

110TH CONGRESS
1ST SESSION

H. R. 3079

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2007

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To amend the joint resolution that approved the covenant establishing the Commonwealth of the Northern Mariana Islands, 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 **TITLE I—NORTHERN MARIANA**
2 **ISLANDS IMMIGRATION, SE-**
3 **CURITY, AND LABOR ACT**

4 **SECTION 101. SHORT TITLE.**

5 This title may be cited as the “Northern Mariana Is-
6 lands Immigration, Security, and Labor Act”.

7 **SEC. 102. STATEMENT OF CONGRESSIONAL INTENT.**

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

12 (1) to ensure that effective border control pro-
13 cedures are implemented and observed, and that na-
14 tional security and homeland security issues are
15 properly addressed, by extending the immigration
16 laws (as defined in section 101(a)(17) of the Immi-
17 gration and Nationality Act (8 U.S.C. 1101
18 (a)(17))), to apply to the Commonwealth of the
19 Northern Mariana Islands (referred to in this title
20 as the “Commonwealth”), with special provisions to
21 allow for—

22 (A) the orderly phasing-out of the non-
23 resident contract worker program of the Com-
24 monwealth; and

10 (A) encouraging diversification and growth
11 of the economy of the Commonwealth in accord-
12 ance with fundamental values underlying Fed-
13 eral immigration policy;

14 (B) recognizing local self-government, as
15 provided for in the Covenant To Establish a
16 Commonwealth of the Northern Mariana Is-
17 lands in Political Union With the United States
18 of America through consultation with the Gov-
19 ernor of the Commonwealth;

20 (C) assisting the Commonwealth in achieving
21 a progressively higher standard of living for
22 citizens of the Commonwealth through the pro-
23 vision of technical and other assistance;

4 (E) providing a mechanism for the contin-
5 ued use of alien workers, to the extent those
6 workers continue to be necessary to supplement
7 the Commonwealth's resident workforce, and to
8 protect those workers from the potential for
9 abuse and exploitation.

10 (b) AVOIDING ADVERSE EFFECTS.—In recognition of
11 the Commonwealth's unique economic circumstances, his-
12 tory, and geographical location, it is the intent of the Con-
13 gress that the Commonwealth be given as much flexibility
14 as possible in maintaining existing businesses and other
15 revenue sources, and developing new economic opportuni-
16 ties, consistent with the mandates of this title. This title,
17 and the amendments made by this title, should be imple-
18 mented wherever possible to expand tourism and economic
19 development in the Commonwealth, including aiding pro-
20 spective tourists in gaining access to the Commonwealth's
21 memorials, beaches, parks, dive sites, and other points of
22 interest.

1 **SEC. 103. IMMIGRATION REFORM FOR THE COMMON-**
2 **WEALTH.**

3 (a) AMENDMENT TO JOINT RESOLUTION APPROVING
4 COVENANT ESTABLISHING COMMONWEALTH OF THE
5 NORTHERN MARIANA ISLANDS.—The Joint Resolution
6 entitled “A Joint Resolution to approve the ‘Covenant To
7 Establish a Commonwealth of the Northern Mariana Is-
8 lands in Political Union with the United States of Amer-
9 ica’, and for other purposes”, approved March 24, 1976
10 (Public Law 94–241; 90 Stat. 263), is amended by adding
11 at the end the following new section:

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

13 “(a) APPLICATION OF THE IMMIGRATION AND NA-
14 TIONALITY ACT AND ESTABLISHMENT OF A TRANSITION
15 PROGRAM.—

16 “(1) IN GENERAL.—Subject to paragraphs (2)
17 and (3), effective on the first day of the first full
18 month commencing 1 year after the date of the en-
19 actment of the Northern Mariana Islands Immigra-
20 tion, Security, and Labor Act (hereafter referred to
21 as the ‘transition program effective date’), the provi-
22 sions of the ‘immigration laws’ (as defined in section
23 101(a)(17) of the Immigration and Nationality Act
24 (8 U.S.C. 1101(a)(17))) shall apply to the Common-
25 wealth of the Northern Mariana Islands (referred to

1 in this section as the ‘Commonwealth’), except as
2 otherwise provided in this section.

3 “(2) TRANSITION PERIOD.—There shall be a
4 transition period beginning on the transition pro-
5 gram effective date and ending on December 31,
6 2013, except as provided in subsections (b) and (d),
7 during which the Secretary of Homeland Security, in
8 consultation with the Secretary of State, the Attor-
9 ney General, the Secretary of Labor, and the Sec-
10 retary of the Interior, shall establish, administer,
11 and enforce a transition program to regulate immi-
12 gration to the Commonwealth, as provided in this
13 section (hereafter referred to as the ‘transition pro-
14 gram’).

15 “(3) DELAY OF COMMENCEMENT OF TRANSI-
16 TION PERIOD.—

17 “(A) IN GENERAL.—The Secretary of
18 Homeland Security, in the Secretary’s sole dis-
19 cretion, in consultation with the Secretary of
20 the Interior, the Secretary of Labor, the Sec-
21 retary of State, the Attorney General, and the
22 Governor of the Commonwealth, may determine
23 that the transition program effective date be
24 delayed for a period not to exceed more than
25 180 days after such date.

1 “(B) CONGRESSIONAL NOTIFICATION.—

2 The Secretary of Homeland Security shall no-
3 tify the Congress of a determination under sub-
4 paragraph (A) not later than 30 days prior to
5 the transition program effective date.

