from labor shortages caused by a limited local workforce and the decreasing availability of visa permits, and the scale of our population does not allow for affordable on-island treatment options for the many instances of noncommunicable diseases such as cancer and cardiological treatment. The lack of services for the most prevalent healthcare needs of our population requires local resources to be expended in our Medical Referral program, that sources treatment for a wide range of illnesses off-island. The cost for providing this program an the care of our patients in Guam, the Philippines, and Hawaii is a consistent government expense that continually exceeds its annual budgetary appropriation.

Health and poverty have direct linkages, as well. The CNMI's rates of poverty far exceed that of the United States and the rates of noncommunicable diseases are a textbook example of the effects poverty can have on individual health. Yet, the CNMI is not allowed to incorporate its severe rates of poverty into the calculation of its FMAP as is standard practice in the states. This forces the CNMI to contend with widespread instances of preventable illnesses with less funds to treat and intercede. The limitations of federal funds leads to fewer resources to support our only hospital, limited ability to use federal resources to innovate in cost cutting and preventative measures and creates a vicious cycle of diminishing healthcare services at the expense of our citizens.

Question 2: What impact will the expiration of additional Medicaid funds from the Affordable Care Act have on Medicaid services?

As I have mentioned in my previous response, the CNMI does not receive adequate funding to support the dire healthcare needs of our population. The additional Medicaid funds assisted in our efforts to expand benefits to the 46% of the population who rely on Medicaid for healthcare access, and we have spent those funds expeditiously under the recognition they would expire this year. In order to continue these essential services to the population, the CNMI will have to appropriate, potentially more than $36 million in local funding. $36 million represents 25% of the anticipated government resource of the entire CNMI government.

The CNMI Medicaid Program has initiated plans to reduce benefits, reduce amounts paid for services, and possibly limit eligibility. The decisions will be painful since very tough decisions about who gets care off-island and who doesn't (e.g. cancer patients, etc.) will need to be made. Our Medicaid program also anticipates that some private providers, especially the off-island specialist providers, will elect not to accept CNMI referrals as Medicaid Providers.

The CNMI Medicaid Program is hoping to cushion the free fall through emergency funding and the proposed Medicaid Disaster Assistance proposed as the Supplemental Appropriations Act 2019 passed by the U.S. House of Representatives (H.R. 268). The CNMI policymakers and the Medicaid Program have been actively working very hard to find a temporary solution based on the anticipation that the Medicaid Disaster Assistance will be provided. However, it is certain that the full funding of Medicaid will not be forthcoming from non-existent CNMI General Funds. A reduction in program services appears to be the only way to lessen the short and long-term financial deficit without Medicaid Disaster Assistance or achieving funding parity with the U.S. States.

The inability for the CNMI to afford the cost of these services will result in diminished resources to our islands' hospital, decrease in benefits to the Medicaid beneficiary population and, ultimately, a reduction in the overall health of our community.

Question 3: If Medicaid funds for the territories were uncapped, and instead operating under the formula applied to the rest of the country, what changes would you be able to make to your Medicaid programs?

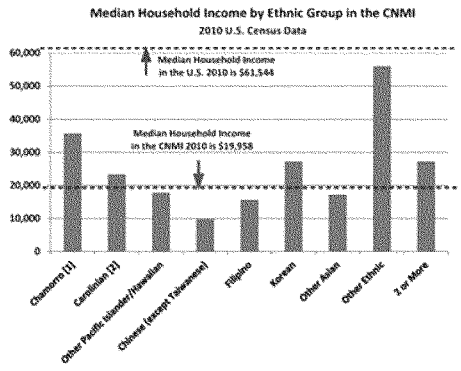
The CNMI should be treated the same as States. If treated equitably, the Medicaid program would be able to significantly improve access to health care and improve the health care provided to Medicaid beneficiaries. The CNMI Medicaid program would be able to explore the use of Medicaid waiver programs for diabetes care and other related comorbidities and improve the overall effectiveness and efficiency of health care in the CNMI. Eliminating the cap is critical to improving access to care for Medicaid beneficiaries and participate in the exploration of the many innovations in health care that other States have undertaken. Our Medicaid Director has lamented that she is unable to pursue many of the program activities that she learns of because the budget cap severely limits the resources available, and must only focus on on-island primary and acute care and continue to support specialty and tertiary care through off-island services.

Question 4: If the territories' federal medical assistance program (FMAP) percentage was decided the same way as the rest of the country (using a state's per capita income) what would your territory's match rate would be?

Using the CNMI's per capita income, which is far below that of the lowest US State, the federal match could be expected to reach the 83% limit. Estimates on the resulting cost of an 83% FMAP would be approximately $61 million.

The 2010 Census as shown in Figure 1 illustrates the differences in the median household income between the family of four in the CNMI and the rest of the United States. Due to extremely low incomes, the CNMI would most likely qualify for the statutory maximum FMAP of eighty-three percent.

Figure 1 – Median Household Income in the CNMI from the CNMI State Innovation Model Plan



Question 5: If the territories were assigned FMAP percentages based on per capita income, how would your local governments' expenditures change? Please provide estimates if possible.

If treated similarly to the states, the CNMI's local match for the Medicaid program would double from $6 million to $12.5 million.

If the Medicaid Section 1108 cap is lifted AND the equitable FMAP is provided AND the CPE Methodology remains, then, the reimbursement to the CHCC would increase and would enable CAPEX investments and OPEX increases that would allow the CHCC to improve specialty care services and lessen the costs of off-island expenses.

RALPH DLG. TORRES
Governor

ARNOLD I. PALACIOS
Lieutenant Governor

COMMONWEALTH of the NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

March 12, 2019 GOV19-085

The Honorable Gregorio C. Sablan
Congressman
Congress of the United States
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Sablan:

I write to request your urgent assistance to mitigate the anticipated impact of the expiration of the expanded Affordable Care Act ("ACA") funding on the CNMI Medicaid program. We have known that the CNMI's Medicaid beneficiaries would be facing a reduction in services following the expiration of these funds. The loss of these resources is now further impacted by the damaging effects of Super Typhoon Yutu on the CNMI's healthcare system and government resources.

In properly managing the additional funds providing under the ACA, the CNMI Medicaid Office has been diligent in their steady expense of all available Medicaid funds. The Medicaid Office is on track to exhaust the available funding provided by the ACA in the upcoming quarter. Currently the CNMI Medicaid Office has on hand $270,000 of ACA funds remaining.

The CNMI has been aware of the impending loss of the expanded ACA funds and has executed a process to ensure benefits were increased to the Medicaid beneficiary population for the period in which the funds were available. This process was successful in providing greater levels of care to the CNMI population and, in the wake of the nation's worst storm in generations, the need for emergency funding to meet the needs of a community still in recovery is dire.

The financial state of the CNMI government has been severely impacted by the loss of economic activity following Super Typhoon Yutu. Further, the cost of reconstruction will continue to represent a significant and unexpected budget obligation. Following Super Typhoon Yutu's impact on the CNMI economy in the first quarter of fiscal year 2019, my administration was required to adjust the budget authority downward by $12,048,000 – or 4.7% of the original estimated resources for the year. The issues caused upon our economy will continue to compound as the tourism industry is not anticipated to return to pre-typhoon levels for several months.

In this environment, the ability for the CNMI to continue adequate funding for the local share of its Medicaid program is in jeopardy without the emergency action of Congress.

Congress has already provided this action in Puerto Rico and in the US Virgin Islands, providing billions of additional dollars at 100% federal match for two years in response to Typhoons Maria and Irma.

This is a matter of equity in the treatment of territorial issues and resources following disaster. I support the proposed provisions to provide the CNMI $36 million in additional Medicaid money to support the Medicaid population at 100% federal share, but must acknowledge that, much like the situation experienced in Puerto Rico and the US Virgin Islands, multi-year support of this effort is vital toward keeping the CNMI's healthcare system solvent.

Your support of these efforts is necessary and urgent. I stand ready to be of assistance.

Sincerely,

RALPH DLG. TORRES
GOVERNOR

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Ralph DLG. Torres | CNMI Office of the Governor

February 22, 2019

The Honorable Lisa Murkowski, Chairman
The Honorable Joe Manchin, Ranking Member
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Office Building
Washington, D.C. 20510
Email: fortherecord@energy.senate.gov

Re: Full Committee Hearing to Examine the State of U.S. Territories
Labor violations at the Imperial Pacific casino in Saipan, CNMI

Dear Chairman Murkowski and Ranking Member Manchin,

We are individuals and organizations outraged by the severe labor rights violations that transpired at the Imperial Pacific construction site in Saipan, CNMI. We appreciate the attention that the Committee paid to such issues at last year's hearing on the *Northern Mariana Islands U.S. Workforce Act* (S. 2325). However, many of the issues raised at that hearing still have not been satisfactorily addressed and, in the intervening time, new problems have emerged.

