

a June, 1999, report that as full production neared, the plane had 84 deficiencies, including radar that couldn't tell the direction of oncoming threats. It recommended—in vain—that Congress reject a multiyear commitment to the program. Critics say one reason for the Super Hornet's woes is that the Navy dubbed the E/F a modification of its C/D predecessor. That was true even though the E/F has a different wing, fuselage, and engine, and is 25% heavier. About 85% of the wing and airframe components are different from those of the F/A-18C/D, according to an analysis by the Cato Institute, a conservative think tank. All of this led some experts to say it's a new aircraft.

Reeling. But a new plane would have been harder to sell to Congress and wouldn't have been exempt from some lengthy procurement requirements. Most important, St. Louis-based McDonnell Douglas Corp., the F-18's builder, would not have been guaranteed the work. At the time, McDonnell Douglas, which Boeing acquired in 1997, was reeling from cost overruns on other programs and the A-12's termination.

The shorter procurement process for a modification meant McDonnell Douglas didn't have to build a prototype to help iron out the kinks. The risks from this approach became apparent in March, 1996, during the Super Hornet's seventh test flight. The plane suddenly started to roll as it approached supersonic speed. A blue-ribbon panel said in a Jan. 14, 1998, report that the wing-drop phenomenon "could put flight safety at risk." And the flaw would make it tough for pilots to track enemy aircraft.

The Navy downplays the issue, saying wing drops had cropped up—and been solved—in previous programs. But fixing the problem proved difficult. One solution—a new wing covering—caused yet another problem: vibrations so severe that pilots had trouble reading the display.

Another shrewd Navy ploy was to lower the bar for performance standards. When the Navy brass debated whether the E/F should be required to turn, climb, accelerate, and maneuver better than the C/D version, Vice Admiral Dennis V. McGinn, then the head of naval air warfare, rejected all but acceleration. A good thing, too, because the E/F doesn't perform so well in the other areas. In a Jan. 19, 1999, memo, Phillip E. Coyle, a top Defense Dept. weapon systems evaluator, says such Russian fighters as the Su-27 and Mig-9 "can accelerate faster and out-turn all variants of the F/A-18 in most operating regimes." The memo says while that's the price for more payload and range, the Navy plans to use air-combat tactics that won't require the capabilities of the earlier F/A-18 models.

Despite efforts to compensate for shortcomings, a July, 1997, report by an advisory board of Pentagon and contractor representatives warned that evaluators may find the plane "not operationally effective" even if it meets all requirements. One solution proposed: "aggressive indoctrination of operational community to help them match expectation to reality of F/A-18E/F." Translation: Lower pilots' expectations.

Early on, one of the Super Hornet's key selling points was a project that the plane would fly 40% farther than its predecessor. But the longer-range figure assumed that 80% of the fleet would be one-seater planes. One-seaters carry more fuel than two-seaters and thus can fly farther. But now the Navy wants just 55% of the fleet to be one-seaters. While this lets it replace the ancient F-15 Tomcat—a two-seater—it undercuts the longer-range promises. In actual performance, the one-seater shows a range of 444 nautical miles, only 20% above the older F/A-18C's 369-mile range, the GAO says.

The Navy also says the E/F will have 17 cubic feet more room for high-tech gear than the C/D. But the GAO found only 5.46 cubic feet were usable—and that nearly every upgrade could be installed on the C/D. And the Navy claims that the Super Hornet performs a crucial function better than the C/D: Returning to a carrier with unusual munitions. But critics say it would be cheaper to dump the bombs in the ocean than to pay \$30 million extra for the E/F.

Boeing's Finneran disputes the GAO's findings. He says recent tests show the planes have exceeded range goals, and he rejects the notion that the C/D has the space to be upgraded. Still, looking at the broad picture, former National Security Adviser Brent Scowcroft would kill the program because the E/F "has the least modernization" of the three new planes under development.

The Super Hornet has plenty of support on Capitol Hill, though. When a House National Security subcommittee threatened funding for the program in 1996, House Minority Leader Richard A. Gephardt of Missouri called every Democrat on the full committee. Representative Jim Talent (R-Mo.) collared his GOP brethren. The funding cuts were restored. Even GOP Presidential hopeful Senator John McCain, who often attacks Pentagon waste, backs the program.

