

Calendar No. 360

106TH CONGRESS
1ST SESSION

S. 1052

[Report No. 106-204]

A BILL

To implement further the Act (Public Law 94-241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes.

NOVEMBER 1, 1999

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

MAY 13, 1999

Mr. MURKOWSKI (for himself, Mr. AKAKA, Mr. BINGAMAN, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

NOVEMBER 1, 1999

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To implement further the Act (Public Law 94-241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Northern Mariana Is-
3 lands Covenant Implementation Act”.

4 **SEC. 2. IMMIGRATION REFORM FOR THE COMMONWEALTH**
5 **OF THE NORTHERN MARIANA ISLANDS.**

6 (a) AMENDMENTS TO ACT APPROVING THE COV-
7 ENANT TO ESTABLISH A COMMONWEALTH OF THE
8 NORTHERN MARIANA ISLANDS IN POLITICAL UNION
9 WITH THE UNITED STATES OF AMERICA.—Public Law
10 94-241 (90 Stat. 263), as amended, is further amended
11 by adding at the end thereof the following:

12 **“SEC. 6. TRANSITION PROGRAM.**

13 **“(a) ATTORNEY GENERAL FINDINGS.—**

14 **“(1) MINIMUM STANDARDS.—**Within ninety
15 days after the date of enactment of the Northern
16 Mariana Islands Covenant Implementation Act, the
17 Attorney General shall determine, and publish by
18 notice in the Federal Register, minimum standards
19 that the Attorney General deems necessary to ensure
20 an effective system of immigration control for the
21 Commonwealth of the Northern Mariana Islands.
22 The determination of such minimum standards shall
23 rest within the sole discretion of the Attorney Gen-
24 eral, shall not be subject to the rulemaking require-
25 ments of the Administrative Procedure Act (5

1 U.S.C. 533–557), and may be reviewed solely pursu-
2 ant to paragraph (3) of this subsection.

3 “(2) FINDINGS.—One year after the date of en-
4 actment of the Northern Mariana Islands Covenant
5 Implementation Act, or, if applicable, ninety days
6 after the issuance of a final judicial determination
7 pursuant to paragraph (3), whichever is later, the
8 Attorney General, after consultation with the Gov-
9 ernment of the Commonwealth of the Northern Mar-
10 iana Islands, shall make the following findings:

11 “(A) whether the Government of the Com-
12 monwealth of the Northern Mariana Islands
13 possesses the institutional capability to admin-
14 ister an effective system of immigration control,
15 consistent with the minimum standards estab-
16 lished under paragraph (1), and

17 “(B) if the Attorney General determines
18 that the Government of the Commonwealth of
19 the Northern Marianas possesses such institu-
20 tional capability, whether the Government of
21 the Commonwealth of the Northern Mariana Is-
22 lands has demonstrated a genuine commitment
23 to enforce an effective system of immigration
24 control consistent with the minimum standards
25 established under paragraph (1). The findings

1 by the Attorney General regarding the institu-
2 tional capability of the Government of the Com-
3 monwealth of the Northern Mariana Islands,
4 and if applicable, the genuine commitment of
5 the Government of the Commonwealth of the
6 Northern Mariana Islands to enforce an effec-
7 tive system of immigration control shall be pub-
8 lished in the Federal Register in a timely man-
9 ner.

10 “(3) ACCELERATED JUDICIAL REVIEW OF MIN-
11 IMUM STANDARDS.—Except for review in the Su-
12 preme Court of the United States, the United States
13 Court of Appeals for the District of Columbia Cir-
14 cuit shall have original and exclusive jurisdiction
15 over any complaint of the Government of the Com-
16 monwealth of the Northern Mariana Islands seeking
17 review of the minimum standards established under
18 paragraph (1). No other person or entity shall have
19 the right to seek review of these minimum stand-
20 ards. For purposes of this paragraph, a petition for
21 review will be deemed to have been timely filed only
22 if it is made within ninety days after publication of
23 the standards in the Federal Register. It shall be the
24 duty of the reviewing court to advance on the docket
25 and to expedite to the greatest possible extent the

1 disposition of any matter brought under this para-
2 graph. In the event that there is issued a final judi-
3 cial determination invalidating the minimum stand-
4 ards, the Attorney General shall have published in
5 the Federal Register new minimum standards within
6 ninety days of such final judicial determination.
7 Such new minimum standards shall be reviewable
8 solely pursuant to this paragraph.

9 “(4) ACCELERATED JUDICIAL REVIEW OF THE
10 FINDINGS OF THE ATTORNEY GENERAL.—The find-
11 ings of the Attorney General described in subpara-
12 graphs (A) and (B) of paragraph (2) shall be
13 deemed to be final upon publication in the Federal
14 Register, unless the Government of the Common-
15 wealth of the Northern Mariana Islands seeks review
16 of these findings by filing a timely petition for re-
17 view, pursuant to this paragraph, with the United
18 States Court of Appeals for the District of Columbia
19 Circuit. No other person or entity shall have the
20 right to seek review of the findings of the Attorney
21 General. For purposes of this paragraph, a petition
22 for review will be deemed to have been timely filed
23 only if it is made within ninety days of publication
24 of the findings of the Attorney General in the Fed-
25 eral Register. Except for review in the Supreme

1 Court of the United States, the United States Court
2 of Appeals for the District of Columbia Circuit shall
3 have original and exclusive jurisdiction over any re-
4 view of the findings of the Attorney General. It shall
5 be the duty of the reviewing court to advance on the
6 docket and to expedite to the greatest possible extent
7 the disposition of any matter brought under this
8 paragraph. In the event that there is issued a final
9 judicial determination upholding the findings of the
10 Attorney General, then the provisions of subsections
11 (b) through (j) shall take effect 180 days after the
12 date of such a final judicial determination. In the
13 event that there is a final judicial determination in-
14 validating the findings of the Attorney General, sub-
15 ject to subparagraph (6), then the provisions of sub-
16 sections (b) through (j) shall not take effect. Noth-
17 ing in this paragraph shall limit the authority of the
18 Attorney General to make new findings pursuant to
19 paragraph (2)(B) at any time after such a final judi-
20 cial determination.

21 “(5) EFFECTIVE DATE.—Subject to paragraphs
22 (4) and (6), if the Attorney General finds either that
23 the Commonwealth of the Northern Mariana Islands
24 does not have the institutional capability to meet the
25 minimum standards described in paragraph (2)(A)

1 or has not demonstrated a genuine commitment to
 2 enforce an effective system of immigration control
 3 consistent with the minimum standards in para-
 4 graph (2)(B); then subsections (b) through (j) shall
 5 take effect 180 days after the finding is published.
 6 If the Attorney General determines that the Govern-
 7 ment of the Commonwealth of the Northern Mar-
 8 iana Islands has such institutional capability and
 9 genuine commitment, subject to paragraph (6); then
 10 the provisions of subsections (b) through (j) shall
 11 not take effect.

12 “(6) SUBSEQUENT FINDINGS.—If the Attorney
 13 General finds that the Government of the Common-
 14 wealth of the Northern Mariana Islands meets the
 15 requirements of subparagraphs (A) and (B) of para-
 16 graph (2); the Attorney General, every three years
 17 thereafter, shall make findings with respect to
 18 whether the Government of the Commonwealth of
 19 the Northern Mariana Islands continues to meet the
 20 requirements of such subparagraphs. The subse-
 21 quent findings of the Attorney General shall be re-
 22 viewable solely pursuant to paragraph (4).

23 “(b) APPLICATION OF THE IMMIGRATION AND NA-
 24 TIONALITY ACT AND ESTABLISHMENT OF A TRANSITION
 25 PROGRAM.—Except as provided in subsection (c), the pro-

1 visions of the Immigration and Nationality Act (8 U.S.C.
 2 1101) shall apply to the Commonwealth of the Northern
 3 Mariana Islands: *Provided*, That there shall be a transi-
 4 tion period not to exceed ten years following the effective
 5 date of the provisions of subsections (b) through (j) of this
 6 section (except for subsection (e)(2)(I), if needed), during
 7 which the Attorney General, in consultation with the Sec-
 8 retaries of State, Labor, and the Interior, shall establish,
 9 administer, and enforce a transition program for immigra-
 10 tion to the Commonwealth of the Northern Mariana Is-
 11 lands (the “transition program”). The transition program
 12 established pursuant to this section shall provide for the
 13 issuance of nonimmigrant temporary alien worker visas
 14 pursuant to subsection (d), and, under the circumstances
 15 set forth in subsection (e), for family-sponsored and em-
 16 ployment-based immigrant visas. The transition program
 17 shall be implemented pursuant to regulations to be pro-
 18 mulgated as appropriate by each agency having respon-
 19 sibilities under the transition program.

