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Part I

AMENDING THE JOINT RESOLUTION APPROVING THE COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND FOR OTHER PURPOSES

DECEMBER 4, 2007.—Ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 3079]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3079), having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

TITLE I—NORTHERN MARIANA ISLANDS IMMIGRATION, SECURITY, AND LABOR ACT

SECTION 101. SHORT TITLE.

This title may be cited as the "Northern Mariana Islands Immigration, Security, and Labor Act".

SEC. 102. STATEMENT OF CONGRESSIONAL INTENT.

(a) IMMIGRATION AND GROWTH.—In recognition of the need to ensure uniform adherence to long-standing fundamental immigration policies of the United States, it is the intention of Congress in enacting this title—

(1) to ensure that effective border control procedures are implemented and observed, and that national security and homeland security issues are properly addressed, by extending the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(17)), to apply to the Commonwealth of the Northern Mariana Islands (referred to in this title as the "Commonwealth"), with special provisions to allow for—

(A) the orderly phasing-out of the nonresident contract worker program of the Commonwealth; and

(B) the orderly phasing-in of Federal responsibilities over immigration in the Commonwealth; and

(2) to minimize, to the greatest extent practicable, potential adverse economic and fiscal effects of phasing-out the Commonwealth's nonresident contract worker program and to maximize the Commonwealth's potential for future economic and business growth by—

(A) encouraging diversification and growth of the economy of the Commonwealth in accordance with fundamental values underlying Federal immigration policy;

(B) recognizing local self-government, as provided for in the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America through consultation with the Governor of the Commonwealth;

(C) assisting the Commonwealth in achieving a progressively higher standard of living for citizens of the Commonwealth through the provision of technical and other assistance;

(D) providing opportunities for individuals authorized to work in the United States, including citizens of the freely associated states; and

(E) providing a mechanism for the continued use of alien workers, to the extent those workers continue to be necessary to supplement the Commonwealth's resident workforce, and to protect those workers from the potential for abuse and exploitation.

(b) AVOIDING ADVERSE EFFECTS.—In recognition of the Commonwealth's unique economic circumstances, history, and geographical location, it is the intent of Congress that the Commonwealth be given as much flexibility as possible in maintaining existing businesses and other revenue sources, and developing new economic opportunities, consistent with the mandates of this title. This title, and the amendments made by this title, should be implemented wherever possible to expand tourism and economic development in the Commonwealth, including aiding prospective tourists in gaining access to the Commonwealth's memorials, beaches, parks, dive sites, and other points of interest.

SEC. 103. IMMIGRATION REFORM FOR THE COMMONWEALTH.

(a) AMENDMENTS TO THE JOINT RESOLUTION TO APPROVE THE COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA.—The Joint Resolution to Approve the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America", and for other purposes, approved March 24, 1976 (Public Law 94–241; 90 Stat. 263), is amended by adding at the end the following new section:

"SEC. 3. IMMIGRATION AND TRANSITION.

"(a) APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT AND ESTABLISHMENT OF A TRANSITION PROGRAM.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), effective on the first day of the first full month commencing 1 year after the date of enactment of the Northern Mariana Islands Immigration, Security, and Labor Act (hereafter referred to as the 'transition program effective date'), the provisions of the 'immigration laws' (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) shall apply to the Commonwealth of the Northern Mariana Islands (referred to in this section as the 'Commonwealth'), except as otherwise provided in this section.

"(2) TRANSITION PERIOD.—There shall be a transition period beginning on the transition program effective date and ending December 31, 2013, except as provided in subsections (b) and (d), during which the Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of the Interior, shall establish, administer, and enforce a transition program to regulate immigration to the Commonwealth, as provided in this section (hereafter referred to as the 'transition program').

"(3) DELAY OF COMMENCEMENT OF TRANSITION PERIOD.—

"(A) IN GENERAL.—The Secretary of Homeland Security, in the Secretary's sole discretion, in consultation with the Secretary of the Interior, the Secretary of Labor, the Secretary of State, the Attorney General, and the Governor of the Commonwealth, may request that the transition program effective date be delayed for a period not to exceed more than 180 days after such date.

"(B) CONGRESSIONAL NOTIFICATION.—The Secretary of Homeland Security shall notify the Congress of a request under subparagraph (A) not later than 30 days prior to the transition program effective date.

"(C) CONGRESSIONAL REVIEW.—A delay of the transition program effective date shall not take effect until 30 days after the date on which the request under subparagraph (A) is made.

"(4) REQUIREMENT FOR REGULATIONS.—The transition program shall be implemented pursuant to regulations to be promulgated, as appropriate, by the head of each agency or department of the United States having responsibilities under the transition program.

"(5) INTERAGENCY AGREEMENTS.—The Secretary of Homeland Security, the Secretary of State, the Secretary of Labor, and the Secretary of the Interior shall negotiate and implement agreements among their agencies to identify and assign their respective duties so as to ensure timely and proper implementation of the provisions of this section. The agreements should address, at a minimum, procedures to ensure that Commonwealth employers have access to adequate labor, and that tourists, students, retirees, and other visitors have access to the Commonwealth without unnecessary delay or impediment. The agreements may also allocate funding between the respective agencies tasked with various responsibilities under this section.

"(6) CERTAIN EDUCATION FUNDING.—Except as otherwise provided, fees collected pursuant to section 703(b) shall be paid into the Treasury of the Commonwealth government for the purpose of funding ongoing vocational educational curricula and program development by Commonwealth educational entities. Fees paid into the Treasury of the Commonwealth under this paragraph shall not exceed fees collected by the Commonwealth government under local law and deposited into the Nonresident Worker Fee Fund for the year preceding the date of enactment of the Northern Mariana Islands Immigration, Security, and Labor Act and shall only be paid under this subsection for the duration of the transition program period.

"(7) ASYLUM.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) shall not apply during the transition period to persons physically present in the Commonwealth or arriving in the Commonwealth (whether or not at a designated port of arrival), including persons brought to the Commonwealth after having been interdicted in international or United States waters.

"(b) NUMERICAL LIMITATIONS FOR NONIMMIGRANT WORKERS.—An alien, if otherwise qualified, may seek admission to Guam or to the Commonwealth on or after the transition program effective date as a nonimmigrant worker under section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) without counting against the numerical limitations set forth in section 214(g) of such Act (8 U.S.C. 1184(g)). This subsection does not apply to any employment to be performed outside of Guam or the Commonwealth.

"(c) NONIMMIGRANT INVESTOR VISAS.—

"(1) IN GENERAL.—Notwithstanding the treaty requirements in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), during the transition period, the Secretary of Homeland Security may, upon the application of an alien, classify an alien as a CNMI-only nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien—

"(A) has been admitted to the Commonwealth in long-term investor status under the immigration laws of the Commonwealth before the transition program effective date;

"(B) has continuously maintained residence in the Commonwealth under long-term investor status;

"(C) is otherwise admissible; and

"(D) maintains the investment or investments that formed the basis for such long-term investor status.

"(2) REQUIREMENT FOR REGULATIONS.—Not later than 180 days after the transition program effective date, the Secretary of Homeland Security shall publish regulations in the Federal Register to implement this subsection.

"(3) INTERIM PROCEDURES.—The Secretary of Homeland Security shall treat an alien who meets the requirements of paragraph (1) as a nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) until the regulations implementing this subsection are published.

"(d) SPECIAL PROVISION TO ENSURE ADEQUATE EMPLOYMENT; COMMONWEALTH ONLY TRANSITIONAL WORKERS.—An alien who is seeking to enter the Commonwealth as a nonimmigrant worker may be admitted to perform work during the transition period subject to the following requirements:

"(1) Such an alien shall be treated as a nonimmigrant described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), including the ability to apply, if otherwise eligible, for a change of nonimmigrant clas-

sification under section 248 of such Act (8 U.S.C. 1258), or adjustment of status, if eligible therefor, under this section and section 245 of such Act (8 U.S.C. 1255).

"(2) The Secretary of Homeland Security shall establish, administer, and enforce a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers for each such nonimmigrant worker described in this subsection who would not otherwise be eligible for admission under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.). In adopting and enforcing this system, the Secretary shall also consider, not later than 30 days after receipt by the Secretary, any comments and advice submitted by the Governor of the Commonwealth. This system shall provide for a reduction in the allocation of permits for such workers on an annual basis, to zero, during a period not to extend beyond December 31, 2013, unless extended pursuant to paragraph 5 of this subsection, and shall take into account the number of petitions granted under subsection (i). In no event shall a permit be valid beyond the expiration of the transition period. This system may be based on any reasonable method and criteria determined by the Secretary of Homeland Security to promote the maximum use of, and to prevent adverse effects on, wages and working conditions of workers authorized to be employed in the United States, including lawfully admissible freely associated state citizen labor. No alien shall be granted nonimmigrant classification or a visa under this subsection unless the permit requirements established under this paragraph have been met.

"(3) The Secretary of Homeland Security shall set the conditions for admission of such an alien under the transition program, and the Secretary of State shall authorize the issuance of nonimmigrant visas for such an alien to engage in employment only as authorized in this subsection. Such a visa shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)), except admission to the Commonwealth. An alien admitted to the Commonwealth on the basis of such a visa shall be permitted to engage in employment only as authorized pursuant to the transition program.

"(4) Such an alien shall be permitted to transfer between employers in the Commonwealth during the period of such alien's authorized stay therein, without advance permission of the employee's current or prior employer, within the alien's occupational category or another occupational category the Secretary of Homeland Security has found requires alien workers to supplement the resident workforce.

"(5)(A) Not later than 180 days prior to the expiration of the transition period, or any extension thereof, the Secretary of Labor, in consultation with the Secretary of Homeland Security, the Secretary of the Interior, and the Governor of the Commonwealth, shall ascertain the current and anticipated labor needs of the Commonwealth and determine whether an extension, in up to a 5-year increment, of the provisions of this subsection are necessary to ensure an adequate number of workers will be available for legitimate businesses in the Commonwealth. For the purpose of this subparagraph, a business shall not be considered legitimate if it engages directly or indirectly in prostitution, trafficking in minors, or any other activity that is illegal under Federal or local law. The determinations of whether a business is legitimate and to what extent, if any, it may require alien workers to supplement the resident workforce, shall be made by the Secretary of Homeland Security, in the Secretary's sole discretion, and shall not be reviewable.

"(B) If the Secretary of Labor determines that such an extension is necessary to ensure an adequate number of workers for legitimate businesses in the Commonwealth, the Secretary of Labor may, through notice published in the Federal Register, provide for 1 or more extension periods of up to 5 years for each such extension period.