As you may recall, Imperial Pacific initially hired multiple Chinese construction companies to build its casino and resort project, such as Gold Mantis and MCC. These companies then employed thousands of Chinese workers, many of whom lacked legal work authorization. These workers suffered abuses that should never occur on United States soil: false promises about working conditions, enormous recruitment fees, failure to pay minimum wage, horrible living conditions, and shocking rates of workplace injuries.[1] At the Committee's hearing last year, one member appropriately described these violations as "outrageous."[2] Some of these abuses have been addressed – such as the U.S. Department of Labor obtaining nearly $14 million for the minimum wage violations suffered by nearly 2,400 Chinese workers – but others have not.[3]

One unaddressed problem of serious concern is the utter disregard for worker safety and lack of compensation for workers injured on the project. An OSHA investigation documented over 80 serious worker injuries on the construction site in 2016 alone – an injury rate well above the national average.[4] Moreover, OSHA found that rather than ensuring these workers received appropriate medical care, the Chinese employers sent them back to China, even in cases where the doctor objected to moving the patient.[5] In March 2017, at least one worker fell to his death from the building's scaffolding.[6] However, these contractors were able to operate in CNMI without purchasing workers' compensation insurance for these employees and there is no evidence that the workers were ever compensated for their injuries.

A federal lawsuit, recently filed in December 2018, has highlighted this injustice.[7] Seven former employees of Gold Mantis, a contractor on the Imperial Pacific casino project, suffered severe

injuries on the job – including a severely burnt leg and a fingertip that was severed off. Due to their undocumented status, Gold Mantis refused to take them to the hospital or to see a doctor. Instead, these already indebted workers needed to borrow more money to purchase pain relievers and medication. After the FBI intervened and the Gold Mantis managers fled back to China, local newspapers reported on the injuries and mistreatment suffered by these workers.[8] Nonetheless, neither Gold Mantis nor Imperial Pacific paid a single penny to compensate these employees for their injuries before they were sent back to China.[9] Due to their injuries, some of the workers are now only able to perform limited, light work and they lack the money to pay for the medical procedures recommended by their doctors.

Even after the enforcement actions by federal authorities, labor problems at the Imperial Pacific construction site have persisted. In the summer of 2018, over 30 Chinese employees working on the casino project protested that they had not been paid overtime.[10] At the end of 2018, the H-2B guest workers employed directly by Imperial Pacific complained of their contracts being terminated early and not being properly compensated.[11]

There appears to be a fundamental lack of meaningful oversight over the casino and its contractors. The institutions currently in place, like the CNMI Casino Commission, are clearly insufficient. Imperial Pacific has been permitted to continue its project without remedying the serious violations that have already transpired, such as severe worker injuries, or making sufficient plans to avoid them in the future. Local CNMI legislators made the common-sense proposal to establish an independent monitoring body to ensure that the casino and its contractors follow the law, provide safe working conditions, and legally compensate workers.[12] However, the CNMI Governor has not publicly expressed support for this proposal.

In light of the situation described above, when Governor Torres of the CNMI appears before the Committee next week, we hope that the Committee will inquire as to what steps are being taken to ensure that past worker abuses are remedied and future violations are prevented.

Thank you for your attention to this matter.

Sincerely,

Aaron Halegua
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Dr. Elena Shih
Center for the Study of Slavery and Justice, Brown University*

Audrey Winn
Asian American Legal Defense and Education Fund (AALDEF)

Enclosures:

1. Declaration of Rick Foster (December 15, 2016).
2. Complaint, *Wang, et al. v. Gold Mantis Construction*, 18-Civ-0030 (December 17, 2018).
3. Photographs of Gold Mantis employees' injuries.

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* These individuals are signing in their personal capacities and not as representatives or on behalf of their respective institutions.

[1] *See, e.g.*, Neil Gough & Cao Li, *U.S. investigates work at Pacific island casino project with Trump ties*, NEW YORK TIMES, May 4, 2017, https://www.nytimes.com/2017/05/04/business/saipan-casino-illegal-chinese-workers-trump.html; Ferdie De La Torre, *Construction workers housing lacks occupancy certificate*, SAIPAN TRIBUNE, April 25, 2017, https://www.saipantribune.com/index.php/construction-workers-housing-lacks-occupancy-certificate/.

[2] Legislative Hearing, Senate Energy and Natural Resources Committee, February 6, 2018, available at: https://www.energy.senate.gov/public/index.cfm/2018/2/legislative-hearing-on-various-bills.

[3] Sophia Yan, *Chinese firms will pay $14 million in back wages in Saipan case*, ASSOCIATED PRESS, March 6, 2018.

[4] Declaration of Rick Foster, Docket No. 3, *Establishment Inspection of: MCC International Saipan Ltd. Co.*, 16-MC-0041 (CNMI District Court, December 15, 2016), para. 3.

[5] Foster Declaration, para. 3.

[6] Ferdie De La Torre, *Man killed was unauthorized to work*, SAIPAN TRIBUNE, April 5, 2017, https://www.saipantribune.com/index.php/man-killed-unauthorized-work/.

[7] Anita Hofschneider, *Lawsuit filed by injured Chinese workers against Saipan casino*, HONOLULU CIVIL BEAT, December 18, 2018, https://www.civilbeat.org/2018/12/lawsuit-filed-by-injured-chinese-workers-against-saipan-casino/.

[8] *See, e.g.*, Emmanuel T. Erediano, *Gold Mantis vows to pay injured workers; US Labor looks into 'ongoing case'*, MARIANAS VARIETY, May 12, 2017, http://www.mvariety.com/cnmi/cnmi-news/local/95216-gold-mantis-vows-to-pay-injured-workers-us-labor-looks-into-ongoing-case.

[9] Hofschneider, *Lawsuit filed by injured Chinese workers*.

[10] Cherrie Anne E. Villahermosa, *Construction workers stage protest*, MARIANAS VARIETY, August 24, 2018, http://www.mvariety.com/cnmi/cnmi-news/local/107005-construction-workers-stage-protest.

[11] Jon Perez, *80 workers lose jobs*, SAIPAN TRIBUNE, October 15, 2018, https://www.saipantribune.com/index.php/80-workers-lose-jobs/.

[12] Cherrie Anne E. Villahermosa, *Sen. Manglona says monitoring board should ensure compliance at hotel-casino construction site*, MARIANAS VARIETY, July 31, 2018, http://www.mvariety.com/cnmi/cnmi-news/local/106361-sen-manglona-says-monitoring-board-should-ensure-compliance-at-hotel-casino-construction-site.

Enclosure 1

FILED
Clerk
District Court
DEC 15 2016
for the Northern Mariana Islan
By (Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN MARIANA ISLANDS

MC 16-00041

ESTABLISHMENT INSPECTION OF:

MCC INTERNATIONAL SAIPAN LTD. CO.

DECLARATION OF RICK FOSTER

RICK FOSTER, in accordance with 28 U.S.C. §1746(2), declares:

1. I am a Compliance Safety and Health Officer (CSHO) with the Occupational Safety and Health Administration (OSHA), United States Department of Labor. I am fully familiar with the facts and circumstances of this case. I submit this Declaration in support of the Secretary of Labor's Application in this matter.

2. MCC International Saipan Ltd. Co. ("MCC") was selected by OSHA for a "referral" inspection pursuant to Chapter 9 of the Field Operations Manual (CPL 02-00-160) effective August 2, 2016. On December 3, 2016, OSHA received a referral through the OSHA website online from a treating physician at the Commonwealth Health Care Corporation (CHCC), Saipan's hospital, providing information that a large number of workers were experiencing serious injuries at the construction project including amputations and fractures. December 4, 2016, the employer reported that a worker on the site had a heart attack and had passed away. I went to the site on 12/6/2016 to investigate the referral and verify whether the fatality was occupationally related and observed what appeared to be workers exposed to fall hazards, *i.e.*, climbing from one level of the scaffolding to another without being continuously protected from a fall hazard.

3. The North American Industry Classification (NAICS) code for MCC is 236220. The Bureau of Labor Statistics has reported that the incident rate for this NAICS code in 2015 was 3.1, and based on the available information, MCC's incident rate is greatly exceeds the national average for 2015. An Excel spreadsheet reflecting approximately 80 serious injuries from that

site logged at CHCC from January 1 through December 6, 2016 is attached hereto as Exhibit 2.

4. A report received by OSHA from a treating physician at CHCC stated that a worker from the MCC site had fallen and broken his back. The treating physician recommended that he be hospitalized and not transported, but the injured person was not allowed to be admitted, and was promptly transported to the People's Republic of China.

5. MCC's mailing address is 3rd Floor Bank of Guam, Garapan, Saipan, MP 96950. MCC's phone number is 670-233-6868. MCC affects interstate commerce in that it uses United States-based phone lines and internet services to order materials and supplies between China and the United States; in addition, MCC purchases fuel for their onsite vehicles such as cranes, trucks, loaders, buses and backhoes, which are all transported or used on U.S. highways. MCC's Imperial Pacific Resort casino construction project is located in Garapan, Saipan, MP 96950.