20 “(e) EXEMPTION FROM NUMERICAL LIMITATIONS
 21 FOR H-2B TEMPORARY WORKERS.—An alien, if other-
 22 wise qualified, may seek admission to the Commonwealth
 23 of the Northern Mariana Islands as a temporary worker
 24 under section 101(a)(15)(H)(ii)(B) of the Immigration
 25 and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(B))

1 without regard to the numerical limitations set forth in
2 section 214(g) of such Act (8 U.S.C. 1184 (g)).

3 “(d) TEMPORARY ALIEN WORKERS.—The transition
4 program shall conform to the following requirements with
5 respect to temporary alien workers who would otherwise
6 not be eligible for nonimmigrant classification under the
7 Immigration and Nationality Act:

8 “(1) Aliens admitted under this subsection shall
9 have the same privileges as nonimmigrants under
10 section 101(a)(15) of the Immigration and Nation-
11 ality Act (8 U.S.C. 1258), including the ability to
12 apply, if otherwise eligible, for a change of non-
13 immigrant status under section 248 of such Act (8
14 U.S.C. 1258), or adjustment of status, if eligible
15 therefor, under this section and section 245(e) of
16 such Act (8 U.S.C. 1255(e)).

17 “(2)(A) The Secretary of Labor shall establish,
18 administer, and enforce a system for allocating and
19 determining the number, terms, and conditions of
20 permits to be issued to prospective employers for
21 each temporary alien worker who would not other-
22 wise be eligible for admission under the Immigration
23 and Nationality Act. This system shall provide for a
24 reduction in the allocation of permits for such work-
25 ers on an annual basis, to zero, over a period not to

1 exceed ten years. In no event shall a permit be valid
2 beyond the expiration of the transition period. This
3 system may be based on any reasonable method and
4 criteria determined by the Secretary of Labor to
5 promote the maximum use of, and to prevent ad-
6 verse effects on wages and working conditions of,
7 persons authorized to work in the United States
8 under section 274A of the Immigration and Nation-
9 ality Act (8 U.S.C. 1324a), and lawfully admissible
10 freely associated state citizen labor.

11 “(B) The Secretary of Labor is authorized to
12 establish and collect appropriate user fees for the
13 purpose of this section. Amounts collected pursuant
14 to this section shall be deposited in a special fund
15 of the Treasury. Such amounts shall be available, to
16 the extent and in the amounts as provided in ad-
17 vance in appropriations acts, for the purposes of ad-
18 ministering this section. Such amounts are author-
19 ized to be appropriated to remain available until ex-
20 pended.

21 “(3) The Attorney General shall set the condi-
22 tions for admission of nonimmigrant temporary alien
23 workers under the transition program, and the Sec-
24 retary of State shall authorize the issuance of non-
25 immigrant visas for aliens to engage in employment

1 only as authorized in this subsection: *Provided*, That
2 such visas shall not be valid for admission to the
3 United States, as defined in section 101(a)(38) of
4 the Immigration and Nationality Act (8 U.S.C.
5 1101(a)(38)), except the Commonwealth of the
6 Northern Mariana Islands. An alien admitted to the
7 Commonwealth of the Northern Mariana Islands on
8 the basis of such a nonimmigrant visa shall be per-
9 mitted to engage in employment only as authorized
10 pursuant to the transition program. No alien shall
11 be granted nonimmigrant classification or a visa
12 under this subsection unless the permit requirements
13 established under paragraph (2) have been met.

14 “(4) An alien admitted as a nonimmigrant pur-
15 suant to this subsection shall be permitted to trans-
16 fer between employers in the Commonwealth of the
17 Northern Mariana Islands during the period of such
18 alien’s authorized stay therein to the extent that
19 such transfer is authorized by the Attorney General
20 in accordance with criteria established by the Attor-
21 ney General and the Secretary of Labor.

22 “(e) IMMIGRANTS.—With the exception of immediate
23 relatives (as defined in section 201(b)(2) of the Immigra-
24 tion and Nationality Act (8 U.S.C. 1151(b)(2)) and, ex-
25 cept as provided in paragraphs (1) and (2), no alien shall

1 be granted initial admission as a lawful permanent resi-
2 dent of the United States at a port-of-entry in the Com-
3 monwealth of the Northern Mariana Islands, or at a port-
4 of-entry in Guam for the purpose of immigrating to the
5 Commonwealth of the Northern Mariana Islands.

6 “(1) ~~FAMILY-SPONSORED IMMIGRANT VISAS.—~~

7 The Attorney General, based on a joint rec-
8 ommendation of the Governor and Legislature of the
9 Commonwealth of the Northern Mariana Islands,
10 and in consultation with appropriate federal agen-
11 cies, may establish a specific number of additional
12 initial admissions as a family-sponsored immigrant
13 at a port-of-entry in the Commonwealth of the
14 Northern Mariana Islands, or at a port-of-entry in
15 Guam for the purpose of immigrating to the Com-
16 monwealth of the Northern Mariana Islands, pursu-
17 ant to sections 202 and 203(a) of the Immigration
18 and Nationality Act (8 U.S.C. 1152 and 1153(a))
19 during the following fiscal year.

20 “(2) ~~EMPLOYMENT-BASED IMMIGRANT VISAS.—~~

21 “(A) If the Secretary of Labor, upon re-
22 ceipt of a joint recommendation of the Governor
23 and Legislature of the Commonwealth of the
24 Northern Mariana Islands, finds that excep-
25 tional circumstances exist with respect to the

1 inability of employers in the Commonwealth of
2 the Northern Mariana Islands to obtain suffi-
3 cient work-authorized labor, the Attorney Gen-
4 eral may establish a specific number of employ-
5 ment-based immigrant visas to be made avail-
6 able during the following fiscal year under sec-
7 tion 203(b) of the Immigration and Nationality
8 Act (8 U.S.C. 1153(b)).

9 “(B) Upon notification by the Attorney
10 General that a number has been established
11 pursuant to subparagraph (A), the Secretary of
12 State may allocate up to that number of visas
13 without regard to the numerical limitations set
14 forth in sections 202 and 203(b)(3)(B) of the
15 Immigration and Nationality Act (8 U.S.C.
16 1152 and 1153(b)(3)(B)). Visa numbers allo-
17 cated under this subparagraph shall be allo-
18 cated first from the number of visas available
19 under section 203(b)(3) of such Act (8 U.S.C.
20 1153(b)(3)), or, if such visa numbers are not
21 available, from the number of visas available
22 under section 203(b)(5) of such Act (8 U.S.C.
23 1153(b)(5)).

24 “(C) Persons granted employment-based
25 immigrant visas under the transition program

1 may be admitted initially at a port-of-entry in
2 the Commonwealth of the Northern Mariana Is-
3 lands, or at a port-of-entry in Guam for the
4 purpose of immigrating to the Commonwealth
5 of the Northern Mariana Islands, as lawful per-
6 manent residents of the United States.

7 “(D) Any immigrant visa issued pursuant
8 to this paragraph shall be valid only for applica-
9 tion for initial admission to the Commonwealth
10 of the Northern Mariana Islands. The admis-
11 sion of any alien pursuant to such an immi-
12 grant visa shall be an admission for lawful per-
13 manent residence and employment only in the
14 Commonwealth of the Northern Mariana Is-
15 lands during the first five years after such ad-
16 mission. Such admission shall not authorize
17 permanent residence or employment in any
18 other part of the United States during such
19 five-year period. An alien admitted for perma-
20 nent residence pursuant to this paragraph shall
21 be issued appropriate documentation identifying
22 the person as having been admitted pursuant to
23 the terms and conditions of this transition pro-
24 gram, and shall be required to comply with a
25 system for the registration and reporting of

1 aliens admitted for permanent residence under
2 the transition program, to be established by the
3 Attorney General, by regulation, consistent with
4 the Attorney General's authority under Chapter
5 7 of Title II of the Immigration and Nationality
6 Act (8 U.S.C. 1301–1306).

7 “(E) Nothing in this paragraph shall pre-
8 clude an alien who has obtained lawful perma-
9 nent resident status pursuant to this paragraph
10 from applying, if otherwise eligible under this
11 section and under the Immigration and Nation-
12 ality Act for an immigrant visa or admission as
13 a lawful permanent resident under the Immi-
14 gration and Nationality Act.