6 “(C) CONGRESSIONAL REVIEW.—A delay
7 of the transition program effective date shall
8 not take effect until 30 days after the date on
9 which the notification under subparagraph (B)
10 is made.

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

17 “(5) INTERAGENCY AGREEMENTS.—The Sec-
18 retary of Homeland Security, the Secretary of State,
19 the Secretary of Labor, and the Secretary of the In-
20 terior shall negotiate and implement agreements
21 among their agencies to identify and assign their re-
22 spective duties so as to ensure timely and proper im-
23 plementation of the provisions of this section. The
24 agreements should address, at a minimum, proce-
25 dures to ensure that Commonwealth employers have

1 access to adequate labor, and that tourists, students,
2 retirees, and other visitors have access to the Com-
3 monwealth without unnecessary delay or impedi-
4 ment. The agreements may also allocate funding be-
5 tween the respective agencies tasked with various re-
6 sponsibilities under this section.

7 “(6) CERTAIN EDUCATION FUNDING.—In addi-
8 tion to fees charged pursuant to section 286(m) of
9 the Immigration and Nationality Act (8 U.S.C.
10 1356(m)) to recover the full costs of providing adju-
11 dication services, the Secretary of Homeland Secu-
12 rity shall charge an annual supplemental fee of \$150
13 per nonimmigrant worker to each prospective em-
14 ployer who is issued a permit under subsection (d)
15 of this section during the transition period. Such
16 supplemental fee shall be paid into the Treasury of
17 the Commonwealth government for the purpose of
18 funding ongoing vocational educational curricula and
19 program development by Commonwealth educational
20 entities.

21 “(7) ASYLUM.—Section 208 of the Immigration
22 and Nationality Act (8 U.S.C. 1158) shall not apply
23 during the transition period to persons physically
24 present in the Commonwealth or arriving in the
25 Commonwealth (whether or not at a designated port

1 of arrival), including persons brought to the Com-
2 monwealth after having been interdicted in inter-
3 national or United States waters.

4 “(b) NUMERICAL LIMITATIONS FOR NONIMMIGRANT
5 WORKERS.—An alien, if otherwise qualified, may seek ad-
6 mission to Guam or to the Commonwealth during the
7 transition program as a nonimmigrant worker under sec-
8 tion 101(a)(15)(H) of the Immigration and Nationality
9 Act (8 U.S.C. 1101(a)(15)(H)) without counting against
10 the numerical limitations set forth in section 214(g) of
11 such Act (8 U.S.C. 1184(g)). This subsection does not
12 apply to any employment to be performed outside of Guam
13 or the Commonwealth. Not later than 3 years following
14 the transition program effective date, the Secretary of
15 Homeland Security shall issue a report to the Committee
16 on Energy and Natural Resources and the Committee on
17 the Judiciary of the Senate and the Committee on Natural
18 Resources and the Committee on the Judiciary of the
19 House of Representatives projecting the number of asylum
20 claims the Secretary anticipates following the termination
21 of the transition period, the efforts the Secretary has
22 made to ensure appropriate interdiction efforts, provide
23 for appropriate treatment of asylum seekers, and prepare
24 to accept and adjudicate asylum claims in the Common-
25 wealth.

1 “(c) NONIMMIGRANT INVESTOR VISAS.—

2 “(1) IN GENERAL.—Notwithstanding the treaty
3 requirements in section 101(a)(15)(E) of the Immi-
4 gration and Nationality Act (8 U.S.C.
5 1101(a)(15)(E)), during the transition period, the
6 Secretary of Homeland Security may, upon the ap-
7 plication of an alien, classify an alien as a CNMI-
8 only nonimmigrant under section 101(a)(15)(E)(ii)
9 of the Immigration and Nationality Act (8 U.S.C.
10 1101(a)(15)(E)(ii)) if the alien—

11 “(A) has been admitted to the Commo-
12 nwealth in long-term investor status under the
13 immigration laws of the Commonwealth before
14 the transition program effective date;

15 “(B) has continuously maintained resi-
16 dence in the Commonwealth under long-term
17 investor status;

18 “(C) is otherwise admissible; and

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

22 “(2) REQUIREMENT FOR REGULATIONS.—Not
23 later than 60 days before the transition program ef-
24 fective date, the Secretary of Homeland Security

1 shall publish regulations in the Federal Register to
2 implement this subsection.

3 “(d) SPECIAL PROVISION TO ENSURE ADEQUATE
4 EMPLOYMENT; COMMONWEALTH ONLY TRANSITIONAL
5 WORKERS.—An alien who is seeking to enter the Com-
6 monwealth as a nonimmigrant worker may be admitted
7 to perform work during the transition period subject to
8 the following requirements:

9 “(1) Such an alien shall be treated as a non-
10 immigrant described in section 101(a)(15) of the
11 Immigration and Nationality Act (8 U.S.C.
12 1101(a)(15)), including the ability to apply, if other-
13 wise eligible, for a change of nonimmigrant classi-
14 fication under section 248 of such Act (8 U.S.C.
15 1258) or adjustment of status under this section
16 and section 245 of such Act (8 U.S.C. 1255).