"(C) In making the determination of whether alien workers are necessary to ensure an adequate number of workers for legitimate businesses in the Commonwealth, and if so, the number of such workers that are necessary, the Secretary of Labor may consider, among other relevant factors—

"(i) government, industry, or independent workforce studies reporting on the need, or lack thereof, for alien workers in the Commonwealth's businesses;

"(ii) the unemployment rate of United States citizen workers residing in the Commonwealth;

"(iii) the unemployment rate of aliens in the Commonwealth who have been lawfully admitted for permanent residence;

"(iv) the number of unemployed alien workers in the Commonwealth;

"(v) any good faith efforts to locate, educate, train, or otherwise prepare United States citizen residents, lawful permanent residents, and unemployed alien workers already within the Commonwealth, to assume those jobs;

"(vi) any available evidence tending to show that United States citizen residents, lawful permanent residents, and unemployed alien workers already in the Commonwealth are not willing to accept jobs of the type offered;

"(vii) the extent to which admittance of alien workers will affect the compensation, benefits, and living standards of existing workers within those industries and other industries authorized to employ alien workers; and

"(viii) the prior use, if any, of alien workers to fill those industry jobs, and whether the industry is overly and unnecessarily reliant on alien workers.

"(6) The Secretary of Homeland Security may authorize the admission of a spouse or minor child accompanying or following to join a worker admitted pursuant to this subsection.

"(e) PERSONS LAWFULLY ADMITTED UNDER THE COMMONWEALTH IMMIGRATION LAW.—

"(1) PROHIBITION ON REMOVAL.—

"(A) IN GENERAL.—Subject to subparagraph (B), no alien who is lawfully present in the Commonwealth pursuant to the immigration laws of the Commonwealth on the transition program effective date shall be removed from the United States on the grounds that such alien's presence in the Commonwealth is in violation of section 212(a)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)), until the earlier of the date—

"(i) of the completion of the period of the alien's admission under the immigration laws of the Commonwealth; or

"(ii) that is 2 years after the transition program effective date.

"(B) LIMITATIONS.—Nothing in this subsection shall be construed to prevent or limit the removal under subparagraph 212(a)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)) of such an alien at any time, if the alien entered the Commonwealth after the date of enactment of the Northern Mariana Islands Immigration, Security, and Labor Act, and the Secretary of Homeland Security has determined that the alien entered the Commonwealth in violation of this section.

"(2) EMPLOYMENT AUTHORIZATION.—An alien who is lawfully present and authorized to be employed in the Commonwealth pursuant to the immigration laws of the Commonwealth on the transition program effective date shall be considered authorized by the Secretary of Homeland Security to be employed in the Commonwealth until the earlier of the date—

"(A) of expiration of the alien's employment authorization under the immigration laws of the Commonwealth; or

"(B) that is 2 years after the transition program effective date.

"(3) REGISTRATION.—The Secretary of Homeland Security may require any alien present in the Commonwealth on or after the transition period effective date to register with the Secretary in such a manner, and according to such schedule, as he may in his unreviewable discretion require. Paragraphs (1) and (2) of this subsection shall not apply to any alien who fails to comply with such registration requirement. Notwithstanding any other law, the Government of the Commonwealth shall provide to the Secretary all Commonwealth immigration records or other information that the Secretary deems necessary to assist the implementation of this paragraph or other provisions of the Northern Mariana Islands Immigration, Security, and Labor Act. Nothing in this paragraph shall modify or limit section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or other provision of the Immigration and Nationality Act relating to the registration of aliens.

"(4) REMOVABLE ALIENS.—Except as specifically provided in paragraph (1)(A) of this subsection, nothing in this subsection shall prohibit or limit the removal of any alien who is removable under the Immigration and Nationality Act.

"(5) PRIOR ORDERS OF REMOVAL.—The Secretary of Homeland Security may execute any administratively final order of exclusion, deportation or removal issued under authority of the immigration laws of the United States before, on, or after the transition period effective date, or under authority of the immigration laws of the Commonwealth before the transition period effective date, upon any subject of such order found in the Commonwealth on or after the transition period effective date, regardless whether the alien has previously been removed from the United States or the Commonwealth pursuant to such order.

"(f) EFFECT ON OTHER LAWS.—The provisions of this section and of the immigration laws, as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)), shall, on the transition program effective date, supersede and replace all laws, provisions, or programs of the Commonwealth relating to the admission of aliens and the removal of aliens from the Commonwealth.

"(g) ACCRUAL OF TIME FOR PURPOSES OF SECTION 212(A)(9)(B) OF THE IMMIGRATION AND NATIONALITY ACT.—No time that an alien is present in the Commonwealth in violation of the immigration laws of the Commonwealth shall be counted for purposes of inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)).

"(h) REPORT ON NONRESIDENT GUESTWORKER POPULATION.—The Secretary of the Interior, in consultation with the Secretary of Homeland Security, and the Governor of the Commonwealth, shall report to the Congress not later than 2 years after the date of the enactment of the Northern Mariana Islands Immigration, Security, and Labor Act. The report shall include—

"(1) the number of aliens residing in the Commonwealth;

"(2) a description of the legal status (under Federal law) of such aliens;

"(3) in five year increments, the number of years each alien has been residing in the Commonwealth;

"(4) the current and future requirements for the Commonwealth economy of an alien workforce; and

"(5) recommendations to the Congress related to granting alien workers lawfully present in the Commonwealth on the date of the enactment of such Act United States citizenship or some other permanent legal status.

"(i) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to count the issuance of any visa to an alien, or the grant of any admission of an alien, under this section toward any numerical limitation contained in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).".

(b) WAIVER OF REQUIREMENTS FOR NONIMMIGRANT VISITORS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 214(a)(1) (8 U.S.C. 1184(a)(1)), by striking "Guam" each place such term appears and inserting "Guam or the Commonwealth of the Northern Mariana Islands";

(2) in section 212(a)(7)(B) (8 U.S.C. 1182(a)(7)(B)), by amending clause (iii) to read as follows:

"(iii) GUAM AND NORTHERN MARIANA ISLANDS VISA WAIVER.—For provision authorizing waiver of clause (i) in the case of visitors to Guam or the Commonwealth of the Northern Mariana Islands, see subsection (l).."; and

(3) by amending section 212(l) (8 U.S.C. 1182(l)) to read as follows:

"(l) GUAM AND NORTHERN MARIANA ISLANDS VISA WAIVER PROGRAM.—

"(1) IN GENERAL.—The requirement of subsection (a)(7)(B)(i) may be waived by the Secretary of Homeland Security, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay in Guam or the Commonwealth of the Northern Mariana Islands for a period not to exceed 45 days, if the Secretary of the Interior, after consultation with the Secretary of Homeland Security, the Secretary of State, the Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands, determines that—

"(A) an adequate arrival and departure control system has been developed in Guam and the Commonwealth of the Northern Mariana Islands; and

"(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

"(2) ALIEN WAIVER OF RIGHTS.—An alien may not be provided a waiver under this subsection unless the alien has waived any right—

"(A) to review or appeal under this Act an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam or the Commonwealth of the Northern Mariana Islands; or

"(B) to contest, other than on the basis of an application for withholding of removal under section 241(b)(3) of this Act or under the Convention Against Torture, or an application for asylum, any action for removal of the alien.

"(3) REGULATIONS.— All necessary regulations to implement this subsection shall be promulgated by the Secretary of Homeland Security, in consultation with the Secretary of the Interior and the Secretary of State, on or before the 180th day after the date of the enactment of the Northern Mariana Islands Immigration, Security, and Labor Act. The promulgation of such regulations shall be considered a foreign affairs function for purposes of section 553(a) of title 5,

United States Code. At a minimum, such regulations should include, but not necessarily be limited to—

"(A) a listing of all countries whose nationals may obtain the waiver also provided by this subsection, except that such regulations shall provide for a listing of any country from which the Commonwealth has received a significant economic benefit from the number of visitors for pleasure within the one-year period preceding the date of the enactment of the Northern Mariana Islands Immigration, Security, and Labor Act; and

"(B) any bonding requirements for nationals of some or all of those countries who may present an increased risk of overstays or other potential problems, if different from such requirements otherwise provided by law for nonimmigrant visitors.

"(4) FACTORS.—In determining whether to grant or continue providing the waiver under this subsection to nationals of any country, the Secretary of the Interior, in consultation with the Secretary of Homeland Security, shall consider all factors that the Secretary deems relevant, including electronic travel authorizations, procedures for reporting lost and stolen passports, repatriation of aliens, rates of refusal for nonimmigrant visitor visas, overstays, exit systems, and information exchange.

"(5) SUSPENSION.—The Secretary of Homeland Security shall monitor the admission of nonimmigrant visitors to Guam and the Commonwealth of the Northern Mariana Islands under this subsection. If the Secretary determines that such admissions have resulted in an unacceptable number of visitors from a country remaining unlawfully in Guam or the Commonwealth of the Northern Mariana Islands, unlawfully obtaining entry to other parts of the United States, or seeking withholding of removal or asylum, or that visitors from a country pose a risk to law enforcement or security interests of Guam or the Commonwealth of the Northern Mariana Islands or of the United States (including the interest in the enforcement of the immigration laws of the United States), the Secretary shall suspend the admission of nationals of such country under this subsection. The Secretary of Homeland Security may in the Secretary's discretion suspend the Guam and Northern Mariana Islands visa waiver program at any time, on a country-by-country basis, for other good cause.

"(6) ADDITION OF COUNTRIES.—The Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands may request the Secretary of the Interior to add a particular country to the list of countries whose nationals may obtain the waiver provided by this subsection, and the Secretary may grant such request after consultation with the Secretary of Homeland Security and the Secretary of State, and may promulgate regulations with respect to the inclusion of that country and any special requirements the Secretary of Homeland Security, in the Secretary's sole discretion, may impose prior to allowing nationals of that country to obtain the waiver provided by this subsection.".

(c) SPECIAL NONIMMIGRANT CATEGORIES FOR GUAM AND THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—

(1) IN GENERAL.—The Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands (referred to in this subsection as "CNMI") may request the Secretary of Homeland Security to create additional Guam or CNMI-only nonimmigrant visas to the extent that existing nonimmigrant visa categories under the Immigration and Nationality Act do not do not provide for the type of visitor, the duration of allowable visit, or other circumstance. The Secretary of Homeland Security may review such request, and, after consultation with the Secretary of State and the Secretary of the Interior, may promulgate regulations with respect to the creation of those additional Guam or CNMI-only visa categories. Such additional Guam or CNMI-only visa categories may include, but are not limited to, special nonimmigrant statuses for investors, students and retirees, but shall not include nonimmigrant status for the purpose of employment in Guam or the CNMI.

(2) VISAS AND ADMISSIONS.—Upon approval of a Guam or CNMI-only nonimmigrant category by the Secretary of Homeland Security pursuant to paragraph (1) of this subsection, the Secretary of State may issue such visas to eligible aliens and such aliens may be admitted to Guam or the CNMI if otherwise eligible to the United States under the immigration laws.

(3) ADJUSTMENT OF STATUS TO PERMANENT RESIDENT.—Section 245(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1255(c)(4)) is amended by inserting ", section 212(o)," after "212(l)".

(4) CHANGE OF NONIMMIGRANT CLASSIFICATION.—Section 248(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1258(a)(4)) is amended by inserting ", section 212(o)," after "212(l)".