15 “(F) Any alien admitted under this sub-
16 section, who violates the provisions of this para-
17 graph, or who is found removable or inadmis-
18 sible under section 237(a) (8 U.S.C. 1227 (a)),
19 or paragraphs (1), (2), (3), (4)(A), (4)(B), (6),
20 (7), (8), or (9) of section 212(a) (8 U.S.C.
21 1182(a)), shall be removed from the United
22 States pursuant to sections 239, 240, and 241
23 of the Immigration and Nationality Act (8
24 U.S.C. 1229, 1230, and 1231).

1 “(G) The Attorney General may establish
2 by regulation a procedure by which an alien
3 who has obtained lawful permanent resident
4 status pursuant to this paragraph may apply
5 for a waiver of the limitations on the terms and
6 conditions of such status. The Attorney General
7 may grant the application for waiver, in the dis-
8 cretion of the Attorney General, if—

9 “(i) the alien is not in removal pro-
10 ceedings;

11 “(ii) the alien has been a person of
12 good moral character for the preceding five
13 years;

14 “(iii) the alien has not violated the
15 terms and conditions of the alien’s perma-
16 nent resident status; and

17 “(iv) the alien would suffer excep-
18 tional and extremely unusual hardship
19 were such terms and conditions not
20 waived.

21 “(H) The limitations on the terms and
22 conditions of an alien’s permanent residence set
23 forth in this paragraph shall expire at the end
24 of five years after the alien’s admission to the
25 Commonwealth of the Northern Mariana Is-

1 lands as a permanent resident and the alien is
2 thereafter fully subject to the provisions of the
3 Immigration and Nationality Act. Following the
4 expiration of such limitations, the permanent
5 resident alien may engage in any lawful activ-
6 ity, including employment, anywhere in the
7 United States. Such an alien, if otherwise eligi-
8 ble for naturalization, may count the five-year
9 period in the Commonwealth of the Northern
10 Mariana Islands towards time in the United
11 States for purposes of meeting the residence re-
12 quirements of Title III of the Immigration and
13 Nationality Act.

14 “(I) SPECIAL PROVISION TO ENSURE ADE-
15 QUATE EMPLOYMENT IN THE HOTEL INDUSTRY
16 AFTER THE TRANSITION PERIOD ENDS.—Dur-
17 ing the fiscal year preceding the ninth anniver-
18 sary of the effective date of this subsection, and
19 in the fourth year of any extension thereafter,
20 the Attorney General and the Secretary of
21 Labor shall consult with the Governor of the
22 Commonwealth of the Northern Mariana Is-
23 lands to ascertain the current and future labor
24 needs of the hotel industry in the Common-
25 wealth of the Northern Mariana Islands, and to

1 determine whether a five-year extension of the
2 provisions of this paragraph would be necessary
3 to ensure an adequate number of workers in the
4 hotel industry. If the Attorney General and Sec-
5 retary of Labor determine that such an exten-
6 sion is necessary to ensure an adequate number
7 of workers in the hotel industry, the Attorney
8 General shall provide notice by publication in
9 the Federal Register that the provisions of this
10 paragraph will be extended for a five-year pe-
11 riod with respect to the hotel industry only. The
12 Attorney General may authorize further exten-
13 sions of this paragraph with respect to the hotel
14 industry in the Commonwealth of the Northern
15 Mariana Islands if, after the Attorney General
16 and the Secretary of Labor have consulted with
17 the Governor of the Commonwealth of the
18 Northern Mariana Islands, the Attorney Gen-
19 eral determines that a further extension is re-
20 quired to ensure an adequate number of work-
21 ers in the hotel industry in the Commonwealth
22 of the Northern Mariana Islands.

23 “(f) NONIMMIGRANT INVESTOR VISAS.—

24 “(1) Notwithstanding the treaty requirements
25 in section 101(a)(15)(c) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1101(a)(15)(E)), the Attor-
2 ney General may, upon the application of the alien
3 classify an alien as a nonimmigrant under section
4 101(a)(15)(E)(ii) of the Immigration and Nation-
5 ality Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien—

6 “(A) has been admitted to the Common-
7 wealth of the Northern Mariana Islands in
8 long-term investor status under the immigration
9 laws of the Commonwealth of the Northern
10 Mariana Islands on or before the effective date
11 of this subsection;

12 “(B) has continuously maintained resi-
13 dence in the Commonwealth of the Northern
14 Mariana Islands under long-term investor sta-
15 tus;

16 “(C) is otherwise admissible; and

17 “(D) maintains the investment or invest-
18 ments that formed the basis for such long-term
19 investor status.

20 “(2) Within 180 days after the effective date of
21 this subsection, the Attorney General and the Sec-
22 retary of State shall jointly publish regulations in
23 the Federal Register to implement this subsection.

24 “(3) The Attorney General shall treat an alien
25 that meets the requirements of paragraph (1) as a

1 nonimmigrant under section 101(a)(15)(E)(ii) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1101(a)(15)(E)(ii)) until the regulations imple-
4 menting this subsection are published.

5 “(g) PERSONS LAWFULLY ADMITTED UNDER THE
6 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
7 IMMIGRATION LAW.—Notwithstanding subsection (d) of
8 this section, persons who would have been lawfully present
9 in the Commonwealth of the Northern Mariana Islands
10 pursuant to the immigration laws of the Commonwealth
11 of the Northern Mariana Islands on the effective date of
12 this subsection, shall be permitted to remain in the Com-
13 monwealth of the Northern Mariana Islands for the com-
14 pletion of the period of admission under such laws, or for
15 two years, whichever is less.

16 “(h) TRAVEL RESTRICTIONS FOR CERTAIN APPLI-
17 CANTS FOR ASYLUM.—Any alien admitted to the Com-
18 monwealth of the Northern Mariana Islands pursuant to
19 the immigration laws of the Commonwealth of the North-
20 ern Mariana Islands or pursuant to subsections (d) or (e)
21 of this section who files an application seeking asylum in
22 the United States shall be required, pursuant to regula-
23 tions established by the Attorney General, to remain in
24 the Commonwealth of the Northern Mariana Islands, dur-
25 ing the period of time the application is being adjudicated

1 or during any appeals filed subsequent to such adjudica-
2 tion. An applicant for asylum who, during the time his
3 application is being adjudicated or during any appeals
4 filed subsequent to such adjudication, leaves the Common-
5 wealth of the Northern Mariana Islands of his own will
6 without prior authorization by the Attorney General there-
7 by abandons the application.

8 “(i) EFFECT ON OTHER LAWS.—The provisions of
9 this section and the Immigration and Nationality Act, as
10 amended by the Northern Mariana Islands Covenant Im-
11 plementation Act, shall supersede and replace all laws,
12 provisions, or programs of the Commonwealth of the
13 Northern Mariana Islands relating to the admission of
14 aliens and the removal of aliens from the Commonwealth
15 of the Northern Mariana Islands.

16 “(j) ACCRUAL OF TIME FOR PURPOSES OF SECTION
17 212(a)(9)(B) OF THE IMMIGRATION AND NATIONALITY
18 ACT, AS AMENDED.—No time that an alien was present
19 in violation of the laws of the Commonwealth of the North-
20 ern Mariana Islands shall be counted for purposes of the
21 ground of inadmissibility in section 212(a)(9)(B) of the
22 Immigration and Nationalities Act (8 U.S.C.
23 1182(a)(9)(B)) prior to the date of enactment of this sub-
24 section.”

1 (b) CONFORMING AMENDMENTS.—(1) Section
2 101(a) of the Immigration and Nationality Act (8 U.S.C.
3 101(a)) is amended:

4 (A) in paragraph (36), by deleting “and the
5 Virgin Islands of the United States.” and sub-
6 stituting “the Virgin Islands of the United States,
7 and the Commonwealth of the Northern Mariana Is-
8 lands.”; and;

9 (B) in paragraph (38), by deleting “and the
10 Virgin Islands of the United States” and sub-
11 stituting “the Virgin Islands of the United States,
12 and the Commonwealth of the Northern Mariana Is-
13 lands.”.

14 (2) Section 212(1) of the Immigration and Nation-
15 ality Act (8 U.S.C. 1182(1)) is amended—

16 (A) in paragraph (1)—

17 (i) by striking “stay on Guam”, and insert-
18 ing “stay on Guam and the Commonwealth of
19 the Northern Mariana Islands”;

20 (ii) by inserting “a total of” after “ex-
21 ceed”, and

22 (iii) by striking the words “after consulta-
23 tion with the Governor of Guam,” and inserting
24 “after respective consultation with the Governor

1 of Guam or the Governor of the Commonwealth
2 of the Northern Mariana Islands,”;

3 (B) in paragraph (1)(A), by striking “on
4 Guam”, and inserting “on Guam or the Common-
5 wealth of the Northern Mariana Islands, respec-
6 tively.”.