6. In my capacity as a CSHO, I entered the MCC construction site on December 6, 2016 and presented credentials to Mr. Michael Fejeran, Site Safety Officer. I explained the reason for the inspection, I arrived at the work site at 0850 and was escorted to the MCC main office. At 0900 I was told to wait until the legal representative could be contacted and attend the opening conference. I stated that I could wait 45 minutes for legal counsel and others to arrive. During the wait time, Mr. Fejeran provided me with a copy of the internal investigation of a fatality that occurred at the worksite on December 3, 2016.

7. After a wait time of approximately one-hour, I explained the reason for the inspection, and held an opening conference with Mr. Fejeran, Mr. Chan Sam Gazy, Mr. Ren Deping Jasen, Mr. Liu Yuan Xiong, Mr. Javier Dayat (Safety Consultant), Mr. David Rollera (Safety Consultant), Mr. Alvin Zhem, Mrs. Deb Comacho (Regulatory and Compliance Officer for Best Sunshine), Mr. Aldon Wong (Project Manager for Gold Mantis). Following the opening conference, Mr. Chuck McDonald (Legal Counsel for Imperial Pacific Resort) arrived and I held a brief opening conference with him. Mr. McDonald then asked that I leave the room so he could discuss this situation with the members of the opening conference. Approximately 30

minutes later, Mr. McDonald stated to me that they needed more time to determine what they should do and asked the CSHO to leave. Mr. McDonald stated he would contact me later in the day to discuss. At 1540 I received a phone call from Mr. McDonald stating that he and the MCC attorney would like for me to meet them at their office on 12/7/2016 at 1000 to discuss the situation. Thereupon, I contacted my supervisor and proceeded to explain the refusal of entry by MCC.

8. The inspection and investigation sought herein is part of the referral procedures outlined in Chapter 9 of the Field Operations Manual, designed to assure compliance with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*).

9. This program has been approved by the Secretary of Labor. A true and correct copy of the Field Operations Manual is attached hereto as Exhibit 1.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 12/15/16

Rick Foster
Compliance Safety and Health Officer
U.S. Department of Labor
Occupational Safety and Health Administration

Witnessed:

DATED: Dec. 15, 2016

Hon. Ramona V. Manglona
Chief Judge, District Court
for the Northern Mariana Islands

Month	Visits
January	1
February	1
March	1
April	2
May	4
June	7
July	4
August	6
September	10
October	17
November	19
Dec 1-Dec 8	7
Total	79

Injuries	Total
Hit by moving/falling item	43
Fall from height (1-20 meters)	9
Injured by power tool	12
Cut by metal/wood	7
Pain after lifting	2
Stepped on nail	3
Infected wound	1
Stepped in hole	1
Twisted ankle	1
Electrocution	1
Total	80

Summary of Diagnoses	Total
Laceration	26
Sprain/strain	10
Fingernail avulsion	5
Extremity pain	5
Back pain	2
Abrasion	3
Fracture of bone	7
Puncture wound	3
Foreign body in eye/corneal abrasion	3
Contusion	19
Infected wound	2
Hemorrhagic bursitis	1
Concussion	1
Fingertip amputation	1
Scapular hematoma	1
Closed head injury	3
Rhabdomyolosis	1
Dislocated joints	2
Total	95

Dispo	Total
Discharge, no follow up	49
Discharge, f/u ER	18
Discharge, f/u ophthomologist	3
Discharge, f/u General Surgery	4
Admit	3
Total	77

Company declined one of these
3 admissions, flew pt off island

Detailed Diagnoses
Chest pain
(1) Crush injury, (2) Fingernail avulsion to thumb
Ankle laceration
Shoulder pain
(1) Back abrasion, (2) Thigh abrasion
Back pain
Knee strain
Metallic foreign body in eye
Chest wall abrasion
Head laceration
Hand laceration
Facial laceration
(1) Fingernail avulsion, (2) Distal phalanx fracture
puncture wound
scalp laceration
(1) Calcaneous fracture, (2) Compression fracture of vertebrae
Chin laceration
Shoulder pain
Eyebrow laceration
Eyebrow laceration
Thigh contusion
Nose contusion
Fracture of 1st and 2nd metatarsal
Leg contusion
Chest wall laceration
Wrist laceration
Infected finger
(1) Elbow contusion, (2), Hemorrhagic bursitis
(1) Finger laceration, (2) Tendon laceration
Thumb abscess
Knee sprain
puncture wound
(1) Ankle sprain, (2) Foot sprain
(1) Foreign body in cornea, (2) Corneal abrasion
Rib contusion
Fracture of phalanx of foot
(1) Concussion, (2) Cervical strain, (3) Minor head injury
Knee sprain
(1) Elbow laceration, (2) Contusion
Finger contusion
Traumatic amputation of fingertip
Rib contusion

Shoulder contusion
Ankle sprain
Shoulder strain
Thumb laceration
Scalp laceration
Hematoma of scapula
(1) Corneal foreign body, (2) Corneal rust ring
(1) Head contusion, (2) Wrist contusion
Low back pain
Foot laceration
Chin laceration
Hand sprain
Finger avulsion injury
Shoulder contusion
Crush injury, thumb
Forearm laceration
(1) Closed head injury, (2) Laceration of scalp
Ankle sprain
Thumb laceration
Thumb injury
Minor head injury
Leg contusion
Leg contusion
Foot pain
(1) Finger laceration, (2) Avulsion of finger
Shoulder contusion
Thigh laceration
Jaw dislocation
Puncture wound
Hand laceration
Leg contusion
Abrasion of scapula
Shoulder contusion
(1) Laceration of finger, (2) Distal phalanx fracture
Facial contusions
Rhabdomyolosis
(1) Femoral neck fracture, (2) Elbow dislocation

Enclosure 2

ORIGINAL

FILED
Clerk
District Court
DEC 17 2018
for the Northern Mariana Islands
By_____
(Deputy Clerk)

Bruce Berline, Esq.
Berline & Associates, LLC
Macaranas Building, Second Floor
P.O. Box 5682 CHRB
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Attorney For Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE NORTHERN MARIANA ISLANDS

CV 18-00030

TIANMING WANG, DONG HAN, YONGJUN MENG, LIANGCAI SUN, YOULI WANG, QINGCHUN XU, and DUXIN YANG, Plaintiffs, vs. GOLD MANTIS CONSTRUCTION DECORATION (CNMI), LLC, Defendant.	CIVIL ACTION NO. 18-_____ **COMPLAINT**

INTRODUCTION

1. Plaintiffs are six men from China who paid large fees based on promises of high-paying construction jobs in Saipan. Instead, their employer Gold Mantis - one of the firms hired to construct the Imperial Pacific casino - forced them to labor for long hours for below minimum wage under extremely dangerous conditions.

2. The Imperial Pacific construction site had an injury incidence rate above the national average. There were safety violations in plain sight, and employees received neither adequate training nor protective equipment. Rather than seek to improve conditions on the worksite, Imperial Pacific and its contractors sought to conceal the severity of the problem from government authorities, medical providers, and any other party that might hold them accountable.

3. Each of the Plaintiffs suffered a physical injury while working as an employee of Gold Mantis, including a badly burnt leg, scalded hand, and partially severed finger. Not only did Gold Mantis refuse to take the injured workers to the hospital, but in order to keep hidden their own illegal practices, also threatened Plaintiffs that they risked being arrested if they sought medical attention on their own. Thus, Plaintiffs were left to care for these injuries on their own.

4. Gold Mantis never purchased workers compensation insurance for these employees. Despite the fact that Plaintiffs sustained serious and severe injuries, missed time from work, and paid medical expenses out of their own pockets, Gold Mantis never compensated them a penny for the injuries they suffered at work. Even after Plaintiffs' attorneys contacted Gold Mantis concerning the injuries, Gold Mantis still denied that the workers were its employees and refused to take any responsibility. Accordingly, Plaintiffs now bring this action seeking compensation for the multitude of damages stemming from those injuries.

JURISDICTION

5. This Court has jurisdiction pursuant to the provisions of 28 U.S.C. § 1332(a)(2).

VENUE

6. Venue is proper, pursuant to 28 U.S.C. § 1391(b)(2), because the events giving rise to this cause of action occurred in the Commonwealth of the Northern Mariana Islands.

PARTIES

7. Plaintiff Tianming Wang (Mr. Tianming Wang) is a resident and citizen of the People's Republic of China.

8. Plaintiff Dong Han (Mr. Han) is a resident and citizen of the People's Republic of China.

9. Plaintiff Yongjun Meng (Mr. Meng) is a resident and citizen of the People's Republic of China.

10. Plaintiff Liangcai Sun (Mr. Sun) is a resident and citizen of the People's Republic of China.

11. Plaintiff Youli Wang (Mr. Youli Wang) is a resident and citizen of the People's Republic of China.

12. Plaintiff Duxin Yang (Mr. Yang) is a resident and citizen of the People's Republic of China.

13. Mr. Tianming Wang, Mr. Han, Mr. Meng, Mr. Sun, Mr. Youli Wang, Mr. Xu, and Mr. Yang are referred to collectively as "Plaintiffs".