(d) INSPECTION OF PERSONS ARRIVING FROM THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS; GUAM AND NORTHERN MARIANA ISLANDS-ONLY VISAS NOT VALID FOR ENTRY INTO OTHER PARTS OF THE UNITED STATES.—Section 212(d)(7) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(7)) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Guam,".

(e) TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Governor of the Commonwealth, the Secretary of Labor, and the Secretary of Commerce, and as provided in the Interagency Agreements required to be negotiated under subsection (a)(4) of section 6 of the Joint Resolution to Approve the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America", and for other purposes, approved March 24, 1976 (Public Law 94–241), as added by subsection (a) of this section, shall provide—

(A) technical assistance and other support to the Commonwealth to identify opportunities for, and encourage diversification and growth of, the economy of the Commonwealth;

(B) technical assistance, including assistance in recruiting, training, and hiring of workers, to assist employers in the Commonwealth in securing employees first from among United States citizens and nationals resident in the Commonwealth and if an adequate number of such workers are not available, from among legal permanent residents, including lawfully admissible citizens of the freely associated states; and

(C) technical assistance, including assistance to identify types of jobs needed, identify skills needed to fulfill such jobs, and assistance to Commonwealth educational entities to develop curricula for such job skills to include training teachers and students for such skills.

(2) CONSULTATION.—In providing such technical assistance under paragraph (1), the Secretaries shall—

(A) consult with the Government of the Commonwealth, local businesses, regional banks, educational institutions, and other experts in the economy of the Commonwealth; and

(B) assist in the development and implementation of a process to identify opportunities for and encourage diversification and growth of the economy of the Commonwealth and to identify and encourage opportunities to meet the labor needs of the Commonwealth.

(3) COST-SHARING.—For the provision of technical assistance or support under this paragraph (other than that required to pay the salaries and expenses of Federal personnel), the Secretary of the Interior shall require a non-Federal matching contribution of 10 percent.

(f) OPERATIONS.—

(1) ESTABLISHMENT.—At any time on and after the date of enactment of this Act, the Attorney General, Secretary of Homeland Security, and the Secretary of Labor may establish and maintain offices and other operations in the Commonwealth for the purpose of carrying out duties under—

(A) the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) the transition program established under section 6 of the Joint Resolution to Approve the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America", and for other purposes, approved March 24, 1976 (Public Law 94–241), as added by subsection (a) of this section.

(2) PERSONNEL.—To the maximum extent practicable and consistent with the satisfactory performance of assigned duties under applicable law, the Attorney General, Secretary of Homeland Security, and the Secretary of Labor shall recruit and hire personnel from among qualified United States citizens and national applicants residing in the Commonwealth to serve as staff in carrying out operations described in paragraph (1).

(g) CONFORMING AMENDMENTS TO PUBLIC LAW 94–241.—

(1) IN GENERAL.—Public Law 94–241, as amended, is further amended—

(A) in section 503, by striking subsection (a) and redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(B) by striking section 506; and

(C) in section 703(b), by striking "quarantine, passport, immigration and naturalization" and inserting "quarantine and passport".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first full month commencing one year after the date of enactment of this Act.

(h) REPORTS TO CONGRESS.—

(1) IN GENERAL.—By March 1, of the first year which is at least 2 full years after the date of enactment of this title, and annually thereafter, the President shall submit to the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate and the Committee on Natural Resources and the Committee on the Judiciary of the House of Representatives a report that evaluates the overall effect of the transition program established under section 6 of the Joint Resolution to Approve the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America", and for other purposes, approved March 24, 1976 (Public Law 94–241) as added by subsection (a) of this section, and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on the Commonwealth.

(2) CONTENTS.—In addition to other topics otherwise required to be included under this title or the amendments made by this title, each report submitted under paragraph (1) shall include a description of the efforts that have been undertaken during the period covered by the report to diversify and strengthen the local economy of the Commonwealth, including efforts to promote the Commonwealth as a tourist destination.

(3) GAO REPORT.—The Government Accountability Office shall submit a report to the Congress not later than 2 years after the date of enactment of this title, to include, at a minimum, the following items:

(A) An assessment of the implementation of this title and the amendments made by this title, including an assessment of the performance of Federal agencies and the Government of the Commonwealth in meeting congressional intent.

(B) An assessment of the short-term and long-term impacts of implementation of this title and the amendments made by this title on the economy of the Commonwealth, including its ability to obtain workers to supplement its resident workforce and to maintain access to its tourists and customers, and any affect on compliance with United States treaty obligations mandating non-refoulement for refugees.

(C) An assessment of the economic benefit of the investors "grandfathered" under subsection (c) of section 6 of the Joint Resolution to Approve the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America", and for other purposes, approved March 24, 1976 (Public Law 94–241), as added by subsection (a) of this section, and the Commonwealth's ability to attract new investors after the date of the enactment of this title.

(D) An assessment of the number of illegal aliens in the Commonwealth, including any Federal and Commonwealth efforts to locate and repatriate them.

(E) An assessment of any Federal and Commonwealth efforts to enumerate, locate, and repatriate illegal aliens in the Commonwealth.

(4) REPORTS BY THE LOCAL GOVERNMENT.—The Governor of the Commonwealth may submit an annual report to the President on the implementation of this title, and the amendments made by this title, with recommendations for future changes. The President shall forward the Governor's report to the Congress with any Administration comment after an appropriate period of time for internal review, provided, that nothing in this paragraph shall be construed to require the President to provide any legislative recommendation to the Congress.

(i) REQUIRED ACTIONS PRIOR TO TRANSITION PROGRAM EFFECTIVE DATE.—During the period beginning on the date of enactment of this Act and ending on the effective date of the transition program established under section 6 of Public Law 94–241 (as added by subsection (a)), the Government of the Commonwealth shall—

(1) not permit an increase in the total number of alien workers who are present in the Commonwealth as of the date of enactment of this Act; and

(2) administer its nonrefoulement protection program—

(A) according to the terms and procedures set forth in the Memorandum of Agreement entered into between the Commonwealth of the Northern Mariana Islands and the United States Department of Interior, Office of Insular Affairs, executed on September 12, 2003 (which terms and procedures, including but not limited to funding by the Secretary of the Interior and performance by the Secretary of Homeland Security of the duties of "Protection Consultant" to the Commonwealth, shall have effect on and after the date of enactment of this Act), as well as CNMI Public Law 13–61 and the Immigration Regulations Establishing a Procedural Mechanism for Persons Requesting Protection from Refoulement; and

(B) so as not to remove or otherwise effect the involuntary return of any alien whom the Protection Consultant has determined to be eligible for protection from persecution or torture.

(j) CONFORMING AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(15)(D)(ii), by inserting "or the Commonwealth of the Northern Mariana Islands" after "Guam" each time such term appears;

(2) in section 101(a)(36), by striking "and the Virgin Islands of the United States" and inserting "the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands";

(3) in section 101(a)(38), by striking "and the Virgin Islands of the United States" and inserting "the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands";

(4) in section 208, by adding at the end the following:

"(e) COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—The provisions of this section and section 209(b) of this Act shall apply to persons physically present in the Commonwealth of the Northern Mariana Islands or arriving in the Commonwealth (whether or not at a designated port of arrival and including persons who are brought to the Commonwealth after having been interdicted in international or United States waters) only on or after January 1, 2018."; and

(5) in section 235(b)(1), by adding at the end the following:

"(G) COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—Nothing in this subsection shall be construed to authorize or require any person described in section 208(e) of this Act to be permitted to apply for asylum under section 208 of this Act at any time before January 1, 2018.".

(k) AVAILABILITY OF OTHER NONIMMIGRANT PROFESSIONALS.—The requirements of section 212(m)(6)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(m)(6)(B)) shall not apply to a facility in Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 105. EFFECTIVE DATE.

(a) IN GENERAL.—Except as specifically provided in this section or otherwise in this Act, this title and the amendments made by this title shall take effect on the date of the enactment of this title.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—The amendments to the Immigration and Nationality Act made by this Act, and other provisions of this Act applying the immigration laws (as defined in section 101(a)(17) of Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) to the Commonwealth, shall take effect on the transition program effective date provided by section 6 of Public Law 94–241, as amended by this Act, unless specifically provided otherwise in this Act.

(c) CONSTRUCTION.—Nothing in this Act or the amendments made by this Act shall be construed to make any residence or presence in the Commonwealth before the first day of the first full month commencing one year after the date of enactment of this Act residence or presence in the United States; Provided that, for the purpose only of determining whether an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) has abandoned or lost such status by reason of absence from the United States, such alien's presence in the Commonwealth before, on or after the enactment of this Act shall be considered to be presence in the United States.

TITLE II—NORTHERN MARIANA ISLANDS DELEGATE ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "Northern Mariana Islands Delegate Act".

SEC. 202. DELEGATE TO HOUSE OF REPRESENTATIVES FROM COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

The Commonwealth of the Northern Mariana Islands shall be represented in the United States Congress by the Resident Representative to the United States authorized by section 901 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (approved by Public Law 94–241 (48 U.S.C. 1801 et seq.)). The Resident Representative shall be

a nonvoting Delegate to the House of Representatives, elected as provided in this title.

SEC. 203. ELECTION OF DELEGATE.

(a) ELECTORS AND TIME OF ELECTION.—The Delegate shall be elected—

(1) by the people qualified to vote for the popularly elected officials of the Commonwealth of the Northern Mariana Islands; and

(2) at the Federal general election of 2008 and at such Federal general election every 2d year thereafter.

(b) MANNER OF ELECTION.—

(1) IN GENERAL.—The Delegate shall be elected at large and by a plurality of the votes cast for the office of Delegate.

(2) EFFECT OF ESTABLISHMENT OF PRIMARY ELECTIONS.—Notwithstanding paragraph (1), if the Government of the Commonwealth of the Northern Mariana Islands, acting pursuant to legislation enacted in accordance with the Constitution of the Commonwealth of the Northern Mariana Islands, provides for primary elections for the election of the Delegate, the Delegate shall be elected by a majority of the votes cast in any general election for the office of Delegate for which such primary elections were held.

(c) VACANCY.—In case of a permanent vacancy in the office of Delegate, the office of Delegate shall remain vacant until a successor is elected and qualified.

(d) COMMENCEMENT OF TERM.—The term of the Delegate shall commence on the 3d day of January following the date of the election.

SEC. 204. QUALIFICATIONS FOR OFFICE OF DELEGATE.

To be eligible for the office of Delegate a candidate shall—

(1) be at least 25 years of age on the date of the election;

(2) have been a citizen of the United States for at least 7 years prior to the date of the election;

(3) be a resident and domiciliary of the Commonwealth of the Northern Mariana Islands for at least 7 years prior to the date of the election;

(4) be qualified to vote in the Commonwealth of the Northern Mariana Islands on the date of the election; and

(5) not be, on the date of the election, a candidate for any other office.

SEC. 205. DETERMINATION OF ELECTION PROCEDURE.