7 (C) in paragraph (2)(A), by striking “into
8 Guam”, and inserting “into Guam or the Common-
9 wealth of the Northern Mariana Islands, respec-
10 tively,”;

11 (D) in paragraph (3), by striking “Government
12 of Guam” and inserting “Government of Guam or
13 the Government of the Commonwealth of the North-
14 ern Mariana Islands”.

15 (3) The amendments to the Immigration and Natu-
16 ralization Act made by this subsection shall take effect
17 when sections 6(b) through 6(j) of Public Law 94-241
18 take effect.

19 (e) TECHNICAL ASSISTANCE PROGRAM.—The Secre-
20 taries of Interior and Labor, in consultation with the Com-
21 monwealth of the Northern Mariana Islands, shall develop
22 a program of technical assistance, including recruitment
23 and training, to aid employers in securing employees from
24 among United States labor or lawfully admissible freely
25 associated state citizen labor.

1 (d) DEPARTMENT OF JUSTICE AND DEPARTMENT OF
2 LABOR OPERATIONS.—The Attorney General and the De-
3 partment of Labor are authorized to establish and main-
4 tain Immigration and Naturalization Service, Executive
5 Office of Immigration Review, and Department of Labor
6 operations in the Commonwealth of the Northern Mariana
7 Islands for the purpose of performing their responsibilities
8 under the Immigration and Nationality act, as amended,
9 and under the transition program. To the extent prac-
10 ticable and consistent with the satisfactory performance
11 of their assigned responsibilities under applicable law, the
12 Departments of Justice and Labor shall recruit and hire
13 from among qualified applicants resident in the Common-
14 wealth of the Northern Mariana Islands for staffing such
15 operations.

16 (e) REPORT TO THE CONGRESS.—The President
17 shall report to the Senate Committee on Energy and Nat-
18 ural Resources, and the House Committee on Resources,
19 within six months after the fifth anniversary of the enact-
20 ment of this Act, evaluating the overall effect of the transi-
21 tion program and the Immigration and Nationality Act on
22 the Commonwealth of the Northern Mariana Islands, and
23 at other times as the President deems appropriate.

24 (f) LIMITATION ON NUMBER OF TEMPORARY WORK-
25 ERS PRIOR TO FINDINGS OF THE ATTORNEY GENERAL

1 OR APPLICATION OF THE IMMIGRATION AND NATION-
2 ALITY ACT, AS AMENDED, AND ESTABLISHMENT OF THE
3 TRANSITION PROGRAM.—During the period between en-
4 actment of this Act and either the date that the Attorney
5 General finds that the Government of the Commonwealth
6 of the Northern Mariana Islands possesses the institu-
7 tional capability and genuine commitment to enforce an
8 effective system of immigration control under section
9 6(a)(2) of Public Law 94-241 (as amended by this Act),
10 or, if the Attorney General finds that the Government of
11 the Commonwealth of the Northern Marianas fails to meet
12 such conditions, the effective date of the transition pro-
13 gram established under section 6 of such Act, the Govern-
14 ment of the Commonwealth of the Northern Mariana Is-
15 lands shall not permit an increase in the total number of
16 temporary alien workers who are legally present in the
17 Commonwealth of the Northern Mariana Islands on the
18 date of enactment of this section.

19 (g) APPROPRIATIONS.—There are authorized to be
20 appropriated such sums as may be necessary to carry out
21 the purposes of this section and of the Immigration and
22 Nationality Act with respect to the Commonwealth of the
23 Northern Mariana Islands.

1 (h) ~~EFFECTIVE DATE.~~—Subsections (c) through (g)
 2 of this section shall take effect when sections 6(b) through
 3 6(j) of Public Law 94-241 take effect.

4 **SECTION 1. SHORT TITLE AND PURPOSE.**

5 (a) *This Act may be cited as the “Northern Mariana*
 6 *Islands Covenant Implementation Act”.*

7 (b) *STATEMENT OF PURPOSE.*—*In recognition of the*
 8 *need to ensure uniform adherence to long-standing funda-*
 9 *mental immigration policies of the United States, it is the*
 10 *intention of Congress in enacting this legislation—*

11 (1) *to ensure effective immigration control by ex-*
 12 *tending the Immigration and Nationality Act, as*
 13 *amended (8 U.S.C. 1101 et seq.), in full to the Com-*
 14 *monwealth of the Northern Mariana Islands, with*
 15 *special provisions to allow for the orderly phasing-out*
 16 *of the nonresident contract worker program of the*
 17 *Commonwealth of the Northern Mariana Islands, and*
 18 *the orderly phasing-in of Federal responsibilities over*
 19 *immigration in the Commonwealth of the Northern*
 20 *Mariana Islands;*

21 (2) *to minimize, to the greatest extent possible,*
 22 *potential adverse effects this orderly phase-out might*
 23 *have on the economy of the Commonwealth of the*
 24 *Northern Mariana Islands by:*

1 (A) encouraging diversification and growth
2 of the economy of the Commonwealth of the
3 Northern Mariana Islands consistent with fun-
4 damental values underlying Federal immigra-
5 tion policy;

6 (B) recognizing local self-government, as
7 provided for in the Covenant to Establish a
8 Commonwealth of the Northern Mariana Islands
9 in Political Union with the United States of
10 America through consultation with the Governor
11 and other elected officials of the Government of
12 the Commonwealth of the Northern Mariana Is-
13 lands by Federal agencies and by considering the
14 views and recommendations of such officials in
15 the implementation and enforcement of Federal
16 law by Federal agencies;

17 (C) assisting the Commonwealth of the
18 Northern Mariana Islands to achieve a progres-
19 sively higher standard of living for its citizens
20 through the provision of technical and other as-
21 sistance;

22 (D) providing opportunities for persons au-
23 thorized to work in the United States, including
24 lawfully admissible freely associated state citizen
25 labor; and

1 (E) ensuring the ability of the locally elect-
 2 ed officials by the Commonwealth of the Northern
 3 Mariana Islands to make fundamental policy de-
 4 cisions regarding the direction and pace of the
 5 economic development and growth of the Com-
 6 monwealth of the Northern Mariana Islands,
 7 consistent with the fundamental national values
 8 underlying Federal immigration policy.

9 **SEC. 2. IMMIGRATION REFORM FOR THE COMMONWEALTH**
 10 **OF THE NORTHERN MARIANA ISLANDS.**

11 (a) AMENDMENTS TO ACT APPROVING THE COVENANT
 12 TO ESTABLISH A COMMONWEALTH OF THE NORTHERN
 13 MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED
 14 STATES OF AMERICA.—Public Law 94–241 (90 Stat. 263),
 15 as amended, is further amended by adding at the end there-
 16 of the following:

17 **“SEC. 6. IMMIGRATION AND TRANSITION.**

18 “(a) APPLICATION OF THE IMMIGRATION AND NATION-
 19 ALITY ACT AND ESTABLISHMENT OF A TRANSITION PRO-
 20 GRAM.—Effective on the first day of the first full month
 21 commencing one year after the date of enactment of the
 22 Northern Mariana Islands Covenant Implementation Act
 23 (hereafter the “transition program effective date”), the pro-
 24 visions of the Immigration and Nationality Act, as amend-
 25 ed (8 U.S.C. 1101 et seq.) shall apply to the Commonwealth

1 *of the Northern Mariana Islands: Provided, That there shall*
2 *be a transition period ending December 31, 2009 (except*
3 *for subsection (d)(2)(I), following the transition program*
4 *effective date, during which the Attorney General of the*
5 *United States (hereafter “Attorney General”), in consulta-*
6 *tion with the United States Secretaries of State, Labor, and*
7 *the Interior, shall establish, administer, and enforce a tran-*
8 *sition program for immigration to the Commonwealth of*
9 *the Northern Mariana Islands provided in subsections (b),*
10 *(c), (d), (e), (f), (g), and (j) of this section (hereafter the*
11 *“transition program”). The transition program shall be im-*
12 *plemented pursuant to regulations to be promulgated as ap-*
13 *propriate by each agency having responsibilities under the*
14 *transition program.*