14. Defendant Gold Mantis Construction Decoration (CNMI), LLC (hereinafter, "Gold Mantis") is, and was at all time relevant hereto, a limited liability company created and existing under CNMI law with its principle office located in Saipan, CNMI.

15. On information and belief, Gold Mantis CNMI is a wholly owned subsidiary of an entity in China (hereinafter, "Gold Mantis China") named either Gold Mantis (International) Construction Decoration Limited, Gold Mantis (China) Construction Decoration Limited, or Suzhou Gold Mantis Construction Decoration Co., Ltd.

16. On information and belief, Gold Mantis China is a public company traded on the Shenzhen stock exchange.

17. On information and belief, towards the end of 2015, Gold Mantis China invested U.S. $30 million into a subsidiary entity in Saipan.

FACTS

Company background

18. Imperial Pacific International (CNMI), LLC (hereinafter, "Imperial Pacific") was granted an exclusive license to build casino resorts in Saipan, CNMI. The first of these was to be built on a site in Garapan on the island of Saipan ("Casino Worksite").

19. Imperial Pacific hired multiple Chinese construction companies to perform the work on the casino resort in Garapan.

20. On information and belief, Gold Mantis signed an agreement with Imperial Pacific for $160 million to perform certain work on the Casino Worksite project.

21. Other construction companies hired by Imperial Pacific for the project include MCC International Saipan Ltd. Co. ("MCC"), Beilida New Materials System Engineering Co. Ltd. ("Beilida"), and Sino Great Wall International Engineering Co. LLC.

Plaintiffs' employment by Gold Mantis

22. Gold Mantis employed roughly 500 Chinese construction workers for the Casino Worksite project, including Plaintiffs.

23. Many of these Chinese construction workers, including Plaintiffs, paid large recruitment fees based on the promise of good jobs in Saipan.

24. In order to get the job with Gold Mantis, several Plaintiffs were required to pay an additional fee out of their own pocket to their supervisor.

25. Plaintiffs were provided shirts and hardhats that said "Gold Mantis" on them.

26. Gold Mantis set Plaintiffs' work schedule and assigned their work duties.

27. Gold Mantis set Plaintiffs' rate of pay and decided whether, when, and how to pay them.

28. Gold Mantis arranged Plaintiffs' housing, meals, and transportation to and from the worksite.

29. Gold Mantis maintained records concerning Plaintiffs' work, including the number of days worked by each Plaintiff.

30. Gold Mantis had the power to hire, fire, and discipline Plaintiffs.

31. Plaintiffs worked for Gold Mantis under abusive and exploitative conditions.

32. A Gold Mantis manager in charge of safety on the site, Mr. Wang Xiong Liu, was regularly present on the site where Plaintiffs worked, frequently told Plaintiffs to pay attention to safety,

and on several occasions made statements at meetings attended by Plaintiffs that the company would not be responsible for workers on tourist visas if they got injured on the job.

33. One particular Gold Mantis supervisor, Xianghu Kong ("Supervisor Kong") often screamed at Plaintiffs.

34. In several cases, Supervisor Kong summarily fired workers in anger over a single incident, such as where an employee took a rest during work.

35. Supervisor Kong intimidated workers by threatening to physically harm any employee who challenged or was not entirely obedient to him.

36. Plaintiffs and their coworkers regularly worked 12 or more hours per day.

37. Plaintiffs were required to work shifts of approximately 24 hours on occasion.

38. Gold Mantis systematically paid workers less than the minimum wage required under applicable laws.

39. Gold Mantis did not keep accurate records of the hours worked by its employees as required by law.

40. In or around March 2017, after federal government authorities such as the Federal Bureau of Investigation, began investigating various contractors on the casino project, Gold Mantis abandoned Plaintiffs and their coworkers on Saipan. Gold Mantis managers and supervisors returned to China while Plaintiffs and their coworkers were left unpaid in their inadequate housing and without food and water.

41. After some supervisors had fled, Mr. Wei Yuan of Gold Mantis came to the workers' dormitory to discuss the number of days they had worked and unpaid wages still owed to them.

42. After numerous protests by Plaintiffs and other employees, Gold Mantis eventually reached a settlement with the U.S. Department of Labor in which it agreed to pay millions of dollars to Plaintiffs and their coworkers for wage and hour violations that occurred during their employment.

Gold Mantis' disregard for the safety of its employees

43. Gold Mantis showed a reckless disregard for safety conditions on the worksite and the safety or well-being of its employees, including Plaintiffs.

44. Gold Mantis did not provide Plaintiffs with adequate training to perform their jobs safely.

45. Gold Mantis did not provide Plaintiffs with the proper protective equipment to perform their jobs safely.

46. Gold Mantis did not purchase workers compensation insurance on behalf of Plaintiffs.

47. Gold Mantis did not post required notices regarding workers compensation in or about the workplace, nor did it make any other effort to inform its employees of their right to compensation for injuries sustained at work.

48. Instead, Gold Mantis told its workers that the company would not have any responsibility if they got injured because they were in Saipan illegally.

49. Gold Mantis did not file the legally required reports with government authorities upon discovering that Plaintiffs or other employees sustained injuries at work, and thus did not provide Plaintiffs with copies of any such reports as required by law.

50. Gold Mantis did not provide or arrange medical care for Plaintiffs and their coworkers who sustained injuries at work.

51. Gold Mantis threatened Plaintiffs by stating that if they sought out medical care on their own, they could face deportation or other troubles with the immigration authorities.

52. Gold Mantis systematically discouraged its employees from contacting government, medical or other authorities outside of the company, including by telling them that they were in Saipan illegally and could be arrested or deported at any time.

Gold Mantis knew of the unsafe conditions on the worksite but failed to respond appropriately

53. Gold Mantis knew of the unsafe conditions on the Casino Worksite, but failed to take appropriate actions to remedy the situation and ensure the safety of its employees.

54. There was a massive number of injuries on the Casino Worksite as untrained and inexperienced workers were being pushed to work round-the-clock under unsafe conditions.

55. As reported in the Saipan Tribune and elsewhere, in February 2016, one MCC worker on the Casino Worksite had his leg crushed after a pipe that was not properly secured fell from a crane.

56. As reported by Bloomberg, the Casino Worksite was filled with widespread dangers: including that generators weren't properly grounded, workers were missing basic equipment such as safety glasses and correct footwear, and welders lacked anything like the necessary training to handle torches.

57. On December 4, 2016, MCC reported to the Occupational Safety and Health Administration (hereinafter, "OSHA") that a worker on the Casino Worksite died of a heart attack.

58. On December 6, 2016, a Compliance Safety and Health Officer (hereinafter, "CSHO") from OSHA went to the Casino Worksite to investigate claims of a large number of workers being seriously injured and a reported worker death due to a heart attack.

59. When the CSHO approached the Casino Worksite, he was able to observe workers exposed to fall hazards because they were climbing between levels of scaffolding without continuous fall protection.

60. The CSHO explained his intention to inspect the Casino Worksite to representatives of the construction companies on the project, including Gold Mantis, but was denied access to the site.

61. According to assistant U.S. attorney James J. Benedetto, the inspection was prompted by "an online complaint by a doctor working at the Commonwealth Health Center's emergency room reporting serious injuries at the project on a daily basis."

62. As part of an application seeking a warrant for OSHA to inspect the worksite, the CSHO filed an affidavit, dated December 15, 2016 ("OSHA Affidavit"), which included a spreadsheet reflecting approximately 80 serious injuries from the worksite logged at the hospital on Saipan ("CHCC") from January 1 to December 6, 2016. The causes of the injuries and number of people injured by each cause included: hit by moving/falling item (43); fall from height of one to twenty meters (9); injured by power tool (12); cut by metal/wood (7); pain after lifting (2); stepped on nail (3); infected wound (1); stepped in hole (1); twisted ankle (1); electrocution (1).

63. The OSHA Affidavit stated that based on this information, the incident rate for injuries on the Casino Worksite "greatly exceeds" the national average.

64. The OSHA Affidavit described a report by a treating physician at CHCC that after someone from the worksite fell and broke his back, and the physician recommended that he be admitted and not transported, the injured person was not allowed to be admitted and was promptly transported to China.

65. Even when presented with all of this evidence, OSHA was still initially refused entry onto the worksite to conduct an inspection.

66. OSHA eventually conducted an inspection of the Casino Worksite from December 16-22, 2016.

67. During this inspection, OSHA found no less than twenty "serious violations" by MCC, Beilida, and Gold Mantis and proposed fines totaling over $191,000.

68. OSHA issued four citations against Gold Mantis for "serious" violations of federal workplace safety rules based on observations made on December 16, 2016. The violations included (1) failure to provide required eye and face protection for employees using a metal cut-off saw; (2) failure to properly store large steel beams, which were stacked in way that could easily fall and strike workers; (3) failure to protect workers from strike-by hazards by permitting the use of a frayed rope to lift large steel beams; and (4) failure to take proper steps to prevent injuries caused by a drill press to its operator and nearby workers.

69. OSHA issued numerous citations against MCC for violations of federal workplace safety rules, including: the presence of holes that were not covered and people could fall through; multiple fall hazards, such as unsecured and unsafe scaffolding; and failing to use compliant reporting forms.