The upshot? The Navy will get its plane, regardless of how it works. But Marine pilots won't fly it. They're waiting for the stealthy Joint Strike Fighter, slated for production around 2008. "If we were going to spend dollars, we wanted to spend them on something that was a leap in technology," says recently retired General Charles C. Krulak, a former Marine commandant who opted not to buy the Super Hornet. Indeed, Marine pilots' fears now are quite different from those Spinney heard in 1991. "If the Joint Strike Fighter dies," frets one airman, "we're stuck with the Super Hornet."

WORDS OF WARNING

Official Evaluation—The Operational Test and Evaluation Force "may find the F/A-18E/F not operationally effective/suitable even though all specification requirements are satisfied" Translation—This plane may have plenty of problems even if it meets our specs.

Official Evaluation—How to mitigate the problem: "aggressive indoctrination of operational community to help them match expectation to reality of F/A-18E/F." Translation—We oversold this plane and now need to lower pilots' expectations.

Mr. FEINGOLD. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORTHERN MARIANA ISLANDS COVENANT IMPLEMENTATION ACT—Continued

Mr. MURKOWSKI. Madam President, I ask unanimous consent that there be 1 hour for debate, equally divided, with respect to S. 1052; and, further, no amendments or motions be in order other than the committee substitute and one technical amendment offered by the chairman. I finally ask consent

that following the debate time, the bill be read for a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2807

(Purpose: To clarify that visas and admissions under the legislation are not to be counted against numerical limitations in the Immigration and Nationality Act, and for other purposes)

Mr. MURKOWSKI. Madam President, on behalf of Senator AKAKA and myself, I send a series of amendments to the committee substitute to the desk and ask that they be considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] for himself and Mr. AKAKA, proposes an amendment numbered 2807.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 20-21, strike "regard to" and insert "counting against".

On page 34, lines 7-8, strike "to be made available during the following fiscal year" and insert "that will not count against the numerical limitations".

On page 34, strike line 15 and all that follows through page 35, line 4.

On page 34, strike "(C)" and insert "(B)".

On page 35, strike line 20 and all that follows through page 36, line 18.

On page 36, strike "(E)" and insert "(C)".

On page 37, strike line 3 and all that follows through page 38, line 9.

On page 38, strike line 10 and all that follows through line 24.

On page 39, line 1, strike "(I)" and insert "(D)".

On page 40, line 6, strike "and reviewable".

On page 41, lines 3-6, strike "The determination as to whether a further extension is required shall not be reviewable".

On page 41, lines 20-21, strike "The decision by the Attorney General shall not be reviewable".

On page 42, lines 6-7, strike "The determination by the Attorney General shall not be reviewable".

On page 45, line 16, strike line 16 and all that follows through page 46, line 10.

On page 46, line 11, strike "(h)" and insert "(g)".

On page 46, line 20, strike "(i)" and insert "(h)".

On page 47, line 3, strike "(j)" and insert "(i)".

On page 47, line 9, strike "regard to" and insert "counting against".

On page 47, line 14, strike "(C) through (H)" and insert "(B) and (C)".

On page 48, line 5, strike "five-year" and insert "five-year" and insert "four-year".

On page 48, line 9, strike "5-year" and insert "four-year".

On page 48, line 18, strike "five years" and insert "four years".

On page 48, strike line 23 and all that follows through page 49, line 4.

On page 49, line 5, strike "(3)" and insert "(2)".

On page 49, line 10, strike "(4)" and insert "(3)".

On page 49, between lines 21 and 22, insert the following new subsection:

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

Mr. MURKOWSKI. I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 2807) was agreed to.

Mr. MURKOWSKI. I yield back any time to my good friend, Senator AKAKA.

Mr. AKAKA. Madam President, I rise to add a bit to my statement. In my statement, I mentioned that Senator MURKOWSKI was the only Senator who went to CNMI. But Senator HARKIN also went to CNMI in August.

The PRESIDING OFFICER. Is all time yielded back?

Mr. AKAKA. I yield back my time.

Mr. MURKOWSKI. Madam President, how much time is remaining?

The PRESIDING OFFICER. Fifty-nine minutes is remaining.

Mr. MURKOWSKI. Madam President, we yield back all time.

I thank Senator BINGAMAN and his staff, minority staff of the Energy and Natural Resources Committee, for their work in this regard and, of course, my good friend, Senator AKAKA, and his staff.