15 “(b) *EXEMPTION FROM NUMERICAL LIMITATIONS FOR*
16 *H-2B TEMPORARY WORKERS.—An alien, if otherwise*
17 *qualified, may seek admission to the Commonwealth of the*
18 *Northern Mariana Islands as a temporary worker under*
19 *section 101(a)(15)(H)(ii)(B) of the Immigration and Na-*
20 *tionality Act (8 U.S.C. 1101(a)(15)(H)(ii)(B)) without re-*
21 *gard to the numerical limitations set forth in section 214(g)*
22 *of such Act (8 U.S.C. 1184(g)).*

23 “(c) *TEMPORARY ALIEN WORKERS.—The transition*
24 *program shall conform to the following requirements with*
25 *respect to temporary alien workers who would otherwise not*

1 *be eligible for nonimmigrant classification under the Immi-*
2 *gration and Nationality Act:*

3 “(1) *Aliens admitted under this subsection shall*
4 *be treated as nonimmigrants under section 101(a)(15)*
5 *of the Immigration and Nationality Act (8 U.S.C.*
6 *1101(a)(15)), including the ability to apply, if other-*
7 *wise eligible, for a change of nonimmigrant classifica-*
8 *tion under section 248 of such Act (8 U.S.C. 1258),*
9 *or adjustment of status, if eligible therefor, under this*
10 *section and section 245 of such Act (8 U.S.C. 1255).*

11 “(2)(A) *The United States Secretary of Labor*
12 *shall establish, administer, and enforce a system for*
13 *allocating and determining the number, terms, and*
14 *conditions of permits to be issued to prospective em-*
15 *ployers for each temporary alien worker who would*
16 *not otherwise be eligible for admission under the Im-*
17 *migration and Nationality Act. This system shall*
18 *provide for a reduction in the allocation of permits*
19 *for such workers on an annual basis, to zero, over a*
20 *period not to extend beyond December 31, 2009, and*
21 *shall take into account the number of petitions grant-*
22 *ed under subsection (j). In no event shall a permit be*
23 *valid beyond the expiration of the transition period.*
24 *This system may be based on any reasonable method*
25 *and criteria determined by the United States Sec-*

1 *retary of Labor to promote the maximum use of, and*
2 *to prevent adverse effects on wages and working con-*
3 *ditions of, persons authorized to work in the United*
4 *States, including lawfully admissible freely associated*
5 *state citizen labor, taking into consideration the objec-*
6 *tive of providing as smooth a transition as possible*
7 *to the full application of federal law.*

8 *“(B) The United States Secretary of Labor is*
9 *authorized to establish and collect appropriate user*
10 *fees for the purposes of this section. Amounts collected*
11 *pursuant to this section shall be deposited in a special*
12 *fund of the Treasury. Such amounts shall be avail-*
13 *able, to the extent and in the amounts as provided in*
14 *advance in appropriations acts, for the purposes of*
15 *administering this section. Such amounts are author-*
16 *ized to be appropriated to remain available until ex-*
17 *pended.*

18 *“(3) The Attorney General shall set the condi-*
19 *tions for admission of nonimmigrant temporary alien*
20 *workers under the transition program, and the*
21 *United States Secretary of State shall authorize the*
22 *issuance of nonimmigrant visas for aliens to engage*
23 *in employment only as authorized in this subsection:*
24 *Provided, That such visas shall not be valid for ad-*
25 *mission to the United States, as defined in section*

1 101(a)(38) of the Immigration and Nationality Act
2 (8 U.S.C. 1101(a)(38)), except the Commonwealth of
3 the Northern Mariana Islands. An alien admitted to
4 the Commonwealth of the Northern Mariana Islands
5 on the basis of such a nonimmigrant visa shall be
6 permitted to engage in employment only as author-
7 ized pursuant to the transition program. No alien
8 shall be granted nonimmigrant classification or a
9 visa under this subsection unless the permit require-
10 ments established under paragraph (2) have been met.

11 “(4) An alien admitted as a nonimmigrant pur-
12 suant to this subsection shall be permitted to transfer
13 between employers in the Commonwealth of the North-
14 ern Mariana Islands during the period of such alien’s
15 authorized stay therein, without advance permission
16 of the employee’s current or prior employer, to the ex-
17 tent that such transfer is authorized by the Attorney
18 General in accordance with criteria established by the
19 Attorney General and the United States Secretary of
20 Labor.

21 “(d) IMMIGRANTS.—With the exception of immediate
22 relatives (as defined in section 201(b)(2) of the Immigration
23 and Nationality Act (8 U.S.C. 1151(b)(2)) and persons
24 granted an immigrant visa as provided in paragraphs (1)
25 and (2) of this subsection, no alien shall be granted initial

1 *admission as a lawful permanent resident of the United*
2 *States at a port-of-entry in the Commonwealth of the North-*
3 *ern Mariana Islands, or a port-of-entry in Guam for the*
4 *purpose of immigrating to the Commonwealth of the North-*
5 *ern Mariana Islands.*

6 “(1) *FAMILY-SPONSORED IMMIGRANT VISAS.—*
7 *For any fiscal year during which the transition pro-*
8 *gram will be in effect, the Attorney General, after*
9 *consultation with the Governor and the leadership of*
10 *the Legislature of the Commonwealth of the Northern*
11 *Mariana Islands, and in consultation with appro-*
12 *priate federal agencies, may establish a specific num-*
13 *ber of additional initial admissions as a family-spon-*
14 *sored immigrant at a port-of-entry in the Common-*
15 *wealth of the Northern Mariana Islands, or at a port-*
16 *of-entry in Guam for the purpose of immigrating to*
17 *the Commonwealth of the Northern Mariana Islands,*
18 *pursuant to sections 202 and 203(a) of the Immigra-*
19 *tion and Nationality Act (8 U.S.C. 1152 and*
20 *1153(a)).*

21 “(2) *EMPLOYMENT-BASED IMMIGRANT VISAS.—*
22 “(A) *If the Attorney General, after consulta-*
23 *tion with the United States Secretary of Labor*
24 *and the Governor and the leadership of the Leg-*
25 *islature of the Commonwealth of the Northern*

1 *Mariana Islands, finds that exceptional cir-*
2 *cumstances exist with respect to the inability of*
3 *employers in the Commonwealth of the Northern*
4 *Mariana Islands to obtain sufficient work-au-*
5 *thorized labor, the Attorney General may estab-*
6 *lish a specific number of employment-based im-*
7 *migrant visas to be made available during the*
8 *following fiscal year under section 203(b) of the*
9 *Immigration and Nationality Act (8 U.S.C.*
10 *1153(b)). The labor certification requirements of*
11 *section 212(a)(5) of the Immigration and Na-*
12 *tionality Act, as amended (8 U.S.C. 1182(a)(5))*
13 *shall not apply to an alien seeking immigration*
14 *benefits under this subsection.*

15 *“(B) Upon notification by the Attorney*
16 *General that a number has been established pur-*
17 *suant to subparagraph (A), the United States*
18 *Secretary of State may allocate up to that num-*
19 *ber of visas without regard to the numerical lim-*
20 *itations set forth in sections 202 and*
21 *203(b)(3)(B) of the Immigration and Nation-*
22 *ality Act (8 U.S.C. 1152 and 1153(b)(3)(B)).*
23 *Visa numbers allocated under this paragraph*
24 *shall be allocated first from the number of visas*
25 *available under section 203(b)(3) of such Act (8*

1 *U.S.C. 1153(b)(3)), or, if such visa numbers are*
2 *not available, from the number of visas available*
3 *under section 203(b)(5) of such Act (8 U.S.C.*
4 *1153(b)(5)).*

5 *“(C) Persons granted employment-based im-*
6 *migrant visas under the transition program may*
7 *be admitted initially at a port-of-entry in the*
8 *Commonwealth of the Northern Mariana Islands,*
9 *or at a port-of-entry in Guam for the purpose of*
10 *immigrating to the Commonwealth of the North-*
11 *ern Mariana Islands, as lawful permanent resi-*
12 *dents of the United States. Persons who would*
13 *otherwise be eligible for lawful permanent resi-*
14 *dence under the transition program, and who*
15 *would otherwise be eligible for an adjustment of*
16 *status, may have their status adjusted within the*
17 *Commonwealth of the Northern Mariana Islands*
18 *to that of an alien lawfully admitted for perma-*
19 *nent residence.*

20 *“(D) Any immigrant visa issued pursuant*
21 *to this paragraph shall be valid only for applica-*
22 *tion for initial admission to the Commonwealth*
23 *of the Northern Mariana Islands. The admission*
24 *of any alien pursuant to such an immigrant*
25 *visa shall be an admission for lawful permanent*