70. One of the OSHA citations against MCC identifies seven workers who were injured in just a three-week period but for whom MCC made no record of their injury and did not report the case to OSHA. These injuries included a cut finger from operating a saw that resulted in amputation and several injuries of workers struck by heavy metal objects.

71. OSHA issued numerous citations against Beilida for violations of federal workplace safety rules, including: failure to properly store compressed gas cylinders; operating torch equipment with broken oxygen gauge needles; multiple fall hazards; permitting workers to walk under a crane with a cart of compressed gas cylinders; and failing to use compliant reporting forms.

72. Even after the OSHA inspection, Gold Mantis and the construction companies on the Casino Worksite project failed to adequately address the dangerous, illegal conditions on the worksite.

73. Even after the OSHA inspection, severe injuries continued to occur, including the death of at least one worker on March 22, 2017.

74. The worker fatality on March 22, 2017 prompted an additional investigation by OSHA, which resulted in citations against Beilida for five "serious" safety violations, including improper planking, missing toe boards, missing X bracing, and improper stair treads.

Plaintiffs' injuries

Tianming Wang

75. On or about February 20, 2017, Mr. Tianming Wang began his employment with Gold Mantis working on the Casino Worksite.

76. In the evening of March 17, 2017, Mr. Tianming Wang was at the construction site cutting a long piece of steel with a torch.

77. The sparks produced by his cutting work ignited a substance in a nearby overturned barrel. The substance in the barrel exploded and a flame shot out of the barrel, engulfing Mr. Tianming Wang's lower left leg.

78. The fire and the explosion incinerated Tianming Wang's pant leg and caused horrific burns on his lower left leg.

79. Mr. Tianming Wang was in excruciating pain and in need of immediate medical assistance.

80. Gold Mantis supervisors and agents were on site at the time of Mr. Tianming Wang's injury.

81. After learning of Mr. Tianming Wang's injuries, Gold Mantis refused to take him to the emergency room, call for emergency medical assistance, or arrange any other form of medical attention.

82. Mr. Tianming Wang was never provided any medical assistance by or through Gold Mantis.

83. Gold Mantis officials told Mr. Tianming Wang that, because he was working in Saipan illegally, he could be arrested if he went to the hospital.

84. Instead of arranging any form of medical attention, Gold Mantis transported Mr. Tianming Wang back to the dormitory and left him to tend to his injuries himself.

85. Mr. Tianming Wang was unable to work after his injury.

86. Mr. Tianming Wang spent hundreds of dollars of his own money to purchase medication to address his injury and pain.

87. Mr. Tianming Wang's physical injury, the fear of immigration authorities, and despair of being unable to obtain adequate medical attention caused him an acute degree of anxiety and distress.

88. To this day, Mr. Tianming Wang still suffers from pain in his lower left leg, which still has not fully healed.

89. Mr. Tianming Wang's extreme burns have resulted in severe scarring and permanent disfigurement.

90. Mr. Tianming Wang's inability to use his left leg for many months has resulted in a weakening of his left leg, muscular imbalances, and a limp that he fears could be permanent.

91. At the Casino Worksite, Gold Mantis did not take appropriate precautions for the sort of work that Mr. Tianming Wang was required to perform. Overturned barrels containing highly flammable substances were left haphazardly about the site.

92. Gold Mantis did not provide Mr. Tianming Wang with necessary training or safety equipment for working with a cutting torch.

93. Gold Mantis never compensated Mr. Tianming Wang for his injuries, and never provided him with any pay for the time that he was unable to work.

Dong Han

94. On or about February 20, 2017, Mr. Han began his employment with Gold Mantis working on the Casino Worksite.

95. On or about March 17, 2017, Mr. Han was loading heavy, metal pipes with other workers when the stack of pipes shifted.

96. The pipes crushed Mr. Han's pinky finger on his right hand causing severe pain, swelling, and bruising.

97. Gold Mantis supervisors and agents were on site at the time of Mr. Han's injury.

98. After learning of Mr. Han's injuries, Gold Mantis refused to take him to the emergency room, call for emergency medical assistance, or arrange any other form of medical attention.

99. Mr. Han was never provided any medical assistance by or through Gold Mantis.

100. Instead of arranging any form of medical attention, Gold Mantis told him to return to the dormitory and rest.

101. Mr. Han was unable to work for a period of time after his injury.

102. As a result of his injuries, Mr. Han has suffered severe pain, a long and painful recovery and rehabilitation process, and still suffers from weakness and diminished use of his right hand.

103. After the accident, Mr. Han was emotionally shaken, with these feelings only amplified by the mistreatment and lack of care by Gold Mantis.

104. Mr. Han's physical injury, concern about earning an income, fear of authorities, and despair of being unable to obtain adequate medical attention caused him an acute degree of anxiety and distress.

105. At the worksite, Gold Mantis did not take appropriate precautions for the sort of work that Mr. Han was required to perform, such as appropriately stacking steel beams on the construction site.

106. Gold Mantis never compensated Mr. Han for his injuries, and never provided him with any pay for the time that he was unable to work.

Yongjun Meng

107. On or about February 14, 2017, Mr. Meng began his employment with Gold Mantis working on the Casino Worksite.

108. Mr. Meng was recruited as a construction worker, but Defendant transferred him to kitchen duty on or around February 26, 2017. Mr. Meng was not provided with any training for this new position.

109. In or around early March 2017, Mr. Meng and two other kitchen workers were loading a large vat of soup onto a vehicle for transport to the construction site. The soup was extremely hot and the vat was very heavy. As the workers were lifting the vat into the vehicle, the soup spilled onto Mr. Meng, causing severe burns to his left hand and left leg.

110. Mr. Meng was in incredible pain and requested that Gold Mantis arrange immediate medical attention.

111. Gold Mantis refused to take Mr. Meng to the emergency room or call for emergency medical assistance. Further, the company told him not to go to the hospital because of his undocumented status.

112. Mr. Meng went to a clinic, where he was given a shot and medicine for the burn.

113. Mr. Meng purchased a cream from the Chinese supermarket to ease his pain on multiple occasions, costing him hundreds of U.S. dollars.

114. Mr. Meng was unable to work after his injury due to the tremendous pain.

115. Prior to his burns healing, Gold Mantis dispatched Mr. Meng's coworker to tell him that he was required to return to work, even though he was still physically unable to do so.

116. The injuries to Mr. Meng's hand rendered him unable to work for months and his severe burns caused him a great deal of pain and suffering. He still suffers from diminished use of his left hand.

117. Mr. Meng's physical pain, the fear of immigration authorities, concern of his growing debts from not earning income and spending money on medical care, and despair of being unable to obtain adequate medical attention caused him an acute degree of anxiety and distress.

118. At the work site, Gold Mantis did not take appropriate safety precautions for the work that Mr. Meng was required to perform. Gold Mantis did not provide adequate equipment or manpower to transport the large vats of scalding hot soup. Mr. Meng was not provided with appropriate gloves or other protective safety equipment for dealing with the hot items. Moreover, the container of boiling hot soup was not appropriately secured to avoid spilling.

119. Gold Mantis never compensated Mr. Meng for his injuries, and never provided him with any pay for the time that he was unable to work.

Liangcai Sun

120. Mr. Sun began working for Gold Mantis on or around January 16, 2017.

121. On or around January 26, 2017, while working in what is now the lobby area of the Imperial Pacific casino, Mr. Sun and another employee were transporting large, heavy boxes. Mr. Sun was attempting to lift and move the box with another worker when it became unsteady. The box fell onto Mr. Sun's left hand, smashing his index finger.

122. Mr. Sun was in incredible pain; his finger was bleeding and his hand swelling. The injury caused a partial amputation of the finger.

123. Gold Mantis supervisors and agents were on site at the time of Mr. Sun's injury.

124. After learning of Mr. Sun's injuries, Gold Mantis refused to take him to the emergency room, call for emergency medical assistance, or arrange any other form of medical attention.

125. Mr. Sun was never provided any medical assistance by or through Gold Mantis.

126. Instead, Mr. Sun's supervisor told him to go home and rest.

127. A co-worker assisted Mr. Sun by purchasing some medicine and a gauze bandage.

128. The next day, due to the unbearable pain, Mr. Sun went on his own to the Marianas Medical Center. He was required to go back for numerous appointments and was told to consult a hand

surgeon. He paid hundreds of dollars of his own money for the consultation alone. However, Mr. Sun was unable to afford the suggested x-ray for his hand.

129. Mr. Sun was not able to work after the injury to his hand.

130. The incident resulted in the total loss of his fingernail.

131. Later on, a doctor at CHC told him that he needed to consult a surgeon concerning the possible need to amputate the tip of his left index finger.

132. Upon his return to China, medical providers there told Mr. Sun that he requires further surgery.

133. To this day, Mr. Sun deals with alternating pain and numbness in his finger, which could permanently affect his usage of his hand and his ability to work.