I thank specifically David Garman, my legislative director; Kira Finkler, who has been working with the minority on this; Chuck Kleeschulte, David Dye, Sam Fowler, and Andrew Lundquist; a former staffer of mine, Deanna Okun, who has taken a position with the Federal International Trade Commission. There are others who have worked long and hard to bring about this much-needed change with regard to immigration in the Marianas, but particularly Senator AKAKA's efforts over an extended period of time to clearly right a wrong. I think this legislation has achieved that today. I commend my good friend.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I thank Chairman MURKOWSKI, who has done a great job in shepherding and crafting this bill and bringing it to the floor of the Senate. This has been a tough few years because there have been some objections along the way. I think we are doing it correctly. We are taking care of the concern of embarrassment for the United States that would be faced when we pass this bill. This is a bipartisan bill. The chairman has diligently worked, as have staff on both sides of the aisle, well to bring us to this point. I am glad I had a chance to be a part of it and know this is the right thing for our country; that is, for us to pass S. 1052 with its amendments.

I thank the Chair and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, before we go into morning business, I alert my colleagues that tomorrow, at approximately 11 o'clock, we will be taking up the nuclear waste bill. Senator BINGAMAN and I have worked hard, as well as our staffs, to try to bring this to some conclusion. I put all of my colleagues on notice that, unfortunately, tomorrow's debate will not be as expeditious as the debate today. Hopefully, we will have resolve that.

The PRESIDING OFFICER. If the Senator will withhold, the committee amendment, as amended, is agreed to.

The bill (S. 1052) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Northern Mariana Islands Covenant Implementation Act".

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

(1) to ensure effective immigration control by extending the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), in full to the Commonwealth of the Northern Mariana Islands, with special provisions to allow for the orderly phasing-out of the non-resident contract worker program of the Commonwealth of the Northern Mariana Islands, and the orderly phasing-in of Federal responsibilities over immigration in the Commonwealth of the Northern Mariana Islands;

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

(A) encouraging diversification and growth of the economy of the Commonwealth of the Northern Mariana Islands consistent with fundamental values underlying Federal immigration policy;

(B) recognizing local self-government, as provided for in the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America through consultation with the Governor and other elected officials of the Government of the Commonwealth of the Northern Mariana Islands by Federal agencies and by considering the views and recommendations of such officials in the implementation and enforcement of Federal law by Federal agencies;

(C) assisting the Commonwealth of the Northern Mariana Islands to achieve a progressively higher standard of living for its citizens through the provision of technical and other assistance;

(D) providing opportunities for persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor; and

(E) ensuring the ability of the locally elected officials by the Commonwealth of the Northern Mariana Islands to make fundamental policy decisions regarding the direction and pace of the economic development

and growth of the Commonwealth of the Northern Mariana Islands, consistent with the fundamental national values underlying Federal immigration policy.

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

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

"SEC. 6. IMMIGRATION AND TRANSITION.

"(a) APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT AND ESTABLISHMENT OF A TRANSITION PROGRAM.—Effective on the first day of the first full month commencing one year after the date of enactment of the Northern Mariana Islands Covenant Implementation Act (hereafter the "transition program effective date"), the provisions of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.) shall apply to the Commonwealth of the Northern Mariana Islands: *Provided*, That there shall be a transition period ending December 31, 2009 (except for subsection (d)(2)(D)), following the transition program effective date, during which the Attorney General of the United States (hereafter "Attorney General"), in consultation with the United States Secretaries of State, Labor, and the Interior, shall establish, administer, and enforce a transition program for immigration to the Commonwealth of the Northern Mariana Islands provided in subsections (b), (c), (d), (e), (f), and (i) of this section (hereafter the "transition program"). The transition program shall be implemented pursuant to regulations to be promulgated as appropriate by each agency having responsibilities under the transition program.

"(b) EXEMPTION FROM NUMERICAL LIMITATIONS FOR H-2B TEMPORARY WORKERS.—An alien, if otherwise qualified, may seek admission to the Commonwealth of the Northern Mariana Islands as a temporary worker under section 101(a)(15)(H)(ii)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(B)) without counting against the numerical limitations set forth in section 214(g) of such Act (8 U.S.C. 1184(g)).