1 *residence and employment only in the Common-*
2 *wealth of the Northern Mariana Islands during*
3 *the first five years after such admission. Such*
4 *admission shall not authorize residence or em-*
5 *ployment in any other part of the United States*
6 *during such five-year period. An alien admitted*
7 *for permanent residence pursuant to this para-*
8 *graph shall be issued appropriate documentation*
9 *identifying the person as having been admitted*
10 *pursuant to the terms and conditions of this*
11 *transition program, and shall be required to*
12 *comply with a system for the registration and*
13 *reporting of aliens admitted for permanent resi-*
14 *dence under the transition program, to be estab-*
15 *lished by the Attorney General, by regulation,*
16 *consistent with the Attorney General's authority*
17 *under chapter 7 of title II of the Immigration*
18 *and Nationality Act (8 U.S.C. 1301–1306).*

19 *“(E) Nothing in this paragraph shall pre-*
20 *clude an alien who has obtained lawful perma-*
21 *nent resident status pursuant to this paragraph*
22 *from applying, if otherwise eligible, under this*
23 *section and under the Immigration and Nation-*
24 *ality Act for an immigrant visa or admission as*

1 *a lawful permanent resident under the Immigra-*
2 *tion and Nationality Act.*

3 “(F) *Any alien admitted under this sub-*
4 *section, who violates the provisions of this para-*
5 *graph, or who is found removable or inadmis-*
6 *sible under section 237(a) (8 U.S.C. 1227(a)), or*
7 *paragraphs (1), (2), (3), (4)(A), (4)(B), (6), (7),*
8 *(8), (9), or (10) of section 212(a) (8 U.S.C.*
9 *1182(a)), shall be removed from the United*
10 *States pursuant to sections 235, 238, 239, 240,*
11 *or 241 of the Immigration and Nationality Act,*
12 *as appropriate (8 U.S.C. 1225, 1228, 1229,*
13 *1230, and 1231).*

14 “(G) *The Attorney General may establish by*
15 *regulation a procedure by which an alien who*
16 *has obtained lawful permanent resident status*
17 *pursuant to this paragraph may apply for a*
18 *waiver of the limiting terms and conditions of*
19 *such status. The Attorney General may grant the*
20 *application for waiver, in the discretion of the*
21 *Attorney General, if—*

22 “(i) *the alien is not in removal pro-*
23 *ceedings;*

1 “(ii) the alien has been a person of
2 good moral character for the preceding five
3 years;

4 “(iii) the alien has not violated the
5 terms and conditions of the alien’s perma-
6 nent resident status; and

7 “(iv) the alien would suffer exceptional
8 and extremely unusual hardship were such
9 limiting terms and conditions not waived.

10 “(H) The limiting terms and conditions of
11 an alien’s permanent residence set forth in this
12 paragraph shall expire at the end of five years
13 after the alien’s admission to the Commonwealth
14 of the Northern Mariana Islands as a permanent
15 resident. Following the expiration of such lim-
16 iting terms and conditions, the permanent resi-
17 dent alien may engage in any lawful activity,
18 including employment, anywhere in the United
19 States. Such an alien, if otherwise eligible for
20 naturalization, may count the five-year period
21 in the Commonwealth of the Northern Mariana
22 Islands towards time in the United States for
23 purposes of meeting the residence requirements of
24 title III of the Immigration and Nationality Act.

1 “(I) *SPECIAL PROVISION TO ENSURE ADE-*
2 *QUATE EMPLOYMENT IN THE TOURISM INDUSTRY*
3 *AFTER THE TRANSITION PERIOD ENDS.—*

4 “(i) *During 2008, and in 2014 if a*
5 *five year extension was granted, the Attor-*
6 *ney General and the United States Sec-*
7 *retary of Labor shall consult with the Gov-*
8 *ernor of the Commonwealth of the Northern*
9 *Mariana Islands and tourism businesses in*
10 *the Commonwealth of the Northern Mariana*
11 *Islands to ascertain the current and future*
12 *labor needs of the tourism industry in the*
13 *Commonwealth of the Northern Mariana Is-*
14 *lands, and to determine whether a five-year*
15 *extension of the provisions of this para-*
16 *graph (d)(2) would be necessary to ensure*
17 *an adequate number of workers for legiti-*
18 *mate businesses in the tourism industry.*
19 *For the purpose of this section, a business*
20 *shall not be considered legitimate if it en-*
21 *gages directly or indirectly in prostitution*
22 *or any activity that is illegal under Federal*
23 *or local law. The determination of whether*
24 *a business is legitimate and whether it is*
25 *sufficiently related to the tourism industry*

1 *shall be made by the Attorney General in*
2 *his sole discretion and shall not be review-*
3 *able. If the Attorney General after consulta-*
4 *tion with the United States Secretary of*
5 *Labor determines, in the Attorney General's*
6 *sole and unreviewable discretion, that such*
7 *an extension is necessary to ensure an ade-*
8 *quate number of workers for legitimate busi-*
9 *nesses in the tourism industry, the Attorney*
10 *General shall provide notice by publication*
11 *in the Federal Register that the provisions*
12 *of this paragraph will be extended for a*
13 *five-year period with respect to the tourism*
14 *industry only. The Attorney General may*
15 *authorize one further extension of this para-*
16 *graph with respect to the tourism industry*
17 *in the Commonwealth of the Northern Mar-*
18 *iana Islands if, after the Attorney General*
19 *consults with the United States Secretary of*
20 *Labor and the Governor of the Common-*
21 *wealth of the Northern Mariana Islands,*
22 *and local tourism businesses, the Attorney*
23 *General determines, in the Attorney Gen-*
24 *eral's sole discretion, that a further exten-*
25 *sion is required to ensure an adequate num-*

1 *ber of workers for legitimate businesses in*
2 *the tourism industry in the Commonwealth*
3 *of the Northern Mariana Islands. The deter-*
4 *mination as to whether a further extension*
5 *is required shall not be reviewable.*

6 *“(ii) The Attorney General, after con-*
7 *sultation with the Governor of the Common-*
8 *wealth of the Northern Mariana Islands and*
9 *the United States Secretary of Labor and*
10 *the United States Secretary of Commerce,*
11 *may extend the provisions of this paragraph*
12 *(d)(2) to legitimate businesses in industries*
13 *outside the tourism industry for a single*
14 *five year period if the Attorney General, in*
15 *the Attorney General’s sole discretion, con-*
16 *cludes that such extension is necessary to*
17 *ensure an adequate number of workers in*
18 *that industry and that the industry is im-*
19 *portant to growth or diversification of the*
20 *local economy. The decision by the Attorney*
21 *General shall not be reviewable.*

22 *“(iii) In making his determination for*
23 *the tourism industry or for industries out-*
24 *side the tourism industry, the Attorney*
25 *General shall take into consideration the ex-*

1 *tent to which a training and recruitment*
2 *program has been implemented to hire per-*
3 *sons authorized to work in the United*
4 *States, including lawfully admissible freely*
5 *associated state citizen labor to work in*
6 *such industry. The determination by the At-*
7 *torney General shall not be reviewable. No*
8 *additional extension beyond the initial five*
9 *year period may be granted for any indus-*
10 *try outside the tourism industry or for the*
11 *tourism industry beyond a second extension.*
12 *If an extension is granted, the Attorney*
13 *General shall submit a report to the Com-*
14 *mittee on Energy and Natural Resources of*
15 *the Senate and the Committee on Resources*
16 *of the House of Representatives setting forth*
17 *the reasons for the extension and whether he*
18 *believes authority for additional extensions*
19 *should be enacted.*

20 “(e) *NONIMMIGRANT INVESTOR VISAS.*—

21 “(1) *Notwithstanding the treaty requirements in*
22 *section 101(a)(15)(E) of the Immigration and Na-*
23 *tionality Act (8 U.S.C. 1101(a)(15)(E)), the Attorney*
24 *General may, upon the application of the alien, clas-*
25 *sify an alien as a nonimmigrant under section*

1 *101(a)(15)(E)(ii) of the Immigration and Nationality*
2 *Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien—*

3 *“(A) has been admitted to the Common-*
4 *wealth of the Northern Mariana Islands in long-*
5 *term investor status under the immigration laws*
6 *of the Commonwealth of the Northern Mariana*
7 *Islands before the transition program effective*
8 *date;*

9 *“(B) has continuously maintained residence*
10 *in the Commonwealth of the Northern Mariana*
11 *Islands under long-term investor status;*

12 *“(C) is otherwise admissible; and*

13 *“(D) maintains the investment or invest-*
14 *ments that formed the basis for such long-term*
15 *investor status.*

16 *“(2) Within 180 days after the transition pro-*
17 *gram effective date, the Attorney General and the*
18 *United States Secretary of State shall jointly publish*
19 *regulations in the Federal Register to implement this*
20 *subsection.*

21 *“(3) The Attorney General shall treat an alien*
22 *who meets the requirements of paragraph (1) as a*
23 *nonimmigrant under section 101(a)(15)(E)(ii) of the*
24 *Immigration and Nationality Act (8 U.S.C.*

1 1101(a)(15)(E)(ii) until the regulations implementing
2 this subsection are published.