17 “(2) The Secretary of Homeland Security shall
18 establish, administer, and enforce a system for allo-
19 cating and determining the number, terms, and con-
20 ditions of permits to be issued to prospective em-
21 ployers for each such nonimmigrant worker de-
22 scribed in this subsection who would not otherwise
23 be eligible for admission under the Immigration and
24 Nationality Act (8 U.S.C. 1101 et seq.). In adopting
25 and enforcing this system, the Secretary shall also

1 consider, in good faith and not later than 30 days
2 after receipt by the Secretary, any comments and
3 advice submitted by the Governor of the Common-
4 wealth. This system shall provide for a reduction in
5 the allocation of permits for such workers on an an-
6 nual basis, to zero, during a period not to extend be-
7 yond December 31, 2013, unless extended pursuant
8 to paragraph 5 of this subsection, and shall take
9 into account the number of petitions granted under
10 subsection (i). In no event shall a permit be valid be-
11 yond the expiration of the transition period. This
12 system may be based on any reasonable method and
13 criteria determined by the Secretary of Homeland
14 Security to promote the maximum use of, and to
15 prevent adverse effects on wages and working condi-
16 tions of, workers authorized to be employed in the
17 United States, including lawfully admissible freely
18 associated state citizen labor. No alien shall be
19 granted nonimmigrant classification or a visa under
20 this subsection unless the permit requirements es-
21 tablished under this paragraph have been met.

22 “(3) The Secretary of Homeland Security shall
23 set the conditions for admission of such an alien
24 under the transition program, and the Secretary of
25 State shall authorize the issuance of nonimmigrant

1 visas for such an alien. Such a visa shall not be valid
2 for admission to the United States, as defined in
3 section 101(a)(38) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1101(a)(38)), except admission
5 to the Commonwealth. An alien admitted to the
6 Commonwealth on the basis of such a visa shall be
7 permitted to engage in employment only as author-
8 ized pursuant to the transition program.

9 “(4) Such an alien shall be permitted to trans-
10 fer between employers in the Commonwealth during
11 the period of such alien’s authorized stay therein,
12 without permission of the employee’s current or
13 prior employer, within the alien’s occupational cat-
14 egory or another occupational category the Secretary
15 of Homeland Security has found requires alien work-
16 ers to supplement the resident workforce.

17 “(5)(A) Not later than 180 days prior to the
18 expiration of the transition period, or any extension
19 thereof, the Secretary of Labor, in consultation with
20 the Secretary of Homeland Security, the Secretary
21 of the Interior, and the Governor of the Common-
22 wealth, shall ascertain the current and anticipated
23 labor needs of the Commonwealth and determine
24 whether an extension of up to 5 years of the provi-
25 sions of this subsection is necessary to ensure an

1 adequate number of workers will be available for le-
2 gitimate businesses in the Commonwealth. For the
3 purpose of this subparagraph, a business shall not
4 be considered legitimate if it engages directly or in-
5 directly in prostitution, trafficking in minors, or any
6 other activity that is illegal under Federal or local
7 law. The determinations of whether a business is le-
8 gitimate and to what extent, if any, it may require
9 alien workers to supplement the resident workforce,
10 shall be made by the Secretary of Homeland Secu-
11 rity, in the Secretary's sole discretion.

12 “(B) If the Secretary of Labor determines that
13 such an extension is necessary to ensure an ade-
14 quate number of workers for legitimate businesses in
15 the Commonwealth, the Secretary of Labor may,
16 through notice published in the Federal Register,
17 provide for an additional extension period of up to
18 5 years.

19 “(C) In making the determination of whether
20 alien workers are necessary to ensure an adequate
21 number of workers for legitimate businesses in the
22 Commonwealth, and if so, the number of such work-
23 ers that are necessary, the Secretary of Labor may
24 consider, among other relevant factors—

1 “(i) government, industry, or independent
2 workforce studies reporting on the need, or lack
3 thereof, for alien workers in the Common-
4 wealth’s businesses;

5 “(ii) the unemployment rate of United
6 States citizen workers residing in the Common-
7 wealth;

8 “(iii) the unemployment rate of aliens in
9 the Commonwealth who have been lawfully ad-
10 mitted for permanent residence;

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

13 “(v) any good faith efforts to locate, edu-
14 cate, train, or otherwise prepare United States
15 citizen residents, lawful permanent residents,
16 and unemployed alien workers already within
17 the Commonwealth, to assume those jobs;

18 “(vi) any available evidence tending to
19 show that United States citizen residents, law-
20 ful permanent residents, and unemployed alien
21 workers already in the Commonwealth are not
22 willing to accept jobs of the type offered;

23 “(vii) the extent to which admittance of
24 alien workers will affect the compensation, ben-
25 efits, and living standards of existing workers

1 within those industries and other industries au-
2 thorized to employ alien workers; and

3 “(viii) the prior use, if any, of alien work-
4 ers to fill those industry jobs, and whether the
5 industry requires alien workers to fill those
6 jobs.

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

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

13 “(1) PROHIBITION ON REMOVAL.—

14 “(A) IN GENERAL.—Subject to subparagraph
15 (B), no alien who is lawfully present in
16 the Commonwealth pursuant to the immigration
17 laws of the Commonwealth on the transition
18 program effective date shall be removed from
19 the United States on the grounds that such
20 alien’s presence in the Commonwealth is in vio-
21 lation of section 212(a)(6)(A) of the Immigra-
22 tion and Nationality Act (8 U.S.C.
23 1182(a)(6)(A)), until the earlier of the date—

1 “(i) of the completion of the period of
2 the alien’s admission under the immigra-
3 tion laws of the Commonwealth; or

4 “(ii) that is 2 years after the transi-
5 tion program effective date.