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

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

"(2)(A) The United States Secretary of Labor shall establish, administer, and enforce a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers for each temporary alien worker who would not otherwise be eligible for admission under the Immigration and Nationality Act. This system shall provide for a reduction in the allocation of permits for such workers on an annual basis, to zero, over a period not to extend beyond December 31, 2009, and shall take into account the number of petitions granted under subsection (i). In no event shall a permit be valid beyond the expiration

of the transition period. This system may be based on any reasonable method and criteria determined by the United States Secretary of Labor to promote the maximum use of, and to prevent adverse effects on wages and working conditions of, persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor, taking into consideration the objective of providing as smooth a transition as possible to the full application of federal law.

“(B) The United States Secretary of Labor is authorized to establish and collect appropriate user fees for the purposes of this section. Amounts collected pursuant to this section shall be deposited in a special fund of the Treasury. Such amounts shall be available, to the extent and in the amounts as provided in advance in appropriations acts, for the purposes of administering this section. Such amounts are authorized to be appropriated to remain available until expended.

“(3) The Attorney General shall set the conditions for admission of nonimmigrant temporary alien workers under the transition program, and the United States Secretary of State shall authorize the issuance of nonimmigrant visas for aliens to engage in employment only as authorized in this subsection: *Provided*, That such visas shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)), except the Commonwealth of the Northern Mariana Islands. An alien admitted to the Commonwealth of the Northern Mariana Islands on the basis of such a nonimmigrant visa shall be permitted to engage in employment only as authorized pursuant to the transition program. No alien shall be granted nonimmigrant classification or a visa under this subsection unless the permit requirements established under paragraph (2) have been met.

“(4) An alien admitted as a nonimmigrant pursuant to this subsection shall be permitted to transfer between employers in the Commonwealth of the Northern Mariana Islands during the period of such alien's authorized stay therein, without advance permission of the employee's current or prior employer, to the extent that such transfer is authorized by the Attorney General in accordance with criteria established by the Attorney General and the United States Secretary of Labor.

“(d) IMMIGRANTS.—With the exception of immediate relatives (as defined in section 201(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2))) and persons granted an immigrant visa as provided in paragraphs (1) and (2) of this subsection, no alien shall be granted initial admission as a lawful permanent resident of the United States at a port-of-entry in the Commonwealth of the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Commonwealth of the Northern Mariana Islands.

“(1) FAMILY-SPONSORED IMMIGRANT VISAS.—For any fiscal year during which the transition program will be in effect, the Attorney General, after consultation with the Governor and the leadership of the Legislature of the Commonwealth of the Northern Mariana Islands, and in consultation with appropriate federal agencies, may establish a specific number of additional initial admissions as a family-sponsored immigrant at a port-of-entry in the Commonwealth of the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Commonwealth of the Northern Mariana Islands, pursuant to sections 202 and 203(a) of the Immigration and Nationality Act (8 U.S.C. 1152 and 1153(a)).

“(2) EMPLOYMENT-BASED IMMIGRANT VISAS.—

“(A) If the Attorney General, after consultation with the United States Secretary of Labor and the Governor and the leadership of the Legislature of the Commonwealth of the Northern Mariana Islands, finds that exceptional circumstances exist with respect to the inability of employers in the Commonwealth of the Northern Mariana Islands to obtain sufficient work-authorized labor, the Attorney General may establish a specific number of employment-based immigrant visas that will not count against the numerical limitations under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)). The labor certification requirements of section 212(a)(5) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(a)(5)) shall not apply to an alien seeking immigration benefits under this subsection.

“(B) Persons granted employment-based immigrant visas under the transition program may be admitted initially at a port-of-entry in the Commonwealth of the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Commonwealth of the Northern Mariana Islands, as lawful permanent residents of the United States. Persons who would otherwise be eligible for lawful permanent residence under the transition program, and who would otherwise be eligible for an adjustment of status, may have their status adjusted within the Commonwealth of the Northern Mariana Islands to that of an alien lawfully admitted for permanent residence.

“(C) Nothing in this paragraph shall preclude an alien who has obtained lawful permanent resident status pursuant to this paragraph from applying, if otherwise eligible, under this section and under the Immigration and Nationality Act for an immigrant visa or admission as a lawful permanent resident under the Immigration and Nationality Act.