Acting pursuant to legislation enacted in accordance with the Constitution of the Commonwealth of the Northern Mariana Islands, the Government of the Commonwealth of the Northern Mariana Islands may determine the order of names on the ballot for election of Delegate, the method by which a special election to fill a permanent vacancy in the office of Delegate shall be conducted, the method by which ties between candidates for the office of Delegate shall be resolved, and all other matters of local application pertaining to the election and the office of Delegate not otherwise expressly provided for in this title.

SEC. 206. COMPENSATION, PRIVILEGES, AND IMMUNITIES.

Until the Rules of the House of Representatives are amended to provide otherwise, the Delegate from the Commonwealth of the Northern Mariana Islands shall receive the same compensation, allowances, and benefits as a Member of the House of Representatives, and shall be entitled to whatever privileges and immunities are, or hereinafter may be, granted to any other nonvoting Delegate to the House of Representatives.

SEC. 207. LACK OF EFFECT ON COVENANT.

No provision of this title shall be construed to alter, amend, or abrogate any provision of the covenant referred to in section 202 except section 901 of the covenant.

SEC. 208. DEFINITION.

For purposes of this title, the term "Delegate" means the Resident Representative referred to in section 202.

SEC. 209. CONFORMING AMENDMENTS REGARDING APPOINTMENTS TO MILITARY SERVICE ACADEMIES BY DELEGATE FROM THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) UNITED STATES MILITARY ACADEMY.—Section 4342(a)(10) of title 10, United States Code, is amended by striking "resident representative" and inserting "Delegate in Congress".

(b) UNITED STATES NAVAL ACADEMY.—Section 6954(a)(10) of such title is amended by striking "resident representative" and inserting "Delegate in Congress".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9342(a)(10) of such title is amended by striking "resident representative" and inserting "Delegate in Congress".

PURPOSE OF THE BILL

The purpose of H.R. 3079 is to amend the Joint Resolution Approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

TITLE I—IMMIGRATION, SECURITY, AND LABOR ACT (ISLA)

The Commonwealth of the Northern Mariana Islands (CNMI), a U.S. Territory located in the western Pacific Ocean, is an archipelago comprised of fourteen islands. The majority of CNMI's population lives on three of the most southern islands: its capital Saipan, Rota, and Tinian. The CNMI's southernmost island is approximately 40 miles north of the U.S. Territory of Guam.

At the end of World War II, the Northern Mariana Islands, along with all other islands in the Micronesian region—except Guam, Nauru, and Kiribati—became part of the United Nations Strategic Trust Territory of the Pacific Islands (TTPI) administered by the United States. Under U.S. control, the TTPI were assisted in developing both economically and politically while playing major roles in the U.S.'s defensive posture in the Pacific.

Consistent with the U.N. trusteeship agreement, the Northern Mariana Islands took steps in the early 1970s to express their desire for greater self-government. By 1975, following negotiations with the U.S. and a subsequent local plebiscite, the Northern Mariana Islands submitted its "Covenant" proposal to the U.S. for final approval. After favorable consideration by Congress, the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant) was signed into law (P.L. 94–241) in 1976 by President Gerald Ford.

The Covenant, coming into full effect in 1986, conferred U.S. citizenship, provided a greater measure of self-government, and defined the relationship between the U.S. and the CNMI. During negotiations with the U.S. over terms of the Covenant, NMI officials expressed concern that application of certain U.S. laws would have a negative effect on their indigenous culture and people, as well as their economic development. Recognizing such, the NMI government was given temporary responsibility for determining minimum wage laws, immigration standards, and an income tax system.

In the late 1980s and into the 1990s, the CNMI focused on developing a garment industry in addition to its growing tourism efforts. To fill the labor intensive requirements for the garment industry, the CNMI used its local control of immigration policy to allow for the recruitment and importation of foreign guest workers. The practice of recruiting foreign guest workers was made widely available and by the end of the 1990s, their population swelled to near 40,000 and permeated every industry and occupation in the CNMI. Throughout this period, the U.S. Congress, the George H. W. Bush Administration, and Clinton Administration expressed concerns over the CNMI's local use of immigration policy, enforcement of labor laws, and also the repeated allegations that foreign guest workers were being mistreated and exploited. In spite of support from these aforementioned Administrations to extend federal immi-

gration laws to the CNMI, Congressional efforts to pass legislation were unsuccessful.

Border security concerns

Since the end of World War II, during the Cold War era, the Pacific region has played a major role in U.S. defense strategy. In October 2005, the U.S. and Japan agreed to a realignment of U.S. military forces in the Pacific. A major part of this agreement is the relocation of the 3rd Marine Expeditionary Forces, comprising 8,000 active duty personnel, to Guam. In addition, the U.S. military has initiated other defense planning initiatives for Guam which could include the stationing of a Global Hawk unit, periodic rotations of fighter and bomber squadrons, establishment of a U.S. Army air defense battalion, and other operations critical to U.S. Naval regional presence.

The lack of federal control over CNMI's borders presents a security concern given the U.S. military build-up in Guam and the Mariana Islands. Though U.S. territory, because immigration policy was left to CNMI control, there is no immigration infrastructure that the CNMI has in place to ensure the identity of visitors or guest workers. The CNMI has no embassy or other official presence in foreign countries. Therefore, there is no vetting of individuals prior to entry into the CNMI. For security reasons, the U.S. does not share security information on foreign individuals with the CNMI as part of any standard procedure.

Due to the CNMI's close proximity to Guam (its southernmost island is 40 miles from Guam's northern shore); there have been many interdictions of vessels carrying foreign nationals attempting to penetrate Guam. For the most part, U.S. officials have characterized these attempts as being part of human trafficking efforts. The U.S. Attorney for Guam has recently formed a "prosecution unit" to focus on cases involving smuggling into Guam.

Economic conditions

For much of this decade, the CNMI's economic pillars of garment manufacturing and tourism have experienced negative growth. A study conducted by the GAO in early 2000 estimated that these two industries were responsible for "about 85 percent of the CNMI's economic activity." Since then, however, the garment industry, which at its peak in 1999 had sales surpassing $1 billion, resulting in nearly 25% (over $50 million) of the CNMI's total government revenue (over $230 million), has declined dramatically. Due to the World Trade Organization's U.S.-China agreement on trade and tariffs which came into effect in 2005, CNMI's garment industry has been cut nearly in half—from 34 factories to less than 15, and from $1 billion in sales to about $450 million.

Contributing to tourism's decline have been the events of September 11, 2001, Asia's financial crisis from the late 1990s into the early 2000s, the severe acute respiratory syndrome (SARS) Asia epidemic, and rising fuel costs. As a partial result of these external events, major domestic and foreign air carriers which provided direct flights from Japan and accounted for a majority of visitors to the CNMI have discontinued service. Tourist arrivals to the CNMI are now more than 40% lower than they were a decade ago. This

has in turn caused the closure of hotels and other tourist-based businesses.

Decreased CNMI government revenues (estimated to have dropped from $248 million in 1997 to $137 million in 2007) resulting from the decline in the garment and tourism industries have caused the CNMI government to implement austerity measures. According to the CNMI, a reduction of 10.5% in the government workforce has occurred beginning in 2005 (from 5,463 to 4,890) and all non-essential employees are required to take every other Friday off without pay until FY 2008.

Social conditions

Prior to the CNMI engaging in a liberal immigration policy to support its burgeoning garment industry, the population—mostly indigenous Chamorro and Carolinians, all U.S. citizens—numbered near 15,000. Twenty years later, in 2000, and near the height of economic activity, CNMI's population had grown to nearly 70,000, 56% percent of whom were non-U.S. citizens.

The demand for social services has weighed heavily on the CNMI government as a result of the growth in population. Schools, healthcare, and adequate water are just some of the demands the CNMI has been challenged to meet as a result of its immigration and economic policies. In addition, the CNMI has also undergone criticism for not having had a more progressive local policy raising wages to attract more residents (U.S. citizens) into the private sector. The enactment of federal legislation during the 110th Congress raising the U.S. minimum wage to $7.25 per/hour also includes the CNMI, whose current minimum wage is $3.05 per/hour.

TITLE II—NORTHERN MARIANA ISLANDS DELEGATE ACT

The CNMI is the last and only territory with a permanent population that has no permanent voice in Congress. There are no other territories, possessions, or former trust territories which would meet the historical criteria for a delegate. The former Micronesian Trust Territories are now associated republics. They have ambassadors, not delegates, and are members of the United Nations.

Populations of the different territories have varied from as few as 5,000 to 259,000 when they were first represented by a nonvoting delegate. The small population of the CNMI was cited by the Marianas Political Status Commission, which negotiated the Covenant for the islands, as the reason the CNMI was unable to obtain a nonvoting delegate in the Covenant despite the backing of the Executive Branch of the federal government. The CNMI population of 15,000 (recorded in the 1970 Census) was considerably less at that time than the populations of Guam (86,926) and the Virgin Islands (63,200) had been when those territories were provided nonvoting delegates in 1972.

Two years after approving the Covenant without a provision for a CNMI delegate, however, Congress granted a delegate to American Samoa with a resident population of 27,000, most of whom were not U.S. citizens. According to the 2000 Census, today the CNMI has a U.S. citizen population of approximately 35,000 and a total population of 69,221, demonstrating that the CNMI is clearly within the threshold of population established by precedents both historical and contemporary.

H.R. 3079 would provide for a nonvoting delegate to the U.S. House of Representatives beginning in the 111th Congress to replace the current Resident Representative for the CNMI. It would also create a federal office for the CNMI as was created for all of the other U.S. jurisdictions. The legislation would also provide for the manner in which this new delegate could be elected, along with the criteria that would qualify an individual for candidacy. These components are all similar to those criteria set forth in the CNMI Constitution. H.R. 3079 would not abrogate the various existing laws established within the Covenant.

History of non-voting delegates to Congress

Territorial delegates have existed in Congress and specifically in the U.S. House of Representatives since 1787, with the establishment of a government under the Northwest Ordinance for the territory northwest of the Ohio River. In 1898, the U.S. acquired overseas territories (Puerto Rico, the Philippines and Guam) at the end of the Spanish-American War. Their status within the American family became a subject of debate for Congress. Nevertheless, a law was enacted which provided a new form of territorial representation for Puerto Rico and the Philippines—legally recognized as unincorporated territories having only the "fundamental" part of the Constitution applied. This representation did not grant the privileges that are held by today's delegates.

At this time, there are four non-voting delegates to the U.S. House, representing the District of Columbia, American Samoa, Guam, and the U.S. Virgin Islands. These positions, which were created in the 1970s, have most of the same parliamentary rights as any Member of the House, including the introduction and cosponsorship of legislation, the right to offer amendments on measures being debated, and voting privileges in committees to which they are appointed. However, they do not have a right to vote on the floor of the House.

COMMITTEE ACTION

H.R. 3079 was introduced on July 18, 2007, by Delegate Donna Christensen (Dμ09VI). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Insular Affairs. On August 15, 2007, the Subcommittee held a legislative field hearing in the Commonwealth of the Northern Mariana Islands. On November 7, 2007, the Subcommittee was discharged by unanimous consent and the full Natural Resources Committee met to consider the bill.