6 “(B) LIMITATIONS.—Nothing in this sub-
7 section shall be construed to prevent or limit
8 the removal under subparagraph 212(a)(6)(A)
9 of the Immigration and Nationality Act (8
10 U.S.C. 1182(a)(6)(A)) of such an alien at any
11 time, if the alien entered the Commonwealth
12 after the date of the enactment of the Northern
13 Mariana Islands Immigration, Security, and
14 Labor Act, and the Secretary of Homeland Se-
15 curity has determined that the Government of
16 the Commonwealth has violated section 103(i)
17 of the Northern Mariana Islands Immigration,
18 Security, and Labor Act.

19 “(2) EMPLOYMENT AUTHORIZATION.—An alien
20 who is lawfully present and authorized to be em-
21 ployed in the Commonwealth pursuant to the immi-
22 gration laws of the Commonwealth on the transition
23 program effective date shall be considered authorized
24 by the Secretary of Homeland Security to be em-

1 ployed in the Commonwealth until the earlier of the
2 date—

3 “(A) of expiration of the alien’s employ-
4 ment authorization under the immigration laws
5 of the Commonwealth; or

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

8 “(3) REGISTRATION.—The Secretary of Home-
9 land Security may require any alien present in the
10 Commonwealth on or after the transition period ef-
11 fective date to register with the Secretary in such a
12 manner, and according to such schedule, as he may
13 in his discretion require. Paragraphs (1) and (2) of
14 this subsection shall not apply to any alien who fails
15 to comply with such registration requirement. Not-
16 withstanding any other law, the Government of the
17 Commonwealth shall provide to the Secretary all
18 Commonwealth immigration records or other infor-
19 mation that the Secretary deems necessary to assist
20 the implementation of this paragraph or other provi-
21 sions of the Northern Mariana Islands Immigration,
22 Security, and Labor Act. Nothing in this paragraph
23 shall modify or limit section 262 of the Immigration
24 and Nationality Act (8 U.S.C. 1302) or other provi-

1 sion of the Immigration and Nationality Act relating
2 to the registration of aliens.

3 “(4) REMOVABLE ALIENS.—Except as specifici-
4 cally provided in paragraph (1)(A) of this sub-
5 section, nothing in this subsection shall prohibit or
6 limit the removal of any alien who is removable
7 under the Immigration and Nationality Act.

8 “(5) PRIOR ORDERS OF REMOVAL.—The Sec-
9 retary of Homeland Security may execute any ad-
10 ministratively final order of exclusion, deportation or
11 removal issued under authority of the immigration
12 laws of the United States before, on, or after the
13 transition period effective date, or under authority of
14 the immigration laws of the Commonwealth before
15 the transition period effective date, upon any subject
16 of such order found in the Commonwealth on or
17 after the transition period effective date, regardless
18 whether the alien has previously been removed from
19 the United States or the Commonwealth pursuant to
20 such order.

21 “(f) EFFECT ON OTHER LAWS.—The provisions of
22 this section and of the immigration laws, as defined in
23 section 101(a)(17) of the Immigration and Nationality Act
24 (8 U.S.C. 1101(a)(17)), shall, on the transition program
25 effective date, supersede and replace all laws, provisions,

1 or programs of the Commonwealth relating to the admis-
2 sion of aliens and the removal of aliens from the Common-
3 wealth.

4 “(g) ACCRUAL OF TIME FOR PURPOSES OF SECTION
5 212(A)(9)(B) OF THE IMMIGRATION AND NATIONALITY
6 ACT.—No time that an alien is present in the Common-
7 wealth in violation of the immigration laws of the Com-
8 monwealth shall be counted for purposes of inadmissibility
9 under section 212(a)(9)(B) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1182(a)(9)(B)).

11 “(h) REPORT ON NONRESIDENT GUESTWORKER
12 POPULATION.—The Secretary of the Interior, in consulta-
13 tion with the Secretary of Homeland Security, and the
14 Governor of the Commonwealth, shall report to the Con-
15 gress not later than 2 years after the date of the enact-
16 ment of the Northern Mariana Islands Immigration, Secu-
17 rity, and Labor Act. The report shall include—

18 “(1) the number of aliens residing in the Com-
19 monwealth;

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

22 “(3) the number of years each alien has been
23 residing in the Commonwealth;

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

1 “(5) such recommendations to the Congress, as
2 the Secretary may deem appropriate, related to
3 whether or not the Congress should consider permitting
4 lawfully admitted guest workers lawfully residing
5 in the Commonwealth on such enactment date to
6 apply for long-term status under the immigration
7 and nationality laws of the United States.”.

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

11 (1) in section 214(a)(1) (8 U.S.C.
12 1184(a)(1))—

13 (A) by striking “Guam” each place such
14 term appears and inserting “Guam or the Com-
15 monwealth of the Northern Mariana Islands”;
16 and

17 (B) by striking “fifteen” and inserting
18 “45”;

19 (2) in section 212(a)(7)(B) (8 U.S.C.
20 1182(a)(7)(B)), by amending clause (iii) to read as
21 follows:

22 “(iii) GUAM AND NORTHERN MARIANA
23 ISLANDS VISA WAIVER.—For provision au-
24 thorizing waiver of clause (i) in the case of
25 visitors to Guam or the Commonwealth of

the Northern Mariana Islands, see subsection (l).'; and

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

7 “(1) IN GENERAL.—The requirement of sub-
8 section (a)(7)(B)(i) may be waived by the Secretary
9 of Homeland Security, in the case of an alien apply-
10 ing for admission as a nonimmigrant visitor for busi-
11 ness or pleasure and solely for entry into and stay
12 in Guam or the Commonwealth of the Northern
13 Mariana Islands for a period not to exceed 45 days,
14 if the Secretary of Homeland Security, after con-
15 sultation with the Secretary of the Interior, the Sec-
16 retary of State, the Governor of Guam and the Gov-
17 ernor of the Commonwealth of the Northern Mar-
18 iana Islands, determines that—

19 “(A) an adequate arrival and departure
20 control system has been developed in Guam and
21 the Commonwealth of the Northern Mariana Is-
22 lands; and

23 “(B) such a waiver does not represent a
24 threat to the welfare, safety, or security of the

1 United States or its territories and common-
2 wealths.

3 “(2) ALIEN WAIVER OF RIGHTS.—An alien may
4 not be provided a waiver under this subsection un-
5 less the alien has waived any right—

6 “(A) to review or appeal under this Act an
7 immigration officer’s determination as to the
8 admissibility of the alien at the port of entry
9 into Guam or the Commonwealth of the North-
10 ern Mariana Islands; or

11 “(B) to contest, other than on the basis of
12 an application for withholding of removal under
13 section 241(b)(3) of this Act or under the Con-
14 vention Against Torture, or an application for
15 asylum if permitted under section 208, any ac-
16 tion for removal of the alien.

17 “(3) REGULATIONS.—All necessary regulations
18 to implement this subsection shall be promulgated
19 by the Secretary of Homeland Security, in consulta-
20 tion with the Secretary of the Interior and the Sec-
21 retary of State, on or before the 180th day after the
22 date of the enactment of the Northern Mariana Is-
23 lands Immigration, Security, and Labor Act. The
24 promulgation of such regulations shall be considered
25 a foreign affairs function for purposes of section

1 553(a) of title 5, United States Code. At a minimum,
2 such regulations should include, but not necessarily be limited to—

4 “(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, unless the Secretary of Homeland Security determines that such country’s inclusion on such list would represent a threat to the welfare, safety, or security of the United States or its territories; and

18 “(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 non-immigrant visitors.

24 “(4) FACTORS.—In determining whether to grant or continue providing the waiver under this

1 subsection to nationals of any country, the Secretary
2 of Homeland Security, in consultation with the Sec-
3 retary of the Interior and the Secretary of State,
4 shall consider all factors that the Secretary deems
5 relevant, including electronic travel authorizations,
6 procedures for reporting lost and stolen passports,
7 repatriation of aliens, rates of refusal for non-
8 immigrant visitor visas, overstays, exit systems, and
9 information exchange.

10 “(5) SUSPENSION.—The Secretary of Home-
11 land Security shall monitor the admission of non-
12 immigrant visitors to Guam and the Commonwealth
13 of the Northern Mariana Islands under this sub-
14 section. If the Secretary determines that such admis-
15 sions have resulted in an unacceptable number of
16 visitors from a country remaining unlawfully in
17 Guam or the Commonwealth of the Northern Mar-
18 iana Islands, unlawfully obtaining entry to other
19 parts of the United States, or seeking withholding of
20 removal or asylum, or that visitors from a country
21 pose a risk to law enforcement or security interests
22 of Guam or the Commonwealth of the Northern
23 Mariana Islands or of the United States (including
24 the interest in the enforcement of the immigration
25 laws of the United States), the Secretary shall sus-

1 pend the admission of nationals of such country
2 under this subsection. The Secretary of Homeland
3 Security may in the Secretary's discretion suspend
4 the Guam and Northern Mariana Islands visa waiver
5 program at any time, on a country-by-country basis,
6 for other good cause.

7 “(6) ADDITION OF COUNTRIES.—The Governor
8 of Guam and the Governor of the Commonwealth of
9 the Northern Mariana Islands may request the Sec-
10 retary of the Interior and the Secretary of Home-
11 land Security to add a particular country to the list
12 of countries whose nationals may obtain the waiver
13 provided by this subsection, and the Secretary of
14 Homeland Security may grant such request after
15 consultation with the Secretary of the Interior and
16 the Secretary of State, and may promulgate regula-
17 tions with respect to the inclusion of that country
18 and any special requirements the Secretary of
19 Homeland Security, in the Secretary's sole discre-
20 tion, may impose prior to allowing nationals of that
21 country to obtain the waiver provided by this sub-
22 section.”.

23 (c) SPECIAL NONIMMIGRANT CATEGORIES FOR GUAM
24 AND THE COMMONWEALTH OF THE NORTHERN MARIANA
25 ISLANDS.—The Governor of Guam and the Governor of

1 the Commonwealth of the Northern Mariana Islands (re-
2 ferred to in this subsection as “CNMI”) may request that
3 the Secretary of Homeland Security study the feasibility
4 of creating additional Guam or CNMI-only nonimmigrant
5 visas to the extent that existing nonimmigrant visa cat-
6 egories under the Immigration and Nationality Act do not
7 provide for the type of visitor, the duration of allowable
8 visit, or other circumstance. The Secretary of Homeland
9 Security may review such a request, and, after consulta-
10 tion with the Secretary of State and the Secretary of the
11 Interior, shall issue a report to the Committee on Energy
12 and Natural Resources and the Committee on the Judici-
13 ary of the Senate and the Committee on Natural Re-
14 sources and the Committee on the Judiciary of the House
15 of Representatives with respect to the feasibility of cre-
16 ating those additional Guam or CNMI-only visa cat-
17 egories. Consideration of such additional Guam or CNMI-
18 only visa categories may include, but are not limited to,
19 special nonimmigrant statuses for investors, students, and
20 retirees, but shall not include nonimmigrant status for the
21 purpose of employment in Guam or the CNMI.