3 “(f) *PERSONS LAWFULLY ADMITTED UNDER THE*
4 *COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS*
5 *IMMIGRATION LAW.*—

6 “(1) No alien who is lawfully present in the
7 Commonwealth of the Northern Mariana Islands pur-
8 suant to the immigration laws of the Commonwealth
9 of the Northern Mariana Islands on the transition
10 program effective date shall be removed from the
11 United States on the ground that such alien’s pres-
12 ence in the Commonwealth of the Northern Mariana
13 Islands is in violation of subparagraph 212(a)(6)(A)
14 of the Immigration and Nationality Act, as amended,
15 until completion of the period of the alien’s admission
16 under the immigration laws of the Commonwealth of
17 the Northern Mariana Islands, or the second anniver-
18 sary of the transition program effective date, which-
19 ever comes first. Nothing in this subsection shall be
20 construed to prevent or limit the removal under sub-
21 paragraph 212(a)(6)(A) of such an alien at any time,
22 if the alien entered the Commonwealth of the North-
23 ern Mariana Islands after the date of enactment of
24 the Northern Mariana Islands Covenant Implementa-
25 tion Act, and the Attorney General has determined

1 *that the Government of the Commonwealth of the*
2 *Northern Mariana Islands violated subsection (f) of*
3 *such Act.*

4 “(2) *Any alien who is lawfully present and au-*
5 *thorized to be employed in the Commonwealth of the*
6 *Northern Mariana Islands pursuant to the immigra-*
7 *tion laws of the Commonwealth of the Northern Mar-*
8 *iana Islands on the transition program effective date*
9 *shall be considered authorized by the Attorney Gen-*
10 *eral to be employed in the Commonwealth of the*
11 *Northern Mariana Islands until the expiration of the*
12 *alien’s employment authorization under the immigra-*
13 *tion laws of the Commonwealth of the Northern Mar-*
14 *iana Islands, or the second anniversary of the transi-*
15 *tion program effective date, whichever comes first.*

16 “(g) *TRAVEL RESTRICTIONS FOR CERTAIN APPLI-*
17 *CANTS FOR ASYLUM.—Any alien admitted to the Common-*
18 *wealth of the Northern Mariana Islands pursuant to the*
19 *immigration laws of the Commonwealth of the Northern*
20 *Mariana Islands or pursuant to subsections (c) or (d) of*
21 *this section who files an application seeking asylum or*
22 *withholding of removal in the United States shall be re-*
23 *quired to remain in the Commonwealth of the Northern*
24 *Mariana Islands during the period of time the application*
25 *is being adjudicated or during any appeals filed subsequent*

1 to such adjudication. An applicant for asylum or with-
2 holding of removal who, during the time his application
3 is being adjudicated or during any appeals filed subsequent
4 to such adjudication, leaves the Commonwealth of the
5 Northern Mariana Islands of his own will without prior
6 authorization by the Attorney General thereby abandons the
7 application, unless the Attorney General, in the exercise of
8 the Attorney General's sole discretion determines that the
9 unauthorized departure was for emergency reasons and
10 prior authorization was not practicable.

11 “(h) *EFFECT ON OTHER LAWS.*—The provisions of this
12 section and the Immigration and Nationality Act, as
13 amended by the Northern Mariana Islands Covenant Imple-
14 mentation Act, shall, on the transition program effective
15 date, supersede and replace all laws, provisions, or pro-
16 grams of the Commonwealth of the Northern Mariana Is-
17 lands relating to the admission of aliens and the removal
18 of aliens from the Commonwealth of the Northern Mariana
19 Islands.

20 “(i) *ACCRUAL OF TIME FOR PURPOSES OF SECTION*
21 *212(a)(9)(B) OF THE IMMIGRATION AND NATIONALITY ACT,*
22 *AS AMENDED.*—No time that an alien is present in viola-
23 tion of the immigration laws of the Commonwealth of the
24 Northern Mariana Islands shall by reason of such violation
25 be counted for purposes of the ground of inadmissibility in

1 *section 212(a)(9)(B) of the Immigration and Nationality*
2 *Act (8 U.S.C. 1182(a)(9)(B)).*

3 “(j) *ONE-TIME GRANDFATHER PROVISION FOR CER-*
4 *TAIN LONG-TERM EMPLOYEES.—*

5 “(1) *An alien may be granted an immigrant*
6 *visa, or have his or her status adjusted in the Com-*
7 *monwealth of the Northern Mariana Islands to that*
8 *of an alien lawfully admitted for permanent resi-*
9 *dence, without regard to the numerical limitations set*
10 *forth in sections 202 and 203(b) of the Immigration*
11 *and Nationality Act, as amended (8 U.S.C. 1152,*
12 *1153(b)), and subject to the limiting terms and condi-*
13 *tions of an alien’s permanent residence set forth in*
14 *paragraphs (C) through (H) of subsection (d)(2), if:*

15 “(A) *the alien is employed directly by an*
16 *employer in a business that the Attorney General*
17 *has determined is legitimate;*

18 “(B) *the employer has filed a petition for*
19 *classification of the alien as an employment-*
20 *based immigrant with the Attorney General pur-*
21 *suant to section 204 of the Immigration and Na-*
22 *tionality Act, as amended, not later than 180*
23 *days following the transition program effective*
24 *date;*

1 “(C) the alien has been lawfully present in
2 the Commonwealth of the Northern Mariana Is-
3 lands and authorized to be employed in the Com-
4 monwealth of the Northern Mariana Islands for
5 the five-year period immediately preceding the
6 filing of the petition;

7 “(D) the alien has been employed continu-
8 ously in that business by the petitioning em-
9 ployer for the 5-year period immediately pre-
10 ceding the filing of the petition;

11 “(E) the alien continues to be employed in
12 that business by the petitioning employer at the
13 time the immigrant visa is granted or the alien’s
14 status is adjusted to permanent resident;

15 “(F) the petitioner’s business has a reason-
16 able expectation of generating sufficient revenue
17 to continue to employ the alien in that business
18 for the succeeding five years; and

19 “(G) the alien is otherwise eligible for ad-
20 mission to the United States under the provi-
21 sions of the Immigration and Nationality Act, as
22 amended (8 U.S.C. 1101, et seq.).

23 “(2) Visa numbers allocated under this sub-
24 section shall be allocated first from the number of
25 visas available under paragraph 203(b)(3) of the Im-

1 *migration and Nationality Act, as amended (8 U.S.C.*
2 *1153(b)(3)), or, if such visa numbers are not avail-*
3 *able, from the number of visas available under para-*
4 *graph 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).*

5 “(3) *The labor certification requirements of sec-*
6 *tion 212(a)(5) of the Immigration and Nationality*
7 *Act, as amended (8 U.S.C. 1182(a)(5)) shall not*
8 *apply to an alien seeking immigration benefits under*
9 *this subsection.*

10 “(4) *The fact that an alien is the beneficiary of*
11 *an application for a preference status that was filed*
12 *with the Attorney General under section 204 of the*
13 *Immigration and Nationality Act, as amended (8*
14 *U.S.C. 1154) for the purpose of obtaining benefits*
15 *under this subsection, or has otherwise sought perma-*
16 *nent residence pursuant to this subsection, shall not*
17 *render the alien ineligible to obtain or maintain the*
18 *status of a nonimmigrant under this Act or the Im-*
19 *migration and Nationality Act, as amended, if the*
20 *alien is otherwise eligible for such nonimmigrant sta-*
21 *tus.”.*

22 (b) *CONFORMING AMENDMENTS.—(1) Section 101(a)*
23 *of the Immigration and Nationality Act (8 U.S.C. 1101(a))*
24 *is amended:*

1 (A) in paragraph (36), by deleting “and the Vir-
2 gin Islands of the United States.” and substituting
3 “the Virgin Islands of the United States, and the
4 Commonwealth of the Northern Mariana Islands.”,
5 and;

6 (B) in paragraph (38), by deleting “and the Vir-
7 gin Islands of the United States” and substituting
8 “the Virgin Islands of the United States, and the
9 Commonwealth of the Northern Mariana Islands.”.