“(D) SPECIAL PROVISION TO ENSURE ADEQUATE EMPLOYMENT IN THE TOURISM INDUSTRY AFTER THE TRANSITION PERIOD ENDS.—

“(i) During 2008, and in 2014 if a five year extension was granted, the Attorney General and the United States Secretary of Labor shall consult with the Governor of the Commonwealth of the Northern Mariana Islands and tourism businesses in the Commonwealth of the Northern Mariana Islands to ascertain the current and future labor needs of the tourism industry in the Commonwealth of the Northern Mariana Islands, and to determine whether a five-year extension of the provisions of this paragraph (d)(2) would be necessary to ensure an adequate number of workers for legitimate businesses in the tourism industry. For the purpose of this section, a business shall not be considered legitimate if it engages directly or indirectly in prostitution or any activity that is illegal under Federal or local law. The determination of whether a business is legitimate and whether it is sufficiently related to the tourism industry shall be made by the Attorney General in his sole discretion and shall not be reviewable. If the Attorney General after consultation with the United States Secretary of Labor determines, in the Attorney General's sole discretion, that such an extension is necessary to ensure an adequate number of workers for legitimate businesses in the tourism industry, the Attorney General shall provide notice by publication in the Federal Register that the provisions of this paragraph will be extended for a five-year period with respect to the tourism industry only. The Attorney General may authorize one further extension of this paragraph with respect to the tourism industry in the Commonwealth of the Northern Mar-

iana Islands if, after the Attorney General consults with the United States Secretary of Labor and the Governor of the Commonwealth of the Northern Mariana Islands, and local tourism businesses, the Attorney General determines, in the Attorney General's sole discretion, that a further extension is required to ensure an adequate number of workers for legitimate businesses in the tourism industry in the Commonwealth of the Northern Mariana Islands.

“(ii) The Attorney General, after consultation with the Governor of the Commonwealth of the Northern Mariana Islands and the United States Secretary of Labor and the United States Secretary of Commerce, may extend the provisions of this paragraph (d)(2) to legitimate businesses in industries outside the tourism industry for a single five year period if the Attorney General, in the Attorney General's sole discretion, concludes that such extension is necessary to ensure an adequate number of workers in that industry and that the industry is important to growth or diversification of the local economy.

“(iii) In making his determination for the tourism industry or for industries outside the tourism industry, the Attorney General shall take into consideration the extent to which a training and recruitment program has been implemented to hire persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor to work in such industry. No additional extension beyond the initial five year period may be granted for any industry outside the tourism industry or for the tourism industry beyond a second extension. If an extension is granted, the Attorney General shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives setting forth the reasons for the extension and whether he believes authority for additional extensions should be enacted.

“(e) NONIMMIGRANT INVESTOR VISAS.—

“(1) Notwithstanding the treaty requirements in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), the Attorney General may, upon the application of the alien, classify an alien as a nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien—

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

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

“(C) is otherwise admissible; and

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

“(2) Within 180 days after the transition program effective date, the Attorney General and the United States Secretary of State shall jointly publish regulations in the Federal Register to implement this subsection.

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

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

“(1) No alien who is lawfully present in the Commonwealth of the Northern Mariana Islands pursuant to the immigration laws of

the Commonwealth of the Northern Mariana Islands on the transition program effective date shall be removed from the United States on the ground that such alien's presence in the Commonwealth of the Northern Mariana Islands is in violation of subparagraph 212(a)(6)(A) of the Immigration and Nationality Act, as amended, until completion of the period of the alien's admission under the immigration laws of the Commonwealth of the Northern Mariana Islands, or the second anniversary of the transition program effective date, whichever comes first. Nothing in this subsection shall be construed to prevent or limit the removal under subparagraph 212(a)(6)(A) of such an alien at any time, if the alien entered the Commonwealth of the Northern Mariana Islands after the date of enactment of the Northern Mariana Islands Covenant Implementation Act, and the Attorney General has determined that the Government of the Commonwealth of the Northern Mariana Islands violated subsection (f) of such Act.

"(2) Any alien who is lawfully present and authorized to be employed in the Commonwealth of the Northern Mariana Islands pursuant to the immigration laws of the Commonwealth of the Northern Mariana Islands on the transition program effective date shall be considered authorized by the Attorney General to be employed in the Commonwealth of the Northern Mariana Islands until the expiration of the alien's employment authorization under the immigration laws of the Commonwealth of the Northern Mariana Islands, or the second anniversary of the transition program effective date, whichever comes first.