22 (d) INSPECTION OF PERSONS ARRIVING FROM THE
23 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS;
24 GUAM AND NORTHERN MARIANA ISLANDS-ONLY VISAS
25 NOT VALID FOR ENTRY INTO OTHER PARTS OF THE

1 UNITED STATES.—Section 212(d)(7) of the Immigration
2 and Nationality Act (8 U.S.C. 1182(d)(7)) is amended by
3 inserting “the Commonwealth of the Northern Mariana
4 Islands,” after “Guam.”.

5 (e) TECHNICAL ASSISTANCE PROGRAM.—

6 (1) IN GENERAL.—The Secretary of the Inter-
7 rior, in consultation with the Governor of the Com-
8 monwealth, the Secretary of Labor, and the Sec-
9 retary of Commerce, and as provided in the Inter-
10 agency Agreements required to be negotiated under
11 section 6(a)(4) of the Joint Resolution entitled “A
12 Joint Resolution to approve the ‘Covenant To Estab-
13 lish a Commonwealth of the Northern Mariana Is-
14 lands in Political Union with the United States of
15 America’, and for other purposes”, approved March
16 24, 1976 (Public Law 94–241), as added by sub-
17 section (a), shall provide—

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

22 (B) technical assistance, including assist-
23 ance in recruiting, training, and hiring of work-
24 ers, to assist employers in the Commonwealth
25 in securing employees first from among United

1 States citizens and nationals resident in the
2 Commonwealth and if an adequate number of
3 such workers are not available, from among
4 legal permanent residents, including lawfully
5 admissible citizens of the freely associated
6 states; and

7 (C) technical assistance, including assist-
8 ance to identify types of jobs needed, identify
9 skills needed to fulfill such jobs, and assistance
10 to Commonwealth educational entities to de-
11 velop curricula for such job skills to include
12 training teachers and students for such skills.

21 (B) assist in the development and imple-
22 mentation of a process to identify opportunities
23 for and encourage diversification and growth of
24 the economy of the Commonwealth and to iden-

1 tify and encourage opportunities to meet the
2 labor needs of the Commonwealth.

3 (3) COST-SHARING.—For the provision of tech-
4 nical assistance or support under this paragraph
5 (other than that required to pay the salaries and ex-
6 penses of Federal personnel), the Secretary of the
7 Interior shall require a non-Federal matching con-
8 tribution of 10 percent.

9 (f) OPERATIONS.—

10 (1) ESTABLISHMENT.—At any time on and
11 after the date of the enactment of this Act, the At-
12 torney General, Secretary of Homeland Security,
13 and the Secretary of Labor may establish and main-
14 tain offices and other operations in the Common-
15 wealth for the purpose of carrying out duties
16 under—

17 (A) the Immigration and Nationality Act
18 (8 U.S.C. 1101 et seq.); and

19 (B) the transition program established
20 under section 6 of the Joint Resolution entitled
21 “A Joint Resolution to approve the ‘Covenant
22 to Establish a Commonwealth of the Northern
23 Mariana Islands in Political Union with the
24 United States of America’, and for other pur-
25 poses”, approved March 24, 1976 (Public Law

1 94–241), as added by subsection (a) of this sec-
2 tion.

12 (g) CONFORMING AMENDMENTS TO PUBLIC LAW 94–
13 241.—

14 (1) AMENDMENTS.—Public Law 94-241 is
15 amended as follows:

16 (A) In section 503 of the covenant set
17 forth in section 1, by striking subsection (a)
18 and redesignating subsections (b) and (c) as
19 subsections (a) and (b), respectively.

20 (B) By striking section 506 of the cov-
21 enant set forth in section 1.

22 (C) In section 703(b) of the covenant set
23 forth in section 1, by striking “quarantine,
24 passport, immigration and naturalization” and
25 inserting “quarantine and passport”.

5 (h) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than March 1 of the first year that is at least 2 full years after the date of the 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 entitled “A 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.

24 (2) CONTENTS.—In addition to other topics
25 otherwise required to be included under this title or

1 the amendments made by this title, each report sub-
2 mitted under paragraph (1) shall include a descrip-
3 tion of the efforts that have been undertaken during
4 the period covered by the report to diversify and
5 strengthen the local economy of the Commonwealth,
6 including efforts to promote the Commonwealth as a
7 tourist destination. The report by the President shall
8 include an estimate for the numbers of non-
9 immigrant workers described under section
10 101(a)(15)(H) of the Immigration and Nationality
11 Act (8 U.S.C. 1101(a)(15)(H)) necessary to avoid
12 adverse economic effects in Guam and the Common-
13 wealth.

14 (3) GAO REPORT.—The Government Account-
15 ability Office shall submit a report to the Congress
16 not later than 2 years after the date of the enact-
17 ment of this title, to include, at a minimum, the fol-
18 lowing items:

19 (A) An assessment of the implementation
20 of this title and the amendments made by this
21 title, including an assessment of the perform-
22 ance of Federal agencies and the Government
23 of the Commonwealth in meeting congressional
24 intent.