134. As a result of his injuries, Mr. Sun has suffered severe pain, a long and painful recovery and rehabilitation process, and still suffers from diminished use of his left hand. The partial amputation of the tip of his left index finger caused by the accident has resulted in what could be permanent damage and disfigurement. After the accident, Mr. Sun was emotionally shaken, with these feelings only amplified by the lack of care and mistreatment at the hands of Gold Mantis. To date, Mr. Sun still suffers from continued pain and suffering and diminished use of his left hand.

135. Mr. Sun's physical suffering, trepidation about being arrested or deported, dispair of his growing debts, and sense of helplessness from being unable to obtain adequate medical attention caused him an acute degree of anxiety and distress.

136. Gold Mantis never compensated Mr. Sun for his injury, his inability to work, or his medical expenses, which reached over one thousand U.S. dollars.

Youli Wang

137. Mr. Youli Wang began working for Gold Mantis in or around November 2016.

138. On or about January 20, 2017, while Mr. Youli Wang was loading beams of steel onto a piece of plywood (to then be loaded with a forklift), he and other workers sat on top of the load to

balance it. As the load was lifted, the plywood snapped, sending the load of steel and the workers falling to the ground. This caused the steel pieces to shift, smashing his left hand, fracturing his left ring finger.

139. Mr. Youli Wang was immediately in extreme pain. His finger began swelling and bleeding profusely. His fingernail was torn completely off of his finger.

140. Gold Mantis supervisors and agents were on site at the time of Mr. Youli Wang's injury.

141. Despite Mr. Youli Wang's injuries, Gold Mantis refused to take him to the emergency room, call for emergency medical assistance, or arrange any other form of medical attention.

142. Mr. Youli Wang was never provided any medical assistance by or through Gold Mantis.

143. When he finally was brought (not by Gold Mantis) to CHC many months after his accident, the physician confirmed the fracture of his finger and that the fingernail was now growing into his hand, causing him pain.

144. As a result of his injuries, Mr. Youli Wang has suffered severe pain, a long and painful recovery and rehabilitation process, and still suffers from diminished use of his left hand. His finger still has not healed completely and may require treatment from a specialist. After the accident, he was emotionally shaken, with these feelings only amplified by the lack of care and mistreatment at the hands of Gold Mantis.

145. Mr. Wang Youli's physical suffering, the fear of government authorities, concern of his growing debts from not earning income, and frustration of being unable to obtain adequate medical attention caused him an acute degree of anxiety and distress.

146. Gold Mantis failed to provide appropriate equipment or manpower for the safe movement of this material.

147. Despite Mr. Li's inability to work after his injury, he was not provided with compensation for his lost wages. He also was not provided with any compensation or his injuries.

Qingchun Xu

148. Mr. Xu began working for Gold Mantis on or around February 14, 2017.

149. On several occasions, Mr. Xu was required to work a shift lasting a full day and then return to work roughly eight hours later.

150. On or about March 30, 2017, Mr. Xu was working at the Casino Worksite moving very heavy pieces of stone.

151. Mr. Xu and another worker were using ropes to lift a piece of stone up the stairs. However, the stone was too heavy and fell onto Xu's left lower leg, inverting his ankle, and causing a sprain.

152. Mr. Xu was in a tremendous amount of pain and could not walk on his left ankle.

153. Gold Mantis refused to take Mr. Xu to the emergency room, call for emergency medical assistance, or arrange any other form of medical attention.

154. Mr. Xu was never provided any medical assistance by or through Gold Mantis.

155. Mr. Xu went to a small medical clinic on his own and paid for the costs himself.

156. As a result of his injuries, Mr. Xu has suffered severe pain, a long and painful recovery and rehabilitation process, and still suffers from diminished use of his left ankle. After the accident, Mr. Xu was emotionally shaken, with these feelings only amplified by the lack of care and mistreatment at the hands of Gold Mantis.

157. Mr. Xu's physical pain, the fear of being arrested or deported, concern of his growing debts from not earning income, and despair of being unable to obtain adequate medical attention caused him an acute degree of anxiety and distress.

158. Gold Mantis did not provide the appropriate equipment or manpower for the safe movement of this material.

159. Despite Mr. Xu's inability to work after his injury, he was not provided with compensation for his lost wages. Gold Mantis also never compensated Mr. Xu for his injuries, and never reimbursed him for the money he spent on his own medical care.

Duxin Yang

160. Mr. Yang began working for Gold Mantis on or around December 3, 2016.

161. In or around mid-December, 2016, Mr. Yang was at the Casino Worksite moving heavy pieces of plaster. While moving a large piece along the floor, it fell over and crushed the middle finger on his right hand. The finger swelled immediately and was bleeding badly. Mr. Yang was in a tremendous amount of pain and could not use his right hand.

162. Gold Mantis personnel was on the site when Mr. Yang was injured and was aware of his injury.

163. Gold Mantis refused to take Mr. Yang to the emergency room, call for emergency medical assistance, or arrange any other form of medical attention.

164. Mr. Yang was never provided any medical assistance by or through Gold Mantis.

165. Several weeks after the accident, Mr. Yang went to CHC because he was still suffering from his badly injured finger.

166. As a result of his injuries, Mr. Yang has suffered severe pain, a long and painful recovery and rehabilitation process, and still suffers from diminished use of his hand. After the accident, Mr. Yang was emotionally shaken, with these feelings only amplified by the lack of care and mistreatment at the hands of Gold Mantis.

167. Mr. Yang's physical pain, the fear of being arrested or deported, concern of his growing debts from not earning income, and despair of being unable to obtain adequate medical attention caused him an acute degree of anxiety and distress.

168. Gold Mantis did not provide the appropriate equipment or manpower for the safe movement of the heavy pieces of plaster.

169. Despite Mr. Yang's inability to work after his injury, he was not provided with compensation for his lost wages.

170. Gold Mantis also never compensated Mr. Yang for his injuries.

Gold Mantis' failure to secure compensation

171. Despite the fact that Gold Mantis was aware of Plaintiffs' injuries at the time they occurred, Gold Mantis did not follow the procedures required by law to record and report workplace injuries, nor did Gold Mantis compensate workers for their injuries.

172. The fact that Plaintiffs suffered injuries while working for Gold Mantis was published in local newspapers in 2017.

173. When Plaintiffs asked Gold Mantis' lawyers about compensation for their work-related injuries while preparing to depart Saipan for China, they were told that a company representative would meet them at the airport in China to discuss the matter. Nobody from the company met them in China to discuss this.

174. In late 2017, Plaintiffs' counsel sent letters to Gold Mantis' representative detailing the injuries they suffered while employed by Gold Mantis, including the time, place, nature, and cause of the injuries.

175. In response to the aforementioned letters, Gold Mantis responded by denying that Plaintiffs were employees of Gold Mantis and stating that it would not settle Plaintiffs' injury claims.

176. In response to the aforementioned letters, Gold Mantis did not file any injury report or take any other step towards securing compensation for Plaintiffs.

FIRST CAUSE OF ACTION
NEGLIGENCE

177. Plaintiffs repeat, re-allege, and incorporate herein by reference, each and every allegation contained in the preceding paragraphs.

178. Gold Mantis had a duty to Plaintiffs, both as its employees and/or as workers on its construction site, including but not limited to: ensuring a safe worksite, working environment, and working conditions; ensuring the use of safe work practices; and providing appropriate safety equipment and safety training.

179. Gold Mantis breached its duty to Plaintiffs by, amongst other things:

a. Failing to provide a safe worksite and safe working conditions;

b. Failing to comply with federal government regulations concerning workplace safety;

c. Failing to provide appropriate equipment to complete the assigned tasks;

d. Failing to provide appropriate safety training;

e. Failing to provide appropriate protective equipment to workers;

f. Failing to purchase or arrange workers' compensation insurance;

g. Failing to report workers' injuries; and

h. Failing to respond appropriately to injuries.

180. The above actions or inactions by Gold Mantis were the direct and proximate cause of the injuries and damages suffered by Plaintiffs, including but not limited to physical injuries, pain and suffering, medical costs, future medical or other treatment, loss of wages, and other damages.

181. Gold Mantis's conduct constitutes gross negligence, and/or a reckless and/or malicious and/or willful, wanton disregard of Plaintiffs' rights, well-being, or safety.

SECOND CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

182. Plaintiffs repeat, re-allege, and incorporate herein by reference, each and every allegation contained in the preceding paragraphs.

183. Rather than take all possible steps to ensure the safety of Plaintiffs and its other employees, Gold Mantis not only permitted unsafe conditions to persist but also took steps to prevent government and other authorities from detecting these unsafe conditions.

184. After each Plaintiff suffered his injury, Gold Mantis refused to provide or arrange for the provision of appropriate medical attention to that Plaintiff.

185. To the contrary, Gold Mantis affirmatively sought to prevent Plaintiffs from seeking medical attention through a variety of threats and intimidation tactics.

186. When Plaintiffs needed time to recover from their injuries, Gold Mantis refused to provide them with paid time off.

187. Gold Mantis did not compensate Plaintiffs in any way for the injuries sustained while at work or other costs or damages stemming from those injuries.