"(g) EFFECT ON OTHER LAWS.—The provisions of this section and the Immigration and Nationality Act, as amended by the Northern Mariana Islands Covenant Implementation Act, shall, on the transition program effective date, supersede and replace all laws, provisions, or programs of the Commonwealth of the Northern Mariana Islands relating to the admission of aliens and the removal of aliens from the Commonwealth of the Northern Mariana Islands.

"(h) ACCRUAL OF TIME FOR PURPOSES OF SECTION 212(a)(9)(B) OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED.—No time that an alien is present in violation of the immigration laws of the Commonwealth of the Northern Mariana Islands shall by reason of such violation be counted for purposes of the ground of inadmissibility in section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)).

"(i) ONE-TIME GRANDFATHER PROVISION FOR CERTAIN LONG-TERM EMPLOYEES.—

"(1) An alien may be granted an immigrant visa, or have his or her status adjusted in the Commonwealth of the Northern Mariana Islands to that of an alien lawfully admitted for permanent residence, without counting against the numerical limitations set forth in sections 202 and 203(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1152, 1153(b)), and subject to the limiting terms and conditions of an alien's permanent residence set forth in paragraphs (B) and (C) of subsection (d)(2), if:

"(A) the alien is employed directly by an employer in a business that the Attorney General has determined is legitimate;

"(B) the employer has filed a petition for classification of the alien as an employment-based immigrant with the Attorney General pursuant to section 204 of the Immigration and Nationality Act, as amended, not later than 180 days following the transition program effective date;

"(C) the alien has been lawfully present in the Commonwealth of the Northern Mariana Islands and authorized to be employed in the Commonwealth of the Northern Mariana Islands

lands for the four-year period immediately preceding the filing of the petition;

"(D) the alien has been employed continuously in that business by the petitioning employer for the four-year period immediately preceding the filing of the petition;

"(E) the alien continues to be employed in that business by the petitioning employer at the time the immigrant visa is granted or the alien's status is adjusted to permanent resident;

"(F) the petitioner's business has a reasonable expectation of generating sufficient revenue to continue to employ the alien in that business for the succeeding four years; and

"(G) the alien is otherwise eligible for admission to the United States under the provisions of the Immigration and Nationality Act, as amended (8 U.S.C. 1101, et seq.).

"(2) The labor certification requirements of section 212(a)(5) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(a)(5)) shall not apply to an alien seeking immigration benefits under this subsection.

"(3) The fact that an alien is the beneficiary of an application for a preference status that was filed with the Attorney General under section 204 of the Immigration and Nationality Act, as amended (8 U.S.C. 1154) for the purpose of obtaining benefits under this subsection, or has otherwise sought permanent residence pursuant to this subsection, shall not render the alien ineligible to obtain or maintain the status of a nonimmigrant under this Act or the Immigration and Nationality Act, as amended, if the alien is otherwise eligible for such nonimmigrant status."

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

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

(A) in paragraph (36), by deleting "and the Virgin Islands of the United States," and substituting "the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands,"; and

(B) in paragraph (38), by deleting "and the Virgin Islands of the United States" and substituting "the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands."

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

(A) in paragraph (1)—

(i) by striking "stay on Guam", and inserting "stay on Guam or the Commonwealth of the Northern Mariana Islands";

(ii) by inserting "a total of" after "exceed"; and

(iii) by striking the words "after consultation with the Governor of Guam," and inserting "after respective consultation with the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands,";

(B) in paragraph (1)(A), by striking "on Guam", and inserting "on Guam or the Commonwealth of the Northern Mariana Islands, respectively,";

(C) in paragraph (2)(A), by striking "into Guam", and inserting "into Guam or the Commonwealth of the Northern Mariana Islands, respectively,"; and

(D) in paragraph (3), by striking "Government of Guam" and inserting "Government of Guam or the Government of the Commonwealth of the Northern Mariana Islands".

(3) The amendments to the Immigration and Nationality Act made by this subsection shall take effect on the first day of the first

full month commencing one year after the date of enactment of the Northern Mariana Islands Covenant Implementation Act.