1 (B) An assessment of the short-term and
2 long-term impacts of implementation of this
3 title and the amendments made by this title on
4 the economy of the Commonwealth, including
5 its ability to obtain workers to supplement its
6 resident workforce and to maintain access to its
7 tourists and customers, and any effect on com-
8 pliance with United States treaty obligations
9 mandating non-refoulement for refugees.

10 (C) An assessment of the economic benefit
11 of the investors “grandfathered” under sub-
12 section (c) of section 6 of the Joint Resolution
13 entitled “A Joint Resolution to approve the
14 ‘Covenant To Establish a Commonwealth of the
15 Northern Mariana Islands in Political Union
16 with the United States of America’, and for
17 other purposes”, approved March 24, 1976
18 (Public Law 94-241), as added by subsection
19 (a) of this section, and the Commonwealth’s
20 ability to attract new investors after the date of
21 the enactment of this title.

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

1 (4) REPORTS BY THE LOCAL GOVERNMENT.—

2 The Governor of the Commonwealth may submit an
3 annual report to the President on the implementa-
4 tion of this title, and the amendments made by this
5 title, with recommendations for future changes. The
6 President shall forward the Governor's report to the
7 Congress with any Administration comment after an
8 appropriate period of time for internal review, pro-
9 vided that nothing in this paragraph shall be con-
10 strued to require the President to provide any legis-
11 lative recommendation to the Congress.

12 (5) REPORT ON FEDERAL PERSONNEL AND RE-

SOURCE REQUIREMENTS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security, after consulting with the Secretary of the Interior and other departments and agencies as may be deemed necessary, shall submit a report to the Committee on Natural Resources, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives, and to the Committee on Energy and Natural Resources, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate, on the current and planned levels of Transportation Security

1 Administration, United States Customs and Border
2 Protection, United States Immigration and Customs
3 Enforcement, United States Citizenship and Immi-
4 gration Services, and United States Coast Guard
5 personnel and resources necessary for fulfilling mis-
6 sion requirements on Guam and the Commonwealth
7 in a manner comparable to the level provided at
8 other similar ports of entry in the United States. In
9 fulfilling this reporting requirement, the Secretary
10 shall consider and anticipate the increased require-
11 ments due to the proposed realignment of military
12 forces on Guam and in the Commonwealth and
13 growth in the tourism sector.

14 (i) REQUIRED ACTIONS PRIOR TO TRANSITION PRO-
15 GRAM EFFECTIVE DATE.—During the period beginning
16 on the date of the enactment of this Act and ending on
17 the transition program effective date described in section
18 6 of Public Law 94–241 (as added by subsection (a)), the
19 Government of the Commonwealth shall—

20 (1) not permit an increase in the total number
21 of alien workers who are present in the Common-
22 wealth as of the date of the enactment of this Act;
23 and

24 (2) administer its nonrefoulement protection
25 program—

1 (A) according to the terms and procedures
2 set forth in the Memorandum of Agreement en-
3 tered into between the Commonwealth of the
4 Northern Mariana Islands and the United
5 States Department of Interior, Office of Insular
6 Affairs, executed on September 12, 2003 (which
7 terms and procedures, including but not limited
8 to funding by the Secretary of the Interior and
9 performance by the Secretary of Homeland Se-
10 curity of the duties of “Protection Consultant”
11 to the Commonwealth, shall have effect on and
12 after the date of the enactment of this Act), as
13 well as CNMI Public Law 13-61 and the Immi-
14 gration Regulations Establishing a Procedural
15 Mechanism for Persons Requesting Protection
16 from Refoulement; and

17 (B) so as not to remove or otherwise effect
18 the involuntary return of any alien whom the
19 Protection Consultant has determined to be eli-
20 gible for protection from persecution or torture.

21 (j) CONFORMING AMENDMENTS TO THE IMMIGRA-
22 TION AND NATIONALITY ACT.—The Immigration and Na-
23 tionality Act (8 U.S.C. 1101 et seq.) is amended—

12 (4) in section 208, by adding at the end the fol-
13 lowing:

14 "(e) COMMONWEALTH OF THE NORTHERN MARIANA
15 ISLANDS.—The provisions of this section and section
16 209(b) of this Act shall apply to persons physically present
17 in the Commonwealth of the Northern Mariana Islands
18 or arriving in the Commonwealth (whether or not at a des-
19 ignated port of arrival and including persons who are
20 brought to the Commonwealth after having been inter-
21 dicted in international or United States waters) only on
22 or after January 1, 2014."; and

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

1 “(G) COMMONWEALTH OF THE NORTHERN
2 MARIANA ISLANDS.—Nothing in this subsection
3 shall be construed to authorize or require any
4 person described in section 208(e) of this Act to
5 be permitted to apply for asylum under section
6 208 of this Act at any time before January 1,
7 2014.”.

8 (k) AVAILABILITY OF OTHER NONIMMIGRANT PRO-
9 FESSIONALS.—The requirements of section 212(m)(6)(B)
10 of the Immigration and Nationality Act (8 U.S.C.
11 1182(m)(6)(B)) shall not apply to a facility in Guam, the
12 Commonwealth of the Northern Mariana Islands, or the
13 Virgin Islands.

14 **SEC. 104. FURTHER AMENDMENTS TO PUBLIC LAW 94-241.**

15 Public Law 94-241, as amended, is further amended
16 in section 4(c)(3) by striking the colon after “Marshall
17 Islands” and inserting the following: “, except that
18 \$200,000 in fiscal year 2009 and \$225,000 annually for
19 fiscal years 2010 through 2018 are hereby rescinded; Pro-
20 vided, That the amount rescinded shall be increased by
21 the same percentage as that of the annual salary and ben-
22 efit adjustments for Members of Congress”.