188. Gold Mantis' conduct was extreme and outrageous.

189. Gold Mantis intentionally, recklessly, and/or knew or should have known its actions were certain or substantially likely to cause, worsen, or prevent from improving physical harm and/or severe emotional distress to Plaintiffs, including but not limited to fright, horror, grief, anger, disappointment, worry, despair, and helplessness of an acute and severe nature.

190. Gold Mantis's conduct constitutes gross negligence, and/or a reckless and/or malicious and/or willful, wanton disregard of Plaintiffs' rights, well-being, or safety.

PRAYER FOR RELIEF

191. WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

(1) General damages in an amount to be proven at trial;

(2) Special damages in an amount to be proven at trial;

(3) Punitive damages in an amount to be proven at trial;

(4) Costs of this suit; and

(5) Such other and further relief as the court may deem just and proper.

DEMAND FOR JURY TRIAL

192. Plaintiffs hereby demand a trial by jury.

DATED this 17th day of December, 2018.

BERLINE & ASSOCIATES, LLC

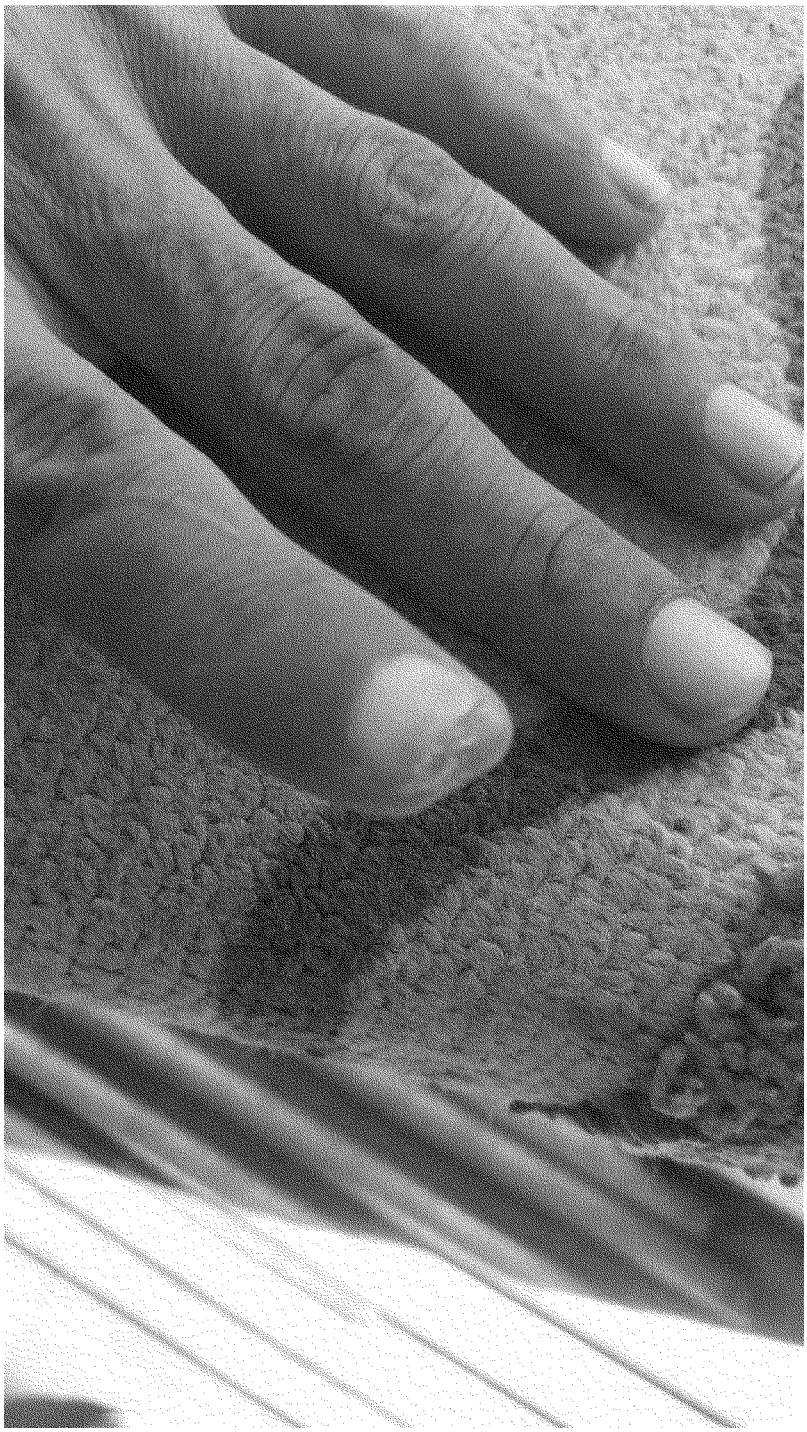
/s/

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Enclosure 3









STATEMENT BY JAIME PLA CORTES

EXECUTIVE PRESIDENT - PUERTO RICO HOSPITAL ASSOCIATION

before the

U.S. Senate Energy and Natural Resources Committee
Hearing to Examine: The State of the U.S. Territories

Tuesday, February 26, 2019

Madame Chair Murkowski, Ranking Member Manchin and Committee Members:

Thank you for the opportunity to share my statement on behalf of the Puerto Rico Hospital Association (PRHA) representing our 65 hospital members and 40 thousand health care professionals and staff. Hospitals are the core of our island's health care system and vital to the quality of life for our 3.4 million U.S. Citizens residing in our Territory; the Commonwealth of Puerto Rico.

The focus of my statement is to draw your attention to the impending "Medicaid Cliff" facing Puerto Rico's Medicaid system in the third quarter of 2019. Without action by Congress, we face the devastating loss of 85% of our Federal Medicaid funding forcing a large number of Medicaid enrollees to lose their coverage and jeopardizing the financial viability of our island's hospital system.

BACKGROUND:

Like many States, America's largest Territory; Puerto Rico, operates its Medicaid system by enlisting managed care to serve a jurisdiction of 3.5 million U.S. Citizens. However, that is where the similarity ends as Puerto Rico's eligibility for Federal Medicaid funding is capped at $375 million annually; limiting the total amount of funding it can receive in comparison to



any State which operates with no cap. Oregon for example has a similar population size although with a much smaller poverty level and still receives $5 billion in Federal Medicaid funding.

An estimated 1.25 million of PR's population is now eligible for Medicaid. Hurricane Maria left the island with a weaker economy and reduced population. However, the Medicaid eligible population has increased as a proportion of the population and the majority of newborns today are Medicaid eligible.

Every health care provider in PR is a Medicaid provider including all hospitals, doctors and community health care centers. Without action by Congress, its projected that PR will lose an estimated 85% of its Federal funding later in 2019, when the Cliff occurs with terrible consequences for the local health care system. To maintain the current level of overall Medicaid funding, it will require an allocation of at least $1.625 Billion in Federal funding to just stay even while returning to the 55% FMAP.

We argue it's time to come up with a permanent solution that provides long term stability to our health care system and positions our hospitals to retain our doctors and health care professionals currently being recruited away by better salaries and stable health care systems Stateside.

In previous years, Puerto Rico health care providers have asked to lift this cap and provide for equitable treatment under Medicaid. Congress last attempted to address this need in the FY 2018 by providing for an allocation of additional funds with the anticipation that these funds would be exhausted in the last quarter of FY 2019. Congress also waived the FMAP requirement to provide a local match due to the devastating impact of the hurricane on



local government finance. CMS has also certified that PR's Medicaid system has met the requirements to establish a Medicaid Fraud Unit and provide for better data collection. Time has now passed, and these additional funds are now projected to be exhausted at the end of the

Federal Government's FY 2019; only one quarter of the way through Puerto Rico's fiscal year.

A PERMANENT SOLUTION NOW IS NEEDED DURING THE FIRST QUARTER OF 2019:

The Puerto Rico Medicaid system needs to enter into contracts for its FY 20 Medicaid Program by the end of April, 2019. Without the confidence of certainty regarding the level of funding available, it will be very difficult to attract willing contractors to administer and implement a managed care system between July 1, 2019, and June 30, 2020. The current fiscal state of the local government prevents it from making up any of the difference; something no State would be asked to do.

We propose removing the current statutory cap to allow equal access for Medicaid funding need to maintain a quality health care system for the 1.25 million Medicaid eligibles in Puerto Rico. Frankly, the uncertainty of Federal funding complicates our ability to retain and recruit doctors and other vital health care professionals who are constantly tempted to leave our island for higher salaries elsewhere in the United States.

We ask that a provision be included in the first available Federal funding package to be acted on by Congress to provide for continuity for Puerto Rico's health care system. We've suggested language which provides a



permanent solution to prevent the Cliff from occurring in the coming year by eliminating the statutory cap on Puerto Rico's Medicaid funds.

PR's health system and its hospitals are under a tremendous amount of financial stress as a result of the island's weak economy and overall underfunding by Medicaid. The lack of certainty regarding funding complicates the ability to meet CMS requirements for operation of PR's Medicaid program for the coming Fiscal Year beginning July 1, 2019.