Subcommittee on Insular Affairs Chairwoman Christensen offered an amendment in the nature of a substitute. The Christensen substitute removed the proposed lawful non-immigrant status for legal long-term non-resident guest workers, provided a regional visa waiver program to assist in future economic development; and other incentives to further develop a skilled resident workforce.

Delegate Faleomavaega (Dμ09AS) also offered an amendment to the Christensen amendment calling on the Secretary of Homeland Security to consider any suggestions in adopting and enforcing a system to ensure adequate employment made by the CNMI Governor. The Faleomavaega amendment was agreed to by voice vote.

The Christensen amendment in the nature of a substitute, as amended by the Faleomavaega amendment, was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

TITLE I—NORTHERN MARIANA ISLANDS IMMIGRATION, SECURITY, AND LABOR ACT

Section 101. Short title

Section 101 designates Title I of H.R. 3079 as "The Northern Mariana Islands Immigration, Security, and Labor Act."

Sec. 102. Statement of congressional intent

Section 102(a) expresses Congress's intent to ensure effective border control and security by extending the INA with special provisions for: phasing out contract workers; minimizing adverse economic effects; recognizing local self-government; assisting the development of the CNMI economy; providing opportunities for locals to work; providing for the continued use of alien workers as necessary; and protecting workers from abuse.

Section 102(b) states that, in recognition of the CNMI's unique circumstances, it be given flexibility to maintain and develop businesses and that the Government of the CNMI is fully involved in the implementation process.

Sec. 103. Immigration reform for the commonwealth

Section 103(a) amends the Covenant Act (P.L. 94–241) by adding a new Section 6 which would apply the Immigration and Nationality Act to the CNMI and establishes a five year transition period. Also, this section requires regulations and interagency agreement to implement the program for the transition period. It further states that non-immigrant workers in the CNMI and Guam will not count against the numerical limitations set forth in section 214(g) of the INA. The Committee notes that the inclusion of Guam in this section responds to the labor requirements needed in preparation for the planned U.S. military buildup.

Section 103(a) further provides DHS the authority to classify an alien as a nonimmigrant treaty trader if: the alien was admitted to the CNMI as an investor before the transition program effective date; has continuously maintained residence in the CNMI under investor status; is otherwise admissible; and maintains the investment that formed the basis for the status.

The section further provides for a CNMI-Only Transitional Worker Program which would be established, administered, and enforced by DHS. The Secretaries of Labor, Homeland Security, and State would be able to extend the transition period for an additional five years; Congressional notification is required.

The section states that any alien present in the CNMI, at the start of the transition program effective date may remain in the CNMI and is considered authorized for employment. The CNMI government is required to provide all immigration records. The Secretary of Homeland Security may execute any U.S. or CNMI final order or exclusion, deportation or removal before, on or after the transition effective date.

Section 103(a) further states that upon the transition effective date, the provisions of this section and the INA shall supersede all laws of the CNMI relating to the admission and removal of aliens, and states that no time that an alien is in the CNMI in violation of CNMI law shall be counted as grounds of inadmissibility under the INA.

This section would require the Administration, in consultation with the CNMI, to report to Congress, no later than the second year after enactment on the; include population of aliens, status of aliens under federal law, future requirements of the CNMI for an alien workforce, and recommendations on granting U.S. citizenship or some other permanent legal status. The Committee encourages the DHS, and all other Federal agencies involved in implementing the transition program period, to keep the costs associated with the transition program period on employers and non-immigrant guest workers at the same level as is currently being assessed by the CNMI government under local law.

Section 103(b) would expand the existing Guam Visa Waver Program to include the CNMI. DHS, State, and DOI, acting jointly, may waive the requirement for a visa for aliens applying to enter Guam and the CNMI for business or pleasure for a period not to exceed 45 days if it is determined that an adequate arrival and departure system has been developed, and such a waiver does not represent a threat to the United States and its territories.

DHS shall, in consultation with State and DOI, promulgate all necessary regulations within 180 days of enactment and shall include a list of all participating nations, and any bonding requirements, if different than those otherwise provided. The regulations should include countries for which the CNMI has received a significant economic benefit from the number of visitors for pleasure within the one-year period preceding the date of enactment. In drafting such regulations, the Committee encourages DHS to consult with the CNMI tourism industry to determine which tourists markets have contributed to the benefit of the CNMI economy and that such benefit can be measured in terms of hotel occupancy, length of stay, and expenditures.

Section 103(c) would allow the Governors of Guam and the CNMI to request DHS to create additional Guam or CNMI-only non-immigrant visa categories if the ones provided for do not meet other circumstances.

Section 103(d) would allow section 212(d)(7) of the INA to add that persons seeking entry into the U.S. from the CNMI shall be processed using the existing INA authority regarding entry from Guam, Puerto Rico, and the USVI, and that any such person denied admission to the U.S. shall be immediately removed.

Section 103(e) directs the Secretary of Interior, in consultation with the CNMI and the Secretaries of Labor and Commerce, to provide technical assistance. Such technical assistance should assist to identify opportunities for diversification and growth of the CNMI economy, and for recruiting, training, and hiring workers first from among U.S. citizens and national residents in the CNMI, and then from among work-authorized aliens including FAS citizens. They shall assist in identifying jobs needed and develop curricula for identified job skills that are needed. Assistance grants by DOI, ex-

cept for federal salaries, shall require a non-federal match of 10 percent.

Section 103(f) authorizes the Attorney General and the Secretaries of DHS and Labor to establish and maintain offices within the CNMI to carry out their duties under this Act and the immigration laws of the U.S., and shall, to the maximum extent practicable, recruit and hire personnel from among qualified U.S. citizen and national applicants residing in the CNMI.

Section 103(g) states that amendments made will take effect on the first full month one year after the enactment of this Act.

Section 103(h) requires reports to Congress from the President and the Government Accountability Office. It authorizes the CNMI government to submit reports to the President with its recommendations for future changes, and requires that the President shall forward CNMI's reports to the Congress with the Administration's comments.

Section 103(i) would require that the CNMI government not permit an increase in the number of alien workers in the CNMI as of the date of enactment, and shall administer its non-refoulement protection program in accordance with its September 12, 2003 agreement with DOI.

Section 103(j) provides conforming amendments to the Immigration and Naturalization Act.

Section 103 (k) provides an exemption for Guam, the CNMI, and the Virgin Islands for access to other nonimmigrant professionals.

Sec. 104. Authorization of appropriations

Section 104 authorizes such sums as may be necessary to carry out this Act.

Sec. 105. Effective date

Section 105 provides, generally, that this Act shall take effect on the date of enactment, but that amendments to the INA shall take effect upon the transition program effective date, unless specifically provided otherwise.

TITLE II—NORTHERN MARIANA ISLANDS DELEGATE ACT

Section 201. Short title

Section 201 designates Title II of H.R. 3079 as the "Northern Mariana Islands Delegate Act."

Sec. 202. Delegate to the house of representatives from commonwealth of the northern mariana islands

Section 202 states that Section 901 of Public Law 94–241 authorizes the Resident Representative position and that this person shall be a nonvoting Delegate to the U.S. House of Representatives.

Sec. 203. Election of delegate

Section 203 provides for the manner in which the CNMI non-voting Delegate shall be elected, beginning with the federal general election of 2008. The CNMI government is authorized to provide for primary elections. In case of a vacancy, the office of the Delegate shall remain vacant until a successor is elected and qualified.

Sec. 204. Qualifications for office of delegate

Section 204 delineates criteria for candidate eligibility, consistent with local CNMI law.

Sec. 205. Determination of election procedure

Section 205 clarifies which powers within the election framework remain within CNMI control, continuing matters of local application.

Sec. 206. Compensation, privileges, and immunities

Section 206 states that all the current Rules of the House of Representatives pertaining to Members of Congress, including compensation, privileges, and immunities, shall apply to the nonvoting delegate created in the legislation.

Sec. 207. Lack of effect on covenant

Section 207 clarifies that the powers enumerated in the Covenant remain.

Sec. 208. Definition

Section 208 defines "Delegate" as the Resident Representative mentioned in section 202.

Sec. 209. Conforming amendments regarding appointments to military service academies by delegate from the CNMI

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to modify the boundaries of Grand Teton National

Park to include certain land located within the GT Park Subdivision.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 3079—Northern Mariana Islands Immigration, Security, and Labor Act

Summary: H.R. 3079 would amend the current law that governs the relationship between the United States and the Commonwealth of the Northern Mariana Islands (CNMI), a territory of the United States, to reform the immigration laws of CNMI. In addition, the bill would provide Congressional representation for CNMI by creating a nonvoting delegate in the House of Representatives beginning in January 2009. CBO estimates that implementing H.R. 3079 would result in additional discretionary outlays of $10 million over the 2008–2012 period, assuming appropriation of the necessary amounts.

Enacting H.R. 3079 also would increase direct spending for payment of the salary of the new nonvoting delegate and the costs of associated benefits. CBO estimates that the increase in direct spending for Congressional salaries and benefits under H.R. 3079 would be about $200,000 in fiscal year 2009 and $2 million over the 2009–2017 period. H.R. 3079 also could affect revenues, but CBO estimates that any net changes in revenues would be insignificant in each year.

H.R. 3079 contains intergovernmental mandates, as defined in the Unfunded Mandates Reform Act (UMRA), because it would preempt the immigration laws of CNMI and require that government to comply with additional federal requirements. CBO estimates that the direct costs of those mandates would be small and would not exceed the threshold established in that act ($66 million in 2007, adjusted annually for inflation).

H.R. 3079 also would impose a private-sector mandate, as defined in UMRA, on employers in CNMI by restricting the number of permits issued to them for temporary alien workers. It also would impose private-sector mandates on some aliens lawfully residing or working in CNMI by requiring them to leave before the end of the term for which they were authorized to stay or work. Finally, the bill may impose additional private-sector mandates by giving the Secretary of Homeland Security authority to regulate immigration in CNMI. CBO cannot determine whether the aggregate cost of those mandates would exceed the annual threshold established in UMRA ($131 million in 2007, adjusted annually for inflation).

Major Provisions: H.R. 3079 would require the Department of Homeland Security (DHS) to develop a program to phase in the Immigration and Nationality Act, as modified by H.R. 3079, for CNMI. The transition period would begin approximately one year from the date of enactment of the bill and would end on December 31, 2013. The program would include procedures for issuing visas to certain alien workers and investors, family-sponsored immigrants, and employment-based immigrants.

The bill would authorize the Department of State to issue nonimmigrant visas to admit temporary alien workers to CNMI. For temporary alien workers who would not otherwise be eligible for admission into CNMI, H.R. 3079 would require that DHS establish and administer a system for issuing a decreasing number of annual permits to employers allowing them to hire such individuals during the transition period.