(C) TECHNICAL ASSISTANCE PROGRAM.—The United States Secretaries of Interior and Labor, in consultation with the Governor of the Commonwealth of the Northern Mariana Islands, shall develop a program of technical assistance, including recruitment and training, to aid employers in the Commonwealth of the Northern Mariana Islands in securing employees from among United States authorized labor, including lawfully admissible freely associated state citizen labor. In addition, for the first five fiscal years following the fiscal year when this section is enacted, \$500,000 shall be made available from funds appropriated to the Secretary of the Interior pursuant to Public Law 104-134 for the Federal-CNMI Immigration, Labor and Law Enforcement Initiative for the following activities:

(1) \$200,000 shall be available to reimburse the United States Secretary of Commerce for providing additional technical assistance and other support to the Commonwealth of the Northern Mariana Islands to identify opportunities for and encourage diversification and growth of the Commonwealth economy. The United States Secretary of Commerce shall consult with the Government of the Commonwealth of the Northern Mariana Islands, local businesses, the United States Secretary of the Interior, regional banks, and other experts in the local economy and shall assist in the development and implementation of a process to identify opportunities for and encourage diversification and growth of the Commonwealth economy. All expenditures, other than for the costs of Federal personnel, shall require a non-Federal matching contribution of 50 percent and the United States Secretary of Commerce shall provide a report on activities to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Resources and the Committee on Appropriations of the House of Representatives by March 1 of each year. The United States Secretary of Commerce may supplement the funds provided under this section with other funds and resources available to him and shall undertake such other activities, pursuant to existing authorities of the Department, as he decides will encourage diversification and growth of the Commonwealth economy. If the United States Secretary of Commerce concludes that additional workers may be needed to achieve diversification and growth of the Commonwealth economy, the Secretary shall promptly notify the Attorney General and the United States Secretary of Labor and shall also notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of his conclusion with an explanation of how many workers may be needed, over what period of time such workers will be needed, and what efforts are being undertaken to train and actively recruit and hire persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor to work in such businesses.

(2) \$300,000 shall be available to reimburse the United States Secretary of Labor for providing additional technical and other support to the Commonwealth of the Northern Mariana Islands to train and actively recruit and hire persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor, to fill employment vacancies in the Commonwealth of the Northern Mariana Islands. The United States Secretary of Labor shall consult with the Governor of the Commonwealth of the Northern Mariana Islands,

local businesses, the College of the Northern Marianas, the United States Secretary of the Interior and the United States Secretary of Commerce and shall assist in the development and implementation of such a training program. All expenditures, other than for the costs of Federal personnel, shall require a non-Federal matching contribution of 50 percent and the United States Secretary of Labor shall provide a report on activities to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Resources and the Committee on Appropriations of the House of Representatives by March 1 of each year. The United States Secretary of Labor may supplement the funds provided under this section with other funds and resources available to him and shall undertake such other activities, pursuant to existing authorities of the Department, as he decides will assist in such a training program in the Commonwealth of the Northern Mariana Islands.

(d) DEPARTMENT OF JUSTICE AND DEPARTMENT OF LABOR OPERATIONS.—The Attorney General and the United States Secretary of Labor are authorized to establish and maintain Immigration and Naturalization Service, Executive Office for Immigration Review, and United States Department of Labor operations in the Commonwealth of the Northern Mariana Islands for the purpose of performing their responsibilities under the Immigration and Nationality Act, as amended, and under the transition program. To the extent practicable and consistent with the satisfactory performance of their assigned responsibilities under applicable law, the United States Departments of Justice and Labor shall recruit and hire from among qualified applicants resident in the Commonwealth of the Northern Mariana Islands for staffing such operations.

(e) REPORT TO THE CONGRESS.—The President shall report to the Senate Committee on Energy and Natural Resources, and the House Committee on Resources, within six months after the fifth anniversary of the enactment of this Act, evaluating the overall effect of the transition program and the Immigration and Nationality Act on the Commonwealth of the Northern Mariana Islands, and at other times as the President deems appropriate. The report shall describe what efforts have been undertaken to diversify and strengthen the local economy, including, but not limited to, efforts to promote the Commonwealth of the Northern Mariana Islands as a tourist destination.

(f) LIMITATION ON NUMBER OF ALIEN WORKERS PRIOR TO APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED, AND ESTABLISHMENT OF THE TRANSITION PROGRAM.—During the period between enactment of this Act and the effective date of the transition program established under section 6 of Public Law 94-241, as amended by this Act, the Government of the Commonwealth of the Northern Mariana Islands shall not permit an increase in the total number of alien workers who are present in the Commonwealth of the Northern Mariana Islands on the date of enactment of this Act.