23 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

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

1 **SEC. 106. EFFECTIVE DATE.**

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

6 (b) AMENDMENTS TO THE IMMIGRATION AND NA-
7 TIONALITY ACT.—The amendments to the Immigration
8 and Nationality Act made by this Act, and other provi-
9 sions of this Act applying the immigration laws (as defined
10 in section 101(a)(17) of Immigration and Nationality Act
11 (8 U.S.C. 1101(a)(17))) to the Commonwealth, shall take
12 effect on the transition program effective date described
13 in section 6 of Public Law 94–241 (as added by section
14 103(a) of this Act), unless specifically provided otherwise
15 in this Act.

16 (c) CONSTRUCTION.—Nothing in this Act or the
17 amendments made by this Act shall be construed to make
18 any residence or presence in the Commonwealth before the
19 transition program effective date described in section 6 of
20 Public Law 94–241 (as added by section 103(a) of this
21 Act) residence or presence in the United States, except
22 that, for the purpose only of determining whether an alien
23 lawfully admitted for permanent residence (as defined in
24 section 101(a)(20) of the Immigration and Nationality Act
25 (8 U.S.C. 1101(a)(20))) has abandoned or lost such status
26 by reason of absence from the United States, such alien's

1 presence in the Commonwealth before, on, or after the
2 date of the enactment of this Act shall be considered to
3 be presence in the United States.

4 **TITLE II—NORTHERN MARIANA
ISLANDS DELEGATE ACT**

5 **SEC. 201. SHORT TITLE.**

6 This title may be cited as the “Northern Mariana Is-
7 lands Delegate Act”.

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

9 The Commonwealth of the Northern Mariana Islands
10 shall be represented in the United States Congress by the
11 Resident Representative to the United States authorized
12 by section 901 of the Covenant To Establish a Common-
13 wealth of the Northern Mariana Islands in Political Union
14 With the United States of America (approved by Public
15 Law 94–241 (48 U.S.C. 1801 et seq.)). The Resident Rep-
16 resentative shall be a nonvoting Delegate to the House of
17 Representatives, elected as provided in this title.

18 **SEC. 203. ELECTION OF DELEGATE.**

19 (a) ELECTORS AND TIME OF ELECTION.—The Dele-
20 gate shall be elected—

7 (b) MANNER OF ELECTION.—

(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.

22 (c) VACANCY.—In case of a permanent vacancy in the
23 office of Delegate, the office of Delegate shall remain va-
24 cant until a successor is elected and qualified.

1 (d) COMMENCEMENT OF TERM.—The term of the
2 Delegate shall commence on the 3d day of January fol-
3 lowing the date of the election.

4 **SEC. 204. QUALIFICATIONS FOR OFFICE OF DELEGATE.**

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

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

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

11 (3) be a resident and domiciliary of the Com-
12 monwealth of the Northern Mariana Islands for at
13 least 7 years prior to the date of the election;

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

17 (5) not be, on the date of the election, a can-
18 didate for any other office.

19 **SEC. 205. DETERMINATION OF ELECTION PROCEDURE.**

20 Acting pursuant to legislation enacted in accordance
21 with the Constitution of the Commonwealth of the North-
22 ern Mariana Islands, the Government of the Common-
23 wealth of the Northern Mariana Islands may determine
24 the order of names on the ballot for election of Delegate,
25 the method by which a special election to fill a permanent

1 vacancy in the office of Delegate shall be conducted, the
2 method by which ties between candidates for the office of
3 Delegate shall be resolved, and all other matters of local
4 application pertaining to the election and the office of Del-
5 egate not otherwise expressly provided for in this title.

6 **SEC. 206. COMPENSATION, PRIVILEGES, AND IMMUNITIES.**

7 Until the Rules of the House of Representatives are
8 amended to provide otherwise, the Delegate from the Com-
9 monwealth of the Northern Mariana Islands shall receive
10 the same compensation, allowances, and benefits as a
11 Member of the House of Representatives, and shall be en-
12 titled to whatever privileges and immunities are, or herein-
13 after may be, granted to any other nonvoting Delegate to
14 the House of Representatives.

15 **SEC. 207. LACK OF EFFECT ON COVENANT.**

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

19 **SEC. 208. DEFINITION.**

20 For purposes of this title, the term “Delegate” means
21 the Resident Representative referred to in section 202.

1 SEC. 209. CONFORMING AMENDMENTS REGARDING AP-
2 POINTMENTS TO MILITARY SERVICE ACAD-
3 EMIES BY DELEGATE FROM THE COMMON-
4 WEALTH OF THE NORTHERN MARIANA IS-
5 LANDS.

6 (a) UNITED STATES MILITARY ACADEMY.—Section
7 4342(a)(10) of title 10, United States Code, is amended
8 by striking “resident representative” and inserting “Dele-
9 gate in Congress”.

10 (b) UNITED STATES NAVAL ACADEMY.—Section
11 6954(a)(10) of such title is amended by striking “resident
12 representative” and inserting “Delegate in Congress”.

13 (c) UNITED STATES AIR FORCE ACADEMY.—Section
14 9342(a)(10) of such title is amended by striking “resident
15 representative” and inserting “Delegate in Congress”.

Passed the House of Representatives December 11,
2007.

Attest: LORRAINE C. MILLER,
Clerk.