H.R. 3079 also would provide Congressional representation for CNMI by creating a nonvoting delegate in the House of Representatives beginning in January 2009. Under current law, the Commonwealth of the Northern Mariana Islands elects a Resident Representative who represents the CNMI government in the United States but has no official status in the Congress. As a nonvoting Member, the delegate would have some of the same powers of a full-fledged Member, including the ability to introduce bills, offer amendments, and vote in House committees, but would not be able to vote on the floor of the House. In addition, the delegate would receive the same compensation, allowances, and benefits as a Member.

Estimated cost to the Federal Government: The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget functions 150 (international affairs), 750 (administration of justice), and 800 (general government).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION 1A[1]					
Estimated Authorization Level	3	1	2	2	2
Estimated Outlays	2	2	2	2	2

[1] 1AIn addition to the costs shown above, CBO estimates that enacting H.R. 3079 would increase direct spending by about $2 million over the 2009–2017 period. The bill could also affect revenues, but we estimate that any net change in revenues would be insignificant in any year.

Basis of estimate: CBO estimates that implementing H.R. 3079 would increase discretionary spending by $10 million over the 2008–2012 period, assuming appropriation of the necessary amounts. In addition, we estimate that enactment of H.R. 3079 would increase direct spending by about $2 million over the 2009–2017 period.

Spending subject to appropriation

This estimate assumes that the bill will be enacted near the beginning of calendar year 2008 and that the necessary amounts will be appropriated for each year.

New Representative. Based on the current administrative and expense allowances available for Members of the Congress and other typical office costs, CBO estimates that the addition of a new nonvoting delegate would cost about $1 million in fiscal year 2009 and about $7 million over the 2009–2012 period, subject to the availability of appropriated funds.

Department of Homeland Security (DHS). Implementing H.R. 3079 would require DHS to establish a system to carry out immigration adjudications, inspections, and related activities in CNMI. We expect that by 2010 the department would cover its costs by collecting fees from applicants for visas. Based on information from

DHS, we estimate that the department would need an appropriation of about $3 million for start-up costs in 2008, including information technology systems, facilities and other infrastructure, and for relocating and training personnel.

Direct spending and receipts

Enacting H.R. 3079 would increase direct spending for paying the salary of the new nonvoting delegate and the costs of associated benefits. CBO estimates that the increase in direct spending for Congressional salaries and benefits would be about $2 million over the 2009–2017 period. That estimate assumes that the current Congressional salary of $165,200 a year would be adjusted for inflation in future years.

Enacting H.R. 3079 would increase collections of immigration fees by DHS beginning in fiscal year 2009. Because DHS could spend such collections without further appropriation, the provision would have no significant net impact on direct spending.

The Department of State also would collect certain fees for immigrant and nonimmigrant visas, but we estimate that such collections would be offset by higher spending on consular programs and thus would have a negligible net effect on direct spending.

Estimated impact on state, local, and tribal government: H.R. 3079 contains several intergovernmental mandates as defined in UMRA. The bill would amend the covenant between the United States and the CNMI to apply federal immigration laws to the commonwealth. Current law preserves CNMI's authority to administer its own immigration policies, so the preemption would be a mandate as defined in UMRA. The bill also would require CNMI to enforce a cap on alien workers until the preemption goes into effect, provide certain information to DHS, and operate its refugee program in compliance with an expired agreement with the Department of the Interior. CBO estimates that the preemption of local immigration laws would impose no costs on the CNMI government; the other requirements would not result in a significant increase in the workload of the commonwealth immigration staff. The total cost of complying with the mandates in the bill would be below the threshold established in UMRA ($66 million in 2007, adjusted annually for inflation).

The bill would authorize CNMI to be represented in the U.S. Congress by CNMI's Resident Representative. If CNMI chooses to select a delegate, it would have to hold biennial elections in even years. (All CNMI elections now take place in odd years.) Based on information provided by CNMI officials, CBO estimates that the cost of each election would be about $25,000. CNMI would save substantially more than that, however, because it would no longer pay for a Resident Representative in Washington, D.C., once a delegate is elected and in place. The expenses of the delegate's office would be paid by the federal government.

Estimated impact on the private sector: The bill would replace the CNMI immigration system with U.S. immigration laws. In addition, the bill would authorize the Secretary of Homeland Security to oversee the transition from CNMI laws to U.S. laws. In doing so, it would impose a private-sector mandate, as defined in UMRA, on employers in CNMI by restricting the number of permits allocated for temporary alien workers. CBO cannot estimate the cost

to employers since we cannot predict the extent to which the provision would reduce the number of temporary alien workers in CNMI.

H.R. 3079 also would impose a private-sector mandate on some aliens lawfully residing or working in CNMI by requiring them to leave the islands before the end of the term for which they were authorized to stay or work. Under the bill, no alien lawfully admitted into CNMI would be allowed to stay for more than two years after commencement of the transition period, regardless of whether they are authorized to remain for a longer period of time. CBO cannot estimate the cost of complying with that mandate because we cannot predict the number of lawfully admitted aliens that would be required to leave or the cost they would incur.

The bill could impose additional private-sector mandates as a result of regulations established by the Secretary to implement the new immigration system. Because of the multiple uncertainties associated with those mandates, CBO cannot determine whether the aggregate cost of the mandates would exceed the annual threshold established in UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

Estimate prepared by: Federal spending: DHS—Mark Grabowicz; CNMI Representative—Matthew Pickford; State Department—Sunita D'Monte. Impact on state, local, and tribal governments: Elizabeth Cove and Melissa Merrell. Impact on the private sector: MarDestinee C. Perez.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 3079 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or (f) of rule XXI.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

JOINT RESOLUTION OF MARCH 24, 1976

(Public Law 94–241)

Joint Resolution To approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the text of which is as follows, is hereby approved.

* * * * * * *

"ARTICLE V

"APPLICABILTY OF LAWS

* * * * * * *

"SECTION 503. The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable to them by the Congress by law after termination of the Trusteeship Agreement:

["(a) except as otherwise provided in Section 506, the immigration and naturalization laws of the United States;**]**

"**[**(b)**]** *(a)* except as otherwise provided in Subsection (b) of Section 502, the coastwise laws of the United States and any prohibition in the laws of the United States against foreign vessels landing fish or unfinished fish products in the United States; and

"**[**(c)**]** *(b)* the minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat. 1062, as amended.

* * * * * * *

["SECTION 506. (a) Notwithstanding the provisions of Subsection 503 (a), upon the effective date of this Section the Northern Mariana Islands will be deemed to be a part of the United States under the Immigration and Nationality Act, as amended for the following purposes only, and the said Act will apply to the Northern Mariana Islands to the extent indicated in each of the following Subsections of this Section.

["(b) With respect to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands the provisions of Sections 301 and 308 of the said Act will apply.

["(c) With respect to aliens who are 'immediate relatives" (as defined in Subsection 201(b) of the said Act) of United States citizens who are permanently residing in the Northern Mariana Islands all the provisions of the said Act will apply, commencing when a claim is made to entitlement to 'immediate relative' status. A person who is certified by the Government of the Northern Mariana Islands both to have been a lawful permanent resident of the Northern Mariana Islands and to have had the 'immediate relative' relationship denoted herein on the effective date of this Section will be presumed to have been admitted to the United States for lawful per-

manent residence as of that date without the requirement of any of the usual procedures set forth in the said Act. For the purpose of the requirements of judicial naturalization, the Northern Mariana Islands will be deemed to constitute a State as defined in Subsection 101(a) paragraph (36) of the said Act. The Courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands will be included among the courts specified in Subsection 310(a) of the said Act and will have jurisdiction to naturalize persons who become eligible under this Section and who reside within their respective jurisdictions.

["(d) With respect to persons who will become citizens or nationals of the United States under Article III of this Covenant or under this Section the loss of nationality provisions of the said Act will apply.**]**

* * * * * * *

"ARTICLE VII

"UNITED STATES FINANCIAL ASSISTANCE

* * * * * * *

"SECTION 703 (a) * * *

"(b) There will be paid into the Treasury of the Government of the Northern Mariana Islands, to be expended to the benefit of the people thereof as that Government may by law prescribe, the proceeds of all customs duties and federal income taxes derived from the Northern Mariana Islands, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in the Northern Mariana Islands and transported to the United States, its territories or possessions, or consumed in the Northern Mariana Islands, the proceeds of any other taxes which may be levied by the Congress on the inhabitants of the Northern Mariana Islands, and all **[**quarantine, passport, immigration and naturalization**]** *quarantine and passport* fees collected in the Northern Mariana Islands, except that nothing in this Section shall be construed to apply to any tax imposed by Chapters 2 or 21 of Title 26, United States Code.

* * * * * * *

SEC. 3. IMMIGRATION AND TRANSITION.

(a) APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT AND ESTABLISHMENT OF A TRANSITION PROGRAM.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), effective on the first day of the first full month commencing 1 year after the date of enactment of the Northern Mariana Islands Immigration, Security, and Labor Act (hereafter referred to as the "transition program effective date"), the provisions of the "immigration laws" (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) shall apply to the Commonwealth of the Northern Mariana Islands (referred to in this section as the "Commonwealth"), except as otherwise provided in this section.

(2) TRANSITION PERIOD.—There shall be a transition period beginning on the transition program effective date and ending December 31, 2013, except as provided in subsections (b) and (d), during which the Secretary of Homeland Security, in con-

sultation with the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of the Interior, shall establish, administer, and enforce a transition program to regulate immigration to the Commonwealth, as provided in this section (hereafter referred to as the "transition program").

(3) DELAY OF COMMENCEMENT OF TRANSITION PERIOD.—

(A) IN GENERAL.—The Secretary of Homeland Security, in the Secretary's sole discretion, in consultation with the Secretary of the Interior, the Secretary of Labor, the Secretary of State, the Attorney General, and the Governor of the Commonwealth, may request that the transition program effective date be delayed for a period not to exceed more than 180 days after such date.

(B) CONGRESSIONAL NOTIFICATION.—The Secretary of Homeland Security shall notify the Congress of a request under subparagraph (A) not later than 30 days prior to the transition program effective date.

(C) CONGRESSIONAL REVIEW.—A delay of the transition program effective date shall not take effect until 30 days after the date on which the request under subparagraph (A) is made.

(4) REQUIREMENT FOR REGULATIONS.—The transition program shall be implemented pursuant to regulations to be promulgated, as appropriate, by the head of each agency or department of the United States having responsibilities under the transition program.

(5) INTERAGENCY AGREEMENTS.—The Secretary of Homeland Security, the Secretary of State, the Secretary of Labor, and the Secretary of the Interior shall negotiate and implement agreements among their agencies to identify and assign their respective duties so as to ensure timely and proper implementation of the provisions of this section. The agreements should address, at a minimum, procedures to ensure that Commonwealth employers have access to adequate labor, and that tourists, students, retirees, and other visitors have access to the Commonwealth without unnecessary delay or impediment. The agreements may also allocate funding between the respective agencies tasked with various responsibilities under this section.