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

Mr. MURKOWSKI. I thank the Chair. I compliment the Chair for her diligence and expedience in resolving this CNMI effort that has languished so long in this body. It is nice to see something concluded.

MORNING BUSINESS

Mr. MURKOWSKI. Madam President, I ask unanimous consent that there be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAKING WORK PAY FOR WORKING FAMILIES

Mr. BAYH. Madam President, I rise today to speak in support of increasing the minimum wage. I am aware that the bankruptcy reform bill that we recently passed in this chamber contains an amendment that will increase the minimum wage by \$1 over a three-year period. While I voted for passage of the final bill, the minimum wage amendment it contained was constructed in a way that is sure to draw a Presidential veto, thereby endangering not only a wage increase for working families but also the months of work that all of us have put into reforming our bankruptcy laws.

The amendment that the bill contained was deeply flawed. I hope that the amendment will be stripped in conference so that we can send a bankruptcy reform bill to the President that he will sign. Then, perhaps we can move forward on a real increase in the minimum wage, perhaps in a package that contains some meaningful tax cuts for small business.

Madam President, we are living in a time of unprecedented economic prosperity. A few days ago, we reached an important milestone: We are now enjoying the longest economic expansion in our nation's history. Economic growth has been so strong that in 17 of the last 24 quarters, real GDP grew at a rate of three percent or more. Innovation, productivity, and fiscal discipline have all contributed to this expansion. Unemployment is at historic lows, real wages are increasing for many, and we have replaced welfare with work in record numbers.

But not everyone is realizing the prosperity many have enjoyed. While many workers in the economy have enjoyed sizeable raises, those workers at the bottom are still working hard just to make ends meet. Consider a minimum wage worker, working 40 hours a week. We want this worker to stay off of welfare, to be a responsible citizen and contribute to society, yet the minimum wage of \$5.15 an hour allows this worker to earn just \$10,700—nearly \$3,000 below the poverty level for a family of three. Add to this the fact that most of these workers receive no pension or paid vacation, few receive child care, and many lack employer-provided health insurance. There is no question that it is very difficult in our society to be a worker at the very bottom of the income scale.

It is important that we recognize the contributions that these workers make

to our economy and our society, and that we act to ensure that the purchasing power of their income does not erode over time. Today's minimum wage is more than 20 percent lower in real terms than it was in 1979. The proposed increase to \$6.15 simply restores the minimum wage back to its purchasing power in 1982. Would any of us deny that it's just as tough, or tougher, for a low-income family to make ends meet today as it was in 1982?

Raising the minimum wage by \$1 an hour will directly help more than 11 million workers and their families, as well as the millions more earning between the current minimum of \$5.15 and the new minimum of \$6.15 who will also see their wages rise. It will reward the responsibility of these workers with a more living wage. It will send the message that we understand that being a member of the "working poor" is one of the toughest places to be in America, with obstacles to reaching the middle class turning up at every turn. Raising the minimum wage would reduce one such obstacle. Nearly 200,000 workers in Indiana would benefit directly from a minimum wage increase.

Some argue that raising the minimum wage will lead to higher unemployment. I am happy to say that has not been the case in Indiana. Since September 1996, the last time the Senate passed a minimum wage increase, 133,000 new jobs have been created in my home state. Unemployment has dropped by 26 percent and now stands at 2.9 percent, significantly lower than the national average.

The good news in this debate is that it appears we all agree the minimum wage should be increased. We have our differences over the timing but by and large both Republicans and Democrats realize it is time to make work pay.

The bad news is that there is a poison pill buried in this legislation. At the same time that they seek to raise the take home pay of working families, the Republican minimum wage proposal contains a provision that could reduce the wages of approximately 73 million American workers who are eligible to receive overtime pay.

This overtime pay repeal provision would allow employers to eliminate the requirement that bonuses, commissions, and other forms of compensation based on productivity, quality and efficiency be part of a worker's "regular rate" of pay for purposes of calculating overtime pay. Eliminating this provision, and allowing bonuses to be excluded from overtime pay, would nullify the purposes for which the Fair Labor Standards Act was created. Employers would be provided an incentive to slash hourly pay rates or reduce the number of new jobs they create. Such cynical actions explain why so many Americans are frustrated with politics.

Raising the minimum wage is something that most Americans regard as fair, given our economic prosperity, and 75 to 80 percent support an increase in every opinion poll. Yet some refuse