Here's the sense of urgency: Many doctors and health care professionals would prefer to remain in their homes in Puerto Rico, but the lack of certainty is weakening their resistance to being recruited away. Hospitals are laying off workers and continue to reduce services. It will take many years to recover the current capacity of PR's health care system if more talented and experienced health professionals leave the island. By providing certainty through a permanent solution, Congress can provide the needed sense of confidence PR's hospitals necessary to continue providing the high level of quality care expected by patients and the Federal government and help retain top medical staff.

We also note that Congress has continually faced this issue of the Medicaid Cliff and removing the cap will eliminate the need for Congress to return to the issue time and time again. Removing the statutory cap will be the permanent solution to this perennial problem facing Puerto Rico and the Congress.

ASOCIACIÓN DE HOSPITALES
DE PUERTO RICO
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We are prepared to collaborate and provide whatever information is necessary to address this issue and look forward to working with you.

Cordially,

Jaime Pla Cortes
Executive President
Asociación de Hospitales de P.R.
Villa Nevarez Prof. Center
120 Calle 2 Suite 101
San Juan, PR 00927
787-764-0290



STATEMENT BY RODRIGO MASSES

PRESIDENT OF THE PUERTO RICO MANUFACTURERS ASSOCIATION

before the

U.S. Senate Energy and Natural Resources Committee
Hearing to Examine: *The State of the U.S. Territories*

Tuesday, February 26, 2019

Madame Chair Murkowski, Ranking Member Manchin and Committee Members:

Thank you for the opportunity to share our statement and especially for your interest in the 3.4 million U.S. Citizens residing in Puerto Rico, a US jurisdiction larger in population than twenty States, as it pertains to the status of our Territory; the Commonwealth of Puerto Rico.

I serve as the elected Chairman of the Puerto Rico Manufacturers Association ("PRMA"). PRMA is the primary voice of the private sector and especially, Puerto Rico's manufacturing. Our Members are the principal business sector driving the island's economy for the last 50 years. Our members generate approximately 350,000 American jobs in the Island, produce close to 50% of Puerto Rico's GDP, and has been the island's primary wellspring of tax revenue for decades.

The subject of this hearing and the questions to be asked are not only vital for restoring the quality of life for those living in Puerto Rico but a priority task required to revitalize our economy and reverse our island's rapid loss of population to other locations in the United States. PRMA has been leading efforts focused on the need for meaningful, long term economic growth, necessary to improve the wellbeing of our people but also to stem the migration to the mainland.

Manufacturing and its economic ecosystem are the primary engine creating middle class jobs on our island. Its health and growth is critical for two critical long term challenges facing Puerto Rico: creating employment opportunities and the need for tax revenue to address the needs of the local government. Without growth, we will continue to see a brain drain as our young people continue to leave, the middle class shrinks, and the government struggles to provides services and maintain infrastructure.

PRMA has led efforts to focus on the need for transparency to protect the interests of taxpayers during recovery efforts from Hurricane Maria as well as the transition underway for the Puerto Rico Electric Power Authority (PREPA). PRMA also focuses on the need for low-cost, reliable electric power to serve our economy, as well as fostering Federal and

local tax policies designed to stimulate economic growth and investment. Without growth, Puerto Rico will never successfully meet its challenges.

Although there has been a significant short-term stimulus to the economy from the inflow of federal funds, particularly from FEMA, these funds have a limited time frame and their impact is temporary. Obviously, they have had an important impact on reconstructing the Island's infrastructure, although much remains to be done. In fact, when analyzing economic indicators, it becomes clear that as the flow of these funds slowed in the last quarter of 2018, the economy showed signs of weakening.

We cannot lose sight of two key factors: One being that prior to the hurricane the economy had been in free fall for over a decade and that reconstruction was needed, not just from the hurricane, but from a long and deep economic contraction. The other factor is that the impact of federal funds has done little to stimulate the productive capacity of the Island. In short, in order for Puerto Rico to recover a sustained growth path much more needs to be done than is currently underway. Puerto Rico needs an agreed upon, long term economic growth strategy.

LET'S FOCUS ON THE NEED FOR ECONOMIC GROWTH:

PRMA continues to urge your Committee and Congress to focus its oversight and legislative agenda for Puerto Rico on removing roadblocks to economic growth including:

1. Assure that the flow of federal hurricane recovery funds to the Island is maintained in a transparent and timely fashion. This is particularly necessary with respect to Development Block Grant for Disaster Recovery Program (CDBG-DR) funds. Although $20 billion was initially allocated after the hurricane, only $1.5 billion has been made available and has yet to be spent on reconstruction. This initial amount includes $150 million for economic development, a welcome allocation, but not significant when economic needs are factored in. The CDBG-DR funds will provide space and time for the Island to establish the foundations for sustained growth. There is still much reconstruction work to be done that should be dealt with immediately in order to permit an economic recovery through improved infrastructure. We also need to ensure transparency on how these funds are administered and spent.

2. The recent decision by the First Circuit Court of Appeals concerning the Fiscal Oversight and Management Board (FOMB) introduces a great deal of uncertainty in terms of the prospects for future initiatives towards a solution of the debt crisis and initiatives for economic development. The Committee should consider



the implications of the decision and take steps to assure that it does not impact Puerto Rico's longer term prospects.

3. The PRMA has been aggressively pursuing solutions to the energy situation in Puerto Rico characterized by high costs, dependency on imported petroleum and unreliable service. We have previously made a series of recommendations to this Committee and the bipartisan economic Task Force created by PROMESA to stimulate economic growth, including increased involvement by the appropriate federal regulatory entities in Puerto Rico's energy system restructuring. At the moment the legislature is considering legislation being promoted by the Governor to deal with the energy issue and steps are being taken to privatize the production and distribution system; initiatives that we generally support. We continue to work aggressively with the local government to ensure transparency throughout this process.

4. Puerto Rico and the Territories are the only locations within the United States treated as foreign under the U.S. Tax Code. We are U.S. soil with U.S. workers subject to U.S. laws impacting the operations of manufacturing whose income is treated as foreign under the recently enacted Tax Cuts & Jobs Act (TCJA). Congress' decision to treat income earned in Puerto Rico the same as our foreign competition with their lower operating costs has a direct impact on Puerto Rico's economic prospects by significantly reducing its attractiveness for investment and operations. Our first concern is maintaining our manufacturing base that economists project will slowly erode to lower cost foreign locations. Again, we note that our economists tell us that without our manufacturing base, Puerto Rico's middle class will have little choice but to leave our island seeking other opportunities.

   As the Committee is aware, 90 years of Federal tax policy designed to attract manufacturing to Puerto Rico was successful, resulting in a sophisticated pharmaceutical, medical devices and electronics sector supporting much of our island's middle class. However, when this policy was ended in 2006, Puerto Rico lost one half of its manufacturing base within a few years pushing the economy of our island into a major contraction from which it has still to recover.

   We urge Congress to reconsider the TCJA's treatment of Puerto Rico manufacturing income and provide for a "competitive differential" versus income earned by U.S. companies operating in other foreign venues such as the Dominican Republic. We believe it's fair to treat those who employ U.S. Citizens on U.S. soil more favorably than those who employ foreign citizens on foreign soil.

INDUSTRIALES
PUERTO RICO
MANUFACTURA ▩ SERVICIO ▩ COMPETITIVIDAD ▩

Again, we thank the Committee for the opportunity to share our statement with you today. Economic growth is the only real solution to Puerto Rico's challenges and we look forward to working with your Committee and the Congress to advance real solutions.

Rodrigo Masses

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Attached: addendum A – Economic charts

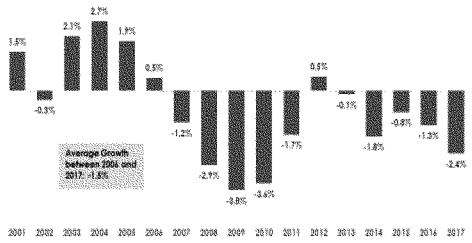
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Addendum A

ECONOMIC CONTEXT

- María impacted an economy that is 17% smaller than in fiscal year 2006. This made the island extremely fragile and reduced the Government's capacity to react quickly.

Real GNP Growth in Puerto Rico
Fiscal Years – 2001-2017



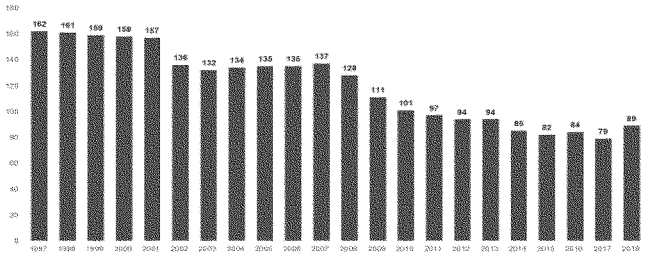
Source: P.R. Planning Board (2018), Statistical Appendix (Various Years)

Estudios Técnicos Inc.

Source: PR Planning Board

3

Employment in Manufacturing



Estudios Técnicos Inc.

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