(6) CERTAIN EDUCATION FUNDING.—Except as otherwise provided, fees collected pursuant to section 703(b) shall be paid into the Treasury of the Commonwealth government for the purpose of funding ongoing vocational educational curricula and program development by Commonwealth educational entities. Fees paid into the Treasury of the Commonwealth under this paragraph shall not exceed fees collected by the Commonwealth government under local law and deposited into the Nonresident Worker Fee Fund for the year preceding the date of enactment of the Northern Mariana Islands Immigration, Security, and Labor Act and shall only be paid under this subsection for the duration of the transition program period.

(7) ASYLUM.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) shall not apply during the transition period to persons physically present in the Commonwealth or arriving in the Commonwealth (whether or not at a designated port of arrival), including persons brought to the Commonwealth after

having been interdicted in international or United States waters.

(b) NUMERICAL LIMITATIONS FOR NONIMMIGRANT WORKERS.—An alien, if otherwise qualified, may seek admission to Guam or to the Commonwealth on or after the transition program effective date as a nonimmigrant worker under section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) without counting against the numerical limitations set forth in section 214(g) of such Act (8 U.S.C. 1184(g)). This subsection does not apply to any employment to be performed outside of Guam or the Commonwealth.

(c) NONIMMIGRANT INVESTOR VISAS.—

(1) IN GENERAL.—Notwithstanding the treaty requirements in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), during the transition period, the Secretary of Homeland Security may, upon the application of an alien, classify an alien as a CNMI-only nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien—

(A) has been admitted to the Commonwealth in long-term investor status under the immigration laws of the Commonwealth before the transition program effective date;

(B) has continuously maintained residence in the Commonwealth under long-term investor status;

(C) is otherwise admissible; and

(D) maintains the investment or investments that formed the basis for such long-term investor status.

(2) REQUIREMENT FOR REGULATIONS.—Not later than 180 days after the transition program effective date, the Secretary of Homeland Security shall publish regulations in the Federal Register to implement this subsection.

(3) INTERIM PROCEDURES.—The Secretary of Homeland Security shall treat an alien who meets the requirements of paragraph (1) as a nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) until the regulations implementing this subsection are published.

(d) SPECIAL PROVISION TO ENSURE ADEQUATE EMPLOYMENT; COMMONWEALTH ONLY TRANSITIONAL WORKERS.—An alien who is seeking to enter the Commonwealth as a nonimmigrant worker may be admitted to perform work during the transition period subject to the following requirements:

(1) Such an alien shall be treated as a nonimmigrant described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), including the ability to apply, if otherwise eligible, for a change of nonimmigrant classification under section 248 of such Act (8 U.S.C. 1258), or adjustment of status, if eligible therefor, under this section and section 245 of such Act (8 U.S.C. 1255).

(2) The Secretary of Homeland Security shall establish, administer, and enforce a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers for each such nonimmigrant worker described in this subsection who would not otherwise be eligible for admission under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.). In adopting and enforcing this system, the

Secretary shall also consider, not later than 30 days after receipt by the Secretary, any comments and advice submitted by the Governor of the Commonwealth. This system shall provide for a reduction in the allocation of permits for such workers on an annual basis, to zero, during a period not to extend beyond December 31, 2013, unless extended pursuant to paragraph 5 of this subsection, and shall take into account the number of petitions granted under subsection (i). In no event shall a permit be valid beyond the expiration of the transition period. This system may be based on any reasonable method and criteria determined by the Secretary of Homeland Security to promote the maximum use of, and to prevent adverse effects on, wages and working conditions of workers authorized to be employed in the United States, including lawfully admissible freely associated state citizen labor. No alien shall be granted nonimmigrant classification or a visa under this subsection unless the permit requirements established under this paragraph have been met.

(3) The Secretary of Homeland Security shall set the conditions for admission of such an alien under the transition program, and the Secretary of State shall authorize the issuance of nonimmigrant visas for such an alien to engage in employment only as authorized in this subsection. Such a visa shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)), except admission to the Commonwealth. An alien admitted to the Commonwealth on the basis of such a visa shall be permitted to engage in employment only as authorized pursuant to the transition program.

(4) Such an alien shall be permitted to transfer between employers in the Commonwealth during the period of such alien's authorized stay therein, without advance permission of the employee's current or prior employer, within the alien's occupational category or another occupational category the Secretary of Homeland Security has found requires alien workers to supplement the resident workforce.

(5)(A) Not later than 180 days prior to the expiration of the transition period, or any extension thereof, the Secretary of Labor, in consultation with the Secretary of Homeland Security, the Secretary of the Interior, and the Governor of the Commonwealth, shall ascertain the current and anticipated labor needs of the Commonwealth and determine whether an extension, in up to a 5–year increment, of the provisions of this subsection are necessary to ensure an adequate number of workers will be available for legitimate businesses in the Commonwealth. For the purpose of this subparagraph, a business shall not be considered legitimate if it engages directly or indirectly in prostitution, trafficking in minors, or any other activity that is illegal under Federal or local law. The determinations of whether a business is legitimate and to what extent, if any, it may require alien workers to supplement the resident workforce, shall be made by the Secretary of Homeland Security, in the Secretary's sole discretion, and shall not be reviewable.

(B) If the Secretary of Labor determines that such an extension is necessary to ensure an adequate number of workers for legitimate businesses in the Commonwealth, the Secretary of

Labor may, through notice published in the Federal Register, provide for 1 or more extension periods of up to 5 years for each such extension period.

(C) In making the determination of whether alien workers are necessary to ensure an adequate number of workers for legitimate businesses in the Commonwealth, and if so, the number of such workers that are necessary, the Secretary of Labor may consider, among other relevant factors—

(i) government, industry, or independent workforce studies reporting on the need, or lack thereof, for alien workers in the Commonwealth's businesses;

(ii) the unemployment rate of United States citizen workers residing in the Commonwealth;

(iii) the unemployment rate of aliens in the Commonwealth who have been lawfully admitted for permanent residence;

(iv) the number of unemployed alien workers in the Commonwealth;

(v) any good faith efforts to locate, educate, train, or otherwise prepare United States citizen residents, lawful permanent residents, and unemployed alien workers already within the Commonwealth, to assume those jobs;

(vi) any available evidence tending to show that United States citizen residents, lawful permanent residents, and unemployed alien workers already in the Commonwealth are not willing to accept jobs of the type offered;

(vii) the extent to which admittance of alien workers will affect the compensation, benefits, and living standards of existing workers within those industries and other industries authorized to employ alien workers; and

(viii) the prior use, if any, of alien workers to fill those industry jobs, and whether the industry is overly and unnecessarily reliant on alien workers.

(6) The Secretary of Homeland Security may authorize the admission of a spouse or minor child accompanying or following to join a worker admitted pursuant to this subsection.

(e) PERSONS LAWFULLY ADMITTED UNDER THE COMMONWEALTH IMMIGRATION LAW.—

(1) PROHIBITION ON REMOVAL.—

(A) IN GENERAL.—Subject to subparagraph (B), no alien who is lawfully present in the Commonwealth pursuant to the immigration laws of the Commonwealth on the transition program effective date shall be removed from the United States on the grounds that such alien's presence in the Commonwealth is in violation of section 212(a)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)), until the earlier of the date—

(i) of the completion of the period of the alien's admission under the immigration laws of the Commonwealth; or

(ii) that is 2 years after the transition program effective date.

(B) LIMITATIONS.—Nothing in this subsection shall be construed to prevent or limit the removal under subparagraph 212(a)(6)(A) of the Immigration and Nationality Act

(8 U.S.C. 1182(a)(6)(A)) of such an alien at any time, if the alien entered the Commonwealth after the date of enactment of the Northern Mariana Islands Immigration, Security, and Labor Act, and the Secretary of Homeland Security has determined that the alien entered the Commonwealth in violation of this section.

(2) EMPLOYMENT AUTHORIZATION.—An alien who is lawfully present and authorized to be employed in the Commonwealth pursuant to the immigration laws of the Commonwealth on the transition program effective date shall be considered authorized by the Secretary of Homeland Security to be employed in the Commonwealth until the earlier of the date—

(A) of expiration of the alien's employment authorization under the immigration laws of the Commonwealth; or

(B) that is 2 years after the transition program effective date.

(3) REGISTRATION.—The Secretary of Homeland Security may require any alien present in the Commonwealth on or after the transition period effective date to register with the Secretary in such a manner, and according to such schedule, as he may in his unreviewable discretion require. Paragraphs (1) and (2) of this subsection shall not apply to any alien who fails to comply with such registration requirement. Notwithstanding any other law, the Government of the Commonwealth shall provide to the Secretary all Commonwealth immigration records or other information that the Secretary deems necessary to assist the implementation of this paragraph or other provisions of the Northern Mariana Islands Immigration, Security, and Labor Act. Nothing in this paragraph shall modify or limit section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or other provision of the Immigration and Nationality Act relating to the registration of aliens.

(4) REMOVABLE ALIENS.—Except as specifically provided in paragraph (1)(A) of this subsection, nothing in this subsection shall prohibit or limit the removal of any alien who is removable under the Immigration and Nationality Act.

(5) PRIOR ORDERS OF REMOVAL.—The Secretary of Homeland Security may execute any administratively final order of exclusion, deportation or removal issued under authority of the immigration laws of the United States before, on, or after the transition period effective date, or under authority of the immigration laws of the Commonwealth before the transition period effective date, upon any subject of such order found in the Commonwealth on or after the transition period effective date, regardless whether the alien has previously been removed from the United States or the Commonwealth pursuant to such order.

(f) EFFECT ON OTHER LAWS.—The provisions of this section and of the immigration laws, as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)), shall, on the transition program effective date, supersede and replace all laws, provisions, or programs of the Commonwealth relating to the admission of aliens and the removal of aliens from the Commonwealth.

(g) ACCRUAL OF TIME FOR PURPOSES OF SECTION 212(A)(9)(B) OF THE IMMIGRATION AND NATIONALITY ACT.—No time that an alien is present in the Commonwealth in violation of the immigration laws of the Commonwealth shall be counted for purposes of inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)).

(h) REPORT ON NONRESIDENT GUESTWORKER POPULATION.—The Secretary of the Interior, in consultation with the Secretary of Homeland Security, and the Governor of the Commonwealth, shall report to the Congress not later than 2 years after the date of the enactment of the Northern Mariana Islands Immigration, Security, and Labor Act. The report shall include—

(1) the number of aliens residing in the Commonwealth;

(2) a description of the legal status (under Federal law) of such aliens;

(3) in five year increments, the number of years each alien has been residing in the Commonwealth;

(4) the current and future requirements for the Commonwealth economy of an alien workforce; and

(5) recommendations to the Congress related to granting alien workers lawfully present in the Commonwealth on the date of the enactment of such Act United States citizenship or some other permanent legal status.