10 (2) Section 212(l) of the Immigration and Nationality
11 Act (8 U.S.C. 1182(l)) is amended—

12 (A) in paragraph (1)—

13 (i) by striking “stay on Guam”, and insert-
14 ing “stay on Guam or the Commonwealth of the
15 Northern Mariana Islands”,

16 (ii) by inserting “a total of” after “exceed”,

17 and

18 (iii) by striking the words “after consulta-
19 tion with the Governor of Guam,” and inserting
20 “after respective consultation with the Governor
21 of Guam or the Governor of the Commonwealth
22 of the Northern Mariana Islands,”;

23 (B) in paragraph (1)(A), by striking “on
24 Guam”, and inserting “on Guam or the Common-

1 *wealth of the Northern Mariana Islands, respec-*
2 *tively,”;*

3 *(C) in paragraph (2)(A), by striking “into*
4 *Guam”, and inserting “into Guam or the Common-*
5 *wealth of the Northern Mariana Islands, respec-*
6 *tively,”; and*

7 *(D) in paragraph (3), by striking “Government*
8 *of Guam” and inserting “Government of Guam or the*
9 *Government of the Commonwealth of the Northern*
10 *Mariana Islands”.*

11 *(3) The amendments to the Immigration and Nation-*
12 *ality Act made by this subsection shall take effect on the*
13 *first day of the first full month commencing one year after*
14 *the date of enactment of the Northern Mariana Islands Cov-*
15 *enant Implementation Act.*

16 *(c) TECHNICAL ASSISTANCE PROGRAM.—The United*
17 *States Secretaries of Interior and Labor, in consultation*
18 *with the Governor of the Commonwealth of the Northern*
19 *Mariana Islands, shall develop a program of technical as-*
20 *sistance, including recruitment and training, to aid em-*
21 *ployers in the Commonwealth of the Northern Mariana Is-*
22 *lands in securing employees from among United States au-*
23 *thorized labor, including lawfully admissible freely associ-*
24 *ated state citizen labor. In addition, for the first five fiscal*
25 *years following the fiscal year when this section is enacted,*

1 \$500,000 shall be made available from funds appropriated
2 to the Secretary of the Interior pursuant to Public Law
3 104–134 for the Federal-CNMI Immigration, Labor and
4 Law Enforcement Initiative for the following activities:

5 (1) \$200,000 shall be available to reimburse the
6 United States Secretary of Commerce for providing
7 additional technical assistance and other support to
8 the Commonwealth of the Northern Mariana Islands
9 to identify opportunities for and encourage diver-
10 sification and growth of the Commonwealth economy.
11 The United States Secretary of Commerce shall con-
12 sult with the Government of the Commonwealth of the
13 Northern Mariana Islands, local businesses, the
14 United States Secretary of the Interior, regional
15 banks, and other experts in the local economy and
16 shall assist in the development and implementation of
17 a process to identify opportunities for and encourage
18 diversification and growth of the Commonwealth
19 economy. All expenditures, other than for the costs of
20 Federal personnel, shall require a non-Federal match-
21 ing contribution of 50 percent and the United States
22 Secretary of Commerce shall provide a report on ac-
23 tivities to the Committee on Energy and Natural Re-
24 sources and the Committee on Appropriations of the
25 Senate and the Committee on Resources and the Com-

1 *mittee on Appropriations of the House of Representa-*
2 *tives by March 1 of each year. The United States Sec-*
3 *retary of Commerce may supplement the funds pro-*
4 *vided under this section with other funds and re-*
5 *sources available to him and shall undertake such*
6 *other activities, pursuant to existing authorities of the*
7 *Department, as he decides will encourage diversifica-*
8 *tion and growth of the Commonwealth economy. If the*
9 *United States Secretary of Commerce concludes that*
10 *additional workers may be needed to achieve diver-*
11 *sification and growth of the Commonwealth economy,*
12 *the Secretary shall promptly notify the Attorney Gen-*
13 *eral and the United States Secretary of Labor and*
14 *shall also notify the Committee on Energy and Nat-*
15 *ural Resources of the Senate and the Committee on*
16 *Resources of the House of Representatives of his con-*
17 *clusion with an explanation of how many workers*
18 *may be needed, over what period of time such workers*
19 *will be needed, and what efforts are being undertaken*
20 *to train and actively recruit and hire persons author-*
21 *ized to work in the United States, including lawfully*
22 *admissible freely associated state citizen labor to work*
23 *in such businesses.*

24 *(2) \$300,000 shall be available to reimburse the*
25 *United States Secretary of Labor for providing addi-*

1 *tional technical and other support to the Common-*
2 *wealth of the Northern Mariana Islands to train and*
3 *actively recruit and hire persons authorized to work*
4 *in the United States, including lawfully admissible*
5 *freely associated state citizen labor, to fill employment*
6 *vacancies in the Commonwealth of the Northern Mar-*
7 *iana Islands. The United States Secretary of Labor*
8 *shall consult with the Governor of the Commonwealth*
9 *of the Northern Mariana Islands, local businesses, the*
10 *College of the Northern Marianas, the United States*
11 *Secretary of the Interior and the United States Sec-*
12 *retary of Commerce and shall assist in the develop-*
13 *ment and implementation of such a training pro-*
14 *gram. All expenditures, other than for the costs of*
15 *Federal personnel, shall require a non-Federal match-*
16 *ing contribution of 50 percent and the United States*
17 *Secretary of Labor shall provide a report on activities*
18 *to the Committee on Energy and Natural Resources*
19 *and the Committee on Appropriations of the Senate*
20 *and the Committee on Resources and the Committee*
21 *on Appropriations of the House of Representatives by*
22 *March 1 of each year. The United States Secretary*
23 *of Labor may supplement the funds provided under*
24 *this section with other funds and resources available*
25 *to him and shall undertake such other activities, pur-*

1 *suant to existing authorities of the Department, as*
2 *he decides will assist in such a training program in*
3 *the Commonwealth of the Northern Mariana Islands.*

4 *(d) DEPARTMENT OF JUSTICE AND DEPARTMENT OF*
5 *LABOR OPERATIONS.—The Attorney General and the*
6 *United States Secretary of Labor are authorized to establish*
7 *and maintain Immigration and Naturalization Service,*
8 *Executive Office for Immigration Review, and United*
9 *States Department of Labor operations in the Common-*
10 *wealth of the Northern Mariana Islands for the purpose of*
11 *performing their responsibilities under the Immigration*
12 *and Nationality Act, as amended, and under the transition*
13 *program. To the extent practicable and consistent with the*
14 *satisfactory performance of their assigned responsibilities*
15 *under applicable law, the United States Departments of*
16 *Justice and Labor shall recruit and hire from among quali-*
17 *fied applicants resident in the Commonwealth of the North-*
18 *ern Mariana Islands for staffing such operations.*

19 *(e) REPORT TO THE CONGRESS.—The President shall*
20 *report to the Senate Committee on Energy and Natural Re-*
21 *sources, and the House Committee on Resources, within six*
22 *months after the fifth anniversary of the enactment of this*
23 *Act, evaluating the overall effect of the transition program*
24 *and the Immigration and Nationality Act on the Common-*
25 *wealth of the Northern Mariana Islands, and at other times*

1 *as the President deems appropriate. The report shall de-*
2 *scribe what efforts have been undertaken to diversify and*
3 *strengthen the local economy, including, but not limited to,*
4 *efforts to promote the Commonwealth of the Northern Mar-*
5 *iana Islands as a tourist destination.*

6 (f) *LIMITATION ON NUMBER OF ALIEN WORKERS*
7 *PRIOR TO APPLICATION OF THE IMMIGRATION AND NATION-*
8 *ALITY ACT, AS AMENDED, AND ESTABLISHMENT OF THE*
9 *TRANSITION PROGRAM.—During the period between enact-*
10 *ment of this Act and the effective date of the transition pro-*
11 *gram established under section 6 of Public Law 94–241,*
12 *as amended by this Act, the Government of the Common-*
13 *wealth of the Northern Mariana Islands shall not permit*
14 *an increase in the total number of alien workers who are*
15 *present in the Commonwealth of the Northern Mariana Is-*
16 *lands on the date of enactment of this Act.*

17 (g) *APPROPRIATIONS.—There are authorized to be ap-*
18 *propriated such sums as may be necessary to carry out the*
19 *purposes of this section and of the Immigration and Nation-*
20 *ality Act with respect to the Commonwealth of the Northern*
21 *Mariana Islands.*