(i) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to count the issuance of any visa to an alien, or the grant of any admission of an alien, under this section toward any numerical limitation contained in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

IMMIGRATION AND NATIONALITY ACT

* * * * * * *

TITLE I—GENERAL

DEFINITIONS

SECTION 101. (a) As used in this Act—

(1) * * *

* * * * * * *

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

(A) * * *

* * * * * * *

(D)(i) * * *

(ii) an alien crewman serving in good faith as such in any capacity required for normal operations and service aboard a fishing vessel having its home port or an operating base in the United States who intends to land temporarily in Guam *or the Commonwealth of the Northern Mariana Islands* and solely in pursuit of his calling as a crewman and to depart from Guam

or the Commonwealth of the Northern Mariana Islands with the vessel on which he arrived;

* * * * * * *

(36) The term "State" includes the District of Columbia, Puerto Rico, Guam, [and the Virgin Islands of the United States] *the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands*.

* * * * * * *

(38) The term "United States", except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, [and the Virgin Islands of the United States] *the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands*.

* * * * * * *

TITLE II—IMMIGRATION

CHAPTER 1—SELECTION SYSTEM

* * * * * * *

ASYLUM

SEC. 208. (a) * * *

* * * * * * *

(e) COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—The provisions of this section and section 209(b) of this Act shall apply to persons physically present in the Commonwealth of the Northern Mariana Islands or arriving in the Commonwealth (whether or not at a designated port of arrival and including persons who are brought to the Commonwealth after having been interdicted in international or United States waters) only on or after January 1, 2018.

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CHAPTER 2—QUALIFICATIONS FOR ADMISSION OF ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

* * * * * * *

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND INELIGIBLE FOR ADMISSION; WAIVERS OF INADMISSIBILITY

SEC. 212. (a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) * * *

* * * * * * *

(7) DOCUMENTATION REQUIREMENTS.—

(A) * * *

(B) NONIMMIGRANTS.—

(i) * * *

[(iii) GUAM VISA WAIVER.—For provision authorizing waiver of clause (i) in the case of visitors to Guam, see subsection (l).]

(iii) GUAM AND NORTHERN MARIANA ISLANDS VISA WAIVER.—For provision authorizing waiver of clause (i) in the case of visitors to Guam or the Commonwealth of the Northern Mariana Islands, see subsection (l). –

* * * * * * *

(d)(1) * * *

* * * * * * *

(7) The provisions of subsection (a) (other than paragraph (7)) shall be applicable to any alien who shall leave Guam, *the Commonwealth of the Northern Mariana Islands,* Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. Any alien described in this paragraph, who is denied admission to the United States, shall be immediately removed in the manner provided by section 241(c) of this Act.

* * * * * * *

[(l)(1) The requirement of paragraph (7)(B)(i) of subsection (a) of this section may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State and the Secretary of the Interior, after consultation with the Governor of Guam, jointly determine that—

[(A) an adequate arrival and departure control system has been developed on Guam, and

[(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

[(2) An alien may not be provided a waiver under this subsection unless the alien has waived any right—

[(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam, or

[(B) to contest, other than on the basis of an application for asylum, any action for removal of the alien.

[(3) If adequate appropriated funds to carry out this subsection are not otherwise available, the Attorney General is authorized to accept from the Government of Guam such funds as may be tendered to cover all or any part of the cost of administration and enforcement of this subsection.]

(l) GUAM AND NORTHERN MARIANA ISLANDS VISA WAIVER PROGRAM.—

(1) IN GENERAL.—The requirement of subsection (a)(7)(B)(i) may be waived by the Secretary of Homeland Security, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay in Guam or the Commonwealth of the Northern Mariana Islands for a period not to exceed 45 days, if the Secretary of the Interior, after consultation with the Secretary of Homeland Se-

curity, the Secretary of State, the Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands, determines that—

(A) an adequate arrival and departure control system has been developed in Guam and the Commonwealth of the Northern Mariana Islands; and

(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

(2) ALIEN WAIVER OF RIGHTS.—An alien may not be provided a waiver under this subsection unless the alien has waived any right—

(A) to review or appeal under this Act an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam or the Commonwealth of the Northern Mariana Islands; or

(B) to contest, other than on the basis of an application for withholding of removal under section 241(b)(3) of this Act or under the Convention Against Torture, or an application for asylum, any action for removal of the alien.

(3) REGULATIONS.— All necessary regulations to implement this subsection shall be promulgated by the Secretary of Homeland Security, in consultation with the Secretary of the Interior and the Secretary of State, on or before the 180th day after the date of the enactment of the Northern Mariana Islands Immigration, Security, and Labor Act. The promulgation of such regulations shall be considered a foreign affairs function for purposes of section 553(a) of title 5, United States Code. At a minimum, such regulations should include, but not necessarily be limited to—

(A) a listing of all countries whose nationals may obtain the waiver also provided by this subsection, except that such regulations shall provide for a listing of any country from which the Commonwealth has received a significant economic benefit from the number of visitors for pleasure within the one-year period preceding the date of the enactment of the Northern Mariana Islands Immigration, Security, and Labor Act; and

(B) any bonding requirements for nationals of some or all of those countries who may present an increased risk of overstays or other potential problems, if different from such requirements otherwise provided by law for nonimmigrant visitors.

(4) FACTORS.—In determining whether to grant or continue providing the waiver under this subsection to nationals of any country, the Secretary of the Interior, in consultation with the Secretary of Homeland Security, shall consider all factors that the Secretary deems relevant, including electronic travel authorizations, procedures for reporting lost and stolen passports, repatriation of aliens, rates of refusal for nonimmigrant visitor visas, overstays, exit systems, and information exchange.

(5) SUSPENSION.—The Secretary of Homeland Security shall monitor the admission of nonimmigrant visitors to Guam and the Commonwealth of the Northern Mariana Islands under this subsection. If the Secretary determines that such admissions

have resulted in an unacceptable number of visitors from a country remaining unlawfully in Guam or the Commonwealth of the Northern Mariana Islands, unlawfully obtaining entry to other parts of the United States, or seeking withholding of removal or asylum, or that visitors from a country pose a risk to law enforcement or security interests of Guam or the Commonwealth of the Northern Mariana Islands or of the United States (including the interest in the enforcement of the immigration laws of the United States), the Secretary shall suspend the admission of nationals of such country under this subsection. The Secretary of Homeland Security may in the Secretary's discretion suspend the Guam and Northern Mariana Islands visa waiver program at any time, on a country-by-country basis, for other good cause.

(6) ADDITION OF COUNTRIES.—The Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands may request the Secretary of the Interior to add a particular country to the list of countries whose nationals may obtain the waiver provided by this subsection, and the Secretary may grant such request after consultation with the Secretary of Homeland Security and the Secretary of State, and may promulgate regulations with respect to the inclusion of that country and any special requirements the Secretary of Homeland Security, in the Secretary's sole discretion, may impose prior to allowing nationals of that country to obtain the waiver provided by this subsection.

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ADMISSION OF NONIMMIGRANTS

SEC. 214. (a)(1) The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe, including when he deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that at the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248, such alien will depart from the United States. No alien admitted to **[**Guam**]** *Guam or the Commonwealth of the Northern Mariana Islands* without a visa pursuant to section 212(l) may be authorized to enter or stay in the United States other than in **[**Guam**]** *Guam or the Commonwealth of the Northern Mariana Islands* or to remain in **[**Guam**]** *Guam or the Commonwealth of the Northern Mariana Islands* for a period exceeding fifteen days from date of admission to **[**Guam**]** *Guam or the Commonwealth of the Northern Mariana Islands*. No alien admitted to the United States without a visa pursuant to section 217 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.

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CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL

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INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING

SEC. 235. (a) * * *

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—

(1) INSPECTION OF ALIENS ARRIVING IN THE UNITED STATES AND CERTAIN OTHER ALIENS WHO HAVE NOT BEEN ADMITTED OR PAROLED.—

(A) * * *

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(G) COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—Nothing in this subsection shall be construed to authorize or require any person described in section 208(e) of this Act to be permitted to apply for asylum under section 208 of this Act at any time before January 1, 2018.

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CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS

ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

SEC. 245. (a) * * *

(c) Other than an alien having an approved petition for classification as a VAWA self-petitioner, subsection (a) shall not be applicable to (1) an alien crewman; (2) subject to subsection (k), an alien (other than an immediate relative as defined in section 201(b) or a special immigrant described in section 101(a)(27)(H), (I), (J), or (K)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status or who is in unlawful immigration status on the date of filing the application for adjustment of status or who has failed (other than through no fault of his own or for technical reasons) to maintain continuously a lawful status since entry into the United States; (3) any alien admitted in transit without visa under section 212(d)(4)(C); (4) an alien (other than an immediate relative as defined in section 201(b)) who was admitted as a nonimmigrant visitor without a visa under section 212(l)*, section 212(o),* section 217; (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S), (6) an alien who is deportable under section 237(a)(4)(B); (7) any alien who seeks adjustment of status to that of an immigrant under section 203(b) and is not in a lawful nonimmigrant status; or (8) any alien who was employed while the alien was an unauthorized alien, as defined in section 274A(h)(3), or who has otherwise violated the terms of a nonimmigrant visa.

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CHANGE OF NONIMMIGRANT CLASSIFICATION

SEC. 248. (a) The Secretary of Homeland Security may, under such conditions as he may prescribe, authorize a change from any

nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status and who is not inadmissible under section 212(a)(9)(B)(i) (or whose inadmissibility under such section is waived under section 212(a)(9)(B)(v)), except (subject to subsection (b)) in the case of—

(1) * * *

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(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l)*, section 212(o),* or section 217.

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TITLE 10, UNITED STATES CODE

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Subtitle B—Army

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PART III—TRAINING

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CHAPTER 403—UNITED STATES MILITARY ACADEMY

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§ 4342. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of the Corps of Cadets of the Academy (determined for any year as of the day before the last day of the academic year) is 4,000 or such higher number as may be prescribed by the Secretary of the Army under subsection (j). Subject to that limitation, cadets are selected as follows:

(1) * * *

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(10) One cadet from the Commonwealth of the Northern Mariana Islands, nominated by the [resident representative] *Delegate in Congress* from the commonwealth.

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Subtitle C—Navy and Marine Corps

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PART III—EDUCATION AND TRAINING

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CHAPTER 603—UNITED STATES NAVAL ACADEMY

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§ 6954. Midshipmen: number

(a) The authorized strength of the Brigade of Midshipmen (determined for any year as of the day before the last day of the academic year) is 4,000 or such higher number as may be prescribed by the Secretary of the Navy under subsection (h). Subject to that limitation, midshipmen are selected as follows:

(1) * * *

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(10) One from the Commonwealth of the Northern Mariana Islands, nominated by the [resident representative] *Delegate in Congress* from the commonwealth.

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Subtitle D—Air Force

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PART III—TRAINING

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CHAPTER 903—UNITED STATES AIR FORCE ACADEMY

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§ 9342. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of Air Force Cadets of the Academy (determined for any year as of the day before the last day of the academic year) is 4,000 or such higher number as may be prescribed by the Secretary of the Air Force under subsection (j). Subject to that limitation, Air Force Cadets are selected as follows:

(1) * * *

* * * * * * *

(10) One cadet from the Commonwealth of the Northern Mariana Islands, nominated by the [resident representative] *Delegate in Congress* from the commonwealth.

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